


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: September 5, 2023 (This item was continued from the August 1st, 2023 City Council Meeting to this time/date specific meeting).
To: Honorable Mayor and City Councilmembers
From: City Administration/City Attorney
Subject: Public Hearing: Consider, Discuss and Waive Further Reading, Introduce and Conduct First Reading by Title Only Ordinance Amending Chapter 9.28 of the Sebastopol Municipal Code; Mobile Home Rent Stabilization
Recommendation: That the City Council Conduct the Public Hearing, Introduce and Waive Reading of 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 Consider, Discuss and Waive Further Reading, Introduce and Conduct First Reading by Title Only 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:

On April 4, 2023, the City Council received a report indicating that the City of Sebastopol had received emails, phone calls, and most recently petitions from Fircrest Mobile Home Park residents asking the City to help retain the affordability of Fircrest Senior Mobile Home Park by amending the Rent Stabilization Ordinance to limit annual rent increases to no more than 50% of the Bay Area Consumer Price Index with a cap of 4%.

As noted earlier in the report, the current Ordinance allows for annual rent increases by the amount of the annual percentage change of the San Francisco-Oakland-Hayward Consumer Price Index ("SF CPI"), up to a maximum of 6%.

This item was continued from the August 1, 2023 City Council meeting due to miscommunication regarding attendees at the stakeholder meetings. The City postponed the item and City staff scheduled a stakeholder meeting with residents, as well as park management and owners over the proposed ordinance. A copy of the proposed revised ordinances was provided to both groups. The stakeholder meeting was conducted on August 7, 2023 with 31 attendees (both residents, park management, owners and legal aid). Based upon the meetings it is clear that there was no consensus with the proposed ordinance and it is anticipated that the Council will hear from both residents and property owners at the Council Meeting.

The proposed ordinance revisions are listed below:

SECTION 2. AMENDMENT OF SECTION 9.28.050 - (RENT PROVISIONS)

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~~ four percent (4%), 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 – (VACANCY DECONTROL)

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.

✎ 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."

STAFF ANALYSIS – VACANCY DECONTROL

At our stakeholder meetings there was discussion regarding vacancy decontrol. The current adopted ordinance includes strict vacancy control. During the first stakeholder meeting representatives of the park ownership group stated that they thought there should be vacancy decontrol provisions added, and that such provisions may be legally required.

The City Attorney reviewed the law, and other recent ordinances, and determined the following:

- (1) Vacancy decontrol provisions are required for some types of housing, but are not required for mobile home rent stabilization ordinances; but,
- (2) Nevertheless, other cities which have recently amended their ordinances (to revise the rent provisions) have added vacancy decontrol provisions to their ordinances, believing that in fairness, given the rent changes, park owners should be allowed to raise rents to some degree upon a vacancy occurring. The current draft, in the City Council packet, allows "partial decontrol"; that is, an increase of 10%.

Stakeholders have differing opinions regarding vacancy control. Park owners have requested vacancy decontrol while mobile home residents have requested strict vacancy control. Park owners also commented that should partial decontrol be decided upon, the suggested 10% figure is too low.

Options for the City Council are as follows:

FULL VACANCY DECONTROL:

Full vacancy decontrol which would allow park owners to raise space rents above the standard annual amount without limitation. This option allows park owners to bring the mobile home space up to market rent when a new owner buys the mobile home, while helping preserving the affordability of the mobile home space for the current resident. This option has the potential of significantly impacting the sale price of the mobile home, as a prospective buyer must consider both the space rent and the mobile home sale price when determining whether to make a purchase. It also impacts the affordability of the space over time.

MODIFIED VACANCY DECONTROL:

Modified decontrol allows a park owner to raise the space rent higher than the standard annual increase upon unit transfer, but places a cap on that additional rent increase.

STRICT VACANCY CONTROL:

This option does not allow the space rent to be increased at unit turnover beyond the annual allowable standard increase. This option would maintain the relative affordability of the mobile home space permanently. It provides for the maximum sale price of the mobile home, as space rents will be maintained at a relatively low level even at time of transfer. However, in doing so, park owners argue that it transfers the value of the park wholly to the residents for they are able to secure a higher sales price if the space rent is kept artificially low in perpetuity.

Further Discussion:

Stakeholders have differing opinions regarding vacancy control. Park owners have requested vacancy decontrol while mobile home owners have requested continued strict vacancy control. Park owners also commented that should partial decontrol be decided upon, the suggested 10% figure is too low.

Based on staff's analysis, it is proposed that the Council consider approval of the revised wording as proposed in the Ordinance amendment and listed above.

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 received any public comment (attached). However, if staff receives further 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 at 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 Consider, Discuss and Waive Further Reading, Introduce and Conduct First Reading by Title Only Ordinance Amending Chapter 9.28 of the Sebastopol Municipal Code; Mobile Home Rent Stabilization. The ordinance's adoption shall be scheduled for a later Council meeting.

Attachment:

Proposed Ordinance
Public Comment

ORDINANCE NO. XXXX

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 *thirty-seven* (37) 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 forty (40) 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, appeal, 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 four percent (4%), 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 four percent (4%) 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~~ four percent (4%), 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.

d. 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.

e. 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.

f. 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

Scheduled for Second Reading and Approval on the 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

Fircrest Homeowners' Association Board Comments and Concerns Re: Proposed Amended Rent Stabilization Ordinance 9.28

In their response to the proposed RSO amendments dated July 30, 2023, the Musser Family stated the following: "Reducing allowable rent changes to less than CPI increases will produce an imbalance between revenue and expenses which would eventually make ownership of the park no longer a viable business proposition." We do not agree with this statement for the following reason: We made an estimate of the Musser Family revenue from FMHP based on 84 spaces (three are currently vacant) and an average space rent of \$825 for a total of \$69,300 per month or \$831,600 per year. If the next annual rent increase were computed at 100% of a 3% CPI, next year's revenue would be \$71,379 per month or \$856,548 per year (an increase of almost \$25,000). We are willing to compromise (from our original petition requesting increases be limited to 50% of CPI) with an amended RSO allowing an annual increase of 70% of CPI. $70\% \text{ of } 3\% = 2.1\%$. In this case, Musser's monthly revenue would be \$70,755 and annual revenue would be \$849,060. The monthly difference in revenue would be only \$623!! It is difficult to believe that this small difference would make "ownership of the park no longer a viable business proposition." The Musser Family has owned this Park since the early 80's. It is most likely paid for. What expenses could there be that would cause the owners to go into the "red" due to a monthly difference of \$623 in increased revenue from one year to the next? Revenue is still increasing significantly each year.

We are totally opposed to "Vacancy Decontrol" which would allow the Musser family to increase the space rent by up to 10% every time there is an "In-place Transfer." Here are some of the reasons we are opposed:

1. Homes coming on the market will lose value due to the increased space rent.
2. Decreasing affordability over time. In the Musser response letter, they state, "While the value of the allowed 10% rate increase at the time of an in-place transfer may be of some help, its effect is greatly limited by the low Park resident turnover rate..." The fact of the matter is that, over the past five years, there has been 35% turnover in this Park. Some units have sold twice during this time period. As an example, we calculated that, with an annual space increase of 3% and with Vacancy Control, a space rent of \$825 would increase to \$1077 over ten years. If there were Vacancy **Decontrol**, and two turnovers in ten years, the space rent would increase to \$1,230, a difference of \$228! Over time, this Park would become unaffordable and no longer comply with the Sebastopol City Housing Element of the General Plan regarding affordable housing.
3. Increasing discrepancies in space rents having nothing whatsoever to do with the size and location of the space.
4. Vacancy Decontrol is not necessary. The Musser Family response letter stated, "The current ordinance has worked well over decades..." The current ordinance includes strict Vacancy Control.
5. In their Response Letter, the Musser Family states: "Other Sonoma County municipalities have recently amended their Rent Control Ordinances. These changes have no relevance to what the Council members do in Sebastopol."

The Musser Family seems to want it both ways: In regards to limiting rent increases to a percentage of CPI, they want the Sebastopol City Council to **ignore** these types of changes which have been enacted to the RSOs in Petaluma, Rohnert Park, Santa Rosa, Sonoma and Windsor. But they want the Council to **include** Vacancy Decontrol in the amended RSO, as has been done in Santa Rosa and Windsor.

6. On page one of the Musser Family Response, it is argued that the 6.8% CPI of June, 2022, has already declined rapidly to 2.9% and that inflation has only exceeded 5% one other time since 1994 (when the current RSO was adopted). They state that Fircrest rent increases between 2013 and 2021 have averaged 2.9% and have been as low as 1.6%. However, at the bottom of the 2nd page, they argue that Vacancy Decontrol “would not compensate nor allow catch-up for the proposed reduction in rent increases, **especially if significant inflation recurs.**” Again, they want it both ways: When arguing against rent increases being limited to a percentage of the CPI, they push the low inflation argument. When arguing against Vacancy Control, they refer to the possibility of high inflation!

The Musser family makes much of their contention that “no resident of Fircrest completed an application for COVID-related rent forbearance,” in their argument against proposed amendments to Sebastopol’s RSO. This came up again during the Stakeholders’ meeting on August 17. We don’t believe that this is a valid argument against the effort to keep space rents affordable at FMHP. Many of our residents, many of whom are quite elderly and/or disabled, would not have had any understanding of this program nor the wherewithal to complete the necessary paperwork.

One final point: At the end of the Stakeholders’ meeting on August 17, Greg Evans asked why it is the responsibility of the Musser family to subsidize low-income renters. The FHOA BOARD would like to push back against this idea, which, at first sounds very convincing. We would contend that the Musser family seems to have done quite well as owners of the Fircrest Mobile Home Park. Their revenue has increased every year due to the annual rent increases allowed by the Sebastopol RSO. Referring to the example provided earlier of a rent increase based on 70% of a 3% CPI, this supposed “subsidy” would amount to just \$7.42 per space. This figure is but a tiny percentage of overall revenue from this Park, but to a resident receiving \$1,133 per month on SSI, it is significant. As noted earlier, even with a reduction of annual rent **increases** to 70% of the CPI, the Musser family will continue to receive substantial increases in their revenue each year.

Please consider these arguments in making your final decisions about what changes to make to the amended RSO proposal currently being considered.

Respectfully Submitted,

Fircrest Homeowners’ Association Board
(Roger Sherman, Andy Bunnell, Vimlan Vandien, Pam Gentry)