


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: September 19, 2023
To: Honorable Mayor and City Councilmembers
From: City Administration/City Attorney
Subject: Adoption of Ordinance Number XXXX, Ordinance Amending Chapter 9.28 of the Sebastopol Municipal Code; Mobile Home Rent Stabilization
Recommendation: That the City Council Approve for Second Reading by Title Only and Adopt the Ordinance Amending Chapter 9.28
Funding: Currently Budgeted: Yes No Not Applicable

Account Code: [Account Number or N/A] N/A
Costs authorized in City Approved Budget: Yes (Finance Initialed _____) No (Finance Exempt)

INTRODUCTION/PURPOSE: This item is to submit to the City Council request to Approve for Second Reading by Title Only, and Adopt Ordinance Amending Chapter 9.28 of the Sebastopol Municipal Code; Mobile Home Rent Stabilization.

BACKGROUND:
In 1985, the Sonoma County Board of Supervisors recognized that a serious problem of rapidly increasing mobilehome park space rents existed in the unincorporated areas of Sonoma County. In 1986, the Board retained an experienced consultant to conduct a market survey of mobilehome parks and mobilehome park residents in the County and after publicly noticed meetings, the County of Sonoma enacted County Ordinance 4667.

In 1994, the City has adopted a rent stabilization ordinance and program for mobilehome parks within the City, modeled upon the program adopted by the Sonoma County Board of Supervisors and was last amended in 2008.

Current Ordinance:
The purpose of the current ordinance is to stabilize the rate of mobilehome park space rental in order to:
(1) prevent exploitation of the shortage of vacant mobilehome park spaces;
(2) prevent excessive and unreasonable mobilehome park space rent increases;
(3) rectify the disparity of bargaining power which exists between mobilehome park residents and mobilehome park owners;
(4) provide mobilehome park owners with a guaranteed rate of annual space rent increase which accurately reflects the rate of inflation and increases in their expenses; and

(5) provide a process for ensuring mobilehome park owners a fair, just, and reasonable rate of return on their parks in cases where the guaranteed annual space rent increase provided by this ordinance proves insufficient.

It also seeks to:

(1) provide continued rent control through the transfer of a mobilehome-on-site (i.e. on the mobile home pad) to a new mobilehome owner to prevent exploitative rental increases that took place when vacancy decontrol was tried in earlier versions of this ordinance.

(2) provide space rent stabilization protection to tenants of recreational vehicles occupying spaces in mobilehome parks for more than nine months in recognition of the special status conferred by the Recreational Vehicle Park Occupancy Laws to such long-term residences under Civil Code Section 799.45(b) and their similarity to mobilehome tenancies.

(3) provide options in the duration of tenancies to prospective mobilehome tenants to prevent oppressive adhesion contracts from being imposed upon new park tenants.

The City also contracts with the Sonoma County Community Development Commission for this purpose of administering the City of Sebastopol's Mobilehome Rent Stabilization Program. The following services are provided:

1. Providing day to day responses to citizen inquiries regarding the City Ordinance
2. Providing administrative services to process arbitration petitions
3. Locating and retaining arbitrators for administrative hearings under the City Ordinance, who have certified to the Commission they meet the Commission's selection criteria
4. Arranging location for administrative hearings and other meetings as required by the City Ordinance

As part of the agreement, Sonoma County Community Development Commission and its staff may be required to apply and interpret the rent stabilization ordinance of the City in connection with such services, and the City agrees it will promptly provide guidance to the Commission regarding issues arising under the City ordinance upon request.

This agreement provides that the Commission will be paid at the rate of \$85.00 per hour for services rendered in the administration of the City mobilehome rent stabilization ordinance. It is anticipated that the annual services will not exceed one hundred and eight (108) hours per year. Should services be required beyond the one hundred and eight (108) hours, additional negotiations will be required.

The Commission will be paid at the rate of \$200 per hour for County Counsel services provided to City in counseling Commission staff regarding the administration of City's rent stabilization program. If services necessary to administer said program appear to exceed this estimate, additional legal services in excess of Ninety (90) hours per year must be negotiated and the subject matter of a separate written modification.

Rent Increases:

Currently, the ordinance states the following regarding rent increases:

A. Except as provided in subsections B and C of this section, from and after August 22, 1992, or the effective date of the ordinance codified in this chapter, whichever should be earlier, the space rent payable for use or occupancy of any mobile home space shall not be increased, in any 12-month period, more than once.

Said increase shall not exceed:

1. One hundred percent of the percent change in Consumer Price Index; or

2. Six percent, whichever may be less.

B. If a park owner wishes to apportion to each space on a pro rata basis the allowable percentage of any current rent stabilization administration fee, in addition to any increase of space rent in accordance with subsection A of this section, the following provision shall apply:

1. The owner shall provide to all affected tenants documentation supporting the allowable amount to be collected in order to recover a portion of rent stabilization administration fees. At a minimum such documentation shall include: billing notices or other equivalent documents from the City imposing the rent stabilization administration fee; a copy of SMC 9.28.170, which authorizes the apportionment of rent stabilization administration fees; and the calculations used by the owner to apportion the cost of the allowable percentage among the affected tenants. In addition, the owner shall provide all affected tenants with the address and telephone number of the Clerk and the fact that the affected tenant is encouraged to contact the Clerk for an explanation of the provisions of this chapter.

2. A rent increase approved pursuant to the provisions of this subsection and in accordance with the procedure set forth in SMC 9.28.070 shall not be considered part of the rent base upon which future rent increases can be made.

C. In the event an owner wishes to increase the rent payable for any mobile home space within a 12-month period more than the amount permitted in subsection A of this section for any reason other than that stated in subsection B of this section, the procedures set forth in SMC 9.28.060 and 9.28.070 shall be followed. In the event an owner wishes to increase the rent payable for any mobile home space within a 12-month period more than 300 percent of the percent change in the Consumer Price Index, a mandatory meet-and-confer meeting and arbitration shall be automatically required to show good cause why such an increase is necessary. The arbitrator may reduce this proposed increase to a figure determined upon the evidence submitted by the park owner or his representative to be a fair return upon investment.

DISCUSSION:

The Council at their meeting conducted a public hearing, received comments from the public and approved for First Reading and Introduction Ordinance Amending Chapter 9.28 with minor revisions to the proposed ordinance as follows:

75% CPI
3% cap
10% vacancy decontrol

And following correction to the ordinance:
106 Total Units

The item is before the City Council tonight for adoption.

CITY COUNCIL AND/OR GENERAL PLAN GOALS:

GOALS:

Goal 5 - Provide Open and Responsive Municipal Government Leadership

Policy B-4: Sebastopol will encourage continued operation of the privately-owned Fircrest Mobile Home

Park and encourage efforts to provide additional affordable housing opportunities.

ENVIRONMENTAL IMPACT:

This action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and no further environmental review is required.

PUBLIC COMMENT:

As of the writing of this staff report, the city has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report, such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

There is no fiscal impact with this item tonight other than staff time.

RECOMMENDATION:

That the City Council Approve for Second Reading by Title Only and Adopt the Ordinance Amending Chapter 9.28

Attachment:

Ordinance

ORDINANCE NO. 1148

SECOND READING AND ADOPTION

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL AMENDING
CHAPTER 9.28, RENT STABILIZATION, OF THE SEBASTOPOL MUNICIPAL CODE TO
LIMIT THE ALLOWABLE RENT INCREASE IN MOBILE HOME PARKS**

WHEREAS, the State of California recognizes, by the adoption of special legislation regulating tenancies of mobile homeowners in mobile home parks, that there is a significant difference between homeowners in mobile home parks and other dwelling units; and

WHEREAS, owners of mobile homes in mobile home parks, unlike apartment tenants or residents of other rental housing stock, are in the unique position of having made a substantial investment in a residence that is located on property that is either rented or leased and not owned; and

WHEREAS, it is often difficult to move mobile homes from one park to another due to the age and condition of some mobile homes and the limited availability of vacant spaces in mobile home parks; and

WHEREAS, it is often costly to move a mobile home and, in many instances, moving a mobile home requires separation of the mobile home from its appurtenances, which may create severe damage and depreciation in value to the mobile home; and

WHEREAS, the City of Sebastopol ("City") has two (2) mobile home parks with a total of approximately one hundred and six (106) spaces located within the City limits. These spaces represent a significant portion of the affordable housing supply within the City; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency regarding COVID-19; and

WHEREAS, the COVID-19 pandemic created severe economic and health impacts, with the national unemployment rate rising to approximately fifteen percent (15%) at the height of the crisis; and

WHEREAS, as the COVID-19 pandemic receded and the unemployment rate decreased, additional financial impacts occurred; and

