

CITY OF SONOMA



CITY COUNCIL SPECIAL MEETING

Monday April 4, 2016
4:00 p.m.

**Sonoma Veterans Memorial Building
126 First Street West, Sonoma CA 95476**

City Council
Laurie Gallian, Mayor
Madolyn Agrimonti, MPT
David Cook
Gary Edwards
Rachel Hundley

AGENDA

1. CALL TO ORDER

CALL TO ORDER

ROLL CALL (Agrimonti, Edwards, Hundley, Cook, Gallian)

2. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL

All items listed on the Consent Calendar are considered to be routine and will be acted upon by a single motion. There will be no separate discussion of these items unless members of the Council, staff, or public request specific items to be removed for separate action. At this time Council may decide to change the order of the agenda.

Item 2A: Approval of application for Temporary Use of City Streets by the Sonoma Community Center for the July 4 Parade on Monday, July 4, 2016.

Staff Recommendation: Adopt the resolution approving the application.

Item 2B: Consideration and Possible Action to Approve an Agreement with Maven Events & Marketing Solutions, LLC to provide Special Event Management Services for the City of Sonoma.

Staff Recommendation: Adopt the resolution approving the agreement with Maven Events & Marketing Solutions, LLC to provide Special Event Management Services for the City of Sonoma and authorize the City Manager as signatory to the agreement.

3. REGULAR CALENDAR – CITY COUNCIL

(Matters requiring discussion and/or action by the City Council)

Item 3A: Discussion, consideration and possible introduction of ordinance amending Chapter 9.80 of the Sonoma Municipal Code (City Attorney)

Staff Recommendation: Motion to introduce an ordinance amending Chapter 9.80 of the Sonoma City Municipal Code regarding the protection of rents for spaces in mobilehome parks.

4. ADJOURNMENT

I do hereby certify that a copy of the foregoing agenda was posted on the City Hall bulletin board on March 31, 2016. GAY JOHANN, ASSISTANT CITY MANAGER/CITY CLERK

Copies of all staff reports and documents subject to disclosure that relate to any item of business referred to on the agenda are normally available for public inspection the Wednesday before each regularly scheduled meeting at City Hall, located at No. 1 The Plaza, Sonoma CA. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the City Council regarding any item on this agenda after the agenda has been

distributed will be made available for inspection at the City Clerk's office, No. 1 The Plaza, Sonoma CA during regular business hours.

If you challenge the action of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described on the agenda, or in written correspondence delivered to the City Clerk, at or prior to the public hearing.

In accordance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk (707) 933-2216. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.



CITY OF SONOMA
City Council
Agenda Item Summary

City Council Agenda Item: 2A

Meeting Date: 04/04/16

Department

Public Works

Staff Contact

Wendy Atkins, Special Event Coordinator

Agenda Item Title

Approval of application for Temporary Use of City Streets by the Sonoma Community Center for the July 4 Parade on Monday, July 4, 2016.

Summary

Special event permit applications that include requests for the closure of City streets in conjunction with the event must obtain City Council approval of the related street closure. Because the event involves use of SR 12, the applicant must also obtain permission and an encroachment permit from Caltrans.

The Sonoma Community Center has requested temporary closure of portions of East Napa Street, Broadway (Highway 12), Spain Street and First Street West in conjunction with the 2016 July 4 Parade. Details of the requested street closures are specified in the attached resolution.

Recommended Council Action

Adopt the resolution approving the Use of City Streets application and recommending Caltrans approval.

Alternative Actions

1. Approve the request with specified modifications.
 2. Deny the request.
-

Financial Impact

This is a City-supported event. Public Works Costs: \$8,866.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

1. Resolution
 2. Application
-

Alignment with Council Goals:

N/A

cc: Josh Cutler Sonoma Community Center, via email

CITY OF SONOMA

RESOLUTION NO. ___ - 2016 RESOLUTION APPROVING AND CONSENTING TO THE USE OF CITY STREETS **July 4 Parade**

WHEREAS, Sonoma Community Center has made application to conduct the July 4 Parade, which will involve use of State Route 12; and

WHEREAS, July 4 Parade will temporarily impede and restrict the free passage of traffic over State Route 12 on July 4, 2016, between First Street East and First Street West and State Route 12 between MacArthur and Napa Street and between the hours of 8:00 a.m. and 12:00 noon.

NOW THEREFORE be it resolved that the City Council of the City of Sonoma as follows:

1. The City Council approves and consents to the street closure associated with the proposed July 4 Parade and recommends approval of and consents to the proposed restriction of State Route 12 upon terms and conditions deemed appropriate and necessary by the State of California, Department of Transportation.
2. The approval of the street closure is subject to the following conditions and limitations:
 - A. Applicant shall contact Police Department as soon as possible to finalize traffic control plan and contract with the Sonoma County Sherriff's Department for services as required.
 - B. Applicant shall provide a written request for special barricading to the Public Works Department at least thirty days prior to the event and meet with the Street and Police Departments.
 - C. Applicant shall provide notice of the event and the street closure to all businesses located on First Street East and West (between Spain and the Sonoma Veterans Memorial Building and on all sides of Plaza no later than thirty days prior to the event.
 - D. Applicant shall comply with City of Sonoma standard insurance requirements.
 - E. Applicant shall obtain event approval from the Community Services and Environment Commission.

BE IT FURTHER RESOLVED that the following traffic and parking restrictions necessary to conduct the parade are hereby approved.

1. No parking on First Street West and First Street East between Spain and Napa from 6:00 a.m. until the conclusion of the parade.
2. No parking on Spain Street and Napa Street between First Street West and First Street East from 6:00 a.m. until the conclusion of the parade.
3. First Street East between Spain and Blue Wing Drive will be closed from 9:15 a.m. until the conclusion of the parade.
4. First Street West between Spain Street and the Sonoma Memorial Veterans Building will be closed from 9:00 a.m. until the conclusion of the parade.
5. Traffic will be detoured from State Route 12 at Napa Road, Leveroni Road, MacArthur Street and Andrioux Street and State Route 12 will be closed from Patten Street and McDonnell Street from 9:30 a.m. until conclusion of the parade.

The foregoing Resolution was duly adopted this 4th day of April 2016, by the following vote:

Ayes:

Noes:
Absent:

Laurie Gallian, Mayor

ATTEST:

Gay Johann
Assistant City Manager / City Clerk



City of Sonoma
No. 1 The Plaza
Sonoma CA 95476



PERMIT APPLICATION
FOR USE OF CITY STREETS

Revised 12/3/15

Application Fee: **\$576.00**

(Encro 100-00000-000-30203)

Note: Events utilizing any portion of Highway 12 must also obtain permission from Caltrans, District 4, 111 Grand Avenue, Oakland 94612, (510) 286-4404.

