

Chapter 13.21 MOBILE HOME PARK RENT STABILIZATION

13.21.010 Title.

This Ordinance may be cited as the Mobile Home Park Rent Stabilization Ordinance of the City of Beaumont.

13.21.020 Statement of purpose and findings.

- A. Mobile home owners have a substantial investment in their residences and appurtenances for which space is rented or leased. Alternate sites for relocation of mobile homes are difficult to find due to restrictions of age, size, or style of mobile homes permitted in many parks, and related to the installation of mobile homes, including permits, landscaping and site preparation. Additionally, the cost of moving a mobile home may be substantial, and the risk of damage in moving is significant.
- B. Mobile homes are often occupied by senior citizens, persons on fixed income and persons of low or moderate income, where extreme rent adjustments fall upon these individuals with particular harshness. Many mobile home owners have a substantial portion of their net asset worth invested in their mobile homes. The continuing possibility of unreasonable space rental adjustments in mobile home parks threatens to diminish the value of the investment of the mobile home owners in their homes. Further, existing state law permits mobile home park owners to require mobile home owners to make modifications to their homes for reasons of aesthetics or conformity to park standards that amount to capital improvements which would accrue to the benefit of the park owner by potentially increasing the market value of the park itself.
- C. The result of these conditions is the creation of a captive market of mobile home owners and tenants. This, in turn, contributes to the creation of an imbalance in the bargaining relationship between park owners and mobile home park tenants in favor of the park owners.
- D. The City Council of the City of Beaumont finds and declares it necessary to facilitate and encourage fair bargaining between mobile home owners and park owners in order to achieve mutually satisfactory agreements regarding space rental rates in mobile home parks (a) to preserve to the residents the value of their mobile homes and (b) to preserve to the park owners the value of their parks. Absent such agreements, the City Council further finds and declares it necessary to protect the owners and residents of mobile homes from unreasonable space rental adjustments while simultaneously recognizing and providing for the need of park owners to receive a just and reasonable return on their property.

- E. The City Council of the City of Beaumont finds that it is the goal of the City's Housing Element to "conserve and improve the condition of the existing stock of affordable housing" in the City, and to encourage conversion of mobile home rental units or mobile home parks to ownership in a way that maintains existing affordable conditions.
- F. The City Council of the City of Beaumont finds and declares that Ordinance No. 602, enacted in 1984, and amendments, adding Chapter 13.16 to the Beaumont Municipal Code, entitled Mobile Home Rent Revenue Commission, has been reviewed and evaluated and is found to be inadequate for the needs and purposes of the City as reflected in the above findings and should, therefore, be repealed with the adoption of this Ordinance.
- G. Administration of this Ordinance shall be under the general direction of the City Manager or their designee.

13.21.030 Application.

The provisions of this Ordinance shall apply to all mobile home residential rental spaces located within the City of Beaumont unless otherwise exempt from the provisions of this Ordinance by the Mobilehome Residency Law, this Ordinance, or by applicable State or Federal law. Nothing in this Ordinance shall be deemed to supersede any provision of California Civil Code Section 798 et seq., and as it may be amended.

13.21.040 Definitions.

In construing the provisions of this Ordinance, the following definitions shall apply:

- A. "Base year" is the calendar year 1995.
- B. "Capital Improvement" means the installation of new improvements and facilities, and/or the replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance or repairs, with a useful life of at least five years.
- C. "City" means the City of Beaumont, California.
- D. "Consumer Price Index" or "C. P. I." means the Index known as the "Consumer Price Index for all Urban Consumers for the Riverside-San Bernardino-Ontario Area", or the index which may replace this index if it is discontinued.
- E. "Mobile home" shall have the same meaning as set forth in California Civil Code section 798.3, as may be amended from time to time. Notwithstanding the above, mobile home does not include "recreational vehicle" as defined in Section 799.29 of the Civil Code or a "commercial coach" as defined in Section 18001.8 of the Health and Safety Code.

