



DATE: September 14, 2021

CATEGORY: Unfinished Business

DEPT.: City Attorney's Office,
Community Development

TITLE: **Introduction of an Ordinance
Enacting Mobile Home Rent
Stabilization**

RECOMMENDATION

Introduce an Ordinance of the City of Mountain View Enacting Mobile Home Rent Stabilization, to be read in title only, further reading waived (Attachment 1 to the Council report), and set a second reading for September 28, 2021.

BACKGROUND

In November 2016, Mountain View voters approved the Community Stabilization and Fair Rent Act (CSFRA) as a Charter amendment, which went into effect December 23, 2016. The CSFRA enacted stabilization of rents to multi-family residential rental units constructed prior to 1995 and just-cause termination protections for multi-family units constructed prior to the effective date of the CSFRA on December 23, 2016.

The CSFRA does not specifically identify mobile homes as a residential structure subject to the CSFRA. In 2018, the Rental Housing Committee (RHC) adopted Resolution 11 finding that the CSFRA did not apply to mobile homes. A lawsuit ensued, and the RHC decision was upheld first by a trial court and then again on appeal as a valid exercise of the RHC's discretion to interpret the CSFRA. The City of Mountain View currently does not regulate rent increases for mobile homes.

On January 28, 2020, the Council held a Study Session to begin the process of exploring a separate ordinance for a mobile home rent stabilization program. The memo for that Study Session provided an overview of the California Mobilehome Residency Law (MRL), (Civil Code Section 798, *et seq.*) and rent stabilization programs in other California jurisdictions. The Study Session memo is attached (Attachment 2). In the Study Session, the City Council provided input and direction to staff to continue to research this topic and to organize outreach meetings for stakeholders.

In response to Council direction, staff organized stakeholder meetings for both mobile home residents and park owners on February 11, February 13, and February 18, 2020, respectively. A summary of the discussions in these meetings is attached (Attachment 3). Before staff could make further progress towards developing a mobile home rent stabilization program, the COVID-19 pandemic began, and City priorities shifted in response to the immediate public health crisis.

The City Council returned to the issue of mobile home rent stabilization in Council's 2021 Strategic Roadmap Action Plan meetings. On March 16, 2021, Council voted to keep the preparation of a mobile home rent stabilization ordinance as a priority project to be implemented in 2021. Council directed staff to prepare a draft ordinance for Council's consideration that would provide tenant protections equivalent to those under the CSFRA and be overseen by the RHC and CSFRA program staff, with modifications as necessary to account for the Mobilehome Residency Law and issues specific to mobile home parks.

To implement Council's direction, staff created a draft ordinance framework and potential mobile home rent stabilization policies. Staff shared these potential policies with focus groups consisting of mobile home park owners and mobile home residents on June 23 and June 24, 2021. Feedback from both groups is summarized by topic area below, and complete summary reports of both outreach meetings are attached (Attachment 4).

Following the June 2021 outreach meetings and upon further analysis, staff updated some of the parameters of the draft ordinance framework. To provide stakeholders a chance to review updates and provide comments before the proposed ordinance was presented to Council, the City Attorney sent all stakeholders an updated draft framework on July 26, 2021 (Attachment 5). Although the framework included a number of changes, the most significant change was to propose expanding coverage from mobile home spaces only to include both mobile home spaces and the rental of mobile homes themselves. Feedback was provided to the City from the owners of the Sahara Village and Santiago Villa mobile home parks objecting to the expansion of coverage and asserting that they would seek adjustments to increase permitted rents; remove park-owned mobile homes from the rental market; and close all or part of both parks.

ANALYSIS

To prepare the Mobile Home Rent Stabilization Ordinance (the "Ordinance"), staff reviewed the CSFRA, the Mobilehome Residency Law, example regulatory schemes from other jurisdictions, comments from the RHC, and stakeholder feedback that was

provided in response to the potential mobile home rent stabilization policies that staff had identified.

Consistent with Council's direction to craft an ordinance that mirrors the CSFRA, the Ordinance includes the following requirements, each of which are discussed in more detail below:

- Applies rent stabilization to residents who rent spaces in a mobile home park or who rent mobile homes from an owner.
- Adds just cause for eviction protections for tenants who rent mobile homes.
- Exempts mobile homes that are subject to an accord that is at least as protective as the City's ordinance.
- Establishes annual rent increases as equal to 100% of the CPI, with a floor of 2% and a ceiling of 5%.
- Limits rent increases upon the sale of a mobile home to 10%.
- Allows for capital improvement pass-through costs.
- Includes a petition process for rent adjustments beyond the generally applicable limits.
- Authorizes the RHC to adopt regulations and oversee implementation of the program.

Findings and Definitions

The Ordinance's stated purposes are to promote neighborhood and community stability, healthy housing, and affordability for mobile home park residents in the City of Mountain View; to control excessive rent increases to the greatest extent allowable under California law; and to ensure mobile home park owners have the opportunity to earn a fair and reasonable return on their investment. These purposes mirror those included in the CSFRA.

The Ordinance also includes numerous definitions that are specific to mobile homes, which allow for the Ordinance to be implemented to regulate mobile homes, just as the CSFRA regulates other multi-family apartment buildings. It also defines two classes of owners who are subject to the Ordinance: park owners (who rent out spaces within a

mobile home park to residents who own their own homes) and mobile home landlords (who rent out the mobile homes they own to tenants).

Ordinance Coverage

The Ordinance applies to both spaces rented in mobile home parks and mobile homes rented from owners throughout the City, unless a specific exemption applies. The Ordinance would exempt mobile home spaces, as required by the Mobilehome Residency Law, and any newly constructed mobile home spaces that were first rented on or after January 1, 1990. These provisions are akin to the CSFRA, which applies to all rental apartments throughout the City, subject to the Costa-Hawkins Act and limitations specific to housing outside of the mobile home context.

The ordinance was initially proposed to apply only to mobile home spaces. Many stakeholders expressed a strong preference to provide equal coverage for mobile home space rent and tenants who rent mobile homes. Mobile home park owners were divided on this point. Park owners who also own mobile homes that they rent directly, such as the owners of Sahara Village and Santiago Villa, preferred more narrow coverage because uncontrolled rent on mobile homes would allow them to “make up” the difference of limited rent increases applied to mobile home spaces. Other park owners were concerned that individuals who rent spaces from a park owner but who own and rent out their mobile home would receive a windfall if space rent were limited but mobile home rents were not.

After further analysis, staff is recommending that the Ordinance apply both to spaces rented in mobile home parks and mobile homes rented from owners throughout the City.

On January 28, 2021, the park owners of Sahara Village and Santiago Villa offered to limit annual rent increases to inflation, provide a rent subsidy program for low-income tenants, and keep their parks open for at least 10 years. The offer was contingent upon no public entity (such as the State or City) enacting any restrictions on mobile home rent. Since receiving notice on July 26 of the City’s updated draft framework, the park owners of Sahara Village and Santiago Villa responded with letters to residents and the City revoking its earlier offers. The park owners said they may explore options which include increasing rent, selling the park-owned mobile homes, and/or removing them from the rental housing market. As discussed further below, existing and proposed eviction protections address potential impacts of the scenarios presented in Sahara Village and Santiago Villa.

Exemption for an Accord or Other Park Owner Agreement

When Council directed staff to prepare the Ordinance, some Councilmembers also expressed interest for the Ordinance to exempt mobile homes that were subject to an “accord,” which is a voluntary agreement under which a mobile home park owner agrees to limitations on rent. The Ordinance includes such an exemption for Council’s consideration, and mobile homes that are covered by a private accord with a term of at least five years that is at least as protective as the Ordinance would be temporarily exempt from the Ordinance. The accord exemption provisions were written with objectively verifiable criteria so that the process for determining eligibility for the exemption is clear. Staff would be able to determine if the exemption applies.

However, although this exemption has been drafted, it is staff’s view that there would be little benefit to park owners or residents because the accord would only function as an exemption if it included terms that offered the same protections as the Ordinance. In addition, it would require staff to review accords and make a determination about whether they offer sufficient protections to qualify for an exemption, increasing the administrative burdens of the Ordinance. Therefore, staff recommends that Council remove the exemption from the Ordinance.

