

ORDINANCE NO. \_\_\_\_\_ N.C. (2d)

AN ORDINANCE OF THE CITY OF VALLEJO MUNICIPAL CODE ADDING  
CHAPTER 5.64 TO ESTABLISH RENT CONTROL FOR MOBILE HOME PARKS

NOW THEREFORE THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS  
FOLLOWS:

SECTION 1. A new Chapter 5.64 is hereby enacted to read as follows:

Chapter 5.64  
MOBILE HOME PARKS RENT CONTROL

**Sections:**

<b>5.64.010</b>	<b>Citation of Chapter</b>
<b>5.64.020</b>	<b>Definitions</b>
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<b>5.64.210</b>	<b>Retaliation</b>
<b>5.64.220</b>	<b>Rules and Guidelines</b>

**5.64.010**      **Citation of Chapter.**

This chapter shall be known and may be cited as the “Mobile Home Parks Rent Control Ordinance of the City of Vallejo.”

Approved as to form:  
By: *Shamari Edmeyer for*  
Claudia Quintana  
City Attorney

Because of the high cost of moving mobile homes, the potential for damage resulting therefrom, the requirements relating to the installation of mobile homes, including permits, landscaping and site preparation, the lack of alternative home sites for mobile home residents and the substantial investment of mobile home owners in such homes, the City Council finds and declares it necessary to protect the owners and occupiers of mobile homes from unreasonable rent increases while at the same time recognizing the need of the park owners to receive a fair return on their investment and rental increases sufficient to cover the increased cost of repairs, maintenance, insurance, upkeep and additional amenities.

#### **5.64.020 Definitions.**

“Capital improvements” means those new improvements which directly and primarily benefit and serve the existing mobile home park tenants by materially adding to the value of the mobile home park, appreciably prolonging its useful life or adapting it to new uses, and which are required to be amortized over the useful life of the improvements pursuant to the provisions of the Internal Revenue Code and the regulations issued pursuant thereto. “Capital improvement costs” shall mean all costs reasonably and necessarily related to the planning, engineering, and construction of capital improvements and shall include debt service costs, if any, incurred as a direct result of the capital improvement.

“Capital replacement” means the substitution, replacement, or reconstruction of a piece of equipment, machinery, streets, sidewalks, utility lines, landscaping, structures, or part thereof, of a value of five thousand dollars or more which materially benefits and adds value to the mobile home park. “Capital replacement costs” means all costs reasonably and necessarily related to planning, engineering, and construction of capital replacements and shall include debt services costs, if any, incurred as a direct result of the capital replacement.

“City Clerk” means the City Clerk of the city or his/her designee.

“City Council” means all the elected officials or their designee.

“City Manager” means the City Manager of the city or his/her representative.

“Debt service costs” means the periodic payment or payments due under any security or financing device which is applicable to the mobile home park including any fees, commissions, or other charges incurred in obtaining such financing.

“Maintenance and operation costs” means all expenses, exclusive of costs of debt service, costs of capital improvements, and costs of capital replacement, incurred in the operation and maintenance of the mobile home park, including but not limited to: real estate taxes, business taxes and fees (including fees payable by park owners under this chapter), insurance, sewer service charges, utilities, janitorial services, professional property management fees, pool maintenance, exterior building and ground maintenance, supplies, equipment, refuse removal, and security services or systems.

“Mobile home park” or “park” means any facility which provides spaces for mobile homes for residential purposes, and which has spaces for two or more mobile homes.

“Mobile home park owner,” “park owner,” or “owner” means the owner, lessor, operator or manager of a mobile home park within the purview of this chapter.

“Mobile home tenant” or “tenant” means any person legally owning and/or occupying a mobile home dwelling unit pursuant to ownership thereof or a rental or lease arrangement with the owner thereof.

“Services” means those facilities which enhance the use of the rental lot or space, including, but not limited to, repairs, replacement, maintenance, painting, heat, hot and cold water, utilities, security devices, laundry facilities and privileges, janitorial service, refuse removal, telephone service, and meeting, recreational, and other facilities in common areas of the mobile home park in which the spaces or lots are located.

