

## CHAPTER 16.16 MOBILEHOME RENT REVIEW COMMISSION

### 16.16.010 Findings.

Since the mid 1970's there has existed within the City of San Marcos and surrounding communities, a shortage of rental space for the location of mobilehomes. Due to the continuing shortage of available mobilehome rental spaces, there continues to be very low vacancy rates within mobilehome parks creating an inequitable market situation between mobilehome park owners and the tenants thereof. Prior to the enactment of regulations controlling space rent increase, space rents had been rising for several years and were being increased in amounts and at frequencies that caused serious concern, anguish, and stress among a substantial number of San Marcos residents living in mobilehome parks.

Finding alternative rental sites for the relocation of mobilehomes have been and continue to be difficult due to the shortage of vacant rental spaces, the restrictions on the age, size, or style of mobilehomes permitted in many mobilehome parks, and the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation. Additionally, the cost for moving a mobilehome is substantial and the risk of damage in moving is significant. The result of these conditions has been and continues to be the creation of the great imbalance in the bargaining position of the mobilehome park owners and mobilehome owners in favor of the mobilehome park owners pertaining to the establishment of space rents.

This Council finds and declares it necessary to facilitate and encourage fair bargaining between mobilehome owners and mobilehome park owners in order to achieve mutually satisfactory agreements regarding space rental rates in mobilehome parks. Absent such agreements, this Council further finds and declares it necessary to protect the mobilehome owner and resident from unreasonable space rental increases while at the same time recognizing the need of mobilehome park owners to receive a just and reasonable return on their investments.

### 16.16.020 Definitions.

- (a) **Space Rent:** The consideration, including any bonus, benefits or gratuity demanded or received in connection with the use and occupancy of a mobilehome space in a mobilehome park, or for the transfer of a lease for park space, services and amenities, subletting and security deposits, but exclusive of any amounts paid for the use of the mobilehome dwelling unit.
- (b) **Mobilehome Park Owner or Owner:** The owner, lessor, operator or manager of a mobilehome park within the purview of this chapter.
- (c) **Mobilehome Tenant or Tenant:** Any person entitled to occupy a mobilehome dwelling unit pursuant to ownership thereof or a rental or lease arrangement with the owner thereof. **Tenant** shall represent one mobilehome park space without regard to the number of residents residing within the coach.

### 16.16.030 Applicability.

- (a) This chapter shall apply to mobilehome parks containing ten or more spaces.
- (b) Pursuant to California Civil Code Section 798.17, the provisions of this chapter regulating the amount of rent which a mobilehome park owner may charge for a mobilehome space shall not apply to any tenancy created by a rental agreement which is in excess of 12 months in duration, provided that the rental agreement meets the criteria of Subsection (b) of Section 798.17. A rental agreement of more than 12 months in duration which meets the criteria of Section 798.17(b) is referred to herein as a "qualifying rental agreement." This

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exemption shall apply only during the term of the qualifying rental agreement or one or more uninterrupted, continuous extension of the agreement. If a rental agreement expires or is terminated, and no new qualifying rental agreement is entered into, then the last rent charged under the provisions of the previous rental agreement shall be the rent charged for the space; for the purpose of this provisions by the assumption of an existing qualifying rental agreement, a purchaser of a mobilehome shall be deemed to have entered into a qualifying rental agreement. If a space becomes subject to this chapter by reason of the expiration or termination of a rental agreement, the rent may be adjusted only in accordance with the provisions of this chapter and only at the time that the non-exempt spaces are adjusted for the park as authorized under the provisions of Section 16.16.080. If a notice of rent increase is given for a space which is exempt by the operation of this Section, but the rent increase will take effect after the expiration of the rental agreement, the tenant shall not be disqualified from executing a petition, unless a new qualifying rental agreement or an extension of the previous qualifying rental agreement is entered into by the tenant.