WHEREAS, according to the Bureau of Labor Statistics, the Consumer Price Index ("CPI") for All Urban Consumers has experienced annual changes of at least five percent (5%) for each month since May 2021, and at least eight percent (8%) for each month from March to September 2022; and

WHEREAS, the Bureau of Labor Statistics reports that the changes in the CPI for the San Francisco Bay Area region are slightly lower than the national average but still very high and

significantly above historical averages; and

WHEREAS, the changes in CPI reflect that inflation is at its highest rate in twenty (20) years; and

WHEREAS, the high rate of inflation over the last one to two (1-2) years reflects the significantly increased cost of food, energy (home heating and automobile gasoline), medical care, apparel, and other goods necessary for normal human life; and

WHEREAS, the high rate of inflation significantly decreases the purchasing power of consumers, with a particular impact on those with fixed incomes; and

WHEREAS, many residents of mobile home parks in the City are seniors on a fixed income and qualify as very-low or low income based on criteria established by the California Department of Housing and Community Development; and

WHEREAS, many residents of mobile home parks in the City are rent burdened, meaning they pay more than 30% of their income to housing costs; and

WHEREAS, for these reasons, the residents of the mobile home parks in the City are disproportionately and severely impacted by high inflation; and

WHEREAS, the City Council previously adopted the Mobile Home Rent Stabilization Ordinance, codified as Chapter 9.28 of the Sebastopol Municipal Code (the "Ordinance"); and

WHEREAS, the purpose of the Ordinance is to, among other things, stabilize the rate of mobile home park space rents in order to prevent excessive and unreasonable mobile home park space rent increases and provide mobile home park owners with a guaranteed rate of annual space rent increase; and

WHEREAS, under the Ordinance, the rent for a mobile home space may not increase by more than the percentage change in CPI or six percent (6%), whichever is less; and

WHEREAS, the annual percentage change in the CPI for the San Francisco Bay Area region has only exceeded four percent (4%) a few times since the Ordinance was adopted in 1992; and

WHEREAS, under the existing requirements of the Ordinance, residents of mobile home parks are facing the highest rent increase since the Ordinance was adopted, and such an increase would be excessive and unreasonable; and

WHEREAS, the City Council finds that reasonable regulation of aspects of the mobile home park owner and mobile home resident relationship is necessary to foster constructive communication, maintain an adequate supply of a variety of rental housing options, and protect the health, safety, and the general welfare of the public; and

WHEREAS, there are other cities in California that set their annual adjustments for rent control and mobile home rent control ordinances at no greater than four percent (4%); and

WHEREAS, the City Council desires to modify the Ordinance to prohibit rent increases of greater than seventy-five percent (75%) *of* the percentage change in CPI or **three percent (3%)**, whichever is less, in order to prevent immediate and irrevocable harm to mobile home residents in the City; and

WHEREAS, the California Constitution, Article XI, section 7, provides cities with authority to enact ordinances to protect the health, safety, welfare and morals of their citizens, and zoning regulations are a permissible exercise of this authority; and

WHEREAS, this Ordinance is intended to promote stability and fairness within the mobile home rental market in the City during a period of historically high inflation and to prevent avoidable homelessness and evictions thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose incomes and ability to work are affected by historically high inflation to remain in their homes; and

WHEREAS, displacement through eviction destabilizes the living situation of mobile home residents and impacts the health of City residents and businesses by disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City; and

WHEREAS, displacement through eviction creates an undue hardship for tenants through additional relocation costs and the increased risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted; and

WHEREAS, housing instability threatens the public peace, health, and safety as eviction from one's home can lead to prolonged homelessness; strain on household finances due to the necessity of paying rental application fees and security deposits; and stress and anxiety experienced by those displaced; and

WHEREAS, if residents are unable to pay rent, they may be evicted and required to move, which will negatively impact the local economy by causing employees to leave their jobs, which will impact businesses' ability to provide services to residents of the City; and

WHEREAS, the City Council finds and determines that regulating the relations between mobile home landlords and tenants is essential to serve the public peace, health, and safety; and

WHEREAS, the City Council finds that setting the allowable rent increase in mobile home parks at the lower of seventy-five percent (75%) ~~of~~ the change in the CPI or **three percent (3%)** appropriately balances protecting renters from large rent increases and providing owners a fair return; and

WHEREAS, allowing owners to increase the rent for mobile home spaces upon a the in-place transfer of a mobile home facilitates owners obtaining a fair return without impacting the stability of existing park residents; and

WHEREAS, the City Council hereby finds the approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§ 15000 *et seq.*, "CEQA Guidelines") under Section 15061(b)(3) of the CEQA Guidelines. This is an emergency response measure aimed at capping rent increases in mobile home parks. No new development will result from the proposed action. No impact on the physical environment will result.

NOW, THEREFORE, the City Council of the City of Sebastopol does ordain as follows:

SECTION 1. FINDINGS.

The City Council of the City of Sebastopol finds that all of the above Recitals are true and correct and incorporated herein by reference.

SECTION 2. AMENDMENT OF SECTION 9.28.050

The City Council hereby makes the findings contained herein and hereby amends Section 9.28.050, Residential Rent Increase Limitations, of the Sebastopol Municipal Code to read as follows (with deletions in strikethrough and additions in underline):

"a. Except as provided in subsections b. and c. of this section, ~~from and after August 22, 1992, or the effective date of this chapter, whichever should be earlier,~~ the space rent payable for use or occupancy of any mobile home space shall not be increased, in any twelve (12) month period, more than seventy-five percent (75%) percent of the percent change in the Consumer Price Index or ~~six (6%) percent~~ **three percent (3%)**, whichever may be less. Any agreement purporting to allow a rent increase greater than what is allowed under this subsection shall be void and unenforceable as against public policy. except such lease agreements exempt from this Chapter pursuant to Civil Code section 798.17."

SECTION 3. AMENDMENT OF SECTION 9.28.230

The City Council hereby makes the findings contained herein and hereby amends Section 9.28.230, Vacancy Control-Establishing of New Based Rent, of the Sebastopol Municipal Code to read as follows (with deletions in strikethrough and additions in underline):

"9.28.230 Vacancy Control-Establishment of New Base Rent.

a. A mobile home park owner shall be permitted to charge a new base rent for a mobile home space whenever a lawful space vacancy occurs. For purposes of this chapter, a lawful space vacancy is defined as follows:

1. A vacancy occurring because of the termination of the tenancy of the affected mobile home tenant in accordance with the Mobile Home Residency Law, California Civil Code Sections 798.55 through 798.60, as amended; or
2. A vacancy of the mobile home space arising from the voluntary removal of a mobile home from the mobile home space by the affected mobile home tenant. A removal of the mobile home from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the mobile home shall not constitute a voluntary removal of the mobile home.

b. When a new base rent is established following the vacancy of a mobile home space pursuant to this section, the park owner shall give written notice to the new affected tenant of the twelve (12) month anniversary date for rent increases allowed under Section 9.28.050 and shall give written notice to such affected tenant that the space rent may be subject to stabilized rent increases pursuant to the provisions of this chapter.

c. A mobile home park owner shall be permitted to increase the base rent for a mobile home space by up to ten percent (10%) when an in-place transfer of a mobile home occurs, other than a lawful space vacancy.

1. For purposes of this chapter, an in-place transfer is defined as the sale, transfer, or other conveyance of a mobile home with the mobile home remaining on the mobile home space following the sale, transfer, or conveyance. A transfer of title whereby the mobile home owner adds or removes one or more co-owners and continues to reside in the mobile home as their primary residence shall not constitute an in-place transfer. No increase in the base rent may be imposed pursuant to this section where title to the mobile home passes to one or more person(s) who, at the time of the title transfer: (i) was/were also lawful, authorized resident(s) of the mobile home; or (ii) was/were lawful, authorized resident(s) of a mobile home located on a different mobile home space in the same mobile home park.

2. A park owner may not condition an in-place transfer of a mobile home, or condition the assignment of an existing lease to a prospective mobile home owner that is subject to this article, upon agreement to an increased Rent.

~~d.~~ In the absence of a lawful vacancy or an in-place transfer, a park owner is prohibited from raising rent upon a sale of a mobile home on-site to a tenant-to-be or current tenant."

SECTION 4. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision

to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Sebastopol hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTIONS. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after adoption. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause this Ordinance or a summary thereof to be published or to be posted in at least three public places in the City of Sebastopol in accordance with the requirements of California Government Code Section 36933.

Approved for First Reading and Introduction on this 5th day of September, 2023

Approved for Second Reading and Adoption on this 19th day of September, 2023

VOTE:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: _____

Mayor Neysa Hinton

ATTEST: _____

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____

Larry McLaughlin, City Attorney