

*City of San José, California*

**COUNCIL POLICY**

<b>TITLE</b> CONVERSION OF MOBILEHOME PARKS TO OTHER USES	<b>PAGE</b> Page 1 of 10	<b>POLICY NUMBER</b> 6-33
<b>EFFECTIVE DATE</b> February 23, 2016	<b>REVISED DATE</b>	
<b>APPROVED BY COUNCIL ACTION</b>	February 23, 2016, Item 4.2(b), Res. No. 77673	

**BACKGROUND**

*"Immobile" Homes on Rented Land*

Mobilehomes may look like single-family detached houses, but in most cases they are manufactured (factory-built) homes installed in mobilehome parks that may or may not be affixed to a foundation. Unlike other homes where the home-owner owns the land or at least the airspace, the land beneath the mobilehome is, typically, not owned by the purchaser of the mobilehome. The mobilehome owner pays space-rent to the mobilehome park owner for the privilege of use of the space. Mobilehomes have purchase prices that are substantially less than single-family detached houses due to mobilehomes' factory construction and non-ownership of the land. The result is a hybrid type of housing arrangement, where the resident owns the housing unit, but leases or rents the land on which the housing unit is placed. This arrangement might not be so challenging to set up or maintain if the mobilehome owner could easily move to another mobilehome park, but once a mobilehome is installed in one mobilehome park it is extremely difficult to move the mobilehome to another mobilehome park. In particular, older mobilehomes that are not constructed up to current codes cannot be moved into another mobilehome park. Lack of available spaces in mobilehome parks throughout the region could severely limit the ability to relocate mobilehomes. For practical purposes, the immobility of mobilehomes means if a mobilehome park converts to another use, the mobilehome will very likely be destroyed, the mobilehome owner will lose that significant asset, and any compensation that the mobilehome owner recovers will be that provided in accordance with State and local law.

*Parks in San José and the Surrounding Area*

San José has had mobilehome rent control since 1979. Approximately 10,800 mobilehome park spaces received plumbing, electrical, and sewer permits on or before September 7, 1979 and are thus subject to rent control under San José Municipal Code Chapter 17.22. This rent control ordinance allows automatic annual rent increases of 75% of the Consumer Price Index (CPI), but not less than 3% or more than 7%. San José's rent control ordinance also imposes vacancy control that limits rent increases when a mobilehome is sold, which allows residents to protect their investments. Although according to staff's research in Fall 2015 there were approximately 21,750 mobilehome spaces in the Santa Clara, Alameda, San Mateo and Santa Cruz counties (the four-county area) surrounding (but not including) San José, only approximately 9,700 of them were rent-controlled spaces.

*Park Residents in San José*

San José's mobilehome parks are occupied by a variety of individuals and families, including low-income or fixed-income seniors and families. Most residents are owners of their mobilehomes. Additionally, since the ordinance regarding mobilehome park conversions (the

*City of San José, California*

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 2 of 10	POLICY NUMBER 6-33
---	-----------------	-----------------------

Ordinance), now in Chapter 20.180, was adopted in 1986 as an ordinance amending Title 20 (the Zoning Code) of the San José Municipal Code, many more mobilehome park residents have limited English proficiency.

*Decreasing Number of Spaces for Relocation*

No new mobilehome parks have been built in the City of San José in the last 30 years, and few new mobilehome parks have been built in the State during this time. According to data from the State Department of Housing and Community Development in the last 15 years, approximately 900 mobilehome spaces have been lost in the four-county area due to park closure. As housing and land prices increase, it is reasonable to assume these losses may escalate making it more difficult over time to relocate residents to mobilehome parks in San José and even within the four-county area addressed in Chapter 20.180.

*Inability to Afford Available Mobilehomes*

As housing costs and land values escalate, interest in mobilehome park conversion to other uses increases, as does demand for rent-controlled mobilehome park spaces. Mobilehomes available for sale and vacant spaces in the City of San José rent-controlled mobilehome parks are unlikely to be sufficient to address the demand created by closure of a relatively large mobilehome park, and unless new parks are constructed this imbalance will increase as mobilehome parks close in the four-county area.

Based on the data submitted to the Housing Department over the last several years, space-rents in the City of San José's mobilehome parks are typically between \$550 and \$1550 per month. Mobilehome owners who have occupied their mobilehome parks for a long period of time are more likely to have lower rent. Thus, even if the lower-income or fixed-income mobilehome park residents are able to find a mobilehome to purchase in another San José mobilehome park, their incomes may not allow them to meet the other mobilehome park's income requirements because space-rent and the mortgage for the purchased mobilehome will be more than their monthly costs were in their previous mobilehome park location. Consequently, it may be challenging to mitigate the economic impact of conversion and relocation on lower-income and fixed-income mobilehome owners.

*Existing Conversion Ordinance*

Under Section 20.180.630 of Chapter 20.180 of the Zoning Code, when a mobilehome park owner files an application for mobilehome park conversion, the mobilehome park residents become eligible for benefits under the required program of relocation and purchase assistance. Since this Ordinance was adopted in 1986, there has not been a conversion of a mobilehome park to another use in the City that has been subject to the conversion provisions in the Zoning Code. Over the last several years, several questions have arisen regarding mobilehome park conversion requirements and procedures under Chapter 20.180. Staff has concluded that several of the procedures and definitions would benefit by additional clarification.

*Council Direction*

The City is concerned that conversions of existing mobilehome parks in the City of San José to other uses may result in (a) the permanent displacement of a substantial number of mobilehome residents, (b) the risk of homelessness for lower-income mobilehome residents due to the inability to afford and qualify for available mobilehomes in San José, (c) the loss of a large

*City of San José, California*

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 3 of 10	POLICY NUMBER 6-33
--	-----------------	-----------------------

amount of relatively affordably-priced housing, (d) the reduction of housing-type choice, and (e) the destruction of established residential communities. The City is also concerned that there is a lack of clarity regarding a sufficient program of relocation and purchase assistance.

As land and housing prices have escalated, there have been more questions to staff regarding mobilehome park conversion requirements and procedures. At least one mobilehome park owner has indicated to the residents of that mobilehome park an interest in converting to another use. As a result of this interest, in 2014 many mobilehome park residents expressed concerns about potential displacement from their homes, and asked the City Council to strengthen regulations for the preservation of existing mobilehome parks and the protection of mobilehomes as affordably-priced housing. In response, the City Council directed staff to prepare a Council Policy to further clarify the provisions in Chapter 20.180 and provide additional guidance for the review of applications of mobilehome park conversion to other uses as described herein.

**GUIDING PRINCIPLES**

As stated in Chapter 20.180, proposed conversions of mobilehome parks to other uses (conversions), should only be approved when such conversions are consistent with the following guiding principles:

1. Make adequate provision for the housing needs of all economic segments of the community;
2. Facilitate resident ownership of mobilehome parks, while recognizing the need for maintaining an adequate inventory of rental space within mobilehome parks;
3. Provide a reasonable balance between mobilehomes and other types of housing;
4. Inform prospective conversion purchasers regarding the physical conditions of the structures and land offered for purchase; and
5. Reduce and avoid the displacement of long-term residents, particularly senior citizens, people with disabilities, those who are of low-income, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing.

**PURPOSE**

The purpose of this City Council Policy (Policy) is to provide guidelines clarifying how the above principles should be implemented on a project-specific basis so that the City's decisions on proposed conversions are consistent with these guiding principles.