Name of Applicant: Josh Cutler

Name of Sponsoring Organization: Sonoma Community Center

Address: 276 East Napa Street, Sonoma CA, 95476

Telephone Numbers: Day: 707.938.4626 Cell: 707.849.2843 Email: Josh@sonomacommunitycenter.org

Name of Event: 4th of July Parade & Celebration

Type of Event – Mark Appropriate Box

- Run or Walk
 Rally or Assembly
 Parade
 Other

Date(s) of Event: 7/4/2016

Street Closure(s) Requested:

Spain Street between 1st St East and 1st St West from 8AM am/pm to 12PM am/pm

1st St East between Napa Street and Blue Wing Drive from 8AM am/pm to 12PM am/pm

Napa Street between 1st St East and 1st St W from 8AM am/pm to 12PM am/pm

1st St West Napa Street Depot Park 8AM 12PM

Complete Description of Event. Using additional sheets if necessary, describe the number of participants; duration of the event; the number, type, size and material of all entries including any floats or banners; the number and type of animals and a plan for cleaning up after them; any seating being provided; and Judges Tables. Attach a map of the route to be used and indicating the location of the staging area, announcer's stand, barricade placement, vendors, banners, signs and booths, etc.:

Annual 4th of July Parade, begins at 10AM and runs until 12PM.

Approximately 100 entries including floats, cars, banners, horses etc. There will be a reviewing stand on Napa Street in front of the horseshoe.

Estimated Daily Attendance: 5,000

If a Sound Amplification is be used, describe the type, location, purpose and hours of use: Reviewing stands (2) with announcers. Parade entrants may also play music.

General Conditions of Approval:

Applicant is responsible for obtaining permission from Caltrans for use of any portion of Highway 12. All facilities placed upon a City street are subject to continuing safety approval and inspection by the appropriate City departments. A clear path of a minimum width of 20 feet through the length of the portion of roadway being used must be maintained for emergency vehicle access. Obstructions shall not be placed along the curb or the roadway within 10 feet of any fire hydrant. All facilities used for the event shall be removed from City streets immediately after the close of the event. All costs for barricading, traffic control, street sweeping and clean up shall be borne by the applicant. Applicant will be required to submit a deposit equal to the amount estimated by the City for services performed by City personnel in relation to the event. The deposit is due no later than two weeks before the first day of the event. If actual costs exceed the amount of the deposit, applicant will be required to pay the difference. If actual costs are less than the deposit, the excess will be returned to applicant or applied to any other fees or charges owed to the City. Applicant must provide a certificate of insurance and a policy endorsement naming the City of Sonoma as additional insured as described in the City of Sonoma Facility Use Insurance Requirements.

I do hereby acknowledge and affirm that all information contained herein is accurate to the best of my knowledge and agree to assume full responsibility and liability for and indemnify, and suits for or by reason of injury to any person or damages to any property of the parties hereto or of the third persons for any and all cause or causes whatsoever on in any way connected with the holding of said event or any act or omission or thing in any manner related to said event and its operation irrespective of negligence, actual or claimed, upon the part of the City, its agents or employees.

Josh Cutler
Applicant's Signature

1/19/16
Date

For City Use Only

POLICE DEPARTMENT RECOMMENDATION: <input type="checkbox"/> Approve <input type="checkbox"/> Deny Amount of Deposit Required: \$ _____ COMMENTS: <hr/> <div style="display: flex; justify-content: space-between;"> Authorized Signature Date </div>	
PUBLIC WORKS DEPARTMENT RECOMMENDATION: <input type="checkbox"/> Approve <input type="checkbox"/> Deny Amount of Deposit Required: \$ _____ COMMENTS: <hr/> <div style="display: flex; justify-content: space-between;"> Authorized Signature Date </div>	
Date Approved by CSEC: _____	
Date Approved by City Council: _____	



CITY OF SONOMA
City Council
Agenda Item Summary

City Council Agenda Item: 2B

Meeting Date: 04/04/2016

Department

Administration

Staff Contact

Carol E. Giovanatto, City Manager

Agenda Item Title

Consideration and Possible Action to Approve an Agreement with Maven Events & Marketing Solutions, LLC to provide Special Event Management Services for the City of Sonoma

Summary

During the FY 2015-16 Budget deliberations, staff recommended the inclusion of an independent professional Special Events Manager as an alternative to the existing procedure of a City staff assignment. Currently, the Assistant Planner position oversees the management of all special events held in the Plaza and other City-owned venues in addition to her regular duties. With the growing number of events and the increasing staff workload this process has become inefficient and obligates staff to overtime at weekend events. The professional manager will be responsible to represent the City on the organization and management of all events on City properties including pre-and-post event reviews.

The City issued an RFP for Special Event Management services and received 10 formal responses from very qualified firms. The top four respondents were interviewed and Maven Events and Marketing Solutions, LLC (Lisa Janson, Founder) is recommended to be approved. Costs for this contract have been budgeted in the FY 2015-16 Budget for start-up costs. Actual management costs for the events will be passed through to the individual Special Event users of City facilities in accordance with the City fee schedule replacing the current charges for City staff time.

Recommended Council Action

Adopt the resolution approving the agreement with Maven Events & Marketing Solutions, LLC to provide Special Event Management Services for the City of Sonoma and authorize the City Manager as signatory to the agreement.

Alternative Actions

Request additional information; Do not approve agreement.

Financial Impact

The Agreement is based on an hourly rate for services capped at a not-to-exceed amount of \$32,000 per year which will be recovered through event fees. Start-up costs are budgeted in the FY 2015-16 Budget.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
- No Action Required
- Action Requested

Attachments:

Resolution
Agreement/Proposal (Exhibit B-1)

Alignment with Council Goals:

FISCAL MANAGEMENT: Provide for effective and efficient management of local taxpayers' dollars; apply prudent internal policies and practices to assure the most cost-effective methods are utilized.

cc: Maven Events & Marketing Solutions, LLC

CITY OF SONOMA

RESOLUTION NO. __ - 2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MAVEN EVENTS AND MARKETING SOLUTIONS, LLC

WHEREAS, the City of Sonoma desires to obtain Special Event Management services in connection private and public activities held on City-owned properties; and

WHEREAS, Maven Events and Marketing Solutions, LLC (founded by Lisa Janson) hereby warrants to the City that said firm is skilled and able to provide the services described in the Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council finds, orders and determines as follows:

1. The public interest and convenience require execution of the agreement cited in the title above.
2. The City Manager be, and is hereby, authorized to sign said agreement for and on behalf of the City of Sonoma.

ADOPTED this 4th day of April, 2016 by the following vote:

AYES:

NOES:

ABSENT:

Laurie Gallian, Mayor

ATTEST:

Gay Johann
Assistant City Manager/City Clerk

**CITY OF SONOMA
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is entered into as of the ____ day of _____, 2016, by and between the CITY OF SONOMA herein called the “City,” and Maven Events and Marketing Solutions, LLC (Lisa Janson, Founder), herein called the “Consultant.”

Recitals

WHEREAS, City desires to obtain Special Event Management services in connection private and public activities held on City-owned properties; and

WHEREAS, Consultant hereby warrants to the City that Consultant is skilled and able to provide such services described in Section 1 of this Agreement; and

WHEREAS, City desires to retain Consultant pursuant to this Agreement to provide the services described in Section 1 of this Agreement.

Agreement

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Scope of Services. Subject to such policy direction and approvals as the City through its staff may determine from time to time, Consultant shall perform the services set out in Exhibit “A” which is attached hereto and incorporated herein by reference.

2. Time of Performance. The services of Consultant are to commence not later than April 15, 2016 for a term of three years. Any changes to these dates must be approved in writing by the City Manager or his or her representatives.

3. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to Consultant for professional services shall be as set forth in Exhibit "B" (Proposal) which is attached hereto and incorporated herein by reference. However, in no event shall the amount exceed thirty two thousand Dollars (\$32,000) annually without prior City authorization. Should costs exceed this amount due to additional services required based on number of Events held on City property, the Consultant agrees to contact the City upon reaching 66% of total authorized compensation to discuss potential increase to yearly compensation. Upon completion of each year of service, Consultant and City Manager agree to review Consultant's performance and Program outcomes; Agreement may be considered for adjustment based on the current CPI change, Bureau of Labor Statistics, All Urban Consumers, San Francisco-Oakland-San Jose, CA. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment.

B. Timing of Payment. Billing and payment for said services shall be as set forth in Exhibit "B," attached hereto and incorporated herein.

C. Changes in Compensation. Consultant will not undertake any work that will incur costs in excess of hourly rate without prior written amendment to this Agreement.

D. Litigation Support. Consultant agrees to testify at City's request if litigation is brought against City in connection with Consultant's report. Unless the action is brought by Consultant or is based upon Consultant's negligence, City will

compensate Consultant for the preparation and the testimony at Consultant's standard hourly rates.

4. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents in the course of implementing this Agreement, except working notes and internal documents, shall become the sole property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its sole discretion without further compensation to Consultant or to any other party.

5. Employment of Other Consultants, Specialists or Experts. Consultant will not employ or otherwise incur an obligation to pay other consultants, specialists or experts for services in connection with this Agreement without the prior written approval of the City which will not be unreasonably withheld. Consultant understands and agrees that any use of other consultants, specialists or experts will become an obligation of Consultant and will not be an obligation of the City and so shall be held under the liability of Consultant.

6. Interest of Consultant.

A. Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this contract or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this contract. Area is defined as City limits only and City property only.

Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

(1) will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the City or of any City official, other than normal contract monitoring and interpretation of City rules and regulations; and

(2) possesses no authority with respect to any City decision beyond the rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(a)(2).)

7. Interest of Members and Employees of City. No member of the City and no other officer, employee or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any project to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement, nor shall any such person participate in any decision relating to this Agreement which affects his/her personal interests or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested.

8. Liability of Members and Employees of City. No member of the City and no other officer, employee or agent of the City shall be personally liable to Consultant or otherwise in the event of any default or breach of the City, or for any amount which may become due to Consultant or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

9. Indemnification of City. Consultant agrees to protect, defend, indemnify and save harmless City and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any

negligent act or omission of the Consultant, any Sub-consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the City.

10. Consultant Not an Agent of City. City retains all rights of approval and discretion with respect to the projects and undertakings contemplated by this Agreement. Consultant, its officers, employees and agents shall not have any power to bind or commit the City to any decision.

11. Independent Contractor. It is understood that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent contractor and not an agent or employee of City; and as an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

12. Compliance with Laws.

A. General. Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a City of Sonoma business license.

B. Workers' Compensation. Consultant certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant certifies that it will comply with such provisions before commencing performance of this Agreement.

C. Injury and Illness Prevention Program. Consultant certifies that it is aware of and has complied with the provisions of California Labor Code Section 6401.7, which requires every employer to adopt a written injury and illness prevention program.

D. City Not Responsible. The City is not responsible or liable for Consultant's failure to comply with any and all of said requirements.

13. Confidential Information. All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by City, or as required by law.

14. Insurance.

A. Minimum Scope of Insurance.

(1) Consultant agrees to have and maintain, for the duration of the contract, a General Liability insurance policy insuring him/her and his/her firm to an amount not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence

limit. The vendor's insurance shall be primary insurance as respects the City of Sonoma.

(2) Consultant agrees to have and maintain for the duration of the contract an Automobile Liability insurance policy insuring him/her and his/her staff to an amount not less than One Million Dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property damage. The vendor's insurance shall be primary insurance as respects the City of Sonoma.

(3) Consultant agrees to have and maintain for the duration of the contract Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

(4) Consultant agrees to have and maintain for the duration of the contract Errors and Omissions Liability: \$1,000,000 per occurrence

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

The City, its officers, officials, employees and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant: and with respect to liability arising out of work or operations performed by or on behalf of the Consultant in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance or as a separate Owner's policy. The endorsement shall read as follows: "The City of Sonoma, its officers, officials, employees and volunteers are hereby added as additional insured, but only as respects work done by, for or on behalf of the named insured."

(3) A Workers' Compensation and Employers' Liability policy written in accordance with the laws of the State of California and providing coverage for any and all employees of Consultant:

(4) (a) This policy shall provide coverage for Workers' Compensation (Coverage A).

(b) This policy shall also provide coverage for One Hundred Thousand Dollars (\$100,000.00) Employers' Liability (Coverage B).

(5) All of the following endorsements are required to be made a part of each of the required policies, except for the Professional Liability and Workers' Compensation and Employers' Liability policies, as stipulated below:

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

The City, its officers, officials, employees and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant: and with respect to liability arising out of work or operations performed by or on behalf of the Consultant in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance or as a separate Owner's policy. The endorsement shall read as follows: "The City of Sonoma, its officers, officials, employees and volunteers are hereby added as additional insured, but only as respects work done by, for or on behalf of the named insured."

B. General Liability.

(1) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

(2) Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

C. All Coverages. Each insurance policy required in this item shall provide that coverage shall not be canceled, except after 30 days' prior written notice by certified mail, return receipt requested, has been given to the City. Current certification of such insurance shall be kept on file with the City Secretary at all times during the term of this Agreement.

D. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A:VII.

E. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

15. Assignment Prohibited. Neither the City nor Consultant may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation hereunder shall be void and of no effect.

16. Termination of Agreement.

A. This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by the City upon written notice to the Consultant upon 30 days' written notice. Consultant may terminate this Agreement upon 30 days' written notice.

B. If Consultant fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice.

C. Upon termination with or without cause, all finished and unfinished documents, project data and reports shall, at the option of the City, become its sole property and shall, at Consultant's expense, be delivered to the City or to any party it may so designate.

D. In the event termination is without cause, Consultant shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation for services rendered prior to the time of payment; provided, however, that Consultant shall be entitled to compensation for work in progress at the time of termination.

17. Amendment. This Agreement constitutes the complete and exclusive statement of the Agreement to City and Consultant. It may be amended or extended from time to time by written agreement of the parties hereto.

18. Litigation Costs. If either party becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party. In awarding attorneys' fees, the court will not be bound by any court fee schedule, but

a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.

B. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

D. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, City may, by written request by any of the above-named officers, require that custody of the records be given to City and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

22. Equal Employment Opportunity. Consultant is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Consultant will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Consultant will take affirmative action to ensure that applicants are treated during such employment without regard to race, age,

sex, creed, color, sexual orientation, marital status or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

23. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

24. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

25. News Releases/Interviews. All Consultant and subconsultant news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by the City.

26. Venue. In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of Sonoma, California.

IN WITNESS WHEREOF, the City and Consultant have executed this Agreement as of the date first above written.

CITY OF SONOMA

CONSULTANT

By: _____
City Manager

By: _____

Title

EXHIBIT A SCOPE OF SERVICES

Provide oversight for all City owned event venues, with event size ranging from 100 to 3000 attendees.

Prepare a venue event management database and communicate event needs in a clear, concise and complete manner.

Create pre-event reports and post-event reviews for the Community Services and Environment Commission (CSEC) monthly meetings and attend CSEC meetings if necessary.

Meet with applicants desiring to rent City facilities; discuss requirements and ensure applicant understands use requirements, limitations and compliance with the City's Special Event Policy.

Review event applications to ensure that all required information is provided and that events obtain all necessary permits and provide required insurance documentation.

Ensure thorough communication with internal and external departments for smooth execution of event.

Coordinate facility staffing needs with the appropriate City departments such as security, fire, and setup for assigned events

Coordinate event reviews with the Special Events Committee and the Community Services and Environment Commission (as applicable).

Serve as liaison between event manager, vendors and City.

Serve as on-site contact person for assigned events. Assist event organizers during events with unexpected changes, requests, or unusual circumstances that arise.

Inspect move-in, move-out and cleanup operations following assigned events so final billings can be issued accurately. Resolve any billing disputes during events.

May produce City-sponsored events (under separate contract).

This contract requires high level of management skills, sound judgment and ability to work independently. Contractor must provide own transportation, separate office space and equipment (although meetings may be held with event applicants at City Hall).

EXHIBIT B
BILLING FOR SERVICES

Consultant shall submit invoice to City on the first and fifteenth of each month for hours worked. Invoice shall contain a breakdown of work hours per event (including name of event for City Event billing purposes).

City agrees to pay invoice within 14 days of approved invoicing.

EXHIBIT B-1
PROPOSAL (ATTACHED)

Mrs. Gay Johann
Assistant City Manager/City Clerk
Sonoma City Hall, #1 The Plaza
Sonoma, Ca 95476



Reference: City of Sonoma Request For Proposals Special Events Manager
Subject: Statement of Qualifications for Special Events Manager Services

February 16, 2016

Dear Gay,

The City of Sonoma's approach to Special Events and Services represents an interesting opportunity to implement a cohesive program and infrastructure for planning, and development of special events. Your approach will help ensure the compliance of city enforce special event policies, regulations and funding.

Maven Events and Marketing Solutions has over 20 years of experience in planning and executing many types of events from small corporate events to large city wide events. After 17 years working in San Francisco, delivering events around the world, my husband and I moved back to Sonoma with our 3 children (and are greatly enjoying the balanced lifestyle Sonoma offers, we currently reside a mile from the plaza). I have experience working with cities around the world. To the extent that during my corporate career I was recruited by the City of San Jose to join the advisory board for the San Jose Convention Center.

I am excited by the opportunity to work so close to home and provide planning, execution and management of event services to the City of Sonoma. If you have any questions regarding this proposal, or would like to discuss your project further please email me lisajanson@gmail.com (I am currently out of the country and will be back on the 25 of this month).

Sincerely,

Lisa Janson

Lisa Janson

Founder
Maven Events and Marketing Solutions

SECTION I PROJECT SUMMARY

Maven Events and Marketing has analyzed and understands the City of Sonoma's project requirements. In addition we understand that the city is looking for a firm/ person that can enhance the structure of the rental process for the applicant and allow for more efficiency in the overall process. We specialize in taking ideas, developing a framework to execute and deliver events to achieve our clients' goals (e.g. are well attended, increase awareness and revenue for our clients). We work well in complex team environments and are quick to understand each of their own functional and regulatory requirements.

All events including those that require review by the Special Events Committee, the Community Services and Environment Commission; our goal will be to ensure all procedures are followed (the correct paper work is on file and the committees have the necessary information to make informed, timely decisions).

Maven Events and Marketing Solutions will ensure that each applicant has a single point of contact through the entire process: contact requesting information, site visit, review of the applications, insurance requirements on file, permits obtained, meeting with outside vendors, dialog with internal city departments, security/safety walk through, onsite contact during the event, post event follow up review, billing and collections.

During this process, the team will:

- Develop and manage a contact database
- Build and maintain project schedules
- Communicate event needs in a clear and concise manner
- Provide pre-event reports and post-event reviews for the Community Services and Environment Commission monthly meetings and attend them as needed.

Given our extensive experience, we feel confident we can meet or exceed the city's requirements while mitigating risk to all parties.

Fees:

Maven Event and Marketing Solutions proposes to provide the work above for the hourly fee of \$45.00.

SECTION II FIRM NAME

Maven Events and Marketing Solutions, LLC
Contact Information: Lisa Janson, Founder
Mailing Address: 18900 Robinson Rd, Sonoma, California 95476
Telephone: 415-259-9458
Lisajanson@gmail.com

SECTION III FIRM EXPERIENCE

Maven Events and Marketing Solutions, LLC. was founded in 2010 as a full service events and marketing management firm. Our team has a wealth of experience in the design, development and delivery of small to large-scale events. Maven Events and Marketing Solutions has experience in overseeing simple to extremely complex events with budgets up to \$16 million, ranging from Tech Executive Conferences to beauty industry trade shows. The binding component to our varied clients is passion and commitment. We spend at least one day a week in the plaza with the family (at the swings, Tuesday Farmers Markets, feeding the ducks, going for ice cream, dining out etc.). We love Sonoma with a passion!

Lisa has launched over 200 events throughout her career around the globe and is proficient in contract negotiations, venue, city and contractor management. She has extensive experience from working with Cities like San Francisco, San Jose, Chicago, Boston, Amsterdam, Munich, Delhi, Shenzhen etc. to fortune 500 such as Google, Apple, Microsoft, Intel, GE, Freescale, Samsung, Phillips, Siemens, Ford, Chevrolet etc.

Our team is comprised of highly skilled, experienced individuals who are readily available to meet the needs of the City. If required, Maven Events and Marketing Solutions offers scalable solutions for any size event. Our consultancy team has a decade or two of experience working together, relationship built on trust, aptitude and depth of experience in event production.

One of our mantras at Maven is continually to be looking for more efficient ways to deliver on event strategies, including internal processes, marketing messaging, site selections, sales, registration and logistics/operations. When taking ideas from inception to successful delivery, the strategy is simple: start with the big picture, then focus on the details. Maven Events and Marketing Solutions takes pride in its ability to communicate both internally and externally with cross-functional teams. We are acutely aware that concise communication is vital to the successful implementation of an event strategy.

SECTION IV PERSONNEL EXPERIENCE

LISA JANSON

EDUCATION

Sonoma State University, Bachelor of Science - Biology, minor in Chemistry, Bachelor of Arts - American Multi-Cultural Studies

PROFESSIONAL EXPERIENCE

Principal Maven Events and Marketing Solutions, LLC

2010 to Present

United Business Media, formerly CMP Media & Miller Freeman

1996 to 2008

Managing Director of Events

Responsible for overall revenue, profits and strategic direction for 24 domestic and global events, including branded events and custom client business with revenues of \$16 Million/year, managing a team of 24 people

- Created integrated campaigns for clients and their key partners that exceeded expectations in terms of brand experience, increased press coverage and product awareness, client engagement and education, brand preference, delivering new leads, and sales opportunities
 - Lead the sales team in response to complex proposals, including scope of work, venue options, PR plan, creation of media events and opportunities, marketing plan, executive engagements/VIP events, comprehensive strategic alliance programs, development of content rich programs including hands-on workshops, staffing, preliminary project schedules, performance metrics, reports, pricing, and payment schedule
- Supervised the event directors to ensure branded and custom events were continually redefined, executed to plan, and maintained a high level of profitability, customer service, and client satisfaction
- Supervised the marketing team to ensure that messaging was accurate and audience acquisition was on target to hit goals
- Successfully collaborated with domestic and international convention and tourism bureaus