“Space rent” or “rent” means the consideration, including any bonus, benefits or gratuity demanded or received in connection with the use and occupancy of a mobile home space in a mobile home park, or for the transfer of a lease for park space, services and amenities, subletting and security deposits, but exclusive of any amounts paid for the acquisition or use of the mobile home dwelling itself.

#### **5.64.030      Applicability.**

This chapter shall apply to all mobile home parks located within the city limits of Vallejo.

#### **5.64.040      Annual Rent Increases.**

A park owner shall be limited to one Cost of Living Adjustment (COLA) rent increase within a twelve-month period pursuant to this chapter. Said rent increase will not be subject to a hearing by the Housing and Community Development Commission or any action by the city, tenants, or other parties under the provision of this chapter, if the following conditions are met:

- A.      The park owner has not increased rents under this section in the previous twelve months.
- B.      The percentage increase in the rent shall not exceed 100% of the percentage increase in the U.S. Consumer Price Index for all Urban Consumers (CPI-U) or within this ordinance to be known as, the COLA. The percentage increase shall be determined by calculating the percentage by which the COLA last published as of the date of the notice of the increase exceeds the COLA last published as of the date of the prior rent increase notice for the space. The amount of any increase shall be rounded downward or upward to the nearest .25%
- C.      A park owner shall establish an “anniversary date” for COLA increases, and all rent increases in a park shall be noticed on this same date in each year that a rent increase is desired. The park owner shall provide each tenant with written notice of the amount of

the proposed rent increase within the period provided for in Civil Code Section 798.30, as amended from time to time. The notice shall also include whether or not the owner opines that the increase is exempt from a hearing under this section and the reason(s) for such an opinion. At the same time, a copy of the notice shall be provided to the Housing Manager as the City Manager's designee. The calculations showing the amount of anticipated increase and how the increase was determined shall be posted in an area of the mobile home park office where it can be easily seen by the park tenants. After a park notices an increase on any spaces in a park under this section, no other such increases may be instituted in the park for a twelve-month period.

D. No landlord shall increase rent under this section if:

1. He/she has failed to comply with any provision of this chapter and/or regulations issued thereunder by the City Council; or
2. He/she has failed to comply substantially with the city health and building codes, and/or any applicable state or local housing, health and safety codes.

E. Rent increases that do not meet the conditions described above are subject to a hearing under this chapter.

#### **5.64.050 Capital Improvement/Replacement Rent Increases.**

A park owner may pass-through the costs of capital improvements and replacements under this section when the improvements/replacements were completed no more than twelve months prior to the date any notice of a rent increase is given. These pass-through rent increases shall be temporary and have an end date, and shall be identified separately and listed on rent statements along with their date of expiration.

The costs must be averaged on a per space basis, and amortized over a period of not less than sixty months, and shall be excluded from the rent amount on which calculations of future rent increases are based and shall not be adjusted by the COLA.

The amount of the rent increase shall not exceed the pro rata share of capital improvement/replacement costs on an amortized basis, and may include an interest rate on the cost of the capital improvement/replacement equal to the average rate for thirty-year fixed rate mortgages plus one percent. The average rate shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey (PMMS) as of the date of the effective date of the rent increase.

A. New Capital Improvements. Improvements that did not previously exist in the park shall be deemed a "new capital improvement," unless the park owner was required to make the improvement in order to comply with a local, state or federal ordinance, code, or regulation. Prior to initiating the service or incurring the capital improvement cost, the owner must:

1. Consult with the mobile home owners regarding the nature and purpose of the improvements and the estimated cost of the improvements; and
  2. Obtain the prior written consent to the proposed capital improvement from one (1) adult mobile home owner listed on the lease/rental agreement in a majority of the occupied mobile home spaces. Each space shall only have one vote.
- B. Capital Replacements. Capital improvements that are not “new capital improvements” shall be deemed capital replacements. If not otherwise prohibited by law, an owner may pass through to the mobile home owner the cost of the capital replacement, as a temporary rent increase