- F. “Mobilehome owner” or “homeowner” means any person who has a tenancy in a Mobile home Park under a rental agreement.
- G. “Mobile home park” means any area of land in the City where two or more mobile home sites are rented, or held out for rent, to accommodate mobile homes used for human habitation.
- H. "Mobile home park owner" or "park owner" means the owner, lessor, operator, manager or designated agent thereof of a mobile home park; sometimes referred to as "owner" or “landlord.”
- I. “Mobilehome Residency Law” means and refers to Chapter 2.5 of the California Civil Code section 798, *et seq.*, as may be amended from time to time.
- J. "Mobile home space" or "space" means the site within a mobile home park intended, designed, or used for the location or accommodation of a mobile home and any accessory structures or appurtenances attached thereto or used in conjunction therewith.
- K. "Rent adjustments" means any rent increase or decrease demanded of or paid by a tenant, including any reduction in housing services without a corresponding reduction in the monies demanded or paid for rent.
- L. "Rental agreement" means an agreement between a mobile home park owner and tenant establishing the terms and conditions of a tenancy in a mobile home park. A lease is a rental agreement.
- M. “Resident” is a homeowner or other person who lawfully occupies a mobile home in the City.
- N. "Residential rental space" means any mobile home space occupied by any person other than the owner of the park for payment of rent pursuant to an oral or written lease, or other form of rental agreement.
- O. "Space rent" means the consideration, including any bonuses, benefits, or gratuities demanded or received for and in connection with the use or occupancy of a mobile home space within a mobile home park, or for housing services provided and security deposits, but exclusive of any amounts paid for the use of the mobile home as a dwelling unit. The use or occupancy of a mobile home space shall include the exercise of all rights and privileges and the use of facilities, services and amenities accruing to the residents thereof. "Space rent" shall not include any separately billed utility fees and charges for natural gas or liquid propane gas, electricity, water, cable television, garbage or refuse service and sewer service.

- P. "Tenancy" means the right of a homeowner to the use of a site within a mobile home park on which to locate, maintain, and occupy a mobile home, site improvements and accessory structures for human habitation, including the use of the services and facilities of the mobile home park.
- Q. "Tenant" means any person entitled to occupy such mobile home space pursuant to an oral or written lease with the owner thereof, or pursuant to some other rental agreement with the owner, lessor, operator or manager thereof.

13.21.050 Exemptions from coverage.

The provisions of this Ordinance shall not apply to the following:

- A. Any rental agreement exempt from local rent control regulations pursuant to the Mobilehome Residency Law, as may be amended from time to time.
- B. Vacancies.
 - 1. Subject to the exceptions in paragraphs 2 and 3 below, if the mobile home space or mobile home is (a) voluntarily vacated, abandoned, or repossessed, or (b) vacated pursuant to the Mobilehome Residency Law, the landlord may adjust the rental rate to an amount as he or she in his or her discretion may determine.
 - 2. If the mobile home is sold in place and is to remain on site, the landlord may only increase the rental rate of the space to the new owner to an amount that is no greater than the average of the three highest rentals then currently being charged by the park owner for resident owner-occupied spaces of comparable size, location and amenities in the park.
 - 3. In the event a resident owner must move from his or her mobile home because of a need for long term medical or custodial care, the space shall remain subject to this Ordinance during the time that the owner is absent and remains incapacitated. In those parks that allow subletting, the absent and incapacitated owner may sublet the mobile home for a charge not to exceed the space rent and utilities and all legally allowable pass thorough costs for a period of time not to exceed 24 months without removing the space from the protection of this Ordinance.
- C. Long Term Rental Agreement.
 - 1. Any rental agreement in excess of 12-months duration which also meets all criteria specified below shall be exempt from the space rent ceiling provisions of this Ordinance. To qualify for this exemption, the rental agreement must meet all of the following criteria:
 - a. The rental agreement shall be in excess of 12 months' duration.