- (c) Pursuant to the terms of the El Dorado Mobilehome Park Long-Term Space Lease and Amendment thereto (El Dorado Long-Term Lease), executed by a majority of the homeowners of the El Dorado Mobilehome Park and the park owners, and the El Dorado Mobilehome Park Regulatory Agreement and Declaration of Restrictive Covenants (El Dorado Regulatory Agreement), approved by the City Council, the provisions of this chapter shall not apply to the El Dorado Mobilehome Park for a period of 15 years from the date of recordation of the El Dorado Regulatory Agreement by the City Clerk, or the latest termination date for the El Dorado Long-Term Lease, whichever occurs last, or other date negotiated by the parties with respect to the term provisions under the El Dorado Long-Term Lease. Any future extension and/or modification of the El Dorado Long-Term Lease does not preclude the El Dorado Mobilehome Park's exemption under this Section so long as there is no gap in time for any such extension and/or modification. All terms and conditions of the El Dorado Regulatory Agreement will apply to all homeowners and residents of the El Dorado Mobilehome Park, and any dispute resolution provisions required under the El Dorado Regulatory Agreement, including mandatory mediation and arbitration procedures, shall control in the event of a dispute relating to the El Dorado Regulatory Agreement or the financial terms of the El Dorado Long-Term Lease, such as base rent increases, pass-through rent, additional rent increases (i.e. utilities, cable, etc.), rent increases upon sale of a mobilehome, capital repair increases or new capital improvement increases.

(Ord. No. 89-812, 3-14-89, 2016-1417, 1-26-2016)

#### **16.16.040 Commission Established; Compensation of Members.**

- (a) There is hereby created within the City of San Marcos a Mobilehome Rent Review Commission, consisting of the City Council.
- (b) The compensation of the members of said Mobilehome Rent Review Commission shall be as established from time to time by Resolution of the City Council. Any City department heads required to attend said meeting shall be compensated at their regular hourly rate and any other City staff members required to attend said meeting shall be compensated by overtime pay, or compensatory time off in accordance with City personnel rules and regulations.

(Ord. No. 99-1078, 1-11-2000)

#### **16.16.050 Powers of the Commission.**

Within the limitations provided by law, the Commission shall have the following powers:

- (a) To meet as requested by the majority of the City Council of the City of San Marcos or upon the filing of a petition for a review of mobilehome park rent increases. All meetings shall be conducted at City Hall.

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The City Clerk or City Clerk's designate shall act as Secretary to the Commission and receive compensation as determined by the City Manager.

- (b) To receive, investigate, hold hearings on and pass upon the petitions of the mobilehome tenants as set forth in this chapter.
- (c) To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out their duties.
- (d) Upon completion of their hearings and investigations to either approve the existing or proposed rental change, or to adjust the maximum rental rate downward.
- (e) To adopt, promulgate, amend and rescind administrative rules to effectuate the purposes and policies of this chapter.
- (f) To maintain and keep at City Hall, rent review hearing files and dockets listing the time date and place of hearings, the parties involved, the addresses involved and the final disposition of the hearing.
- (g) To issue subpoenas to compel attendance at hearings conducted pursuant to this chapter. A subpoena issued by the Commission shall be issued in the same manner as provided by State law for the issuance of subpoenas by the City Council, and shall have the same force and effect as a subpoena issued by the City Council to attend hearings which the City Council is authorized by law to conduct.

(Ord. No. 89-812, 3-14-89)

- (h) To establish rules for the production of evidence, including but not limited to, rules requiring certification of evidence relating to costs, expenses and other economic aspects of park operation or maintenance, or rent by a qualified accountant.

(Ord. No. 89-812, 3-14-89)

#### **16.16.055 Notice of Rent Increase.**

- (a) A mobilehome park owner shall give written notice to the City of a proposed rent increase. The notice shall be given at the same time that the notice of rent increase is given to the tenants. The notice shall be filed with the City Clerk and shall contain the following information: the amount of the current space rents and the amount of separately billed fees or charges, if any; the amount of the proposed increase; the spaces to which the increase applies and the names of the tenants of those spaces; and the date of the last rent increase for the park.
- (b) A mobilehome park owner shall provide written notice and verification of the space(s) subject to the space rent increase as set forth in Subsection (a). A hearing to review the space rent increase will not be scheduled until said written notice and verification is received by the City Clerk.

(Ord. No. 96-994, 6-11-96)

#### **16.16.060 Initiation of Proceedings.**

- (a) Filing of Petition. Tenants of a mobilehome park may initiate Commission review of a proposed space rent increase by filing with the City Clerk a written petition which complies with the requirements set forth in this subsection. The petition shall:
  - (1) Be in substantially such form and contain such information as may be required by the Commission.

