

ORDINANCE NO. 927

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, AMENDING CHAPTER 11.08 OF THE LANCASTER MUNICIPAL CODE RELATING TO MOBILEHOME PARK RENT STABILIZATION

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 11.08 (“Mobilehome Park Rent Stabilization”) of the Lancaster Municipal Code is hereby amended to read as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including Exhibit “A,” is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Lancaster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. That the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 28th day of July, 2009, and placed upon its second reading and adoption at a regular meeting of the City Council on the _____ day of _____, 2009 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California,
do hereby certify that this is a true and correct copy of the original Ordinance No. 927, for which the
original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day
of _____, _____.

(seal)

EXHIBIT "A"
ORDINANCE NO. 927

CHAPTER 11.08

MOBILEHOME PARK RENT STABILIZATION

Sections:

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11.08.010 Purpose.

It is the purpose of this chapter to protect homeowners in mobilehome parks from unreasonable rent increases by establishing a process to stabilize rents in mobilehome parks and to provide park owners a just and reasonable return on their investment.

11.08.020 Definitions.

For the purpose of this chapter:

“Annual period” means that year commencing on the first day of October.

“Annual rental increase” means that rental increase established by the city council pursuant to Section 11.08.060, to be effective for the annual period which may be implemented by park owners unless the park owner is otherwise prohibited from doing so pursuant to this chapter.

“Camping trailer” means a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite and designed for human habitation for recreational or emergency occupancy.

“Commercial coach” means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional or commercial purposes, which is required to be moved under permit as defined in Section 18001.8 of the Health and Safety Code, and shall include a trailer coach as defined in Section 635 of the Vehicle Code.

“Director” means the Director of Housing and Community Revitalization or designee.

“Homeowner” means a person who has a tenancy in a mobilehome park under a rental agreement.

“Homeowner petition period” means that period of time of at least sixty (60) days commencing on the date of the receipt of the first written notice to homeowners of a park owner's intent to implement the annual rental increase and ending on the date on which the annual rental increase implemented by the park owner for the tenants' mobilehome park is effective.

“Homeowner rental adjustment” means that adjustment in implementation of the annual rental increase required pursuant to Section 11.08.080.

“Manufactured home” means a structure, as defined in Section 18007 of the Health and Safety Code as it currently exists and as may be amended, which is transportable in one or more sections, and which is built on a permanent chassis and designed to be used as a dwelling when connected to utilities; and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Mobilehome.

1. “Mobilehome” means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the California Vehicle Code, as it currently exists and as may be amended. “Mobilehome” includes a manufactured home as further defined in Section 18007 of the Health and Safety Code and a mobilehome as defined in Section 18008 of the Health and Safety Code, as those sections currently exist or as they may be amended.

2. “Mobilehome” does not include a recreational vehicle or a commercial coach except as provided in subsection 3 of this definition.

3. “Mobilehome” also means trailers and other recreational vehicles of all types defined in Section 18010 of the Health and Safety Code, other than motor homes, truck campers and camping trailers, which are used for human habitation if:

a. The trailer or recreational vehicle occupied a mobilehome space in a mobilehome park on November 15, 1992 under a rental agreement with a term of one month or longer and the trailer or recreational vehicle occupied a mobilehome space in the mobilehome park prior to January 1, 1992; or

b. The trailer or recreational vehicle occupies a mobilehome space in a mobilehome park for at least nine continuous months commencing on or after November 15, 1992.

4. "Mobilehome" does not include a trailer or recreational vehicle located in a recreational vehicle park subject to Chapter 2.6 of the California Civil Code.

"Mobilehome park" means any area of land within the city of Lancaster where two or more mobilehome spaces are rented or held out for rent, to accommodate mobilehomes used for human habitation.

"Mobilehome space" means the site within a mobilehome park intended, designed or used for the location of a mobilehome.

"Motor home" means a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designated for human habitation for recreational, emergency, or other occupancy.

"Park owner" means the owner of a mobilehome park or the park owner's designated agent.

"Park trailer" means a trailer coach, designed for human habitation for recreational or seasonal use only, which meets all of the following criteria:

1. It contains four hundred (400) square feet or less of gross floor area measured at the maximum horizontal projections. However, it may not exceed twelve (12) feet in width or forty (40) feet in length in the traveling mode.

2. It is built on a single chassis.

3. It may only be transported upon the public highways with a permit.

4. It is constructed in accordance with Standard No. A119.5 of the American National Standards Institute as it may be amended.

"Permissive rental adjustment" means that increase in rent permitted pursuant to Section 11.08.070.