During the June stakeholder meetings, mobile home residents expressed a strong preference to remove the exemption and argued that an accord would be a poor substitute for an ordinance because compliance and oversight would be left to the park owner rather than the City. Park owners had the opposite viewpoint and contended that an accord process would be more collaborative and fair. Some park owners suggested that the City abandon the ordinance and embark on a process to negotiate an accord, similar to the process the City of Sunnyvale has been undertaking.

The Sunnyvale example is instructive. There, Sunnyvale worked on a multi-year outreach and negotiation process to develop a Memorandum of Understanding (MOU) between the City and mobile home park owners. The MOU provides rent increase limitations, capital improvement program pass-throughs, and many features that would be included in an ordinance. However, compliance remains voluntary, and park owners are not required to sign the MOU that Sunnyvale adopted. Recognizing that this solution had the potential to leave mobile home residents without protection, the Sunnyvale City Council directed Sunnyvale’s staff to prepare a mobile home rent stabilization ordinance that would apply to all mobile home residents not covered by the MOU – essentially, the exact solution that is included in Mountain View’s currently proposed Ordinance. As noted above, however, it is staff’s view that an Ordinance that includes terms that are acceptable to both park owners and mobile home residents is preferable to an accord or other form of private agreement.

Stabilization of Rents

Under the Ordinance, the “Base Date” for establishing permitted rents would be March 16, 2021, and rent would be rolled back to the level that was charged as of that date. This date was selected because this was the date that Council provided clear direction to staff to create the Ordinance, and both park owners and mobile home residents would have had notice of pending regulations as of this date. Rolling rents back to March 16, 2021 would protect against any increases in excess of the Ordinance’s limits that were implemented to try and “beat the clock” before the City’s Ordinance would take effect. A park owner or mobile home landlord would be liable to the resident for any overpayments, but it would be up to the individual resident to collect the difference or petition for a rent reduction.

Mobile home residents pushed for an earlier rollback date, arguing that rents may have been artificially increased following Council’s January 2020 Study Session, or even as far back as when the CSFRA took effect. Park owners prefer no rollback date or, if a rollback date will be required, a date as close in time to the Ordinance’s adoption as possible. Staff continues to recommend March 16, 2021, which is a middle ground between the two positions. Moreover, under the petition process, a park owner or mobile home landlord would retain the ability to seek an increase in their base rent if they prove that the rents as of the Base Date were below market. This type of adjustment, known as a Vega adjustment after the court case that established the rule, is part of making sure that park owners have the opportunity to earn a fair return and are not penalized for artificially below-market rents.

The rent for existing tenants in mobile home parks would generally be limited to no more than the annual CPI increase, with a floor of 2% and a ceiling of 5%. Mobile home residents requested a smaller rent increase, noting that many mobile home rent stabilization ordinances only allow a percentage of the CPI to be used for the annual rent increase. Park owners argued that limiting rent increases to CPI would not be enough to obtain a fair return. Staff’s recommendation aligns with the exact rent limitation included in the CSFRA, and again is a middle ground between the positions. It is further noted that to the extent that the annual general adjustment is insufficient for a park owner to earn a fair return, the Ordinance includes a petition process to allow for additional increases when necessary to protect park owners’ right to a fair return.

The Ordinance also includes vacancy control provisions that generally limit the amount of a rent increase that could be charged to new mobile home space tenants to no more than 10%. Vacancy control would not apply, and the owner could set the initial rent for incoming tenants, following the legal termination of a tenancy in compliance with the

Mobilehome Residency Law, abandonment of a mobile home in place, or when a commercial purchaser replaces a mobile home with a new or different mobile home. As with the rent limitations, this provision represents a middle ground between the preferences of mobile home park residents (who request a lower vacancy control cap) and park owners (who prefer vacancy decontrol). The CSFRA does not include vacancy control provisions because the Costa-Hawkins Act forbids vacancy control for apartment rentals. By contrast, the Mobilehome Residency Law permits vacancy control, and staff recommends that the Ordinance include these provisions.