- b. The rental agreement shall be entered into between the management and the homeowner for the personal and actual residence of the homeowner.
 - c. The homeowner shall have at least 30 days from the date the rental agreement is first offered to the homeowner to accept or reject the rental agreement.
 - d. The homeowner who signs the rental agreement pursuant to this section may void the rental agreement by notifying management in writing within 72 hours of returning the signed rental agreement to management.
 - e. The homeowner who signs a rental agreement pursuant to this section may void the agreement within 72 hours of receiving an executed copy of the rental agreement in accordance with the Mobilehome Residency Law. This paragraph shall only apply if management does not provide the homeowner with a copy of the signed rental agreement at the time the homeowners returns the signed rental agreement.
 - f. The rental agreement contains a statement in the first sentence of the first paragraph, in at least twelve point type or capital letters, giving notice to the mobilehome resident that, by entering into the lease, the rent control provisions of this ordinance will be automatically superseded by the lease provisions regarding rent and rent increases.
2. The exemption shall apply only during the term of such rental agreement or any uninterrupted, continuous extensions thereof. If such rental agreement is not extended and no new rental agreement in excess of 12-months duration is entered into, then the last month's rent under the expired rental agreement shall be the base rent for purposes of this Ordinance.
 3. Any rental agreement exempt from this Ordinance by virtue of this section shall remain so exempt despite voluntary amendments made thereto, as long as any amendments extending the term contain the disclosures required above.
 4. If, pursuant to paragraph (c) or (d) of subsection (1), the homeowner rejects the offered rental agreement or rescinds a signed rental agreement, the homeowner shall be entitled to instead accept a rental agreement for a term of 12 months or less from the date the offered rental agreement was to have begun. In the event the homeowner elects to have a rental agreement for a term of 12 months or less, including a month-to-month rental agreement, the rental agreement shall contain the same rental charges, terms, and conditions as the rental agreement offered pursuant to subdivision (1),

during the first 12 months, except for options, if any, contained in the offered rental agreement to extend or renew the rental agreement.

5. No rental agreement shall contain any terms or conditions with respect to charges for rent, utilities, or incidental reasonable service charges that would be different during the first 12 months of the rental agreement from the corresponding terms or conditions that would be offered to the homeowners on a month-to-month basis.
 6. No rental agreement for a term of 12 months or less shall include any provision which authorizes automatic extension or renewal of, or automatically extends or renews, the rental agreement beyond the initial term for a term longer than 12 months at the sole option of either the management or the homeowner.
 7. Nothing in this section shall be construed to prohibit the management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.
 8. At the time the rental agreement is first offered to the homeowner, the management shall provide written notice to the homeowner of the homeowner's right (1) to have at least 30 days to inspect the rental agreement, and (2) to void the rental agreement by notifying management in writing within 72 hours of receipt of an executed copy of the rental agreement. The failure of the management to provide the written notice shall make the rental agreement voidable at the homeowner's option upon the homeowner's discovery of the failure. The receipt of any written notice provided pursuant to this subdivision shall be acknowledged in writing by the homeowner.
 9. No rental agreement shall have a provision which authorizes automatic extension or renewal of, or automatically extends or renews, the rental agreement for a period beyond the initial stated term at the sole option of either the management or the homeowner.
- D. Violation. No person shall perform any act of duress, menace, or undue influence with the intent of thereby obtaining the consent of any other person to enter into any lease for the occupancy of a residential rental space in a mobile home park or to otherwise force compliance with an applicable exemption from this Ordinance.

13.21.060 Information Upon Request.

A mobile home park owner shall provide the following information to the City upon request: the number of mobile home rental spaces within the park, the space rent charged for each space, and the number of spaces currently exempt from this Chapter.

13.21.070 Space rent ceiling or maximum allowable space rent.

Beginning the first month which commences following the day after the effective date of this Ordinance, no mobile home park owner shall charge space rent for any mobile home space in an amount greater than (a) the space rent in effect on December 31, 1995 increased by the increase in the CPI since that date or (b) the rent for the space that is in effect on the effective date of this Ordinance. The space rent in effect on that date shall be known as the "space rent ceiling."

If there was no space rent in effect on December 31, 1995, the space rent ceiling shall be the space rent that was charged on the first date that space rent was charged after December 31, 1995 (with the exception above noted) adjusted by the CPI to the current date as indicated above or the rent for the space that is in effect on the effective date of this Ordinance. If a mobile home park space is exempted from the application of this Ordinance by reason of the existence of a space rent agreement and the agreement expires, the space rent ceiling for that space shall be the space rent in effect on the date the agreement expires.

13.21.080 Space rent ceiling adjustment—Initial adjustment.

- A. No adjustment in space rent ceilings shall be permitted except as provided for herein.
- B. **Permissive Adjustment.** A park owner shall be entitled to an initial permissive adjustment gross space rental income equal to 100 percent increase in the Consumer Price Index (CPI) from the end of the base year (1991) to the date of application for the adjustment. The percentage adjustment in the CPI shall be calculated by subtracting the CPI reported for December, 1995, from the most recently reported monthly CPI preceding the application and then dividing this remainder by the December, 1995, CPI.