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- (2) Contain an attestation of the circulator or circulators of the petition signed under penalty of perjury that the individuals signing the petition were known by the circulator to be tenants of the mobilehome park and that the individuals signed the petition in the presence of the circulator.
  - (3) Be signed by at least one tenant from each of more than 50 percent of the mobilehome spaces within the park which would be subject to the space rent increase specified in the notice. Mobilehome spaces, the space rent of which is exempted from the provisions of this article pursuant to Section 16.16.030(b) shall not be included in the determination of those mobilehome spaces which are subject to the space rent increases nor may tenants thereof sign a petition hereunder.
  - (4) Be received by the City Clerk during normal business hours no later than 30 days following the receipt by the tenants of the notice of the proposed space rent increase, or within 30 days following the date upon which the mobilehome park becomes subject to the jurisdiction of the City. Normal working hours shall be from 8:00 a.m. until 5:00 p.m., Monday through Friday, except holidays recognized by the City. If the last day for receipt of a petition falls on a Saturday, Sunday, or holiday recognized by the City, the petition may be received during normal business hours on the next succeeding business day.
- (b) Initial Review of Petition by City Clerk. Upon receipt of a petition submitted pursuant to subsection (a), the City Clerk shall:
- (1) Review the petition to determine whether or not the petition complies with the requirements of subsections (a)(1), (2) and (4).
  - (2) Reject the petition if it fails to comply with subsections (a)(1), (2) or (4) and, within five business days of receipt of the petition, mail a written notice to the individual submitting the petition of the rejection thereof and the reasons for such rejection.
  - (3) Accept the petition for filing if the petition complies with subsections (a)(1), (2) and (4) and, within five business days of receipt of the petition, mail a written notice to the park owner informing the owner that:
    - a) The City Clerk has received a petition;
    - b) The proposed space rent increased is stayed pursuant to this chapter;
- (c) Determination of Adequacy of Petition. Within ten business days of receipt of a petition and park owner's written notice of proposed rent increase, the City Clerk shall:
- (1) Determine if the required number of tenants have signed the petition as specified in subsection (a) hereinabove.
  - (2) If the required number of tenants have signed the petition, forward the petition to the Commission for the purpose of setting a public hearing pursuant to Section 16.16.070.
  - (3) If the required number of tenants have not signed the petition, reject the petition and mail a written notice to the individual submitting the petition and the park owner informing them that the petition has been rejected and the reason for the rejection, and that the stay of the space rent increase has been terminated.
- (Ord. No. 96-994, 6-11-96)
- (d) Stay of Space Rent Increase. Unless the City Clerk rejects a petition pursuant to subsection (b)(2), the filing of a petition pursuant to subsection (a) shall automatically stay the space rent increase subject to the petition until the earlier of the following events:
- (1) The City Clerk rejects the petition pursuant to subsection (c) (3); or

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- (2) The Commission makes a final decision regarding the space rent increase pursuant to Section 16.16.070.
  - (e) Removal of Names from Petition. Once a petition has been filed with the City Clerk pursuant to subsection (a), the names of tenants signing the petition may not be withdrawn from the petition.

### **16.16.070 Commission Review.**

- (a) Upon receipt from the City Clerk of the petition, the Commission shall schedule a hearing thereon to be conducted no earlier than 40 days and no later than 60 days from the date of the Commission's receipt of the petition at a place and time to be set by the Commission. The purpose of the hearing shall be to determine whether or not the rental increase is reasonable. Such a public hearing may be continued from time to time if stipulated to by both parties or at the Commissioner's discretion. If a continuance is ordered at the discretion of the Commission and the mobilehome park owner has objected to such continuance, any increase in space rent granted by the Commission shall be applied retroactive to the proposed effective date of the mobilehome park owner's originally proposed space rent increase as set forth in the mobilehome park owner's notice thereof. The date of receipt of the petition by the Commission shall be the date of the regular City Council meeting at which the petition is presented to the Commission by the City Clerk for the purpose of scheduling the hearing on the petition.