The right to said increase is subject to the following conditions:

1. The owner shall give notice of the proposed pass-through to each affected mobile home owner no later than twelve months after completion of the capital replacement work.
2. If, pursuant to Section 5.64.090 of this chapter, at least fifty-one percent of the spaces in a park file a petition for a hearing on the proposed pass-through with the City Clerk within thirty days of the date the park owner gives notice of the pass-through, the proposed increase shall not go into effect unless and until the Housing and Community Development Commission hears the appeal and decides for the increase.
3. Upon being heard by the Housing and Community Development Commission, the pass-through shall be permitted unless substantial evidence on the record demonstrates that the capital replacement was not necessary to comply with a local, state, or federal ordinance, code, or regulation, or for safety reasons, or that the cost of the capital replacement exceeded the typical cost of the replacement by that industry’s standards. The park owner shall have the burden of proving the necessity for and reasonable cost of the capital replacements. If the cost is deemed excessive, the amount considered for the pass-through shall be reduced to a reasonable amount.

The Housing and Community Development Commission may deny or reduce a pass-through if the improvement/replacement was necessitated by the park owner’s unreasonable deferral of maintenance.

4. A park owner may not obtain a capital replacement pass-through pursuant to this section if a rent adjustment for the capital replacement cost has been granted pursuant to a fair return petition under Section 5.64.080.

#### **5.64.060 Exempt Rent Increases.**

The following rent increases shall be exempt from review under this chapter:

- A. Rent increases for mobile home spaces where the mobile home tenant and park owner have entered into a negotiated lease agreement meeting the criteria of Civil Code Section 798.17(b).
- B. Rent increases for spaces that are not the principal place of residence of the homeowner where the homeowner has not rented the mobile home occupying the space to another party as described in Civil Code Section 798.21. This exemption shall not apply if park rules or a rental agreement prohibit a homeowner from renting or leasing his or her mobile home, if the mobile home is being actively offered for sale, or if the legal owner of the mobile home has taken possession and/or ownership from the registered owner through foreclosure proceedings.
- C. Rent increases for mobile home spaces that are considered “new construction” as defined in Civil Code Section 798.7, and as exempted in accordance with the provisions of Civil Code, Section 798.45.
- D. Rent increases for mobile homes owned by the park.

**5.64.070 Vacancy Control Provision.**

When a mobile home is transferred by the home owner to another person with the mobile home remaining on the space (an “in-place transfer”), no increase in rent shall be imposed until the anniversary date of the COLA, and then the increase shall not exceed the amount of the rent increase applied to other tenants in the park.

When a mobile home is sold and removed and the space it occupied becomes vacant and subsequently occupied by a new tenant, the amount of the space rent charged to the new tenant shall not be increased more than five (5) percent above the most recent rent for that space. The new tenant may be subject to the COLA on the next anniversary date unless otherwise prohibited by the lease/rental agreement.

In accordance with Civil Code Section 798.17(a)(1), if a rental agreement for a new tenancy is in excess of 12 months (subject to other provisions of the Civil Code), the rental agreement shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by the City which establishes a maximum amount that a landlord may charge for rent.

Any person who is a prospective home owner must be offered the option of renting a mobile home space in a manner which will permit the prospective homeowner to receive the benefits of this chapter. Such a person cannot be denied the option of a tenancy of twelve months or less in duration. The park owner/management shall inform the prospective homeowner of their options under this clause, and shall provide a copy of this ordinance along with any rental application

**5.64.080 Rent Review Based on Fair Return Petition.**

A park owner may request an additional rent increase in order to obtain a fair return by filing a petition with the City Clerk.