"Recreational vehicle" means a motor home, slide-in camper, travel trailer, truck camper, park trailer or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy as further defined in Section 799.24 of the Civil Code and Section 18010 of the Health and Safety Code as those Sections currently exist or as they may be amended.

“Rent” means the consideration paid by the homeowner to the park owner for a tenancy in a mobilehome park. If the park owner elects to bill the homeowner separately for utility service fees assessed by a utility for services provided to or for mobilehome spaces in a mobilehome park, such separately billed utility service fees shall not be deemed to be included in the rent charged for a tenancy in the mobilehome park; provided that, at the time of the initial separate billing of such utility service fees, the rent charged by the park owner for a tenancy in the mobilehome park is simultaneously reduced by an amount equal to the amount of the utility service fees separately billed; provided further, that the initial separate billing for such utility service fees shall be equal to the average amount charged to the park management for that utility service for that space during the twelve (12) months preceding notice of the commencement of the separate billing for that utility service; provided further, that the park owner may not initially bill any utility service fees separately until a rental agreement is either renewed, extended or initially executed. In a mobilehome park in which the utility service fee to be separately billed is billed to the park owner on the basis of a master meter or single bill encompassing all mobilehome spaces in the mobilehome park, such separate billing for the utility service fee shall be divided proportionately among all of the mobilehome spaces in the mobilehome park; provided that at the time such utility service fee is initially separately billed, the park owner shall post in a conspicuous location in the mobilehome park copies of the bills for the last twelve (12) months' utility service fee and the calculations done in establishing the initial separate billing. Whenever a park owner is the provider of the utility service to be separately billed, such park owner shall consider all relevant cost factors in establishing the initial separate billing, including, but not limited to, operations and maintenance expenses. To the extent any factors are not considered in the initial separate billing, such factors shall not be considered when adjusting the utility service fee billing in the future. The amount of the initial separate utility service fee billing shall be consistent with the determination of whether such fee is “reasonable” using the operating ratio method rate of return as adopted and utilized by the California Public Utilities Commission (PUC) in determining whether the utility service fee is reasonable. The park owner must itemize each cost factor associated with the utility service when first separately billing, and shall post in a conspicuous location in the mobilehome park the calculations done in establishing the initial separate billing.

“Rental agreement” means an agreement between the park owner and the homeowner establishing the terms and conditions of a tenancy. A lease is a rental agreement.

“Slide-in camper” means a portable unit, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from a truck, and designed for human habitation for recreational or emergency occupancy. A “slide-in camper” means a truck camper.

“Tenancy” means the right of a homeowner to the use of a mobilehome space on which to locate, maintain and occupy a mobilehome, site improvements and accessory structures for human habitation including use of mobilehome park services and facilities.

“Trailer coach” means a vehicle, other than a motor vehicle, designed for human habitation or occupancy for industrial, professional or commercial purposes, for carrying property on its own structure, and for being drawn by a motor vehicle.

“Travel trailer” means a portable unit, mounted on wheels of such size and weight as not to require special highway movement permits when drawn by a motor vehicle and for human habitation for recreational or emergency occupancy.

“Utility service fees” means fees or charges assessed by utilities for natural gas or liquid propane gas, electricity, water, cable television, garbage or refuse service and sewer service to the extent that such services are separately metered or billable for each mobilehome space.

11.08.030 Exemptions.

A. Sections 11.08.060, 11.08.070, 11.08.080 and 11.08.090 of this chapter shall not apply to:

1. Tenancies covered by a rental agreement in excess of twelve (12) months' duration in which the homeowner will use the mobilehome space as his personal and primary residence;

2. Newly constructed mobilehome spaces initially held out for rent after January 1, 1990;

3. Recreational vehicles and commercial coaches, provided the recreational vehicle or commercial coach is not otherwise defined as a mobilehome pursuant to Section 11.08.020.

B. Notwithstanding the above, all other portions of this chapter shall apply to all mobilehomes, mobilehome spaces and mobilehome parks within the city.

11.08.040 Deleted.

11.08.050 Registration.

A. Within sixty (60) calendar days after the effective date of this chapter, park owners are required to register their mobilehome parks and mobilehome spaces within such mobilehome parks with the City.