Interactive Media Director

2005 to 2007

Managed the overall revenue, profits and strategic direction for 5 events, and 320 online events with a total portfolio in excess of \$12 million/year, managing a team of 40 people

- Created short and long term strategies to maximize market positioning, maximize profit, and market share
 - Developed vision and created a global event advisory board
 - Worked with exhibitors/clients to establish creative press and marketing plans that would deliver the key members of the press to each event i.e. reverse press tours, executive panel discussions highlighting the opportunities and hurdles within the industry, meet and greets with high-level CEO's, and collaboration on the execution and messaging of exhibitor product launches Launched international brand expansion into India
 - Identified opportunities, mitigated risk and developed the business plan and execution strategy to launch events in India, quadrupled the number of events hosted in India in year two
- Responsible for overseeing audience acquisitions for all 27 events within the Technology Innovators Group
 - Identified new methods to generate audiences by implemented social media platforms and plans for events to ensure constant contact with desired audience, developed and implemented PR plans
 - Implemented best practices across a 30 person marketing group
 - Identified and eliminated practices that were causing list fatigue and audience frustration
 - Routinely hit attendance goals for events, estimated at approximately 75,000 unique attendees a year

- Responsible for managing webcast production and audience acquisition for the Technology Innovators Grp a total of 320 events a year
- Experienced, successful negotiator with platform vendors to identify new products, new functionality, new processes and better pricing
- Managed a team of individuals who produced the webcasts
- Worked with the sales team to revamp the webcast packages resulting in increased sales of 5%
- Improved customer service culture, resulting in increased client retention
- Continually delivered high quality audiences while maintaining strict database control

Director of Events

2003 to 2005

Responsible for the strategic direction of 56 events. Developed and managed all business plans, and event budgets up to \$14 million, proven ability to complete events within or below budgeted expenses. Skilled and experienced in conflict management and problem resolution.

- Secured new business with aggressive sales program and focus in new target market areas
- Developed and drove long term international growth strategies e.g. negotiated deal with German Messe to co-locate electronica with the Embedded Systems Conference in 2004 making it the largest electronics event in North America. This deal increased profits by 20%
- Launched a 50 city domestic and international road show, comprised of a series of 1 and 2 day educational events
- Assisted in the conception and launch of a prestigious industry awards program including creation of marketing plan, award categories, rules, submissions process, judging criteria and coordinated sponsorships

Event Manager

1999 to 2003

Successfully managed the only technology group to consistently hit targeted profit levels through the ".com" bust

- Managed the P&L for entire global events business, which included three domestic with revenue goals of over \$12 million dollars and two joint ventures one in Europe and the other in Asia, consistently hit budgeted revenue goals and maintained the highest contribution margin of 65%

Identified an event opportunity and launched the Embedded Systems Executive Conference

- First of its kind executive event geared towards CXO's and presidents of companies in the embedded market space
- The conference focused on the future of the market, impact of Asia, off shoring and globalization of the industry
- Created high value networking opportunities that were consistent in the theme and locale of the event i.e. hosting dinner in the Pine Ridge Winery caves, winery tours, golf tournaments, and spouse programs
- Handled all aspects of event management of small executive gatherings, conferences, tradeshow and special events, as well as manage all logistics for clients. Ensure seamless execution for all phases of production. Select sites, design floor plans and enhance existing event forums.
- Source, select, and negotiate with vendors providing services during events. Manage coordination of speakers, teams, and volunteers. Oversee collateral development. Provide on-site leadership. Hire and direct 2- 24 staff on a project basis.

Senior Operations Manager

1996 to 1999

Oversaw the exhibit show floor, after-hours events and logistics for 5 annual events, managing a staff of 6. Created and managed the operations budgets. Responsible for site selection, decorating, coordinated security, shipping, food and beverage, and promotional item vendors. Each show had 60-360+ exhibitors with the largest having more than 15,000 attendees. Served as liaison to all vendors and internal departments.

- Adept in working within tough union environments during setup of exhibits at tradeshow; well-versed in safety and compliance, establish timelines, conduct vendor relations oversaw catering and decor
- Negotiated hotel contracts, hotel blocks, meeting room requests and space release, coordinated room drops, sponsored hotel key cards and transportation for guests. Largest block comprised 27 hotels and 7500 room nights on peak
- Streamlined exhibitor assistance through creation of exhibitor portal, exhibitor information conference calls, and exhibitor newsletters
- Demonstrated superior organization, prioritization, and communication skills by effectively evaluating, and implementing last-minute changes

SECTION IV Client and Professional References

SMART TECHnology World and Intelligent Systems Tech Forum

Contact Name: Mario Morales, Vice President, IDC

Contact Phone: 650.350.1257

Project: Successful creation and launch of a series of events in the Internet of Things (IoT) market. Responsible for all event logistics including: External and internal communications, Marketing, Sales, Registration, Operations/logistics, Content Development, Website Design, Billing, Collections, Post Event Surveys and Reviews.

Paul Maier Enterprises Trade Show Participation

Contact Name: Troy Maier, Principle

Contact Phone: 303.913.6871

Project: 2015 Event Participation in four major trade shows located in Long Beach, CA. Chicago, IL. St. Louis MO, Orlando FL. Coordinated all logistics for the participation of 12 Benefit product line in the above mentioned locations. Responsible for the coordination of shipping the booth, selecting vendors and ordering services, obtaining certificates of insurance for each event, set up and dismantling the booth, accuracy in billing and budget reconciliation.

TechInsights - United Business Media, formerly CMP Media & Miller Freeman

Contact Name: Cheryl Beeson, Former Director of National Sales, CMP Media

Contact Phone: 707.337.2141

Project: Successfully collaborated to deliver optimized client experience and events which enabled maximized corporate revenue.



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 3A

Meeting Date: April 4, 2016

Department

Administration

Staff Contact

Jeffrey A. Walter, City Attorney

Agenda Item Title

Discussion, consideration and possible introduction of ordinance amending Chapter 9.80 of the Sonoma Municipal Code

Summary

Several years ago, the residents of the three mobilehome parks in the City retained an attorney who prepared revisions to the City of Sonoma's Rent Control Ordinance, Chapter 9.80 of the Municipal Code. After a number of Council meetings and study sessions pertaining to the proposed revisions, in October 2015, the Council directed the City Attorney's office to incorporate most of the revisions recommended by the residents' attorney into an ordinance amending Chapter 9.80 of the Municipal Code. The proposed revisions to the Municipal Code are attached in redline format. They are reflective of the straw votes the Council took during its study session of October 7, 2015.

Recommended Council Action

Motion to introduce an ordinance amending Chapter 9.80 of the Sonoma City Municipal Code regarding the protection of rents for spaces in mobilehome parks.

Alternative Actions

None.

Financial Impact

The introduction and passage of this ordinance will not cause any financial impact. The implementation and enforcement of the ordinance will require the expenditure of City management, City staff and City Attorney time, most of which should be recouped through the imposition of fees as provided for in the proposed ordinance.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

1. Ordinance of the City Council of the City of Sonoma Amending Chapter 9.80 of the Municipal Code Regarding the Protection of Rents for Spaces in Mobilehome Parks
 2. City Council Resolution No. 57-1998
 3. Decision Matrix
-

cc:

SUPPLEMENTAL REPORT

Discussion, Consideration and Possible Introduction of an Ordinance Amending Chapter 9.80 of the Sonoma Municipal Code Regarding the Rent Control of Mobilehome Park Spaces *For Council Meeting of April 4, 2016*

BACKGROUND

Several years ago, residents of the mobilehome parks in the City of Sonoma retained an attorney who prepared revisions to the City's Rent Control Ordinance which is codified at Chapter 9.80 of the City's Municipal Code. The basic provisions of the proposed revisions have been discussed with the Council before in several study sessions and Council meetings. The last study session occurred in October 2015 at which time the Council had before it a so-called "Decision Matrix" which identified most of the most important provisions proposed by the residents. The Council used that matrix to cast straw votes on the identified provisions contained in the residents' proposed ordinance.

That "Decision Matrix" has been replicated here and is attached showing (i) the straw votes that the Council took with respect to each of the identified decision points, (ii) some of the comments made by the Council regarding the particular provisions or issues in question and (iii) the section number of the attached ordinance which addresses the decision in question.¹

Also attached is a copy of the proposed ordinance containing the section numbers that are referenced in the right-hand column of the Decision Matrix so that the Council and public can easily drill down to the particular provisions of the proposed ordinance that deal with the issues described in the Decision Matrix's left-hand column.

At the City Council meeting on April 4, 2016, I will briefly review the Decision Matrix and how the proposed ordinance addresses the decision topics identified in the left-hand column of that matrix. As always, I will answer Council questions at any time the Mayor and Council believe it is appropriate to do so.

I would like to point out four of the proposed ordinance's sections for special attention. They are Section 9.80.080(D)(2)-(4) pertaining to the retention of hearing officers through the State Office of Administrative Hearings, Section 9.80.130, the provision establishing a designated tenant representative, Section 9.80.090, pertaining to capital improvement pass throughs, and Section 9.80.075 dealing with the settlement procedures.

¹ To the attached Decision Matrix, I have added a new item #15 (at page 3). That item has been added so the Council can determine whether it wishes to delegate to the City Manager the authority to promulgate regulations interpreting and implementing Chapter 9.80. As written, the attached ordinance delegates that authority to the City Manager. See, Section 9.80.220. Should the Council wish to reserve final decision-making authority over those regulations, language can be fashioned to make that happen. Even if the Council were to adopt Section 9.80.220 as written, under other provisions of the City's Municipal Code, the City Manager's adoption of such regulations is probably appealable to the Council.

Selecting a Hearing Officer

Under Section 9.80.080(D)(2)-(4), an appeal of the City Manager's decision concerning a petition filed (i) to adjust the rents to maintain the park owner's net operating income, (ii) to increase rents in order to reimburse the park owner for necessary capital improvements or (iii) to reduce rents due to a reduction in services must be heard by an independent hearing officer. The proposed ordinance requires that the hearing officer be a licensed attorney of the State Bar of California in good standing. Additionally, the ordinance states a preference for selecting the hearing officer through the California Office of Administrative Hearings (OAH). However, it goes on to state that if that is not possible, the City Manager may elect to contract with another agency that provides arbitration or hearing officers or may establish a panel from which the hearing officer is selected in accordance with the ordinance.

Thus, the ordinance contemplates that selecting a hearing officer through the auspices of OAH may not be practicable or feasible under the circumstances. I contacted the OAH to ascertain whether or not it could or would provide a hearing officer to adjudicate appeals from the City Manager's decisions concerning the petitions described above. I was told that the OAH provides administrative law judges to many public agencies throughout the State of California, that in order to do so the City must enter into a contract with OAH which is not complicated, that there is typically an \$80.00 filing fee per case and OAH's administrative law judges currently charge \$210 per hour, that developing a panel of OAH administrative law judges from which the parties may select the hearing officer may prove to be problematic, that the OAH assigns judges to hear hearings on a rotating and random basis, that OAH will strive to meet hearing deadlines specified in the City's ordinances, and that the nearest OAH hearing offices are in Oakland, but judges will travel to accommodate the parties' needs.

In short, although the residents' attorney, William Constantine, has stated that he has had good success in utilizing the administrative law judges from the OAH, if there are situations where that is not possible, the ordinance contemplates the City Manager being able to utilize other services for that purpose.

Designated Tenant Representative (DTR)

Under proposed Section 9.80.130, a Designated Tenant Representative (DTR) is required to be annually elected by a majority vote of the tenants whose rent spaces are controlled by the City's rent control ordinance. Under the ordinance, the DTR is obligated to receive notices and documents as set forth in the ordinance and to post and/or distribute them to the affected tenants on a timely basis. Furthermore, the DTR is authorized to propose and accept settlement offers on behalf of the tenants.

At the study session in October 2015, some councilmembers were concerned about the authority of the DTR, how the DTR was going to communicate with the affected tenants, and how the DTR was to be selected. Section 9.80.130 requires that the DTR be elected by a vote of a majority of the tenants renting spaces whose rent is controlled by Chapter 9.80. One vote per space is allowed. This election is to take place annually and upon its conclusion, the person selected as the DTR must submit a certification to the City Manager attesting to (i) his or her

election, (ii) the fact that the affected tenants were advised of their right to vote for the park's DTR and the authority and obligations of the DTR under the proposed ordinance, (iii) the slate of candidates running for the position of the park's DTR, and (iv) the number of votes cast and the percentage that were cast in favor of the DTR. See, Section 9.80.130(B).

Furthermore, Section 9.80.130(D) sets forth the responsibilities and authorities of the DTR. For example, the DTR is required to make good faith and timely efforts to notify all affected tenants of any settlement offers received by or proposed by the DTR. The DTR is required to "develop and follow procedures aimed at soliciting and obtaining the maximum input practicable from those tenants affected by such settlement offers so that the DTR is reasonably certain that the positions the DTR takes vis-à-vis such offers is representative of the desires of those tenants who are renting a majority of the spaces affected or potentially affected by the offers." The proposed ordinance also provides that if no person is elected or willing to serve as the DTR, then the president or presiding officer of any existing tenants' organization shall be requested to serve as the DTR. In the event that no person will or can serve as the DTR at a given park, then the ordinance provides that the duties and responsibilities of the DTR will not be discharged or exercised with respect to that park.

Finally, Section 9.80.130(E) provides that a DTR cannot serve on any City council, commission, committee or board.

Capital Improvements

Section 9.80.090 revises the City's existing section pertaining to temporary rental increases for specified capital improvements. Under the City's current ordinance, if a park owner wishes to increase rents to cover the costs of a necessary capital improvement, the park owner must submit an application to the City seeking such an increase. The City Clerk is required to provide notice of receiving the application to all affected tenants, who are then given fifteen (15) days to protest the proposed rent increase. Within that 15-day period, the clerk is required to approve the temporary rental increase if the clerk can make certain findings based solely upon the papers submitted by the park owner as part of its application. If within said 15-day protest period, a majority of the affected tenants protest the increase, a hearing on the application must be set before the Mobilehome Park Rental Review Board.

Except for the protest provisions of the existing ordinance, the proposed, revised ordinance does away with this procedure. Instead, the proposed ordinance specifies that a petition to increase rents to cover the costs of a necessary capital improvement must be submitted to the City and that petition must contain thirteen types of evidence and information as outlined in the proposed ordinance. No longer is the City Clerk involved in reviewing or passing upon the application. Rather, the proposed ordinance gives the tenants thirty (30) days to protest the increase and, in the event a majority of the affected tenants protest the increase, then the matter is submitted to the City Manager for determination. The same hearing procedures applicable to the other types of rent adjustment petitions set forth in the ordinance must then be followed by the City Manager in deciding the park owner's petition for a temporary rental increase for a necessary capital improvement.

The revised ordinance also provides that in the event, a majority of the affected tenants do not protest the petition within the 30-day protest period, the City Manager must then approve the petition as submitted and it becomes the decision of the City Manager which may not be administratively appealed to a hearing officer.

Settlement Procedures

Proposed Section 9.80.075 sets forth the procedures that apply to parties to a dispute pertaining to a petition governed by chapter 9.80 who wish to resolve the dispute through settlement and an agreed upon resolution. Generally, Section 9.80.075 specifies the time periods within which settlement offers must be submitted and where the offers (which must be in writing) must be filed. It also provides that if an offer is not accepted and the matter proceeds to decision-making by the City Manager or, on appeal, the hearing officer, in the event that the offeree (the party rejecting or not accepting the offer) does not receive a decision more favorable than that submitted in the offer, the offeree cannot recover its legal expenses incurred after the offer was made, while, on the other hand, the offeror is entitled to recoup its legal expenses from the offeree incurred after the offer was made.

Section 9.80.075(C)(3) describes how those legal expenses that may be awarded against one party or the other are to be paid, the period over which they are to be paid (5 years), and the fact that they shall bear interest at a specified rate. This section also provides that in determining whether or not the rejecting party has obtained a more favorable award or decision, the City Manager and/or hearing officer, as the case may be, is to apply the precedent and cases construing the term "obtained a more favorable award" as used in the California Code of Civil Procedure § 998 (which is the section governing settlement offers tendered in the midst of civil litigation in the State of California).

RESOLUTION NO. 57-1998

I have attached to this staff report Council Resolution No. 57-1998. This resolution was adopted to interpret and to provide guidance and rules pertaining to the City's existing rent control ordinance. It is likely that this resolution will need to be amended in order to conform to the proposed ordinance provisions, and depending on whether the Council authorizes the City Manager to adopt rules and regulations, or wishes to retain that authority to itself, the Council may be presented, at a future time, a revised resolution containing the terms necessary to harmonize it with the proposed ordinance ultimately adopted by the Council.

RECOMMENDATION

It is recommended that, by motion, the Council introduce the attached ordinance (with any amendments the Council may agree upon at its April 4, 2016 meeting).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA AMENDING CHAPTER 9.80 OF THE CITY OF SONOMA MUNICIPAL CODE REGARDING THE PROTECTION OF RENTS FOR SPACES IN MOBILEHOME PARKS

The City Council of the City of Sonoma does ordain as follows:

Section 1:

Chapter 9.80 of the City of Sonoma Municipal Code is amended to read as follows:

Chapter 9.80

MOBILEHOME PARK SPACE RENT PROTECTION*

Sections:

Article I. General Provisions

- ~~9.80.010 Findings~~ 9.80.010 Findings and purpose.
 9.80.020 ~~Definitions for Article I.~~
 9.80.030 ~~Mobilehome park rental review board.~~ Applicability of Chapter.
 9.80.035 ~~Rental increase applications.~~ Exemptions from this Chapter.
 9.80.040 Base rent.
 9.80.045 Automatic annual rental increases.
 9.80.050 ~~Permitted rental increases required to maintain net operating income.~~ Allowable rent following expiration of an exempt lease.
 9.80.060 ~~Rebutting base year net operating income fair return presumption.~~ Full and partial vacancy decontrol – establishment of new base rent.
 9.80.065 ~~Pre approved temporary rental increases for specified capital improvements.~~
 9.80.070 ~~Fair return standard.~~ Full and partial vacancy decontrol – Establishment of new base rent.
 9.80.075 Legal Expenses and Settlement Proposals.
 9.80.080 ~~Fees.~~ Procedures for review of air return petitions.
 9.80.090 ~~Permissible reasons for terminating or refusing to renew a tenancy.~~ Pre-approved temporary rental increases for specified capital improvements.
 9.80.100 ~~Refusal of tenant to pay illegal rent.~~ Rent reductions for service reductions.
 9.80.110 Waivers.
 9.80.120 ~~Remedies.~~ Information to be supplied by the park owner to tenant – homeowners and prospective tenant/tenant – homeowner.
 9.80.125 Information to be provided by the city to the public.
 9.80.130 ~~Designated Tenant – Homeowners’ Representatives.~~ Representatives.
 9.80.140 Rights of prospective tenant – homeowners.
 9.80.150 Annual registration and other notices required from owner.
 9.80.160 Retaliation prohibited.
 9.80.170 Excessive Rents or Demands Therefor.
 9.80.175 ~~Permissible reasons for terminating or refusing to renew a tenancy.~~
 9.80.180 Refusal of tenant to pay illegal rent.
 9.80.190 Remedies.
 9.80.200 Administration Fees.
 9.80.210 Late payment – Fee.
 9.80.220 City Manager Authorized to Promulgate Rules and Regulations.

Article II. Administration Fees

~~9.80.130 Definitions for Article II.~~

~~9.80.140 Registration—Required.~~

~~9.80.150 Fees.~~

~~9.80.160 Late payment—Fee.~~

*Prior legislation: Ords. 92-19 and 92-23.

Article I. General Provisions

9.80.010 Findings and purpose.

The city council has recognized and finds that:

A. The state of California has recognized, by the adoption of special legislation regulating tenancies of mobilehome owners in mobilehome parks, that there is a significant distinction between tenants of mobilehome parks and other dwelling units, and the council likewise has recognized that tenants of mobilehome parks, unlike apartment tenants or residents of other rental stock, are in the unique position of having made a substantial investment in a residence, the space for which is rented or leased as distinguished from owned. The physical removal and relocation of a mobilehome from a rented or leased space within a mobilehome park can be accomplished only at substantial cost and inconvenience with the concurrent ability to find another location, and, in many instances, the removal requires a separation of the mobilehome unit from appurtenances which have been made permanent, thus creating severe damage and depreciation in value to the mobilehome. As a result of the absence of vacant spaces and park restrictions on accepting mobilehomes that are not new, it is virtually impossible for mobilehome owners to move their mobilehomes from one park to another park within the city.

B. The city council finds and declares that the existing mobilehome parks in the city are the only lands designated for mobilehome parks by the 1985-2005 Sonoma General Plan and no new sites for mobilehome parks are anticipated; that the average value of a mobilehome (\$47,527) is less than 20 percent of the average value of a home in Sonoma, making mobilehomes an important source of affordable housing for the community; that 30 percent of the households below the poverty level in the city are aged 65 and over; that the median age of mobilehome park residents is 76 years; that 54 percent of mobilehome residents are single-person households, most (64 percent) headed by females; and that based on five years of experience in administering a very low-income senior rental development and reviewing the applications of prospective tenants, the incomes of the predominant residents of mobilehomes (i.e., senior citizens) is likely to fall into the very low (50 percent or less of the county median income) category (a gross annual income of \$15,350 or less) as determined by the U.S. Government Department of Housing and Urban Development.