Within ten days of the date of the filing, the park owner must meet and confer with the park tenants affected by the potential rent increase and their representative(s). The owner must notify the tenants in writing of the desire to meet and confer, and shall include with the notification a copy of the petition on file with the City Clerk. The City Clerk shall be provided with a copy of the notice given to the tenants; without the notice, the Clerk cannot certify the petition as complete.

Within fourteen days of receiving the petition, the City Clerk shall review the petition and either certify that it is complete or notify the park owner that additional information is required. The Clerk shall give prompt notice of his/her certification decision to the park owner and to any park tenant who has filed a request for such notices concerning his/her park.

If the tenants disagree with the rent increase request petition, they may request a review by filing a petition in accordance with the provisions of Section 5.64.090.

If the petition is complete, and the tenants do not file a petition to request a review, the City Clerk shall schedule a hearing with the Housing and Community Development Commission to review the park owner's request for an additional rent increase. The hearing will be subject to the provisions of Sections 5.64.100, 5.64.110, and 5.64.120 of this chapter, and will consider the following:

- A. For the purposes of determining the rent increase necessary to provide the park owner with a fair and reasonable return, it shall be presumed that the net operating income in the base year provided the park owner with a fair and reasonable return.
- B. The base year shall be the 2016 calendar year, unless the park owner can demonstrate that the use of a different period is justified by special circumstances.
- C. The base year net operating income shall be determined by subtracting the actual operating expenses for the base year from the gross income realized during the base year.
- D. Evidence may be presented to rebut the presumption that the base year net operating income yielded a fair net operating income.

Net operating income may be adjusted based on one or more of the following findings:

1. The park owner's operating expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses so the base year operating expenses reflect average expenses for the property over a reasonable period of time. The following factors shall be considered in making such a finding:
  - a. Extraordinary amounts were expended for necessary maintenance and repairs.
  - b. Maintenance and repair was below accepted standards so as to cause significant deterioration in the quality of services provided.

- c. Other expenses were unreasonably or unusually high or low notwithstanding the application of prudent business practices.
    - d. Other exceptional or peculiar circumstances
    - e. The park owner may not adjust net operating income due to an increase in expenses caused by unreasonable deferral of maintenance.
  - 2. The gross income during the base year was disproportionate. In such instances, adjustments may be made in calculating gross income consistent with the purposes of this chapter. The following factors shall be considered in making this finding:
    - a. The gross income during the base year was lower than it might have been because some residents were charged reduced rent.
    - b. The gross income during the base year was significantly lower than normal because of the destruction of the premises and/or temporary eviction for construction or repairs.
    - c. The fact that rents for a particular space in a park were not raised and the space was continuously occupied by the same mobile home, during a period when rents were raised for comparable spaces in the same park. The purpose of this provision is to compensate for situations in which management did not raise the rent for a particular tenant out of consideration for that tenant while raising rents for comparable spaces in the park.
    - d. Other exceptional circumstances.
- E. Determination of Current Net Operating Income. The current net operating income shall be determined by:
  - 1. Annualizing the rents in effect as of the mid-year of the current year.
  - 2. Determining the operating expenses during the current year.
  - 3. Subtracting the operating expenses determined pursuant to subsection G (of this section) from the annualized gross income.
- F. Calculation of Gross Income.
  - 1. For the purposes of determining the net operating income, gross income shall be the sum of the following:
    - a. Gross rents calculated as gross rental income at one hundred percent occupancy, adjusted for uncollected rents as provided in subsection A of this section;



- b. Revenues for utilities, other than gas and electricity, paid directly to the park owner by the mobile home owners or mobile home tenants (revenues provided by virtue of PUC regulations governing gas and electricity provision shall not be included in gross income);
  - c. All other income or consideration received or receivable in connection with the use or occupancy of the mobile home space and related services, including but not limited to parking;
  - d. Interest from security deposits, unless directly paid by the park owner to the residents.
2. Gross rents shall be adjusted for uncontrolled rents due to vacancy and bad debts to the extent such are beyond the control of the park owner. No such adjustment shall be greater than three percent of gross rents unless justification or a higher rate is demonstrated by the park owner.