**POLICY**

**1. Clarification of Certain Definitions in Chapter 20.180 and this Policy**

- a. "Designated Resident Organization" as described in Section 20.180.110 should be interpreted to include any association formed by the residents that has provided the

*City of San José, California*

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 4 of 10	POLICY NUMBER 6-33
---	-----------------	-----------------------

owner or manager of the mobilehome park written notice of the name and address of the organization and the name and address of the representative of the organization to whom all notices under Chapter 20.180 shall be given. An association may be formed at any time, but for the purpose of negotiating to purchase the park, written notice of the exercise of this right shall be provided to the park owner within sixty (60) days of the date of issuance of the notice of intention to convert. There may be more than one such association. If there is at least one Designated Resident Organization representing at least 10% of the spaces, then any association representing less than 10% of the spaces shall not be considered Designated Resident Organizations. "Spaces" for the purposes of this paragraph only include spaces that are not owned by the mobilehome park owner or a proposed developer.

- b. "Mobilehome" should be interpreted to include all structures meeting the criteria in California Civil Code Section 798.3 including trailers, motorhomes, recreational vehicles or similar units, as may be amended from time to time.
- c. "Handicapped Mobilehome Owner" should be interpreted to include all persons who are disabled under State disability law and the Americans with Disabilities Act.
- d. "Good Faith Negotiations" should be interpreted to include the following characteristics:
  - i. Sufficient information provided to each Designated Resident Organization so that the value of the mobilehome park as a mobilehome park can be established. The mobilehome park owner may require such information to be held in confidence by a third party selected by the mobilehome park owner.
  - ii. A detailed response by the applicant based on the price and terms in the offer should be provided within the 180-day period described in Section 20.180.390 or, if applicable, Item 4.c of this Policy to any written offer by any Designated Resident Organization within 25 business days.
  - iii. The above subsections i. and ii do not confer on any Designated Resident Organization a right of first refusal, or require the park owner to sell the park to a Designated Resident Organization for its appraised value as a mobilehome park.
- e. The definition of "Mobilehome park conversion of use" should not be interpreted to exclude projects described as "park closure" from the requirements of Chapter 20.180.
- f. The statement of the rights of mobilehome owners, mobilehome tenants and residents required to be included in the notice of intention to convert (notice of intention) in Section 20.180.340.B should be interpreted to mean those rights set forth in Sections 20.180.360 and 20.180.370, and the rights of Designated Resident Organization(s) should be interpreted to mean those rights set forth in Section 20.180.380.
- g. "Relocation Impact Report" should be interpreted to mean the report required pursuant to Government Code Section 65863.7 as may be amended from time to time and as may be supplemented pursuant to Chapter 20.180 or this Council Policy.

*City of San José, California*

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 5 of 10	POLICY NUMBER 6-33
---	-----------------	-----------------------

- h. The term "should" as used in this Policy is intended to convey recommended, rather than mandatory, actions and standards.

**2. Clarification of Standards for Program of Relocation and Purchase Assistance**

In evaluating whether a satisfactory program of relocation and purchase assistance has been provided the following considerations should be taken into account:

- a. The mobilehome park owner should hire an appraiser of its choosing and notify the Designated Resident Organization(s) of its selected appraiser. If the Designated Resident Organization(s) objects to the mobilehome park owner's selection of an appraiser, the Designated Resident Organization(s) may designate only one alternate appraiser to represent all the Designated Resident Organization(s) jointly for consideration within fifteen (15) days of notification by the park owner. If the Designated Resident Organization(s)' selected appraiser is not acceptable to the mobilehome park owner, the park owner may reject that appraiser within fifteen (15) days of designation by the Designated Resident Organization(s). In such circumstance, the appraisers selected by each side should meet and confer and jointly select a third appraiser who is responsible for conducting any appraisals required under the program of relocation and purchase assistance.
- b. Appraisals should list in-place value of mobilehomes, both current and prior to any public discussion or communication regarding sale or conversion of the mobilehome park and should contain the elements described in item 3 below.
- c. The mobilehome park owner should hire a consultant of its choosing to prepare a Relocation Impact Report ("RIR") and notify the Designated Resident Organization(s) of its selected consultant. If the Designated Resident Organization(s) objects to the mobilehome park owner's selection of consultant, the Designated resident Organization(s) may jointly designate only one alternate consultant for consideration within fifteen (15) days of notification by the mobilehome park owner. If the Designated Resident Organization(s)' selected one consultant is not acceptable to the mobilehome park owner, the mobilehome park owner may reject that consultant within fifteen (15) days of designation by the Designated Resident Organization(s). In such circumstance, the consultants selected by each side should meet and confer and jointly select a third consultant with specialized experience in the preparation of such reports who is responsible for conducting and preparing the RIR.
- d. No unjust or unreasonable evictions should have occurred and no residents should have been coerced to sell without relocation benefits.
- e. All sales occurring after the delivery of notice of intention pursuant to Section 20.180.340 but before the application is filed should include a signed statement acknowledging that by selling the unit prior to the filing of the application, the mobilehome owner is waiving the benefits under the program of purchase and relocation assistance. The mobilehome owner may not waive benefits for renters occupying the units.