(Ord. No. 96-994, 6-11-96)

- (b) All rent review hearings shall be open to the public. All parties to a hearing may have assistance of any Attorney or such other person as may be designated by said parties in presenting evidence or in setting forth by argument their position.
- (c) In the event that either the petitioner or the respondent should fail to appear at the hearing at the specified time and place, the Commission may hear and review such evidence as may be presented and make such decisions just as if both parties had been present.
- (d) The Commission shall render its final decision by resolution thereof not later than the date of the next regularly scheduled City Council meeting occurring at least seven days from and after the date of the close of the Commission's hearing pertaining to the petition. No space rent increase being reviewed by the Commission shall be imposed until the Commission has rendered its final decision. The parties to the hearing shall be sent a copy of the Commissioner's Resolution containing the Commission's decision which shall include the Commission's findings upon which its decision is based.
- (e) Pursuant to the findings, the Commission shall require the mobilehome park owner to:
  - (1) Continue the rental charges as they existed under the former lease or rental arrangement, or
  - (2) Increase the rental to a rate set by the Commission, or
  - (3) Allow the rate requested by the park owner to stand.
- (f) Any rental or service charge increases which have been collected by a mobilehome park owner pursuant to an increase which is the subject of a petition of hearing and which is later determined by the Commission to have been excessive, shall be either returned to the tenants or credited to future rental charges.
- (g) The mobilehome park owner shall bear the burden of proving by a preponderance of the evidence that a proposed space rent increase is reasonable and is necessary to enable the mobilehome park owner to receive a just and reasonable return on his investment. In evaluating a proposed space rent increase the Commission shall consider the following non-exclusive factors in addition to such other factors as the Commission deems relevant:
  - (1) Changes in the mobilehome park owner's gross income from the operation of the mobilehome park;

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- (2) Changes in the reasonable operating expenses relating to the operation of the mobilehome park;
  - (3) Whether the proposed rent increase will result in an increase in net income to the park owner from the operation of the park;
  - (4) Changes in the Consumer Price Index for the time period from the last rent increase;
  - (5) Changes in the services, amenities, maintenance and condition of the mobilehome park and the extent to which the rent increase is necessary to provide the services or amenities or to insure maintenance and good operating condition of the park;
  - (6) The extent to which the rent increase is necessary to pay for capital improvements and the amount of money allocated by the owner to a capital improvement or maintenance fund, along with the park owner's budget for maintenance, care and capital improvements for the park; and
  - (7) The extent to which the landlord receives net income from fees or charges for utilities, or incidental fees or charges for services billed separately from rent.

(Ord. No. 89-812, 3-14-89)

- (h) A mobilehome park owner has a duty to comply with the terms and conditions of any conditional use permit, special use permit, or other land use approval, or zoning or building ordinance, relating to the amenities, facilities, maintenance, improvements or services to be provided within the mobilehome park by the mobilehome park owner. If the Commission finds that a mobilehome park owner fails to provide or reduces the level of the amenities, facilities, maintenance, improvements or services, as established by any conditional use permit, special use permit or other land use approval or zoning or building ordinance, or if the owner fails to comply with the duties established by Section 798.87 of the California Civil Code, then the Commission may deny a proposed rent increase, decrease the rent, or conditionally approve the rent increase upon such terms and conditions as the Commission deems reasonably necessary to insure compliance with the mobilehome park owner's duties and obligations.

(Ord. No. 89-812, 3-14-89)

### **16.16.080 Annual Adjustment.**

- (a) Except for rental adjustments exempt from this chapter by operation of Section 16.16.030(b), all space rents in a park shall be adjusted at the same time. A mobilehome park owner shall not increase or adjust space rents more than one time in any 12 consecutive month period.
- (b) A mobilehome park owner may give notice of a proposed space rent increase or adjustment during the 12 consecutive month period from the last rent increase or adjustment and the Commission may review the proposed rent increase or adjustment provided that the increase or adjustment shall not become effective during the 12- month period.
- (c) A rent increase or adjustment shall include establishing a separate charge or fee for utilities or, a service charge or fee, for services actually rendered, unless the utility or service is an additional utility or service not previously provided, or unless there is a corresponding reduction of the space rent equal to the amount of the fee or charge. A space rent increase or adjustment shall also include the termination of an amenity, utility or service previously rendered.
- (d) Subsection (a) of this Section shall not apply to adjustments made pursuant to Section 16.16.090(a).
- (e) The amendments to this Section made by Ordinance No. 89-812 are for the purposes of clarification and are declarative of existing law.

(Ord. No. 89-812, 3-14-89)

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### **16.16.085 Exceptions to Annual Adjustment Restriction.**

The provision of Section 16.16.080 prohibiting rent increases or adjustments more than one time in any 12 consecutive month period shall not be construed to prohibit either of the following:

- (a) A one-time rental adjustment of all spaces within a mobilehome park in order to establish an annual rental adjustment date. In establishing an initial annual adjustment date for a mobilehome park, the mobilehome park owner shall confer with the City Clerk in order to distribute the annual adjustment dates for the various parks within the City periodically throughout the year. This subparagraph shall apply only to mobilehome parks which on the effective date of this Ordinance have had a practice of adjusting space rents within the park at various times during a year.

(Ord. No. 89-817, 5-9-89)

- (b) Adjustment to rents which become subject to the provisions of this chapter by expiration of a rental agreement which operated to exempt the tenancy from the provisions of this chapter, provided that the adjustment is made at the same time as the adjustment for all the rents within the park subject to this chapter and further provided that such increase shall be subject to the provisions of Section 16.16.030.

(Ord. No. 89-817, 5-9-89)

### **16.16.090 Adjustments to Fees and Charges.**

- (a) Subject to the notice provisions of State law and this chapter, a mobilehome park owner may, at any time, increase space rent in order to adjust for increases in utility costs or for increases in, or establishment of, governmental special assessments or special taxes levied on the mobilehome park. Subject to the notice provisions of State law and this chapter, a mobilehome park owner may, at any time, increase charges or fees for utility services where the cost of providing the utility is billed separately and not included in the space rent. The utility costs eligible for an increase pursuant to this Subsection are gas, electricity, water, trash pick-up, sewer and cable television.
- (b) If a mobilehome park owner has established separate incidental reasonable charges for services actually rendered, the increases to such incidental fees or charges shall be subject to the provisions of this chapter relating to increases in space rent; provided, however, that when a new service and corresponding incidental fee or charge are established, the fee or charge may be established at any time notwithstanding the provisions of Section 16.16.080 of this chapter. Any increases to the service fee or charge shall be made at the same time as an increase or adjustment to space rent. It is the intent of this Section that both space rent and other fees and charges, which may lawfully be imposed on the tenants by the mobilehome park owner, shall be adjusted at the same time.
- (c) An adjustment to decrease the amount of rent, or of any fee or charge may be made at any time, provided, however, that any later increase from the decreased level shall be subject to this chapter.
- (d) If a flat utility rate is charged from each mobilehome serviced by the utility, and the utility rate for each mobilehome is increased by the utility provider, the space rent for each mobilehome may be adjusted by an amount equal to the increase in the utility rate per mobilehome. If the utility rate is dependent upon the level of use, as in the case of gas or electricity, the mobilehome park owner may adjust the space rent by an amount reasonably necessary to account for the projected increase in the cost of the utility service. The maximum monthly increase in rent or in separate utility charges or fees for any mobilehome may not exceed an amount determined by dividing the projected monthly increase in utility costs for the entire mobilehome park by the total number of mobilehome spaces within the entire park.

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- (e) The mobilehome park owner may adjust the space rent to account for increases in, or establishment of, a governmental special assessment or special tax on the mobilehome park by an amount reasonably necessary to cover the actual cost to the mobilehome park owner of the assessment or special tax. The maximum space rent increase for any mobilehome shall not exceed the amount determined by dividing the increase in assessment or tax for the entire park by the total number of mobilehome spaces in the park.
  - (f) Within 30 days after receipt of a notice of a proposed space rent increase or increase in a separate fee or charge, which has been processed pursuant to the provisions of Subsection (a) of this Section, the tenants may file a petition requesting the Commission review the proposed increase in the same manner as provided for in this chapter and the regulations of the Commission. The mobilehome park owner shall bear the burden of proving that the proposed increase in space rent or the increase or establishment of a fee or charge complies with the provisions of this Section.

(Ord. No. 89-812, 3-14-89)

### **16.16.100 Repeal and Amendment.**

- (a) The provisions of this chapter shall not be repealed except by a majority vote of the qualified electors of the City voting at an election for such purposes.
- (b) Notwithstanding Subsection (a) of this Section, the City Council may amend the provisions of this chapter after conducting a public hearing, notice of which shall be given 20 days before the hearing by both of the following methods:
  - (1) First class mail to mobilehome park residents and mobilehome park owners;
  - (2) Publication once in a newspaper of general circulation in the City.

(Ord. No. 90-865, Approved by vote of the People on 11-8-88)

### **16.16.110 Required Notices.**

In addition to the notice required by State law, the mobilehome park owner shall provide the following notices to the persons and in the manner specified in this Section.

- (a) A statement of actual cost to the mobilehome park owner of utilities and of services actually provided to the tenants shall be posted in a conspicuous place in an area of the mobilehome park accessible to all tenants.
- (b) A notice which conforms to the following language and printed in bold letters of the same type size as the largest type size used in the rental agreement shall be presented to the tenant or prospective tenant at the time of presentation of a rental agreement creating a tenancy with a term greater than 12 months:

**"IMPORTANT NOTICE TO HOMEOWNER REGARDING THE PROPOSED RENTAL AGREEMENT FOR \_\_\_\_\_ MOBILEHOME PARK.**

**PLEASE TAKE NOTICE THAT THIS RENTAL AGREEMENT CREATES A TENANCY WITH A TERM IN EXCESS OF TWELVE MONTHS. BY SIGNING THIS RENTAL AGREEMENT, YOU ARE EXEMPTING THIS MOBILEHOME SPACE FROM THE PROVISIONS OF THE CITY OF SAN MARCOS MOBILEHOME RENT REVIEW LAW FOR THE TERM OF THIS RENTAL AGREEMENT. THE CITY OF SAN MARCOS MOBILEHOME RENT REVIEW LAW AND THE STATE MOBILEHOME RESIDENCY LAW (CALIFORNIA CIVIL CODE SEC. 798et seq.) GIVE YOU CERTAIN RIGHTS. BEFORE SIGNING THIS RENTAL AGREEMENT YOU MAY CHOOSE TO SEE A LAWYER. UNDER THE PROVISIONS OF STATE LAW, YOU HAVE A RIGHT TO BE**

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**OFFERED A RENTAL AGREEMENT FOR (1) A TERM OF TWELVE MONTHS, OR (2) A LESSER PERIOD AS YOU MAY REQUEST, OR (3) A LONGER PERIOD AS YOU AND THE MOBILEHOME PARK MANAGEMENT MAY AGREE. YOU HAVE A RIGHT TO REVIEW THIS AGREEMENT FOR 30 DAYS BEFORE ACCEPTING OR REJECTING IT. IF YOU SIGN THE AGREEMENT YOU MAY CANCEL THE AGREEMENT BY NOTIFYING THE PARK MANAGEMENT IN WRITING OF THE CANCELLATION WITHIN 72 HOURS OF YOUR EXECUTION OF THE AGREEMENT. IT IS UNLAWFUL FOR A MOBILEHOME PARK OWNER OR ANY AGENT OR REPRESENTATIVE OF THE OWNER TO DISCRIMINATE AGAINST YOU BECAUSE OF THE EXERCISE OF ANY RIGHTS YOU MAY HAVE UNDER THE CITY OF SAN MARCOS MOBILEHOME RENT REVIEW LAW, OR BECAUSE OF YOUR CHOICE TO ENTER INTO A RENTAL AGREEMENT WHICH IS SUBJECT TO THE PROVISIONS OF THAT LAW."**

The notice shall contain a place for the tenant to acknowledge receipt of the notice and shall also contain an acknowledgement signed by park management that the notice has been given to the tenant according to this Section. A copy of the notice executed by park management shall be provided to the tenant.

(Ord. No. 89-812, 3-14-89)

### **16.16.120 Discrimination Prohibited.**

It is unlawful for a mobilehome park owner, or any agent or representative of the owner, to discriminate against any tenant because of the tenant's exercise of any rights under this chapter. It is also unlawful for any mobilehome park owner, or any agent or representative of the owner, to discriminate against any purchaser or prospective purchaser of a mobilehome because of the purchaser's or prospective purchaser's choice to enter into a rental agreement subject to the provisions of this chapter.

(Ord. No. 89-812, 3-14-89)