G. Calculation of Operating Expenses.

1. For the purposes of determining net operating income, operating expenses shall include the following:
- a. Real property taxes and government required services charges.
  - b. Normal operating expenses and maintenance costs.
  - c. Management costs. Management expenses are presumed to be the same percentage of gross income in the base and current years unless there has been a significant increase or decrease in the management services provided to the residents.
  - d. Park owner-performed labor compensated at reasonable hourly rates.
    - i. No park owner-performed labor shall be included as an operating expenses unless the park owner submits documentation showing the date, time, and nature of the work performed.
    - ii. There shall be a maximum allowed under this provision of five percent of gross income unless the park owner shows greater services were performed for the benefit of the residents.
  - e. License and registration fees required by law to the extent such are not otherwise paid by the residents.
  - f. Filing fees and reasonable costs incurred for petitions and appeals pursuant to this section if it is determined that the owner has prevailed in such proceedings. Said costs shall be amortized over a reasonable period, if they are substantial.

g. Legal and auditing expenses shall be limited to reasonable and necessary costs of the operation, maintenance, and improvement of the park. Management may not deduct expenses incurred in litigating any declaratory or injunctive relief as to his/her rights under any state, local or Federal law or for any expenses incurred as a result of the application or enforcement of this chapter. All costs shall be itemized on the application.

2. Operating expenses shall not include the following:

- a. Mortgage principal or interest or other debt service costs, except as specifically authorized in this chapter for capital improvements or replacements.
- b. Ground lease payments.
- c. Any penalties, fees or interest assessed or awarded for violation of any provision of this chapter or of any other provision of law.
- d. Political contributions.
- e. Depreciation of the rental unit or rental units.
- f. Reserves.
- g. Avoidable and unnecessary expenses and increases in expenses since the base year.
- h. Any expenses for which the park owner has been reimbursed by any utility rebate or discount, security deposit, insurance settlement, judgment for damages, settlement or any other method or device.
- i. The cost of gas and electricity service and the maintenance of sub-metered gas and electricity systems. However, the cost of provision of gas and electricity to common areas shall be allowed as an expense.
- j. Membership fees paid to organizations that lobby against rent control.

3. Other Criteria for Evaluating Operating Expenses.

- a. Recurring Levels of Expenses. When an expense item for either the base year or the current year is not representative, in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of the recurring level of the expense(s) in the base year and the current year, said expenses shall be averaged with expense levels for other years or amortized or adjusted by the CPI-U or adjusted by some other reasonable methodology.
- b. Industry and Comparable Standards. Whenever a particular expense exceeds the normal industry or other comparable standard for the area, the park owner

shall bear the burden of proving the reasonableness of the expense. To the extent that it is found that the expense is unreasonable, the Housing and Community Development Commission is authorized to adjust it to reflect the normal industry standard.

4. Documentation. Petitioners shall be required to submit income and operating expense data for the three year period prior to the petition date.

H. Fair and Reasonable Return.

1. Fair net operating income is that amount required for the park owner to maintain the base year net operating income adjusted by one hundred percent of any increase in the CPI-U since the base date. The Base Period CPI-U shall be the CPI-U as of June 2017. The current CPI-U shall be the last reported CPI-U as of the current year used in the application.
2. For the applications after the first net operating income adjustment pursuant to this section, the base year CPI-U and base year income and base year operating expenses shall be the amounts that were used as the current amounts in the prior rent determination pursuant to this section.
3. Notwithstanding any other provision in this ordinance, the Housing and Community Development Commission shall be authorized to take into account any factors which it is required to consider by law and grant whatever rent increase is constitutionally required in order to yield a fair return.