13.21.090 Space rent ceiling adjustment—Annual adjustments.

Commencing in calendar year 1996, park owners shall be entitled to the following annual adjustments.

- A. Permissive Annual Adjustment.

A park owner shall be entitled to one annual permissive adjustment of gross space rental income equal to 100 percent of the percentage adjustment in the CPI for that year, but in no case more than 7% per year or less than 3% per year. A park owner shall not impose more than one (1) rent increase for a covered residential rental space in any 12-month period, calculated from the date the rent increase takes effect, unless otherwise permitted pursuant to this Ordinance. No application or permission is required for the annual CPI adjustment under this section.

B. Net Operating Income (NOI) Adjustment.

1. In the event a park owner believes he or she does not receive a just and reasonable return on park property after receiving the maximum permissible CPI adjustment provided for above, the park owner may, upon payment of all filing or other fees required, file a petition with the Administrative Appeals Board for an adjustment of the space rent ceiling, providing adequate justification for the proposed increase.
2. In addition to any other applicable information required by the Administrative Appeals Board, any such petition shall be in writing verified by the applicant, and shall contain the names, address and telephone number of the applicant, the name and address of the tenant of each rental space which would be affected if the petition were granted, a statement of the facts giving rise to the petition for an NOI adjustment in sufficient detail that, if established, such facts would demonstrate the existence of a decrease in the NOI warranting such NOI adjustment.
3. Within 30 working days after the petition has been submitted to the Administrative Appeals Board for filing, petitioner shall be given notice of the time and place of the hearing, which notice together with a copy of the petition shall be served upon or mailed to each tenant of a rental space which would be affected by the NOI adjustment, if granted. When a declaration of service has been submitted to the Administrative Appeals Board, the petition for an NOI adjustment shall be deemed filed.
4. Upon filing of a complete petition, and presentation of sufficient facts demonstrating the existence of a decrease in the NOI warranting such NOI adjustment, a park owner shall be entitled to an adjustment of the space rent ceiling so as to enable the park owner's NOI for the subsequent year to be increased by a rate which, when added to the maximum permissible CPI adjustment provided for above will give the park owner a just and reasonable return on park property. In determining whether the current NOI is adequate in comparison with the base year NOI, the NOI for the park earned in the base year shall be increased by the amount of the CPI increase from the base year to the date of the proposed rental increase. 5. During the hearing, any tenant which would be affected if the petition is granted shall be permitted to be heard and to present any evidence for or against the proposed NOI adjustment.
6. No annual adjustment shall become effective if a previous annual adjustment became effective within the previous 12 months unless approved by the Administrative Appeals Board.

C. Rent Increase Based upon Capital Improvements.

1. A park owner shall be permitted to increase rent for a capital improvement upon petition to the Administrative Appeals Board where:
 - (a) the improvement has been agreed upon between the park owner, and by more than 50 percent of the owners of all mobile homes affected by the improvement in an election called to consider the matter with each space casting one vote by written ballot; or
 - (b) the improvement is required (a) to maintain the common facilities and other areas of the park in a safe and sanitary condition (b) to maintain the existing level of park amenities and services, or (c) to comply with the law or an administrative regulation. No vote of mobile home owners shall be required for approval under this provision.
2. Capital improvement costs for items which are not necessary or approved as described above in paragraph 1, shall be allowable rent increases only upon petition to the Administrative Appeals Board which establishes that the park owner has (a) consulted with the park residents to be affected prior to initiating construction of such improvements, regarding the nature and purpose of such improvements and the estimated cost of such improvements, and (b) demonstrated the need for the improvements and the reasonableness of the anticipated costs.
3. The petition for the cost of a completed capital improvement or the estimated cost of a proposed capital improvement under this section shall be filed by the park owner with the Administrative Appeals Board, including payment of filing or other fees, and shall contain:
 - (a) A description of the capital improvement;
 - (b) A copy of all estimates, contracts, bills, invoices, canceled checks and other documentation reasonably necessary to establish the cost of the capital improvement and the reasonable cost of financing the capital improvement. If, instead of borrowing the money to make the capital improvement, the park owner uses his or her own funds, the reasonable cost of financing which will be allowed shall be the average federal prime rate charged for the three months preceding the start of construction of the capital improvement; and
 - (c) If the capital improvement has been agreed upon between the park owner and by more than 50 percent of the owners of all mobile homes affected by the improvement, proof of that fact will be submitted with the application.

4. Capital improvement rent increases shall be amortized over the useful life of the improvement as set forth in Internal Revenue "class life" tables then in effect, unless the Administrative Appeals Board, in its discretion determines that the use of such tables is unreasonable under the circumstances.
5. In addition to the reasonable cost of the improvement(s) and the reasonable costs of financing, the rent increase shall include a return of two percent over the federal prime rate in effect at the time the rent increase is approved calculated annually on the unamortized cost improvement.
6. In the event the need for the capital improvement is a result of an accident, disaster, or other event for which the park owner receives insurance benefits, only those capital improvement costs which exceed such insurance benefits may be amortized as operating expenses unless the uncovered loss or portion thereof is a result of an underinsured or uninsured loss in which event the underinsured or uninsured portion is disallowed unless prudent business practices would not require it to be insured.
7. Capital improvement rent increases shall be apportioned equally among all spaces in the mobile home park affected thereby and shall be payable monthly, and shall be set forth by the park owner as a separate item from the space rent. The increase shall remain in effect until the cost of the improvement, plus reasonable costs of financing as set forth above, have been fully recovered.
8. The Administrative Appeals Board may, in its discretion, approve the capital improvement without the necessity of a hearing, as provided for in this Ordinance.
9. No rent increase for a proposed capital improvement may be collected until the improvement has been completed. The capital improvement shall be deemed completed upon satisfactory final inspection by the City of any approved plans, permitted construction work or permit issued.

13.21.100 Required certification on rental adjustment notice.

The Administrative Appeals Board shall have the right to deny any rent adjustment under this Ordinance if the owner has failed to comply with any provisions of this Ordinance.

- 13.21.110 [RESERVED].**
- 13.21.120 [RESERVED].**
- 13.21.130 [RESERVED].**
- 13.21.140 [RESERVED].**
- 13.21.150 [RESERVED].**

13.21.160 [RESERVED].

13.21.170 Appeal to court.

The findings and decision of the Administrative Appeals Board shall be a final administrative action. There shall be no right of appeal to the City Council, but appeal may be made to Court pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6. Such findings and decision shall be public records, and may be certified by the City Clerk. Each decision shall set forth a Notice as required by Code of Civil Procedure Section 1094.6. The decision shall become effective and final upon mailing to the parties.

13.21.180 Priorities.

All petitions for hearings shall be heard in order of date filed.

13.21.190 Rent adjustment regulations.

For purposes of determining allowable NOI rent adjustments pursuant to Section 13.21.090B, the principles set forth in this section shall be used. The Administrative Appeals Board may consider all relevant factors including, but not limited to: increases or decreases in operating and maintenance expenses, the extent and cost of utilities paid by the park owner, necessary and reasonable capital improvements of the park as distinguished from normal repair, replacement and maintenance, increases or decreases in amenities, equipment, insurance, services, substantial deterioration of the park other than as a result of ordinary wear and tear, failure on the part of the park owner to provide timely and/or adequate maintenance and repair, federal and state income tax benefits, the speculative nature of the investment, whether or not the property was acquired or is held as a long term or short term investment, the owner's rate of return on investment, the owner's method of financing and prudent use and need thereof, the owner's current and base year net operating income (NOI) as inflated to date by current CPI and any other factors deemed relevant by the Administrative Appeals Board, in providing the owner a fair return.

The fact that a park is old shall not, of itself, be indicative that maintenance has deteriorated. The Administrative Appeals Board shall distinguish between normal deterioration and obsolescence of the park due to age and failure to adequately maintain.

In the event any such claim or claims of failure to adequately maintain are proven, the Administrative Appeals Boards may take one or more of the following actions:

- A. Deny any rental increase.
- B. Offset any allowable rental increase by an amount that is adequate to reflect the degree of failure to adequately maintain.
- C. Condition any allowable rental increase upon a remediation of the failure to maintain by the park owner. In this regard, the Administrative Appeals Board may

freeze rents at the pre-increase level until such time as the park owner has come into compliance with the Administrative Appeal Board's decision.

- D. The Administrative Appeals Board may recess the hearing for a period not to exceed 90 days to allow the park owner to correct the condition or conditions of inadequate maintenance.
- E. The Administrative Appeals Board may combine any two or more of the above-listed actions and/or may take any other action or actions that it deems necessary to correct the problem of inadequate maintenance.

13.21.200 Net operating income.

Net operating income (NOI) shall be gross income less allowable operating expenses.

13.21.210 Gross income.

Gross income equals:

- A. Gross rents, computed as gross rental income at 100 percent paid occupancy, plus
- B. Interest from rental deposits, unless directly paid by the landlord to the tenants, plus
- C. Income from miscellaneous sources, including, but not limited to, laundry facilities, vending machines, amusement devices, cleaning fees or services, garage and parking fees, plus
- D. All other income or consideration received or receivable for or in connection with the use or occupancy of rental units,
- E. Minus uncollected rents due to vacancy and bad debts to the extent that the same are beyond the landlord's control.

13.21.220 Allowable operating expenses.

Operating expenses shall include but not be limited to the following:

- A. Real property taxes,
- B. Utility costs. Utility costs are for natural gas or liquid propane gas, electricity, water, cable television, garbage or refuse service, and sewer service, unless billed separately to and paid by the park residents in which case the park owner may not deduct such costs. It is assumed that charges for utility services billed to the tenant separately include an adequate reserve amount to repair and upgrade meters, lines and equipment and the park owner shall have the burden of showing by clear and

convincing evidence that any additional expense is necessary to cover such repairs or upgrade.

- C. Management fees actually paid if management services are contracted for. If all or a portion of management services are performed by the landlord, management fees shall include the reasonable value for such landlord performed services. Management fees greater than five percent of gross income are presumed to be unreasonable. Such presumption may be rebutted.
- D. Other reasonable management expenses, including, but not limited to, necessary and reasonable advertising, accounting and insurance.
- E. Normal repair and maintenance expenses, including, but not limited to, painting, normal cleaning, fumigation, landscaping, and repair of all standard services, including electrical, plumbing, carpentry, furnished appliances, drapes, carpets, and furniture.
- F. Owner-performed labor, which shall be compensated at the following hourly rates upon documentation of the date, time, and nature of the work performed:
 - 1. At the general prevailing rate of per diem wages for the Riverside area, for the specific type of work performed, as determined and published by the Director of the Department of Industrial Relations of the State of California pursuant to Section 1770 et seq. of the Labor Code of the State of California.
 - 2. If no such general prevailing rate has been determined and published, then a cost per hour for general maintenance and a cost per hour for skilled labor as established by Riverside County Office of Economic Development.
 - 3. Notwithstanding the above, a landlord may receive greater or lesser compensation for self-labor if the landlord proves by clear and convincing evidence that the amounts set forth above are substantially unfair in a given case.
 - 4. Owner performed labor in excess of five percent of gross income shall not be allowed unless the landlord proves by clear and convincing evidence that such excess labor expenses resulted in proportionately greater services for the benefit of tenants.
- G. License and registration fees required by law to the extent same are not otherwise paid by tenants.
- H. The reasonable cost of the capital improvement including reasonable financing costs, plus two percent over the federal prime rate in effect at the time of the assessment computed in accordance with any useful life table utilized by the Internal Revenue Service.

- I. Reasonable attorneys' fees and costs incurred as normal reasonable costs of doing business, including, but not limited to, good faith attempts to recover rents owing and good faith unlawful detainer actions not in derogation of applicable law, to the extent same are not recovered from tenants.

13.21.230 Operating expenses not allowable.

Operating expenses shall not include the following:

- A. Avoidable, unreasonable or unnecessary expenses
All expenses allowed must be reasonable. To the extent that the Administrative Appeals Board finds any expense(s) to be unreasonable, the Administrative Appeals Board shall adjust such expense(s).
- B. Mortgage principal and interest payments.
In refinancing, increased interest shall be permitted to be considered as an operating expense only where the park owner can show that the refinancing was reasonable and consistent with prudent business practices under the circumstances.
- C. Lease purchase payments; and rent or lease payments to park owner's lesser; except that increases in such payments in any year may be allowed if found by the Administrative Appeals Board to be reasonable and consistent with prudent business practice under the circumstances.
- D. Excessive costs of maintenance caused by delaying normal maintenance.
- E. A cost that results because the loss is uninsured where prudent business practice would expect insurance coverage or the cost for that portion of a loss above a normal deductible, if underinsured.
- F. Depreciation of the real property.
- G. Any expenses for which the landlord has been reimbursed by any security deposit, insurance settlement, judgment for damages, settlement, or any other method.
- H. Attorneys' fees and other costs incurred for preparation and presentation of proceedings before the Administrative Appeals Board, or in connection with civil actions or proceedings against the City or the Administrative Appeals Board.
- I. Penalties, fees or interest assessed or awarded for violation of this or any other statute or ordinance.

13.21.240 Presumption of fair base year net operating income.

Except as provided in below, it shall be presume that the Net Operating Income produced by a park owner during the base year, provided a fair return on property. Owners shall be entitled to maintain and increase their Net Operating Income from year to year in accordance with Sections 13.21.080B and 13.21.090B.

13.21.250 Rebutting the presumption.

It may be determined that the base year net operating income yielded other than a fair return on property, in which case, the base year Net Operating Income may be adjusted. In order to make such a determination, the Administrative Appeals Board must make at least one of the following findings:

- A. The 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 calculating such expenses so the base year operating expenses reflect average expenses for the property over a reasonable period of time. The Administrative Appeals Board shall consider the following factors:
 - 1. The owners made substantial capital improvements during the base year which were not reflected in the rent levels on the base date.
 - 2. Substantial repairs were made due to damage caused by natural disaster, vandalism or other cause which management has taken appropriate action to reduce.
 - 3. Maintenance and repair were 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 practices by management.

- B. The rental rates in the base year were disproportionate due to enumerated factors below. In such instances, adjustments may be made in calculating gross rents consistent with the purpose of this Ordinance.
 - 1. The rental rates in the base year were substantially higher or lower than in preceding months by reason of premiums being charged or rebates being given for reasons unique to particular units or limited to the period determining the base rent.
 - 2. The rent in the base year was substantially higher or lower than at other times of the year by reason of seasonal demand or seasonal variations in rent.

3. The rental rates in the base year were exceptionally high or low due to other factors which would cause the application of the base year net operating income to result in gross inequity to either the owner or tenant.

13.21.260 Determination of base year net operating income.

- A. To determine the net operating income during the base year, there shall be deducted from the annualized gross income being realized in 1991, a sum equal to the actual operating expenses for calendar year 1991, unless the owner demonstrates to the satisfaction of the Administrative Appeals Board that the use of some other consecutive 12-month period is justified by reasons consistent with the purposes of this section.
- B. In the event the owner did not own the subject property during the base year, the operating expenses for 1991 shall be determined by one of the following methods, whichever the Administrative Appeals Board determines to be more reliable in the particular case:
 1. The previous owner's actual operating expenses as defined in Section 13.21.220 and 13.21.230 if such figures were available, or
 2. Actual operating expenses for the first calendar year of new ownership, adjusted to 1991.
- C. Park owners shall be entitled to maintain and increase their net operating income from year to year in accordance with the guidelines set forth in this Ordinance. It shall further be rebuttably presumed that where the net operating income is less than 50 percent of gross income in the base year, the park owner was receiving less than a just and reasonable return on the mobile home park.

13.21.270 Determination of current year net operating income.

To determine the current year net operating income there shall be deducted from the annualized gross income, determined by analyzing the monthly rents in effect at the time of filing of a petition, a sum equal to the actual operating expenses for the last calendar year (unless the owner demonstrates to the satisfaction of the Administrative Appeals Board that the use of some other consecutive 12-month period is justified by reasons consistent with the purposes of this section).

13.21.280 Schedule of increases in operating expenses.

Where scheduling of rental increases, or other calculations, require projections of income and expenses, it shall be assumed that operating expenses, exclusive of property taxes, and management expenses, increase at five percent per year, that property taxes increase at two percent per year, and that management expenses constitute five percent of gross income, provided,

however, that if actual increases are greater or less than those listed in this section, the actual increases shown according to proof shall be the increases applicable.

13.21.290 Discretionary considerations.

While the net operating income formula should operate to provide a park owner a fair return on the park, the Administrative Appeals Board considering a request for rent increases shall consider all relevant factors presented in making a determination, as set forth in this Ordinance.

13.21.300 Increases pending hearing.

Rent increases which require petition with the Administrative Appeals Board may not be collected by the park owner until such time as ordered by a final decision of the Administrative Appeals Board or unless agreed upon by the residents and the park owner; however, a park owner may continue to collect the full amount of rent permitted, including any permissive CPI adjustment, which does not require such approval.

13.21.310 Rent adjustments for reduction in utility services.

- A. If a mobile home park provides in the rent, without separate charge, utilities or similar services (including, but not limited to, natural gas, electricity, water, sewer, trash, and/or cable television) and converts to separate charge for such service by separate metering, separate charge or other lawful means of transferring to the tenant the obligation for payment for such services, the cost savings shall be passed through to tenants by a rent adjustment equal to the actual cost to the park of such transferred utility or similar service (less common area usage) based on costs for the 12 months period prior to notice to the tenants of the change. It is the intent of this Section for those rental agreements entered into on or after January 1, 1991, to be consistent with the provisions of Mobilehome Residency Law, including Civil Code Section 798.41 as adopted by Chapter 1013, Section 2 of the Statutes of 1990, as may be amended from time to time.
- B. For purposes of this section, in determining cost savings to be passed on to tenants in the form of decreased rent, the cost of installation of separate utility meters, or similar costs incurred by the owner to shift the obligation for payment of utility costs to the tenants shall not be considered. However, this shall not be construed to prohibit or prevent the consideration of inclusion of such costs as an increased operating expense.

13.21.320 Quantum of proof and burden of proof.

The decision of the Administrative Appeals Board must be supported by the evidence submitted. The petitioning party shall have the burden of going forward with the evidence and the burden of persuasion by a preponderance of the evidence.

13.21.330 Remedies for violation.

- A. Civil Remedies. Any person who demands, accepts, or retains any payment in violation of any provision of this Ordinance shall be liable in a civil action to the person from whom such payment is demanded, accepted, or retained, together with reasonable attorney's fees and costs as determined by the Court.
- B. Criminal Remedies. It shall be unlawful for any owner to willfully and knowingly adjust any rent in an amount in excess of that allowed under this Ordinance. Any owner who willfully and knowingly violates any of the provisions of this Ordinance shall be guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or six months in jail or both.
- C. Injunctive and Other Civil Relief. Any Mobile home park operated, conducted, or maintained contrary to the provisions of this Ordinance shall be, and is hereby declared to be, unlawful and a public nuisance, and the City may, in addition to or in lieu of prosecution in a civil or criminal action under this Ordinance, commence an action or actions, proceeding or proceedings for the abatement, removal, and enjoinder thereof, in the manner provided by law, and shall take such other steps, and shall apply to such courts or court as may have jurisdiction to grant such relief as will abate, remove, and/or restrain and enjoin any person from operating, conducting, or maintaining a Mobile home park contrary to the provisions of this Ordinance. Such remedies shall be in addition to any other judicial or administrative remedies available to the City under the City Code or state law.
- D. Non-waiver of Rights. Any waiver or purported waiver by a tenant or prospective tenant of rights granted under this Ordinance prior to the time when such rights may be exercised, whether oral or written, shall be void as contrary to public policy.
- E. All remedies prescribed by this Ordinance are cumulative and the election of one or more remedy does not bar the City from the pursuit of any other remedy to enforce this Ordinance.
- F. Each violation of this Ordinance shall constitute a separate violation and each violation may be charged as a separate count in the event of administrative or criminal enforcement action.

13.21.340 [RESERVED].

13.21.350 Severability.

If any provision of this Ordinance or application thereof to any person or circumstances is held to be invalid, this invalidity shall not affect other applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

13.21.360 Ordinance to be liberally construed.

This Ordinance shall be liberally construed to achieve the purposes of this Ordinance and to preserve its validity.

13.21.370 [RESERVED].

13.21.380 [RESERVED].

13.21.390 [RESERVED].

13.21.400 Repeal of Ordinance No. 602, and amendments thereto.

Ordinance 602, and amendments thereto, enacted in 1984 adding Chapter 13.16 entitled Mobile Home Rent Review Commission to the Beaumont Municipal Code, is hereby repealed and superseded by the adoption of this Ordinance.