B. The initial registration and all subsequent quarterly updates shall include:

1. The name(s), address(es), telephone number(s) of each person or legal entity possessing an ownership interest in the mobilehome park and the nature of such interest;

2. The number of mobilehome spaces within the mobilehome park;

3. Identification of all mobilehome spaces within the mobilehome park which are occupied by a recreational vehicle, commercial coach or other vehicle which are exempt from this chapter pursuant to Section 11.08.03;

4. Identification of all newly constructed mobilehome spaces initially held out for rent after January 1, 1990 which are exempt from this chapter pursuant to Section 11.08.030;

5. A rent schedule reflecting rents within the mobilehome park on the effective date of this chapter and current rents;

6. A listing of all other charges, including utilities, paid by homeowners within the mobilehome park and the approximate amount of each such charge;

7. The name and address of each homeowner in the mobilehome park; and

8. The term of the lease for each homeowner in the mobilehome park and the date on which each lease will terminate.

C. To provide the City with current registration information, park owners shall be required on a quarterly basis, to report to the Director the information required for registration pursuant to subsection B of this section, including all changes in the prior three months. Four quarterly registration update forms will be mailed to each park owner prior to January 1st of each year for submission to the Director. Park owners shall return the forms to the Director, postmarked no later than the due date printed on each form (March 31st, June 30th, September 30th, December 31st).

D. Park owners shall not be entitled to an annual rental increase or to petition for a permissive rental adjustment pursuant to Sections 11.08.060 and 11.08.070, respectively, unless and until the park owner has filed current quarterly registration update forms with the City.

E. A copy of the ordinance codified in this chapter shall be and shall remain posted in the office of every mobilehome park and in the recreation building or clubhouse of every mobilehome park and if no recreation building or clubhouse, placed in a conspicuous place in the park.

F. Park owners shall pay a fee for initial registration of each mobilehome park as established by resolution of the city council to cover the costs incurred by the City associated with registration.

11.08.060 Annual rental increase.

A. Beginning in 1993, and each year thereafter, the annual rental increase to be effective for the annual period commencing October 1st of each year which may be implemented by park owners pursuant to this section shall be established automatically. The annual rental increase shall be determined by multiplying the June, All Items Consumer Price Index for All Urban Consumers, Los Angeles Area as provided by the U.S. Department of Labor, Bureau of Labor Statistics for the preceding twelve (12) month period by sixty (60) percent. Park owners shall be advised of the annual rental increase amount by the city of Lancaster (for that annual period commencing on October 1, 1992, the city council has set the annual rental increase at 2.3 percent).

B. Park owners shall be entitled to increase the rent for a mobilehome space once during each annual period by the annual rental increase for that annual period unless prohibited from increasing rent pursuant to Section 11.08.050D, 11.08.120 or 11.08.080. The city shall advise those park owners who shall not be entitled to the annual rental increase or who shall not be entitled to petition for a permissive rental adjustment pursuant to Sections 11.08.050D and 11.08.120, respectively.

C. The annual rental increase for a mobilehome space may become effective at any time during the annual period provided that the annual rental increase for a mobilehome space in a mobilehome park shall not become effective until the rental agreement is either renewed, extended or initially executed.

11.08.070 Permissive rental adjustments-- Park owner petition.

A. Petition. A park owner who seeks an increase in rent for mobilehome spaces located in one mobilehome park in addition to the annual rental increase must petition the Director for a permissive rental adjustment by submitting the application required by subsection B of this section to the City Clerk. A filing fee in an amount established by resolution of the city council shall be charged to cover a portion of the costs of processing the requested adjustment. Applications shall be available at Lancaster City Hall.

Park owners shall be entitled to apply for one permissive rental adjustment during every annual period for all mobilehome spaces in a mobilehome park unless prohibited from increasing rent pursuant to Section 11.08.050D or 11.08.120. The permissive rental adjustment shall apply to every mobilehome space in the mobilehome park which is the subject of the application, except for mobilehome spaces exempt from this section pursuant to Section 11.08.030.

B. Contents of Application. The application shall specify:

1. The address of the mobilehome park;
2. The number of mobilehome spaces for which rent would be increased;
3. The amount of the requested increase; and
4. The reasons for the requested permissive rental adjustment.

C. Completed Application. Within fifteen (15) days of receiving an application for a permissive rental adjustment, the Director shall determine if the application is complete. If the application is not complete the Director shall notify the applicant in writing that additional information is required to complete the application. Following receipt of a completed application and up to three days prior to the date of the hearing described in subsection E of this section, the Director may request that the applicant produce relevant records, receipts and papers necessary for the Director to rule on the petition.