**5.64.090 Petition for a Hearing.**

Any residents who will be or have been subjected to a proposed rental or service charge increase not exempted by Section 5.64.060 may petition for a hearing by the Housing and Community Development Commission. The petition must be signed by a representative of at least fifty-one percent of the occupied, affected spaces within the park within thirty days of receipt of the proposed increase. The City Clerk will determine if the petition meets the requirements of this chapter and if so, will certify it as complete. If the City Clerk determines that a hearing of the proposed rent increase is required by this chapter, the rent increase shall not take effect unless and until the Housing and Community Development Commission, or the City Council upon appeal, has determined that the increase meets the requirements of this chapter. If the tenants do not file a petition for a hearing under this section, the increase will be effective by operation of this chapter.

In determining eligibility under the fifty-one percent requirement, recreational vehicles will be eligible if they have occupied the space for nine continuous months or more satisfying state law. This length of occupancy at a mobile home site satisfies requirements of the Mobilehome Residency Law (Cal. Civ. Code Section 798.3(b)). This length of occupancy in a designated recreational vehicle site qualifies these occupants as tenants under the Recreational Vehicle Parks Occupancy Law (Cal Civ. Code Section 199.31). For purposes of determining the sufficiency of the petition, only one tenant per occupied dwelling shall be counted. The petition

for hearing shall designate the name and address of the tenant representative to whom notices of the proceeding shall be sent, and the name and address of the mobile home park owner/manager. The petition must also include the total number of spaces in the park, and the number of spaces that are occupied.

For park owners desiring to request an additional rent increase in order to obtain a fair market return under Section 5.64.080, a petition may be submitted to the City Clerk as explained in that section; no tenant signatures are required.

#### **5.64.100 Hearings – Open to Public.**

All hearings of the Housing and Community Development Commission shall be open to the public, and any interested person may speak. Hearings shall adhere to the requirements of the Brown Act (Cal. Govt. Code Sections 54950 et seq.) and other applicable laws.

#### **5.64.110 Hearings - Conduct.**

When a petition for a hearing has been filed and certified as complete by the City Clerk, the Housing and Community Development Commission shall have a hearing on it. The hearing should commence within forty-five days of the City Clerk's written notice that a petition is complete and conclude as soon as the Housing and Community Development Commission can do so. The City Clerk shall notify by mail the tenant representative and the mobile home park owner regarding the date, time and place of the hearing(s).

The conduct of hearings shall be informal, and the Housing and Community Development Commission shall not be bound by the rules of evidence applicable in court proceedings. All parties to a hearing may have the assistance of counsel or such other person as may be designated by the parties. An electronic recording of the hearing shall be made.

In the event that either the petitioner or respondent, or their authorized representatives, should fail to appear at the hearing at the specified time and place, the Housing and Community Development Commission shall hear and review such evidence as may be presented and make such decisions just as if both parties had been present. The Housing and Community Development Commission shall wait no longer than fifteen minutes past the scheduled time for all parties to arrive before opening the hearing.

To facilitate the hearing process, the Housing and Community Development Commission may prepare and supply to the park owner a standardized petition form upon which essential data required to aid the committee in making its determination concerning the rent increase shall be provided.

#### **5.64.120 Hearings - Conclusions.**

The Housing and Community Development Commission shall render its decision and prepare written findings and conclusions that support its decision. The Commission may order a park owner to:

- A. Reduce the space rent to a rate determined by the Housing and Community Development Commission; or
- B. Continue the space rent as it existed under the former lease or rental agreement; or
- C. Increase the space rent to a rate set by the ad-hoc committee, or to a rate requested by the mobile home park owner.

In rendering its decision, the Housing and Community Development Commission may phase any increase or decrease it authorizes to mitigate against the effect of any “catch-up” that occurs because of the time between the effective date of any rent change and the date of the implementation of that change.

The Housing and Community Development Commission shall give written notice of its decision to the parties, indicating the time within which an appeal of the decision must be made pursuant to Section 5.64.140 of this chapter. The notice shall be deemed given when deposited in the United States regular mail, correctly addressed with postage thereon fully prepaid.

Any space rent increase a mobile home park owner has collected that the Housing and Community Development Commission, of the City Council later on appeal, finds to have been excessive shall either be returned to the tenants or credited to future rental charges.