Just Cause for Evictions

The Ordinance does not include any just-cause protections for mobile home owners who rent spaces from park owners because Civil Code Sections 798.55 to 798.56 already provide eviction protection for these tenants. However, tenants who rent a mobile home from a mobile home landlord are not covered by the Civil Code eviction protections for mobile home owners; such tenants are also not covered by the CSFRA or Statewide just cause for eviction protections provided to apartment tenants. To offer more uniform eviction protections for all types of tenants, the Ordinance includes just-cause protections for tenants who rent mobile homes from a mobile home landlord that mirror the causes for eviction defined in the CSFRA.

Capital Improvement Pass-Throughs

In addition to rent, the Ordinance permits mobile home park owners to pass through 50% of the cost of performing capital improvements that benefit the park residents. The amortized pro rata increase would be capped at 5% of base rent, which would be allowed in addition to any rent increases approved under the annual general adjustment. Park owners would have the option of “precertifying” certain capital improvement pass-through requests for necessary improvements or applying to recover capital improvement costs after they were complete. In either option, mobile home residents would receive notice of the application and be given the opportunity to object. If 10% or more of the residents object, the capital improvement request would be subject to a hearing to determine if the costs are reasonable; otherwise, the request would be approved administratively. The RHC would be responsible for developing an amortization schedule and rules regarding interest calculations.

Earlier versions of the policies proposed allowed for the RHC to determine the process for capital improvement pass-throughs, but both park owners and residents requested more certainty in the Ordinance itself. Accordingly, the capital improvement recovery process was added, and it mirrors processes from other mobile home rent stabilization programs in jurisdictions such as Fremont and Los Angeles County.

Bases for Individual Rent Adjustment Petitions

To ensure the opportunity to earn fair return, park owners would also have the ability to petition for greater increases and capital improvement pass-through requests. The structure and process would rely on mechanisms created by the CSFRA, subject to refinement by the RHC.

Rental Housing Committee

To take advantage of the existing programmatic structure of the CSFRA, the RHC would oversee Ordinance implementation. The RHC would be empowered to adopt regulations for the petition process and to streamline capital improvement pass-through requests as well as to set fees to recover the cost of program implementation.

Although the RHC would be responsible for program implementation and oversight, any petitions for rent adjustment would be reviewed by professional hearing officers, with appeals of those decisions going to the RHC.

CONCLUSION AND RECOMMENDATIONS

Consistent with the Council's March 16, 2021 direction, staff has prepared the Ordinance that provides resident protections akin to those provided under the CSFRA, with modifications as necessary to reflect the Mobilehome Residency Law and the particularized needs of park owners and mobile home residents. Staff recommends that Council introduce the Ordinance for a first reading, and that the Ordinance return to Council for a second reading and adoption on September 28, 2021. The Ordinance would then take effect 30 days following the adoption date. The Rental Housing Committee would then be responsible for developing implementing regulations and cost-recovery fees for the program's administration, but each of the rights and responsibilities defined under the Ordinance would be in effect in the meantime.

FISCAL IMPACT

Costs associated with this item include administrative staff and enforcement costs, including staff costs and outreach. Ultimately, the Mobile Home Rent Stabilization program is intended to be self-sustaining based on fees assessed by the RHC.

ALTERNATIVES

1. Provide modifications to the Ordinance prior to its introduction.
2. Postpone introduction of the Ordinance to consider more substantial modifications or alternatives.
3. Provide other direction.

PUBLIC NOTICING

The Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's website. Agenda posting and email notification of this meeting was provided to mobile home park owners, residents, and stakeholders who have submitted comments on this item or that participated in the City's outreach meetings.

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- Attachments:
1. Ordinance Enacting Mobile Home Rent Stabilization
 2. January 28, 2020 Study Session Memorandum
 3. 2020 Stakeholder Outreach Summaries
 4. 2021 Stakeholder Outreach Summaries
 5. July 26, 2021 Updated Mobile Home Rent Stabilization Ordinance Draft Framework