D. Notice of Petition to Homeowner(s). Within fifteen (15) days of determining that a completed application has been submitted, the Director shall mail a notice to each homeowner residing at the mobilehome spaces designated in the application. The notice shall specify:

1. That an application to increase the homeowner's rent has been submitted;
2. The amount of the requested increase;
3. A summary of the reasons given by the park owner for the requested increase;
4. That the homeowner may inspect documents submitted by the park owner in support of his request;
5. That the homeowners may submit to the Director any papers, records or other written information relevant to the petition; and
6. How to contact the Director for further information.

E. Permissive Rental Adjustment Hearing.

1. Within sixty (60) days of receiving a completed application, the Director shall conduct a hearing to rule upon the petition. At least ten (10) days prior to the hearing, notice of the time, date and location of the hearing shall be mailed to the park owner and affected homeowner(s) designated in the application. The Director shall render a final decision no later than fifteen (15) days after the hearing.

2. The Director shall approve such rent increases to the extent that the Director determines the rent increase to be fair, just and reasonable. In reviewing an application for a permissive rental adjustment, the Director shall consider relevant factors that provide the park owner with a just and reasonable return on his investment, including but not limited to:

- a. Changes in property taxes or other taxes related to the mobilehome park;
- b. Changes in maintenance and operating expenses;
- c. The cost of any capital improvements to the mobilehome park as distinguished from ordinary repair, replacement and maintenance;
- d. The need for repairs, caused by circumstances other than ordinary wear and tear;
- e. Failure of the park owner to perform repairs and maintenance or to provide adequate mobilehome park services to affected homeowners designated in the application, or to comply with applicable mobilehome park laws, local housing and health and safety codes;

- f. The pattern of rent increases or decreases for the affected mobilehome space;
- g. The rent lawfully charged for comparable mobilehome spaces in the city;
- h. Changes in rent paid by the applicant for the lease of the land where the mobilehome park is located;
- i. Changes in the utility charges or utility service fees for the mobilehome park paid by the applicant to the extent that such charges have not already been excluded from the definition of “rent” pursuant to Section 11.08.020; and
- j. Existing written leases between the applicant and homeowners.

To the extent that these factors are not components of the Consumer Price Index, these factors shall be considered by the Director to ensure that the park owner receives a just and reasonable return on his investment.

3. At the hearing, the park owner and the affected homeowners may offer oral testimony relevant to the petition. Papers, records, and other documentation which were not submitted prior to the hearing shall not be offered unless good cause is shown why such documentation was not submitted prior to the hearing.

4. If the Director cannot conduct a hearing within sixty (60) days after receiving a completed application, the Director may postpone the date for conducting the hearing by thirty (30) days. A hearing may be continued for fifteen (15) days based upon a finding of good cause made by the Director.

5. The decision of the Director shall be appealable to the City Council in accordance with the Uniform Appeals Procedure set forth in Chapter 2.44 of this Code. Notice of the Director’s determination shall be mailed to the park owner and to the homeowners designated in the application.

11.08.080 Homeowner rental adjustments-- Homeowner petitions.

A. Petition. Homeowners may petition the Director to prohibit the implementation of the annual rental increase by their park owner. A majority of the homeowners who reside in mobilehome spaces in one mobilehome park may petition the Director for a homeowner rental adjustment by submitting the application required by subsection B of this section to the City Clerk. For purposes of this section, there shall exist one homeowner for each mobilehome space in the mobilehome park for which rent is collected and “homeowner” shall mean a homeowner with a rental agreement with a term of twelve (12) months or less in duration. A filing fee in an amount established by resolution of the city council shall be charged to cover a portion of the costs of processing the requested adjustment. Applications shall be available at Lancaster City Hall.

Homeowners shall be entitled to apply for one homeowner rental adjustment during every annual period provided that the application required by Subsection B of this section is submitted to the City Clerk prior to the expiration of the homeowner petition period as set forth in Section 11.08.020.

B. Contents of Application. The application shall specify: (1) the address of the mobilehome park; (2) the number of mobilehome spaces for which rent is collected; (3) the names, addresses and telephone numbers of all of the petitioners; (4) the reasons for the requested homeowner rental adjustment; and (5) the names of at least two spokespersons for the petitioners who shall thereafter be authorized by the petitioners to respond to any requests from the city for additional information. A petition requesting a homeowner rental adjustment shall be attached to the application; the petition must be signed by a majority of the homeowners who reside in mobile-home spaces for which rent is collected in the mobilehome park. All petition pages must clearly and uniformly state the reasons for the requested homeowner rental adjustment. Such language must match the language used on the application for mobilehome space rental decrease, which is completed and filed with the Director along with the homeowner's petition page(s).

C. Completed Application. Within fifteen (15) days of receiving an application for a homeowner rental adjustment, the Director shall determine if the application is complete. If the application is not complete, the Director shall notify the petitioning homeowners through the homeowners' spokespersons in writing that additional information is required to complete the application.

D. Notice of Petition. Within fifteen (15) days of determining that a completed application has been submitted, the Director shall notify the park owner and each homeowner by mail that:

1. An application to prohibit the implementation of the annual rental adjustment has been submitted;
2. A summary of the reasons given for the requested homeowner rental adjustment;
3. The Director shall presume that the homeowner rental adjustment is warranted;
4. The park owner may submit to the Director any papers, records or other written information relevant to rebut the presumption that the homeowner rental adjustment is warranted; and
5. How to contact the Director for further information.

E. Presumption Favoring Homeowners. The Director shall presume that the homeowner rental adjustment is warranted and in the absence of any further evidence shall so find. However, a park owner may rebut the presumption set forth in this subsection D of this section with any relevant information.

F. Homeowner Rental Adjustment Hearing. The Director shall conduct a hearing to rule upon the petition in the same manner that the Director conducts permissive rental adjustment hearings pursuant to Section 11.08.070E. For purposes of this subsection, “permissive rental adjustment” in Section 11.08.070F shall mean homeowner rental adjustment. The Director shall approve prohibitions in the implementation of the annual rental increase to the extent that the Director determines the prohibition to be fair, just and reasonable.

G. Implementation of Annual Rental Increase Prior to Hearing. In the event that the homeowner rental adjustment hearing is conducted after the expiration of the sixty (60) day notice period of the park owner's intent to implement the annual rental increase, a park owner may implement the annual rental increase. However, the Director may order at the homeowner rental adjustment hearing that the park owner rebate to the homeowners that portion of the annual rental increase that the Director determines that the park owner is prohibited from implementing pursuant to subsection F of this section.

11.08.090 No vacancy increases.

When a mobilehome located upon that mobile-home space is sold, the park owner may not increase the rent for any such mobilehome space except in accordance with the provisions of this chapter or when the mobilehome is removed from the mobilehome space and that mobilehome space is vacant.

11.08.100 Notice of rent increase.

Park owners shall give homeowners written notice of any increase in their rent at least ninety (90) days prior to the effective date of the increase. A copy of all rent increase notices shall be forwarded to the Director.

11.08.110 Rental agreements in general.

A homeowner shall be offered a rental agreement for (A) a term of twelve (12) months; or (B) a lesser period as the homeowner may request pursuant to the provisions of Civil Code Section 798.18; or (C) a longer period as mutually agreed upon by both the homeowner and the park owner. No such 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 twelve (12) months of the agreement from corresponding terms or conditions that would be offered to the homeowners on a month-to-month basis. All rental agreements shall comply in every respect with the requirements of the California Civil Code as they relate to rental of mobilehome spaces.

11.08.120 Rent disputes--Homeowner complaints.

A. A homeowner who desires to register a complaint with the city must submit the complaint form required by subsection B of this section to the City Clerk. Complaint forms shall be available at Lancaster City Hall.

- B. The complaint form shall specify:
1. The name and address of the mobilehome park;
 2. The name, address (including mobilehome space number) and telephone number of the person filing the complaint; and
 3. The nature of the complaint.

A copy of the lease agreement currently in effect for the mobilehome space which is the subject of the complaint must be attached to the complaint form in order for the city to process the complaint. The city may additionally request that the person filing the complaint submit other relevant documents in their possession to the city. Complaints will not be processed until all relevant documents have been submitted to the city.

C. The city may request that park owners submit additional relevant documents. Park owners shall honor all reasonable city requests. Failure of a park owner to honor a reasonable request for submission of documents may be grounds for the city council's determination that a park owner shall not be permitted to implement the annual rental increase nor petition the Director for a permissive rental adjustment pursuant to Section 11.08.070.

11.08.130 Remedies.

A. Civil. A park owner who demands or accepts payment of rent in violation of this chapter, shall be liable in a civil action to the homeowner from whom such payment is demanded or accepted for reasonable attorneys fees and costs, plus damages in an amount of five hundred dollars (\$500.00) or three times the amount of the payment demanded or accepted in excess of the rent which could be lawfully charged pursuant to this chapter, whichever is the greater.

B. Criminal. Any park owner violating this chapter shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period not exceeding six months, or both fine and imprisonment.

11.08.140 Amendments.

This chapter may be amended at any time, by ordinance, adopted by a majority vote of the city council after a duly noticed public hearing.