#### **5.64.130 Time for Compliance.**

Mobile home park owners shall comply with the Housing and Community Development Commission’s orders within thirty days of the notice of its decision, or at the next regular rental billing period if rents are collected less frequently than monthly. If the mobile home park owner appeals the decision to the City Council, compliance shall be suspended until the Council takes final action on the appeal.

#### **5.64.140 Appeals.**

The parties to the hearing shall have the right to appeal the decision of the Housing and Community Development Commission to the City Council by filing a notice thereof in writing with the City Clerk within ten days after the City Clerk has given notice of the committee’s decision.

Upon filing of an appeal, the City Clerk shall proceed to set the matter for hearing (at a tentatively scheduled meeting), and notify in writing the parties of the date, time and place when the matter will be heard as well as post the information for the public in compliance with the Brown Act.

The City Council’s appeal hearing will be de novo, so that it may consider any relevant evidence at the time of its hearing, including the previous record of the Housing and Community Development Commission. If any party seeks to introduce testimony that was not heard by the Housing and Community Development Commission, it must demonstrate good cause why that testimony was not presented to the committee for its consideration. Upon hearing the appeal, the Council shall sustain, modify or reverse the committee’s decision, and enter any order consistent

with the policies of this chapter. The Council's decision shall be final. The City Clerk shall give written notice of the Council's decision to the parties, including the time within which judicial review of the decision must be sought under Section 5.64.170 of this code.

**5.64.150 Enforcement.**

If it becomes necessary for the prevailing party to seek judicial enforcement of the orders of the Housing and Community Development Commission or the City Council, the prevailing party shall be entitled to receive reasonable costs, including attorney's fees, from the defendants in such action if enforcement action is successful. Nothing in this section shall prevent a private party from commencing an action to enforce the orders of the committee or Council.

**5.64.160 Non-waiverability.**

Any provision, whether oral or written in or pertaining to a lease or rental agreement whereby any provision of this chapter for the benefit of a homeowner/resident is waived, shall be deemed against public policy and void.

**5.64.170 Judicial Review.**

A park owner or tenant aggrieved by any action, regulation, rule, order or decision of the Housing and Community Development Commission may appeal to the City Council. Judicial review of the Council's decision may be sought by appealing to the appropriate court within which the rent-controlled space is located.

**5.64.180 Civil Remedies.**

Any park owner who demands, receives, accepts or retains any payment of rent in excess of the maximum lawful rent, in violation of the provisions of this chapter or any rule, regulation or order hereunder promulgated, shall be liable as hereinafter provided to the tenant from whom such excessive payment is demanded, accepted, received or retained, for reasonable attorney's fees and costs, as determined by the court, plus damages in an amount not to exceed five hundred dollars or three times the amount by which the payment or payments demanded, accepted, received or retained exceeds the maximum lawful rent, or whichever is greater.

**5.64.190 Injunctive Relief.**

The Housing and Community Development Commission and City Council, and tenants and park owners of rent controlled spaces may seek relief from the appropriate court within the jurisdiction within which the rent controlled space is located, to restrain by injunction any violation of this chapter and of the rules, regulations, orders and decisions of the board.

**5.64.200 Partial Invalidity.**

If any provision of this chapter or application thereof is held invalid or unconstitutional, this invalidity or unconstitutionality shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the

provisions of this chapter are declared to be severable. This chapter shall be liberally construed to achieve its purposes and preserve its validity.

**5.64.210      Retaliation.**

The park owner shall in no way retaliate against any resident for the resident's assertion or exercise of any right under this chapter. In the event of retaliatory action by the park owner, the resident will be referred to state law and resident rights existing under state law.

No resident shall in any way retaliate against any park owner for the assertion or exercise of any right under this chapter.”

**5.64.220      Rules and Procedures.**

The City Council may adopt rules and procedures to implement the provisions of this Chapter.

SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact one or more provisions may be declared invalid.

SECTION 3. Effective Date.

This Ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage.