

Chapter 16B MANUFACTURED HOME FAIR PRACTICES*

***Editor's note:** Section 3 of Ord. No. 82-27, adopted June 23, 1982, repealed Ord. No. 81-13, adopted Feb. 25, 1981, § 1 of which, as amended by Ord. No. 81-52, § 1, adopted Sept. 9, 1981, had been included as Ch. 16B, §§ 16B.1--16B.16. Section 1 of Ord. No. 82-27 enacted a new Ch. 16B, §§ 16B.1--16B.16.

Sec. 16B.1. Preamble.

(a) There is presently, within the City of Oceanside and surrounding communities, a shortage for rental spaces for the location of manufactured homes commensurate with the demand therefor. This inequitable market situation has resulted in low vacancy rates and contributed or threatens to contribute to rapidly escalating rents. This situation has resulted or threatens to result in serious concern, anguish and stress among a significant portion of Oceanside residents living in manufactured home parks.

(b) Alternative sites for the relocation of manufactured homes are difficult to find due to the shortage of vacant spaces, the restrictions on the age, size or style of manufactured homes permitted in many parks, and requirements related to the installation of manufactured homes, including permits, landscaping and site preparation. Additionally, the cost for moving a manufactured home is substantial, and the risk of damage in moving is significant. The result of these conditions is the creation of a captive market of manufactured home owners. This immobility, in turn, contributes to the creation of a great imbalance in the bargaining position of the park owners and manufactured home owners in favor of the park owners.

(c) Manufactured home owners are property owners with sizeable investments in their manufactured homes and appurtenances. Collectively, the manufactured home owners have a greater investment than does the manufactured home park owner. The residents of manufactured home parks consider their relationship with the park owner as a joint housing venture. The continuing possibility of unreasonable space rental increases in manufactured home parks threatens to diminish the value of the investment of the manufactured home owners. Further, existing state law permits manufactured home park owners to require manufactured 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.

(d) This council finds and declares it necessary to facilitate and encourage fair bargaining between manufactured home owners and park owners in order to achieve mutually satisfactory agreements regard space rental rates in manufactured home parks. Absent such agreements, this council further finds and declares it necessary to protect the owners and residents of manufactured homes from unreasonable space rental increases while simultaneously recognizing and providing for the need of park owners to receive a just and reasonable return on their property.

(Ord. No. 82-27, § 1, 6-23-82)

Sec. 16B.2. Definitions.

- (a) *Commission.* The manufactured home fair practices commission established by this chapter.
- (b) *Manufactured home.* For purposes of this chapter, the term "manufactured home" shall be synonymous with the term "mobile home."
- (c) *Manufactured home park.* An area of land where two (2) or more manufactured home sites are rented, or held out for rent, to accommodate manufactured homes used for human habitation. Also referred to herein as a "park."
- (d) *Manufactured home park owner.* The owner, lessor, operator or designated agent thereof of a manufactured home park. Also referred to herein as a "park owner."
- (e) *Manufactured home resident.* Any person entitled to occupy a manufactured home as the owner thereof or pursuant to a rental or lease agreement with the owner of a manufactured home. Also referred to herein as a "resident."
- (f) *Rental agreement.* An agreement between the manufactured home park owner and a resident establishing the terms and conditions of a tenancy. A lease is a rental agreement.
- (g) *Space rent.* The consideration, including any bonus, benefits or gratuities, demanded or received for and in connection with the use or occupancy of a manufactured home within a manufactured home park or the transfer of a rental agreement of such a manufactured home. The use and occupancy of a rental unit shall include the exercise of all rights and privileges and use of all facilities, services and amenities accruing to the residents thereof for which a separate fee authorized by the Mobile Home Residency Law (California Civil Code Section 798 et seq.) is not charged. Nothing herein shall be construed to prevent a park owner from establishing such fees as may be authorized by the Mobile Home Residency Law. Space rent shall not include utility charges for utility services, including gas, electricity, water, trash and/or sewer service, provided to an individual manufactured home residence (as opposed to the park in general) where such charges are billing to such a residence separately from the space rent and such charges are limited to the actual value of the utility services provided to the individual residence.
- (h) *Hearing officer.* The hearing officer shall be either a retired California state court judge or justice or federal court judge.
- (i) *Manufactured home residents' representative.* A person chosen by the affected residents empowered to enter into binding agreements or stipulations and to act on their behalf relating to the procedure to be followed in special adjustment proceedings before the commission and/or the hearing officer. Also referred to herein as the "residents representative."
- (j) *Small manufactured home.* For purposes of this chapter, the term "small manufactured home" shall include any mobilehome, recreational vehicle, travel trailer, or other vehicle that is (1) located in a mobilehome, manufactured home, or recreational vehicle park, and is used by its owner or occupant as a permanent residence; and (2) is not a "mobilehome" or "manufactured home" as defined in 16B.2(b).
- (k) *Small manufactured home park.* An area of land where two (2) or more manufactured home sites are rented, or held out for rent, to accommodate small manufactured homes used for human habitation. Also referred to herein as a "park." For the purposes of this chapter, manufactured home park shall include mobilehome parks as defined in Section 798.4 of the California Civil Code, as well as recreational vehicle

parks, as defined in Section 18215 of the California Health and Safety Code, that contain two (2) or more manufactured homes.

(1) *Permanent residence.* For the purposes of this chapter, a small manufactured home is being used as a permanent residence if such vehicle (1) occupies a space within a mobilehome park, manufactured home park, or recreational vehicle park, (2) is subject to the payment of rent for the space occupied in such park, (3) has been continuously located in the park for a period of nine (9) months or longer, and (4) such occupancy does not violate the park's conditional use permit.

(Ord. No. 82-27, § 1, 6-23-82; Ord. No. 00-176-1, § 1, 3-15-00; Ord. No. 01-410-1, § 3, 6-20-01)

Sec. 16B.3. Applicability.

(a) Except as otherwise provided, the provisions of this chapter shall apply to all manufactured home parks defined in section 16B.2(c) and to all tenancies in such parks.

(b) Subject to the requirements of sections 16B.5, and 16B.16, a tenancy established pursuant to a rental agreement meeting all of the requirements of Section 798.17 of the California Civil Code shall be exempt from the rental rate regulations of this chapter during the duration of the rental agreement.

(c) A tenancy in a manufactured home where the owner of the park is also the owner of the manufactured home throughout the duration of the tenancy shall be exempt from the provisions of this chapter. If the ownership of the home and the space later becomes separate rather than unified in the owner of the park, then the space rent subject to regulation shall be determined according to the space rental agreement at that time.

(Ord. No. 82-27, § 1, 6-23-82; Ord. No. 91-37, § 2A, 8-28-91; Ord. No. 91-51, § 2(a), 11-13-91; Ord. No. 98-04, § 1, 1-7-98)

Sec. 16B.4. Manufactured home fair practices commission.

(a) *Establishment.* The Manufactured Home Fair Practices Commission of the City of Oceanside is hereby established.

(b) *Membership.*

(1) The commission shall consist of a total of five (5) regular members and two (2) alternate members. All regular and alternate members shall be resident electors of the City of Oceanside. No member shall be a manufactured home owner or resident; be an owner, operator or manager of a manufactured home park; own or possess any interest in, or operate or manage, any other rental property totaling four (4) or more dwelling units, whether such four (4) units are located on one parcel or lot, or are spread among several parcels or lots. As used in this section, "dwelling unit" shall mean an apartment unit, a condominium unit, or a single-family residence.

(2) All members of the commission, regulars and alternates, shall be required to attend all commission meetings and hearings unless such member has been disqualified from participation.

(3) When a regular member is absent from a meeting, an alternate member shall participate in the commission proceedings in place of the absent regular member. An alternate member shall have voting privileges only when acting in the stead of an absent regular member.

(c) *Nomination and appointment.* Each member of the city council shall nominate one regular member and the mayor shall nominate one regular member and two (2) alternate members for appointment to the commission. Each such nomination shall be subject to actual appointment by the mayor with the approval of the city council.

(d) *Term.*

(1) Each regular member of the board shall serve for a term of three (3) years except as otherwise provided herein. For the first commission, the mayor shall appoint three (3) regular members for three-year terms and two (2) regular members for two-year terms. Thereafter, the successors of these members shall be appointed for terms of three (3) years. Each regular member shall hold office until a new member has been duly appointed.

(2) Each alternate member of the board shall serve for a term of two (2) years except as otherwise provided herein. Each alternate member shall hold office until a new alternate member has been duly appointed.

(3) If a vacancy shall occur otherwise than by expiration of the term, it shall be filled by appointment for the unexpired portion of such member's term.

(4) The provisions hereinabove notwithstanding, a member may be removed, at any time, with or without cause, by a majority vote of the city council.

(5) Any member who is absent, without sufficient cause, from three (3) successive meetings of the commission which such member was required to attend shall be deemed to have vacated his office.

(e) *Meetings.* Except as expressly provided herein, the commission shall establish the time and place of its meetings. All meetings of the commission shall be conducted in accordance with the provisions of the Ralph M. Brown Act [Gov. Code section 54950 et seq.].

(f) *City council guidelines; commission rules and regulations.*

(1) The city council may from time to time adopt by resolution such guidelines as it deems necessary to assist and direct the commission in the accomplishment of its duties.

(2) The commission may make and adopt its own rules and regulations for conducting its business consistent with the laws of the state, this chapter, and any guidelines adopted by the city council. Any such rules and regulations shall be reduced to writing and be on file with the secretary of the commission at all times.

(g) *Officers.* The commission may appoint such officers as it may deem necessary to carry out its duties hereunder.

(h) *Records.* The commission shall keep a record of its proceedings, which shall be open for inspection by any member of the public.

(i) *Appointment of committees and hearing officers.* The commission may appoint committees or hearing officers to hear matters on which testimony must be taken, which committees and officers shall report to the commission the findings and results of any such hearing on a matter referred to such committee or person.

(j) *Compensation.* Each member of the commission shall be entitled to such compensation as may be set by the city council. Such members shall be entitled to reimbursement for expenses incurred in the performance of their official duties. The commission shall not have any authority to expend or authorize the expenditure of any public funds, except with the prior express approval of the city council.

(k) *Staff.* The city manager shall provide all administrative staff necessary to serve the commission. The city clerk shall serve as the secretary of the commission and shall be responsible for the maintenance of all records of the commission. The city attorney or his/her designee shall act as legal counsel to the commission.

(l) *Quorum.* Three (3) commissioners shall constitute a quorum. A majority vote of all commissioners, i.e., three (3) votes, is required for the adoption of any findings and/or order pertaining to an application filed hereunder and for the adoption, amendment or repeal of any rules and regulations of the commission. A majority vote of the quorum of the commission is required for the commission to take action on any other matter.

(m) *Duties.* The commission shall undertake and have the following duties, responsibilities and functions, together with all powers reasonably incidental thereto:

(1) To meet from time to time as may be specified by the rules and regulations of the commission in order to carry out its duties.

(2) To require such registration of manufactured home parks as the commission may deem necessary to enable it to carry out its duties.

(3) To make adjustments in space rent ceilings as provided for in this chapter.

(4) To make such studies, surveys and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties.

(5) To adopt, promulgate, amend and rescind such administrative rules as may be necessary to effectuate the purposes and policies of this chapter and to enable the commission to carry out its powers and duties thereunder.

(6) To render at least semiannually a comprehensive written report to the city council concerning the commission's activities, holdings, actions, results of hearings, and all other matters pertinent to this chapter.

(7) To undertake such other related duties as may be assigned by the city council.

(Ord. No. 82-27, § 1, 6-23-82; Ord. No. 87-16, § 1, 3-25-87)

Sec. 16B.5. Registration.

(a) Within sixty (60) calendar days after the date any manufactured home park, or manufactured home space, initially becomes subject to the provisions of this chapter, and annually thereafter, the owner of such park shall register the park, including all manufactured home spaces within the park that are subject to this chapter.

(b) The initial registration shall include the name(s), business address(es), business telephone number(s) of each person or legal entity possessing an ownership interest in the park and the nature of such interest; the number of manufactured home rental spaces within the park; a rent schedule reflecting space rents within the park on the effective date of this chapter; a listing of all other charges, including utilities not included in space rent, paid by manufactured home residents within the park and the approximate amount of each such charge; and the name and address to which all required notices and correspondence may be sent.

(c) The commission is hereby empowered to require such re-registration as it deems necessary.

(d) No park owner shall be eligible to receive any rent ceiling adjustment as provided for under the provisions of this chapter unless such current registration as may then be required for the manufactured home park is on file with the commission at the time the petition for the rent ceiling adjustment is filed.

(e) The registration requirements provided for in this section or which may be established by the commission shall apply to all manufactured home parks, and park spaces, including those exempt from the space rent ceiling limitation by reason of the existence of a valid park rent schedule exemption or an exemption based upon California Civil Code Section 798.17 or 798.21 or under any other applicable State or Federal law. (Ord. No. 82-27, § 1, 6-23-82; Ord. No. 84-37, § 1A, 9-12-84; Ord. No. 91-37, § 2B, 8-28-91; Ord. No. 91-51, § 2(b), 1-13-91; Ord. No. 01-410-1, § 4, 6-20-01)

Sec. 16B.6. Registration fee.

- (a) At the time of initial registration or any subsequent reregistration, manufactured home park owners shall pay to the City of Oceanside such registration fee for each manufactured home rental space within the park, as established by resolution of the city council, except such spaces that are exempt from such fee because of a space rental agreement that meets the requirements of Section 798.17 of the California Civil Code.
- (b) Park owners shall be permitted to pass through to the residents of the park the first twenty-eight dollars and sixty cents (\$28.60) of the registration fee. The city council shall determine by resolution any allowable pass-thru adjustment of the registration fee over and above twenty-eight dollars and sixty cents (\$28.60). Absent such resolution, park owners shall not be permitted to pass through any portion of the registration fee beyond twenty-eight dollars and sixty cents (\$28.60).
- (c) If a park owner does not pay the fee provided for in subsection (a) above within the time period established therein, a late charge shall be assessed in an amount equal to one dollar (\$1.00) for each manufactured home rental space within the park for each month or fraction thereof that such payment is delinquent.
- (d) No petition will be accepted from any park owner for a space rent ceiling adjustment of any kind, no hearing or other proceeding shall be scheduled or take place, and [no] space rent ceiling adjustment [shall be] granted or take effect for any manufactured home park for which there is an unpaid registration fee.
- (e) No exemption from the space rent ceiling limitation by reason of the existence of a valid park rent agreement shall be effective for any manufactured home park for which there is an unpaid registration fee.
- (f) The registration fee provided by this section is intended to defray costs associated with the administration of this chapter except those costs associated with NOI and special adjustment hearings, which costs are provided for under section 16B.15(f) of this chapter.
- (g) The city manager is hereby directed to maintain an accurate accounting of all direct and indirect costs of administering the regulations contained in this chapter. Upon request from the city council or commission, the city manager shall submit a report to the city council of such costs and any recommendation for a change in the registration. (Ord. No. 82-27, § 1, 6-23-82; Ord. No. 91-37, § 2C, 8-28-91; Ord. No. 91-51, § 2(c), 11-13-91; Ord. No. 01-410-1, § 5, 6-20-01)

Sec. 16B.7. Park rent schedule exemption.

- (a) *Generally.* Any manufactured home park which is subject to a space rent agreement meeting the criteria set forth below shall be exempt from the space rent ceiling provisions of this chapter for the duration of such agreement.

(b) *Space rent agreement criteria.* An exemption as provided in subsection (a) hereinabove shall be effective only if the space rental agreement meets the following criteria:

(1) The agreement between the park owner and the residents thereof must establish a space rent schedule for the park for a minimum period of two (2) years from the date of commencement of the agreement.

(2) The agreement shall be in such form as provided by the commission and shall be binding upon both the park owner and residents for the duration thereof. The agreement may contain such other provisions as may be agreed upon by the parties and approved by the commission.

(3) The agreement must be voluntarily consented to by at least one (1) adult resident from sixty-seven (67) percent of the manufactured home rental spaces within the park with the exception of those spaces exempted from the provisions of this chapter pursuant to the provisions of section 16B.3(b).

(4) Upon approval by the commission, the park rent schedule shall apply to all residents in the park not exempt under Civil Code Section 798.17 including those residents not consenting to the park rent schedule.

(c) *Procedure for obtaining a park rent schedule exemption.*

(1) To obtain a park rent schedule exemption, the park owner shall complete a park rent schedule form provided by the commission. The park rent schedule shall indicate (a) the proposed park rent schedule, (b) the proposed duration of the rent schedule, and (c) any other provisions or conditions related to the proposed park rent schedule. The park rent schedule shall be signed by the park owner, or an agent of the park owner.

(2) The park owner shall hand deliver, or mail by first class mail postage prepaid, a copy of the completed park rent schedule form to all of the residents in the park. Included with the park rent schedule form shall be a consent form, as provided by the commission, and a stamped envelope pre-addressed to the city clerk of the City of Oceanside.

(3) In order for any park owner to receive a park rent schedule exemption, as provided in this section, the city clerk must receive a completed consent form, indicating consent to the park rent schedule, from at least one adult resident of sixty-seven (67) percent of the spaces in the park. Such consent must be received by the city clerk within the time period determined by the commission.

(4) The commission may supplement the procedures and requirements provided herein in order to effectuate the purpose and intent of this section.

(d) *Expiration of space rent agreement.*

(1) The exemption as provided for in subsection (a) hereinabove shall terminate upon the expiration of the space rental agreement unless such agreement is renewed or extended by mutual agreement of the park owner and the requisite number of residents in the park. Any such renewal or extension of such agreement must meet the criteria set forth in subsection (b) hereinabove.

(2) Upon the termination of the exemption, the manufactured home park shall be subject to the space rent ceiling provisions of this chapter. The space rent ceiling for each space previously subject to the park rent schedule shall be the space rent in effect on the date the park rent schedule exemption terminated.

(Ord. No. 82-27, § 1, 6-23-82; Ord. No. 91-37, § 2D, 8-28-91; Ord. No. 91-51, § 2(d), 11-13-91)

Sec. 16B.8. Space rent ceiling.

(a) *Manufactured home parks having more than twenty-five (25) manufactured home sites.* Beginning the first month which commences following the one hundred twentieth day after September 12, 1984, no owner of a manufactured home park having more than twenty-five (25) spaces shall charge space rent for any manufactured home space in an amount greater than the space rent in effect on December 31, 1979. This date shall be known as the "space rent ceiling date." The space rent in effect on that date, and as thereafter adjusted in accordance with this chapter, shall be known as the "space rent ceiling."

(b) *Manufactured home parks having twenty-five (25) or fewer manufactured home sites.* Beginning the first day of the month following the day the manufactured home park owner becomes subject to this chapter, no owner of a manufactured home park having twenty-five (25) or fewer manufactured home spaces shall charge a space rent for any manufactured home space in an amount greater than the space rent in effect on April 1, 1991. This date shall be known as the "space rent ceiling date". The space rent in effect on that date, as thereafter adjusted pursuant to this chapter, shall be known as the "space rent ceiling".

(c) *[When no space rent in effect.]* If there was no space rent in effect on the space rent ceiling date, the space rent ceiling shall be the space rent that was charged for that space on the last date that space rent was charged for that space prior to the space rent ceiling date.

(d) *[Exemptions.]* If a manufactured home space is exempted from the space rental ceiling provisions of this Chapter by reason of the existence of a space rent agreement that meets the requirements of California Civil Code Section 798.17; is exempt pursuant to the provisions of California Civil Code Section 798.21 or any other applicable provision of State or Federal law; is a manufactured home owned by the park owner; is exempt as provided in section 16B.7 of this chapter, and that agreement expires, the space rent ceiling for that space shall be the space rent in effect for that space at the time the agreement expired.

(Ord. No. 82-27, § 1, 6-23-82; Ord. No. 84-37, § 1B, 9-12-84; Ord. No. 91-37, § 2E, 8-28-91; Ord. No. 91-51, § 2(e), 11-13-91; Ord. No. 01-410-1, §§ 6, 7, 6-20-01)

Sec. 16B.9. Space rent ceiling adjustments.

(a) *Increase prohibited.* No increase in space rent ceilings shall be permitted except as provided for herein.

(b) *Initial adjustments.*

(1) *Permissive adjustment.* A park owner shall be entitled to an initial permissive adjustment of gross space rental income equal to the lesser of an eight (8) percent increase per annum since the base year or an increase equal to the percentage increase in the Consumer Price Index (CPI) from the end of the base year to the date of application for the adjustment.

(2) *NOI adjustment.* In the event a park owner does not receive a just and reasonable return on the park property after receiving the maximum permissive adjustment provided for above, a park owner may file an application with the commission for an initial adjustment of the space rent ceiling.

A park owner shall be entitled to an adjustment of the space rent ceiling so as to enable the park owner's base year net operating income (NOI) to be increased by a rate equal to the lesser of: a) the percentage increase in the CPI since the end of the base year multiplied by that percentage of the CPI which composes the expenditure category of housing or the equivalent thereof, or b) forty (40) percent of the percentage increase in the CPI since the end of the base year. The percentage increase in the CPI shall be calculated by using the procedure set forth in section 16B.9(b)(1).

No further space rent ceiling adjustment shall be permitted in calendar year 1984, with the exception of any applicable pass-thru adjustment provided for herein.

(3) *Filing of application.* An application for either an initial permissive or NOI adjustment may be filed with the secretary to the commission no sooner than sixty (60) days following September 12, 1984. The application shall be submitted on such form as may be provided by the commission.

The commission shall review any such application in accordance with the provisions of this chapter.

(4) The initial adjustments provided under this section shall not apply to any manufactured home parks or manufactured home park spaces subject to the space rent ceiling provisions of section 16B.8(b) of this chapter.

(c) *Annual adjustment.* Commencing on July 1st in the year following the date any manufactured home park initially becomes subject to the provisions of this chapter, and every subsequent year thereafter, any park owner subject to this chapter shall be entitled to the following annual adjustments:

(1) *Permissive adjustment.* A park owner shall be entitled to an annual permissive adjustment of gross space rental income equal to the lesser of an eight (8) percent increase or an increase equal to seventy-five (75) percent of the percentage increase in the CPI for the calendar year in which the application is filed as reported by the Bureau of Labor Statistics.

(2) *NOI adjustment.* In the event a park owner believes he would not receive a just and reasonable return on his investment in the park after receiving the maximum permissive adjustment provided for above, a park owner may file an application with the commission for an alternative adjustment of the space rent ceiling based upon the park's net operating income (NOI).

(3) *Effect of previous annual adjustment.* Each year the effective date for the annual permissive adjustment shall be July 1, except in those instances where a park is transitioning from a park rent schedule to an annual permissive adjustment. No annual permissive adjustment shall be implemented if a previous annual permissive adjustment became effective within the previous twelve (12) months, e.g., residents shall not receive more than one permissive adjustment in the twelve month period from July 1 to July 1.

(d) *Pass-thru of government assessments.*

(1) A manufactured home park owner may file an application with the commission to pass through to the residents of the park governmental assessments related to the operation of the park. The application shall be submitted in such form, and at such time, as may be provided by the commission.

(2) For governmental assessment increases of a continuing nature, the commission shall permit the park owner to adjust the space rent ceiling by an amount deemed necessary to cover the increase in such assessments. The space rent ceiling for each manufactured

home rental space shall be adjusted equally in an amount necessary to cover increases in such costs.

(3) Government assessments representing a single one-time payment, or a single assessment payable over a fixed period of time, shall not affect the space rent ceiling for the park. Park owners may pass through such assessments to the residents of the park upon terms and conditions as approved by the commission.

(4) For the purposes of this chapter, government assessments shall not include federal, state or local taxes, governmental license or registration fees, or fees paid and costs incurred pursuant to the requirements of this chapter.

(e) *Relationship of pass-thru adjustments to annual adjustments.* When considering an annual adjustment application, pass-thru adjustments received by the park owner since the most recent preceding annual or initial adjustment shall not be included in the gross space rent income used to calculate any current annual adjustment to which the park owner may be entitled.

(f) *Distribution of space rent ceiling adjustments.* In the event the commission grants any adjustment or pass-thru pursuant to any provision of this chapter, the amount of the gross adjustment or pass-thru shall be distributed to each individual space in the park based upon the percentage increase in the gross space rents of all manufactured home spaces in the park subject to this chapter. The individual space rent shall thus increase by the same percentage increase as the increase allowed to the gross space rents in the park. The park owner shall adjust the space rent ceiling for each such manufactured home rental space within the park accordingly and impose this adjustment simultaneously to all manufactured home rental spaces in the park.

(g) *Consumer Price Index (CPI).* The Consumer Price Index utilized herein shall be the Consumer Price Index for all urban consumers for the San Diego area (base = 1967). (Ord. No. 82-27, § 1, 6-23-82; Ord. No. 84-37, § 1.C--E, 9-12-84; Ord. No. 87-44, § 1.A, B, 12-2-87; Ord. No. 88-30, § 1.A--C, 8-10-88; Ord. No. 90-09, § 1.A, B, 2-28-90; Ord. No. 91-37, §§ 2F, G, 8-28-91; Ord. No. 91-51, §§ 2(f)--(i), 11-13-91; Ord. No. 01-410-1, §§ 8, 9, 6-20-01)

Sec. 16B.10. Presumption of just and reasonable return on property; fair return review hearing.

(a) Except as provided hereinbelow, it shall be presumed that the net operating income produced by a manufactured home park during the base year provided the park owner with a just and reasonable return. Park owners shall be entitled to maintain and increase their net operating income from year to year in accordance with the adjustment procedures contained in this chapter.

(b) It shall be presumed that where the NOI is less than fifty (50) percent of gross income in the base year, the park owner was receiving less than a just and reasonable return on the manufactured home park. In such a case, for purposes of determining the base year NOI, gross income shall be adjusted upward to twice the amount of the base year operating expenses.

(c) It shall be further presumed that the adjustments provided for in this chapter, including any adjustments to base year NOI and any annual adjustments or pass-thru adjustments, provide all adjustments necessary to allow the park owner a just and reasonable return on investment for any given year.

(d) However, in the event a park owner contends that the application of these adjustments does not result in a just and reasonable return to the park owner for that particular year, the park owner may apply for an additional "special adjustment." The application for a special adjustment shall be in writing in such form as provided by the commission and shall be heard by the commission at a public hearing to be known as a "fair return hearing." Notice of the fair return hearing shall be given to the park owner/applicant and to the residents of the park by first class mail sent not less than twenty (20) days before the date set for the hearing.

(e) At the fair return hearing, the park owner shall bear the burden of presenting evidence rebutting the presumption stated in subsection 16B.10(c) herein, and the commission shall hear such evidence, and consider such evidence as provided in section 16B.15(d)(6), and determine, based upon the evidence presented, whether the adjustments as provided in this chapter are adequate to allow the park owner a just and reasonable return, and whether and to what extent a special adjustment is necessary to allow such just and reasonable return. The commission shall grant a special adjustment to the extent it finds such necessary to effectuate such just and reasonable return to that park owner/applicant.

(Ord. No. 82-27, § 1, 6-23-82; Ord. No. 91-51, § 2(j), 11-13-91)

Sec. 16B.11. Base year.

Except as otherwise provided herein, the base year for all manufactured home parks shall be the twelve-month period immediately preceding the space rent ceiling date applicable to that park.

For a manufactured home park which was operating under a valid space rental agreement which has expired thereby subjecting the park to the space rent ceiling provisions of this chapter, the base year shall be the last twelve (12) months of the space rental agreement.

(Ord. No. 82-27, § 1, 6-23-82; Ord. No. 91-37, § 2H, 8-28-91)

Sec. 16B.12. Net operating income (NOI).

For purposes of this chapter, the net operating income (NOI) of a manufactured home park shall equal gross income (GI) less operating expenses (OE).

(Ord. No. 82-27, § 1, 6-23-82)

Sec. 16B.13. Gross income (GI).

For purposes of this chapter, the gross income (GI) of a manufactured home park shall equal the following:

- (a) Gross space rents, computed as gross space rental income at one hundred (100) percent occupancy; plus
- (b) Other income generated as a result of the operation of the park, including but not limited to laundry and recreational vehicle storage; plus
- (c) Revenue received by the park owner from the sale of gas and electricity to park residents where such utilities are billed individually to the park residents by the park owner, which revenue shall equal the total cost of the utilities to the residents minus the amount paid by the park owner for such utilities to the utility provider; minus
- (d) Uncontrolled space rents due to vacancy and bad debts to the extent that the same are beyond the park owner's control. Uncollected space rents in excess of three (3)

percent of gross space rents shall be presumed to be unreasonable unless established otherwise and shall not be included in computing gross income. Where uncollected space rents must be estimated, the average of the preceding three (3) years' experience shall be used, or some other comparable method.
(Ord. No. 82-27, § 1, 6-23-82)

Sec. 16B.14. Operating expenses (OE).

(a) For purposes of this chapter, the operating expenses (OE) of a manufactured home park shall include the following:

- (1) Real property taxes and assessments.
- (2) Utility costs to the extent that they are included in space rent.
- (3) Management expenses, including the compensation of administrative personnel (may include the value of any manufactured home space offered as part of compensation for such services), reasonable and necessary advertising to ensure occupancy only, legal and accounting services as permitted herein, and other managerial expenses. Management expenses are presumed to be not more than five (5) percent of gross income, unless established otherwise.
- (4) Normal repair and maintenance expenses for the grounds and common facilities, including but not limited to landscaping, cleaning, repair of equipment and facilities.
- (5) Owner-performed labor in operating and/or maintaining the park. In addition to the management expenses listed above, where the owner performs managerial or maintenance services which are uncompensated, the owner may include the reasonable value of such services. There shall be a maximum allowance of five (5) percent of gross income unless such a limitation would be substantially unfair in a given case. It shall be presumed that a park owner must devote substantially all or his or her time, i.e., at least forty (40) hours per week, to performing such managerial or maintenance services in order to warrant the maximum five (5) percent allowance. No allowance for such services shall be authorized unless a park owner documents the hours utilized in performing such services and the nature of the services provided.
- (6) Operating supplies such as janitorial supplies, gardening supplies, stationery and so forth.
- (7) Insurance premiums prorated over the life of the policy.
- (8) Other taxes, fees and permits.
- (9) Reserve for replacement of necessary capital improvements. This amount shall not exceed five (5) percent of gross income. The reserve shall be documented. The reserve may be included as an operating expense in a particular annual adjustment only to the extent that additional money is added to any previously approved reserve, up to a maximum of five (5) percent of current gross income.
- (10) Necessary capital improvement costs exceeding reserves for replacement. A park owner may include the cost of necessary capital improvement expenditures which exceeded reserves for replacement for which the park owner has been given credit under subsection (9) of this section 16B.14(a) in the current adjustment or in any previously approved adjustment. A necessary capital improvement shall be an improvement required to maintain the common facilities and areas of the park in a decent, safe and sanitary condition or to maintain the existing level of park amenities and services.

Expenditures for capital improvements to upgrade existing facilities or increase amenities or services shall be an allowable operating expense only if documented and only if the park owner has:

- a. Consulted with the park residents prior to initiating construction of the improvements regarding the nature and purpose of the improvements and the estimated cost of the improvements.
- b. Obtained the prior written consent of at least one adult resident from a majority of the manufactured home rental spaces to include the cost of the improvement as an operating expense. Evidence of such consent must be presented at the time of filing the application seeking to include such a capital improvement expenditure as an operating expense. Any capital improvement expense shall be amortized over the reasonable life of the improvement or such other period as may be deemed reasonable by the commission under the circumstances.

In the event that the capital improvement expenditure is necessitated as a result of an accident, disaster or other event for which the park owner receives insurance benefits, only those capital improvement costs otherwise allowable exceeding the insurance benefits may be calculated as operating expenses.

(11) Involuntary refinancing of mortgage or debt principal. A park owner may, under the provisions of this subsection, be able to include certain debt service costs as an operating expense. Such costs are limited to increases in interest payments from those interest payments made during the base year which result from one of the following situations or the equivalent thereof: 1) refinancing of the outstanding principal owed for the acquisition of a park where such refinancing is mandated by the terms of a financing transactor entered into on or before the space rent ceiling, e.g., termination of a loan with a balloon payment; or 2) increased interest costs incurred as a result of a variable interest rate loan used to finance the acquisition of the park and entered into on or before the space rent ceiling.

In refinancing, increased interest shall be permitted to be considered as an operating expense only where the park owner can show that the terms of the refinancing were reasonable and consistent with prudent business practices under the circumstances. No new debt may be issued, however, reasonably necessary financing expenses may be included in the refinancing, to the extent authorized in this chapter.

(12) Increases in rental payments made on leases of land entered into on or before the space rent ceiling. A park owner may, on such terms and conditions as the commission deems reasonable, include as expenses that portion of the increase in rental payments made by the park owner on a lease of the land occupied by all or a portion of the park where such lease [lease] was entered into on or before the space rent ceiling, as follows: The park owner may include as expenses an amount not to exceed the increase in such land lease rental payments occurring since the previous commission-approved rental adjustment for the park when said increase in land lease rental payments is the result of inflation or the increase in the space rental income.

Such increased land lease rental obligations shall be permitted to be considered as an operating expense only where the park owner can show that the terms of the lease are reasonable and consistent with prudent business practices under the circumstances.

(b) Operating expenses shall not include the following:

- (1) All debt service expenses and rental payments made on leases of land, except as provided above.
 - (2) Depreciation.
 - (3) Any expense for which the park owner is reimbursed.
 - (4) Attorneys fees and costs incurred in proceedings before the commission, or in connection with legal proceedings against the commission or challenging this chapter.
 - (5) Any late charges incurred by the park owner for failure to pay any registration fee to the city authorized by this chapter.
- (c) All operating expenses must be reasonable. Whenever a particular expense exceeds the normal industry or other comparable standard, the park owner shall bear the burden of proving the reasonableness of the expense. To the extent that the commission finds any such expense to be unreasonable, the commission shall adjust the expense to reflect the normal industry or other comparable standard.
- (Ord. No. 82-27, § 1, 6-23-82; Ord. No. 86-07, § 1.A--C, 2-26-86; Ord. No. 86-28, § 1.A, B, 7-23-86; Ord. No. 91-37, §§ 2I, J, 8-28-91; Ord. No. 01-410-1, § 10, 6-20-01)

Sec. 16B.15. Space rent ceiling adjustment procedures.

(a) *Initiation.*

- (1) In order to initiate an annual permissive or NOI space rent ceiling adjustment, as provided in section 16B.9(c), a pass-thru adjustment, as provided in section 16B.9(d), or a special adjustment, as provided in section 16B.10(d), a manufactured home park owner must submit an application for such an adjustment to the secretary of the commission. The application shall be submitted at such time and in such form and with such supporting data as may be required by the commission. Permissive and NOI applications shall not be considered complete until the CPI figures required to calculate the adjustment are available from the Bureau of Labor Statistics.
- (2) NOI and special adjustment applications shall be accompanied by an affidavit from the park owner or his designee declaring that copies of the application have either been personally served on each manufactured home resident (service on one adult member of a manufactured home household shall constitute service on each adult member thereof) or mailed first class postage prepaid to each manufactured home residence within the park.
- (3) The NOI or special adjustment application shall be accompanied with two (2) sets of four-by-ten envelopes with first class postage affixed and preaddressed to each manufactured home residence in the park.
- (4) The secretary to the commission shall not accept an NOI or special adjustment application for filing unless it is accompanied by both the affidavit of service or mailing and the required envelopes.
- (5) Within ten (10) days of the service of notice of a park owners' special adjustment application, the affected residents shall select, by majority vote, one of their members as the residents' representative and notify the commission of their selection. If, within that ten (10) day period, the commission has not received notice of the name of the residents' representative, the commission staff shall appoint such representative from the affected residents.
- (6) The residents' representative shall be empowered to enter into binding agreements or stipulations and to act on behalf of the affected residents relating to the procedure to be followed in special adjustment proceedings before the commission and/or the hearing

officer except that such agreements and stipulations shall not be inconsistent with any provision of this chapter.

(b) *Park inspections and hearings on applications for adjustments.*

(1) Upon receipt of a complete application for a permissive, NOI, pass-thru, or special adjustment the commission, or staff shall order an inspection of the park by the Oceanside building department to determine the park's compliance with relevant health and safety standards as required under California law.

(2) If after inspection of the park it is determined that the park complies with all health and safety requirements, and all applicable zoning provisions and permits, and the park owner is otherwise entitled to a permissive or pass-thru adjustment as provided in this chapter, the commission shall authorize a permissive or pass-thru adjustment as requested in the application or as determined appropriate by the commission. The commission shall notify the park owner by first class mail of such determination.

(3) If after the investigation it is determined that the park owner is not in compliance with the health and safety requirements of California law, the commission shall notify the park owner of any and all conditions found at the park that are not in compliance with such requirements. If the commission determines that the park owner is otherwise entitled to a permissive or pass-thru adjustment as provided in this chapter, the commission shall grant the adjustment to be effective only upon the park's providing satisfactory evidence as required by the commission, that all unsatisfactory conditions in the park have been remedied.

(c) *Hearings on applications for NOI or special adjustment.*

(1) Upon receipt of a complete application, including the health and safety inspection, for an NOI adjustment, or a special adjustment under section 16B.10(d), the commission shall conduct a hearing to act upon the application in accordance with the provisions of this chapter.

(2) The secretary shall notify the park owner, or other person designated on the park's registration, and the park residents of the time, date and place of the hearing. Such notice shall be mailed at least fifteen (15) days prior to the scheduled hearing date.

(d) *Conduct of hearings.*

(1) All hearings before the commission shall be open to the public.

(2) A scheduled hearing may be continued for a reasonable period of time as determined by the commission upon stipulation of the parties thereto or upon a finding of good cause for such continuance made by the commission.

(3) The time allotted for any hearing may be reasonably limited by the commission. The commission may also reasonably restrict the time allotted to any party or other witness to present evidence or testimony.

(4) At the hearing the commission shall hear all offered testimony and receive all offered documentary evidence relevant to the application.

(5) Any party to a hearing may have assistance in presenting evidence and testimony and developing their position from attorneys, experts or such other persons as may be designated by such party.

(6) In addition to any testimony and evidence offered at the hearing by any of the parties, the commission may consider any other relevant evidence, as determined by the commission.

(7) At the fair return review hearing, the commission shall consider all relevant, available evidence, including, but not limited to:

- a. Changes in the Consumer Price Index;
- b. Rent for comparable mobilehome spaces in the City of Oceanside;
- c. The length of time since the last rent increase or rent adjustment;
- d. Capital improvements made to the park and the costs for such improvements;
- e. Changes in property taxes or other assessed taxes to the park;
- f. Rent paid by park owner/applicant for leased land;
- g. Changes in utility charges or rates;
- h. Changes in reasonable operating and maintenance expenses;
- i. The need for repairs caused by circumstances other than ordinary wear and tear;
- j. The amount and quality of services and amenities provided by the park owner/applicant to the residents of the park;
- k. The park owner/applicant's investment, additional investments, appreciation, depreciation, and possible tax benefits; and
- l. Any particular hardship circumstances of the park owner/applicant or the residents.

It shall be the responsibility of the applicant for a special adjustment to provide any such evidence available to him or her upon request by the commission.

(e) *Determination of allowable adjustment by the commission.*

- (1) The commission shall render its written findings and decision on the application within such time period as provided by this chapter.
- (2) The commission shall grant such space rent ceiling adjustment as it determines, in its sole discretion, is appropriate based upon its findings.
- (3) Any space rent ceiling adjustment granted by the commission shall become effective in accordance with the provisions of this chapter.
- (4) No NOI or special adjustment shall become effective until the park has passed the health and safety inspection provided in subsection 16B.15(b)(1).

(f) *Hearing fees.*

- (1) The city council shall set appropriate hearing fees by resolution.
- (2) There shall be no required fee for an annual permissive adjustment or pass-thru application.
- (3) A park owner submitting an application for an NOI adjustment or a special adjustment shall submit with the application a hearing fee as determined by resolution of the city council. The application shall not be complete unless and until such fee is received by the commission secretary. In the event the park owner is granted the NOI adjustment requested in the application, or in the event the park owner is granted any special adjustment at the fair return hearing, the park owner shall be entitled to pass through the hearing fee to the residents of the park along with the adjustment granted, only to the extent, if any, such pass-thru is included in the decision of the commission.

(g) *Uniform application procedure.*

- (1) All applications for annual permissive or NOI adjustments shall be received by the commission secretary on or before March 1st of each year.
- (2) Applications that are complete on or before March 15th shall be set for hearing and heard by the commission no later than April 30th in the year the application is submitted. The decision of the commission with respect to any such application shall be issued no

later than April 30th of that year, and the effective date of any allowable increase shall be no earlier than July 1st of that year.

(3) An application shall be deemed complete when (a) the park is current in all registration and registration fee requirements, (b) the completed application has been submitted to the commission, (c) all supporting material, as required by the commission, has been received by the commission, and (d) the commission has received the required hearing fee if applicable.

(4) If the application is not complete on March 15, the hearing may be delayed until thirty (30) days after the application is deemed by the city to be complete.

(5) Applications for a special adjustment pursuant to 16B.10(d) may be submitted at any time. A hearing on the application for a special adjustment shall be commenced within sixty (60) days from the date the completed application is received by the commission, and a decision by the commission shall be issued no later than thirty (30) days from the date of the completion of the commission hearing.

(h) *Reserved.*

(i) *Miscellaneous additional provisions.*

(1) No NOI or special adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing.

(2) The commission shall render its written findings and decision on the application within fourteen (14) calendar days from the date of the close of the hearing or as otherwise provided in this chapter. The secretary shall send a copy of the commission's findings and decision to the park owner or other person designated on the park's registration and to such residents as may request such findings and decision.

(3) Pursuant to its findings, the commission shall grant such space rent ceiling adjustments as are justified thereby. The decision of the commission shall be final except in regard to special adjustment decisions. A special adjustment decision of the commission may be appealed as further set forth and provided in this chapter.

(4) Any space rent adjustment granted by the commission shall become effective thirty (30) days following the commission's ruling thereon, subject to the provision of appropriate notices pursuant to Civil Code Section 798.30, or as otherwise authorized by the commission, or pursuant to the provisions of this chapter.

(j) *Appeal of commission special adjustment decision.*

(1) Appeal procedures. A special adjustment decision of the commission rejecting the application, denying a rent increase, granting a rent increase, or granting a modified rent increase may be appealed to a hearing officer selected in accordance with the provisions in this chapter.

a. *Time for filing notice of appeal.* The commission decision may be appealed by filing a notice of appeal with the commission within fifteen (15) days of the date when the commission's decision was served upon the park owner and the residents.

b. *Contents of notice appeal.* The notice of appeal shall be filed on a form prescribed by the commission and contain a statement setting forth generally in what manner the commission's findings, conclusions and decision are claimed to be in error or fail to follow the provisions set forth in this chapter.

c. *Proof of service of notice of appeal.* The party filing the appeal must provide the commission with proof of service of the notice of the appeal to the opposing party (park

owner or residents' representative) at the time of filing of the notice of appeal. The appeal will not be deemed effective in the absence of this proof of service.

(2) Selection of hearing officer. The commission staff shall obtain a list of retired judges or justices from the California State and Federal courts, and from that list of retired judges/justices shall develop and maintain a list of hearing officers. Within five (5) days after the appeal is deemed effective, each party (the park owner and the residents' representative) will be given the opportunity to review the hearing officer list and agree on the selection of the hearing officer. In the event the parties are unable to agree on a hearing officer within five (5) days, the commission staff will designate a panel of five (5) hearing officers from its list. Within five (5) days of notification by the commission staff of the names on the panel, the parties (the park owner and the residents' representative) shall meet and select the hearing officer from that panel. The process for selection will require a coin toss, the winner (either park owner or residents' representative) shall strike one name from the panel. The other party shall strike one name, and the parties shall then alternate in striking names until only one name remains who shall serve as the hearing officer. Within five (5) days of this selection, the commission staff shall issue a notice of appointment of the hearing officer.

(3) Costs and expenses of the hearing officer.

a. Within five (5) days of the commission staff's notice of appointment of the hearing officer, the commission staff shall inform the appealing party of the hearing officer's estimated costs to conduct the appeal.

b. Within five (5) days of such notification, the appealing party shall deposit those estimated costs with the city clerk. As soon as the deposit is made, the hearing officer shall commence his/her duties as set forth below. Failure to timely deposit such estimated costs shall result in a dismissal of the administrative appeal.

c. If, at the close of the hearing, an appealing park owner is deemed to be the "successful party" by the hearing officer, the costs and expenses of the hearing officer may be included in the hearing officer's rent decision and the affected residents' rents adjusted in the form of higher rents. If, at the close of the hearing, the appealing residents are deemed to be the "successful party" by the hearing officer, the cost and expenses of the hearing officer may be included in the hearing officer's rent decision and the affected residents' rents adjusted in the form of lower rents.

(4) Powers and duties of hearing officer.

a. Within five (5) days of the city clerk's receipt of the hearing officer deposit, the hearing officer shall receive the complete commission file, including copies of taped recordings of the commission hearing(s).

b. Within thirty (30) days of the city clerk's receipt of the hearing officer deposit, the hearing officer shall commence the administrative appeal hearing. By stipulation, the parties may extend this thirty (30) day hearing period for any length of time. In the absence of such stipulation, the hearing officer may, on his/her own motion, extend the thirty (30) day hearing period for up to an additional fifteen (15) days.

c. Not less than twenty (20) days prior to the appeal hearing date, the hearing officer shall provide the parties (park owner and residents' representative) with written notification of the date, place and time of the hearing. The same notice shall set forth a time schedule for the filing of written argument and/or any request to file additional evidence which the parties wish the hearing officer to consider at the appeal hearing.

- d. The hearing officer shall exercise his/her independent judgement as to the "special adjustment" to be awarded and is not bound by the prior determinations, findings, or decision of the commission.
 - e. The hearing officer shall issue his/her decision including written findings and conclusions within ten (10) calendar days after the close of the hearing.
 - f. The decision of the hearing officer will be a final administrative decision and there shall be no remand to the commission for further proceedings.
 - g. Any party dissatisfied with the hearing officer's decision may seek judicial review in the superior court.
 - h. The commission and the city council may enter into a court settlement agreement that allows a park owner or affected residents the ability to apply, utilize, modify, or amend the provisions of section 16B.15(j) for any special adjustment decision of the commission which is not final as of the effective date of such agreement. For the purposes of this rule, a commission decisions is not final when it remains subject to review by a court of competent jurisdiction.
- (Ord. No. 82-27, § 1, 6-23-82; Ord. No. 86-07, § 1.D, 2-26-86; Ord. No. 87-44, § 1.C, D, 12-2-87; Ord. No. 88-30, § 1.D, 8-10-88; Ord. No. 91-51, § 2(k), 11-13-91; Ord. No. 00-176-1, §§ 2--4, 3-15-00; Ord. No. 01-410-1, §§ 11--15, 6-20-01)

Sec. 16B.16. Miscellaneous provisions.

- (a) *Refusal of manufactured home resident to pay space rent.* A manufactured home resident may refuse to pay any space rent which is in violation of this chapter. Such a violation shall be a defense in any action brought to recover possession of a manufactured home space or to collect the illegally charged space rent.
- (b) *Restraining or enjoining violations.* The City of Oceanside, manufactured home residents thereof, or manufactured home park owners therefor, may seek relief from the appropriate court to restrain or enjoin any violation of this chapter or the rules and regulations or decisions of the commission.
- (c) *Suspension of provisions.*
 - (1) The provisions of this chapter shall remain in full force and effect unless and until the space vacancy rate of all manufactured home parks regulated hereunder, except as provided below, exceeds five (5) percent. The space vacancy rate shall be calculated by dividing the total number of rental spaces in the applicable parks into the total number of such spaces which are not occupied by manufactured homes. Parks which have not been in operation for more than two (2) years from the date of occupancy of the first manufactured home, not including manufactured homes occupied by park owners or employees thereof, shall not be included in the vacancy calculation.
 - (2) Upon recognition by the city council by resolution that the vacancy rate exceeds five (5) percent, the provisions of this chapter shall be suspended. The provisions shall be automatically reinstated upon the adoption of a resolution by the city council declaring the vacancy rate to be five (5) percent or less.
- (d) *Civil Code Section 798.17 and 798.21 exemptions.*
 - (1) Rental agreements between a park owner and resident which meet the criteria of Civil Code Section 798.17 are exempt from the rental rate restrictions of this chapter.

- (2) For all such rental agreements which expire, the last monthly rental rate charged under the rental agreement shall be the space rent ceiling used to calculate the annual adjustment for that space.
- (3) Any other provision or agreement, whether oral or written, in or pertaining to a rental agreement whereby any provision of this chapter or decision or regulation of the commission for the benefit of a resident is waived shall be deemed to be against public policy and shall be void.
- (4) Park spaces subject to the provisions of Civil Code Section 798.21 or any other such provision of applicable state or federal law granting such exemption, are exempt from the rental rate restrictions of this chapter.
- (e) *Reserved.*
- (f) *Severability.* If any provision or clause of this chapter or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other chapter provisions or clauses or applications thereof which can be implemented without the invalid provision or clause or application; and to this end the provisions and clauses of this chapter are declared to be severable.
- (g) *[Subpoenas.]* The city council may issue subpoenas requiring the attendance of witnesses and/or the production of books or other documents necessary for evidence of testimony in any action or proceeding before the commission upon request by the commission. Said subpoenas shall be signed by the mayor or his or her designated substitute and attested by the city clerk. Failure to comply with such a subpoena shall result in contempt proceedings under Government Code Sections 37106 through 37109.
- (h) *[Violation of chapter prohibited.]* No person, as defined in Chapter 1 of the City Code, shall own, operate or manage any manufactured home park, as defined in section 16B.2, in violation of any provision of this Chapter 16B. Violation of any provision of this Chapter 16B shall constitute a misdemeanor punishable as provided in Chapter 1 of the City Code.
- (i) *Anti-discrimination clause.* It is unlawful for a mobilehome park owner, or any agent or representative of the owner, to discriminate against any tenant because of the tenant's exercise of any rights under this chapter. It is also unlawful for any mobilehome park owner, or any agent or representative of the owner, to discriminate against any purchaser or prospective purchaser of a mobilehome because of the purchaser's or prospective purchaser's choice to enter into a rental agreement subject to the provisions of this chapter.
- (j) *[Remedies.]* All remedies set forth in this chapter shall be cumulative and nonexclusive.
- (Ord. No. 82-27, § 1, 6-23-82; Ord. No. 86-07, § 1.E, F, 2-26-86; Ord. No. 91-51, § 2(l), 11-13-91; Ord. No. 93-12, §§ 1--3, 6-16-93; Ord. No. 01-410-1, §§ 16, 17, 6-20-01; Ord. No. 06-OR0685-1, § 1, 12-6-06)