*City of San José, California*

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 6 of 10	POLICY NUMBER 6-33
--	-----------------	-----------------------

- f. For any eligible mobilehome owner whose home cannot be relocated to a comparable mobilehome park in the City of San José or relocated to another mobilehome park chosen by the mobilehome owner, it is desirable that the program of relocation and purchase assistance should provide for the purchase of the mobilehome at 100% of its in-place value consistent with Section 20.180.630.2.e as determined by the selected appraiser.
  - g. A program of relocation and purchase assistance should provide payments for the costs of relocation and purchase assistance listed in the contents of the RIR as described in item 3 below, as that are applicable in each resident's circumstances. The mobilehome park owner (also referred to as applicant herein) should include a fair and transparent process for appeal of the determination of applicable assistance in the RIR and provide advance notice to the residents of such process.
  - h. A program of relocation and purchase assistance should provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a greater housing burden. This City Council Policy incorporates the definition of housing costs resulting in undue burden in the City of San José's Housing Element for 2014-2023; housing costs that do not create a housing burden are housing costs that do not exceed 30% of gross income.
  - i. A program of relocation and purchase assistance should provide for payment of the costs to reinstall or replace any accessibility improvements made to a resident's mobilehome and surrounding area such as wheelchair ramps, lifts, and grab-bars. Such payments should be provided to displaced residents who made such accessibility improvements.
  - j. It is desirable that conversion projects with proposed residential uses contain housing that is affordable to all income levels of existing residents and provide a first priority opportunity to purchase or rent such units to existing residents. Units with rents and purchase prices restricted by recorded covenants will be considered desirable for mitigation of relocation impacts to lower-income residents.
  - k. The above standards may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that applying the standards in this Policy would take property in violation of the United States or California Constitutions.
3. **Clarification of Standards regarding Contents of RIR to supplement requirements in Section 20.180.630 of the Zoning Code.** In evaluating whether the RIR provided is consistent with a satisfactory program of relocation and purchase assistance, the following considerations should be taken into account:
- a. The RIR should identify space vacancies and units for sale, including price and space rent, and required purchaser income (if available) in the Santa Clara, Alameda, San Mateo, and Santa Cruz counties (the four counties) and should indicate which, if any, may be subject to rent stabilization ordinances. If the number of available rent-stabilized mobilehome park spaces in the four counties is fewer than the number of mobilehomes in the subject mobilehome park that are eligible for relocation, then a list should be provided

*City of San José, California*

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 7 of 10	POLICY NUMBER 6-33
--	-----------------	-----------------------

of comparable mobilehome parks within a 100-mile radius of the subject mobilehome park and for each such mobilehome park, the space-rents, whether the park is rent-stabilized and the qualifications for residency in each mobilehome park (e.g., age restrictions, no pets, minimum income), whether the mobilehome park has any available space and will accept mobilehomes being relocated and, if so, any restrictions such as size and age, on the relocated mobilehomes that would be accepted.

- b. The RIR should indicate number of residents in the following categories: earning less than 30% Area Median Income (AMI), 50% AMI and 80% AMI, disabled under State or Federal definitions or by declaration of the resident; senior citizens; and families with minor children.
- c. The RIR should discuss space-rent affordable for residents in the above 80% AMI and the various lower-income categories, assuming that space-rent plus typical mobilehome mortgage does not exceed 30% of income.
- d. The RIR should indicate the difference between the actual cost of housing available to the residents in the four counties (actual market rent) and the Federal Department of Housing and Urban Development's (HUD) fair market rent, and if this difference is more than 5%, the RIR should adjust the subsidies to reflect actual market rent. The rent subsidy should be the difference of rent paid by the resident in the mobilehome park and any higher rent for either a space at another mobilehome park if the mobilehome is relocated, or rent for comparable housing if the resident moves to other rental housing.
- e. The RIR should include a discussion of measures available to ensure residents have options to relocate to housing that will be affordable once the rent subsidy is no longer available. Such measures might include provision of affordable housing (rental or for-sale) in the proposed conversion project, provision of additional mileage and other benefits needed for a move outside of the four counties, and phasing of resident relocation to allow residents to find new housing within their means.
- f. The RIR should list the other mobilehome parks that are in the closure/conversion process in the four counties and their size. The RIR should also list the mobilehome parks that have closed in the period commencing six months prior to the notice of intention in the four counties, and the outcomes (e.g., new city of residence, rent and space rent) for the former residents of those closed mobilehome parks.
- g. The RIR may include information volunteered by the applicant in addition to the provisions that are specified below. At a minimum, the RIR should include the following information with monetary values determined by the selected appraiser:
  - i. A description of proposed new use(s) for the subject site including, but not limited to appraisals of the mobilehome park site with the proposed uses on-site, and appraisal of the highest and best use of the mobilehome park site;
  - ii. A proposed timetable with phases of relocation of existing residents and development of the new project delineated for conversion of the subject mobilehome park to another use;

*City of San José, California*

<b>TITLE</b> CONVERSION OF MOBILEHOME PARKS TO OTHER USES	<b>PAGE</b> 8 of 10	<b>POLICY NUMBER</b> 6-33
--	------------------------	------------------------------

- iii. A legal description of the property that includes the mobilehome park site; and
- iv. The number of spaces in the mobilehome park.
- v. For each space in the mobilehome park:
  - 1. The size in square feet, type (e.g., single-wide, recreational vehicle, stick-built), number of bedrooms, manufacturer, and date of manufacture of the mobilehome on the space, or if space is unoccupied indicate date of last occupation;
  - 2. The number of occupants of the mobilehome and their length of residency in the mobilehome park;
  - 3. The total monthly space rent currently charged for each space with detail showing the space rent, utility charges, and any other charges paid by the resident to the park owner;
  - 4. The in-place value the mobilehome would have if the mobilehome park were not being closed; and
  - 5. Any improvements to the mobilehome, including but not limited to patios, porches, pop-out rooms and any recent major improvements to the home, including but not limited to a new roof or new siding.
  - 6. Any information available to the mobilehome park owner concerning any disability or special need of the occupants, which may be kept confidential by the City.
- vi. An appraisal of the mobilehome park site if continued in use as a mobilehome park; and
- vii. An appraisal of the mobilehome park site if used for the highest and best use allowable under the existing General Plan land use designation for the subject site if different than a mobilehome park; and
- viii. If the appraiser identifies lack of maintenance, or deterioration of the subject mobilehome park that negatively affects the value of a mobilehome, the appraiser should determine the value of the home with an upward adjustment in value as needed to eliminate the negative effect in value caused by the lack of maintenance or deterioration.
- viiii. The purchase price of mobilehomes with similar size, age and number of bedrooms in comparable mobilehome parks including rent-controlled mobilehome parks. For this purpose, "comparable mobilehome park" means a mobilehome park that is similar in size, age, condition, and amenities to the mobilehome park that is proposed for closure, is located within a community similar to that in which the subject mobilehome park is located, and has similar access to community amenities such as the job market where a displaced resident is employed, schools, shopping, medical services, recreational facilities, and transportation.
- h. The RIR should also enumerate the costs of obtaining other comparable housing for rent and for sale, including but not limited to the purchase price of comparable condominiums and the costs of moving into a comparable house or comparable apartment, including such items as first months' rent, security deposits and higher mortgage and Homeowner Association fee payments or rent of the comparable housing. The moving costs should include the cost to move furniture and personal belongings, temporary lodging, moving insurance, and the appraised value of personal property that cannot be reasonably

*City of San José, California*

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 9 of 10	POLICY NUMBER 6-33
--	-----------------	-----------------------

relocated. For this purpose, "comparable housing" is defined as housing that meets or exceeds the *minimum* standards of the Housing Code, and is similar to the subject home in terms of rent, size, number of bedrooms and bathrooms, proximity to the resident's place of employment, amenities, schools, and public transportation.

- i. The RIR should also include estimates from two moving companies acceptable to the Designated Resident Association that are licensed and bonded to move mobilehomes on public streets and highways, of the cost of moving each mobilehome in the mobilehome park up to a maximum distance of 100 miles, including transportation to the new site identified by the resident, the cost of permits, and tearing down and setting up the mobilehome at the new location, including the cost of any upgrades to comply with applicable Federal, State, and local building, plumbing, electrical, housing, mobilehome park, accessibility, and health and safety regulations, and the cost of moving any improvements, including but not limited to patios, porches and pop-out rooms, reinstallation, replacement or reconstruction of blocks, skirting, shiplap siding, porches, decks and awnings, earthquake bracing if necessary, insurance coverage during transport, and utility hook-ups, and any upgrades required by the mobilehome park or State or local law.

4. **Procedural Guidance.**

- a. ***Pre-application Voluntary Agreement regarding Purchase.*** Prior to submitting an application for conversion of a mobilehome park, mobilehome park owners may enter into a voluntary agreement with the mobilehome owners for relocation-impact and purchase-assistance that best addresses their particular situation. Mobilehome owners should have legal representation in the negotiation of such agreements.
- b. ***Translation of Documents related to Notice and Relocation Benefits.*** Consistent with the City Housing Department and State policy, translated notices of intention, notices of rights, mobilehome purchase offers, and descriptions of relocation and purchase assistance benefits should be made available by the mobilehome park owners on request for limited English proficiency mobilehome residents and owners or their representatives. Such translations should be available in Spanish, Vietnamese, Chinese, Korean, and Tagalog. All documents provided in English should provide clear information in those languages on how to obtain translated copies.
- c. ***Voluntary Agreement regarding satisfaction of Negotiation Requirements Allowed.*** If the Designated Resident Organization(s) and the mobilehome park owner agree in writing that negotiations required under Section 20.180.390 have occurred, the City may determine that the requirement for negotiations has been met prior to the initiation or completion of the 180-day negotiations period required by Section 20.180.390. Any "Voluntary Agreement regarding satisfaction of Negotiation Requirements" entered into by a Designated Resident Organization and the mobilehome park owner should contain, in 16-point font, an admonishment that the Designated Resident Organization should have legal representation before entering into and in negotiating such an agreement, that by entering into this agreement the Designated Resident Organization is giving up

*City of San José, California*

<b>TITLE</b> CONVERSION OF MOBILEHOME PARKS TO OTHER USES	<b>PAGE</b> 10 of 10	<b>POLICY NUMBER</b> 6-33
--	-------------------------	------------------------------

important rights, and that the 60-day period identified in Section 20.180.380 may still be available to another Designated Resident Organization at the mobilehome park.