C. Studies and hearings have shown that there is presently within the city and surrounding areas a shortage of spaces for the location of mobilehomes, resulting in a low vacancy rate. Space rent increases at the time of sale or other transfer of a mobilehome within a park have been shown to be as great as a 50 percent increase over the pretransfer rent. In some mobilehome parks, rent increases in the past decade have been substantially in excess of the increases in the Consumer Price Index.

D. Rapidly rising and large incremental increases in space rent have resulted in an atypical market depression in the resale value of mobilehomes within the city.

E. Because of the shortage and potential for rapidly rising rates, regulation is necessary to assure that economic hardship to a substantial number of mobilehome park tenants in the city, many of whom are senior citizens on low fixed incomes, does not occur.

F. Pursuant to studies and hearings conducted by the city council and city staff, the city council has determined it necessary and in the public interest to establish a mechanism to assist in the resolution of disputes that may arise from time to time between tenants and management of mobilehome parks regarding the rates charged for the rental or lease of space.

G. Therefore, the city council does accordingly find and declare that it is necessary to establish a means to provide protection to mobilehome park tenants from unreasonable rent increases, while at the same time recognizing the need of mobilehome park management to receive a fair return and to receive rent increases sufficient to cover increased cost of repairs, maintenance, service, insurance, upkeep, and other amenities.

H. The city council further finds and declares that the adoption of this chapter will not have a significant, substantial or adverse effect on the physical environment of the community because enactment of this chapter involves no deviation from the general plan and no change in the present use of any property within the city. (Ord. 98-6 § 1, 1998).

9.80.020 Definitions for Article I.

For the purposes of this ~~chapter~~ article, the following words, terms and phrases shall be defined as follows:

~~A. "Board" means the mobilehome park rental review board of the city.~~

~~A.B.~~ "Capital improvement" means the installation of new improvements and facilities and the replacement of existing improvements and facilities which consist of more than ordinary maintenance and/or repairs. There are two distinct types of capital improvements: necessary capital improvements and upgrade capital improvements. The city council ~~or the city manager~~ shall from time to time adopt ~~regulations a resolution~~ establishing criteria to be used to differentiate between capital improvements and ordinary maintenance and/or repairs.

1. Necessary Capital Improvement. A necessary capital improvement shall be a capital improvement required to maintain the common facilities and areas of the park in a decent, safe and sanitary condition or maintain the existing level of park amenities and services.

2. Upgrade Capital Improvement. An upgrade capital improvement is an expenditure for capital improvements to add facilities or increase amenities or services.

~~B.~~ "City manager" shall include the city manager or a person designated by the city manager to perform the functions required by this chapter.

~~C.~~ "Clerk" means the clerk of the city of Sonoma mobilehome space rent stabilization program, who shall be the city manager or his or her designee.

~~CD.~~ "Consumer Price Index" and "CPI" means the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose area published by the U.S. Bureau of Labor Statistics.

~~E.~~ "Gross income" means the sum of the following:

~~1. Gross space rents, computed as gross space rental income received from all park spaces at 100 percent occupancy; plus~~

~~2. Other income generated as a result of the operation of the park, including, but not limited to, fees for services actually rendered, however, in no event shall the income from submetered gas, electricity or water be included in gross income. The differential between the cost of submetered utilities to the park owner and the cost of such utilities to tenants shall be accounted for and utilized solely for the purpose of the operation, maintenance and repair, including the costs of necessary capital improvements of the submetered utility system or as otherwise permitted by the California Public Utilities Commission. No capital improvement temporary rent increase shall be permitted for the purpose of making capital improvements to the submetered utility system;~~

~~3. Reduced by the rental value of spaces vacant throughout the income year up to three percent of the total number of spaces in the park.~~

~~D.~~ "In-place transfer" means the transfer of the ownership of a mobile home with the mobile home remaining on the mobile home space following the transfer.

E. "Landlord" means a mobile home park owner, mobile home owner, lessor or sublessor who receives or is entitled to receive rent for the use and occupancy of any rental unit or portion thereof, and the agent, representative or successor of any of the foregoing.

F. "Mobile home" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 36790 of the Vehicle Code as defined or the definition as amended from time to time in Section 798 of the California Civil Code.

G. "Mobile home park" and "park" means any area of land within the city where five or more mobile home spaces are rented, or held out for rent, to accommodate mobile homes used for human habitation.

H. "Mobile home space" means the site within a mobile home park intended, designed or used for the location or accommodation of a mobile home and any accessory structures or appurtenances attached thereto or used in conjunction therewith.

I. "Owner" means the owner or operator of a mobilehome park or an agent or representative authorized to act on said owner's or operator's behalf in connection with the maintenance or operation of such park. "Owner" and "owner of a mobilehome park" shall also mean any owner, lessor or sublessor of a mobilehome park in the city who receives or is entitled to receive rents for the use or occupancy of any mobilehome space thereof, and the representative, agent or successor of such owner, lessor or sublessor, and who reports to the Internal Revenue Service any income received or loss of income resulting from such ownership or claims any expenses, credits or deductions because of such ownership.

J. "Rehabilitation work" means any renovation or repair work completed on or in a mobilehome park which was performed in order to comply with the direction or order of a public agency, or to repair damage resulting from fire, earthquake, or other casualty.

I. ~~"Net operating income" shall mean the gross income less the operating expenses of the park.~~

~~1. Operating Expenses.~~

~~a. "Operating expenses" means:~~

~~i. Real property taxes and assessments;~~

~~ii. Utility costs other than those excluded in subsection (I)(1)(b) of this section;~~

~~iii. Management expenses including the compensation of administrative personnel, including the value of any mobilehome space offered as part of compensation for such services, reasonable and necessary advertising to ensure occupancy only, legal and accounting services as permitted herein, and other managerial expenses. Management expenses are presumed to be the same percentage of gross income in the base year and the current year unless there has been an increase or decrease in management services, in which case the change in allowed expenses shall be proportionate to the change in management services;~~

~~iv. Normal repair and maintenance expenses for the grounds and common facilities including, but not limited to, landscaping, cleaning, and repair of equipment and facilities;~~

~~v. Owner performed labor in operating or maintaining the park. In addition to the management expenses listed above, where the park owner performs managerial or maintenance services which are uncompensated, the owner may include the reasonable value of said services. The reasonable value of said services shall be determined by the board after presentation of evidence by the parties of the prevailing wage for similar services in the county. No credit for such services shall be authorized unless a park owner documents the hours utilized in performing such services and the nature of the services provided;~~

~~vi. Operating supplies, such as janitorial supplies, gardening supplies, and stationery;~~

~~vii. Insurance premiums prorated over the life of the policy;~~

~~viii. Other taxes, fees and permits.~~

~~b. Operating expenses shall not include the following:~~

~~i. Debt service expenses;~~

~~ii. Depreciation;~~

~~iii. Any expense for which the park owner is reimbursed;~~

~~iv. Attorneys' fees and costs incurred in proceedings before the board, or in connection with legal proceedings challenging the decision of the board, or the validity or applicability of this chapter;~~

~~v. Capital improvements;~~

~~vi. The cost for the resident's submetered gas, electricity and water.~~

~~e. All operating expenses must be reasonable. Whenever a particular expense exceeds the normal industry or other comparable standard, the park owner shall bear the burden of proving the reasonableness of the expense. To the extent that the board finds any such expense to be unreasonable, the board shall adjust the expense to reflect the normal industry or other comparable standard. If an operating expense:~~

~~i. Is not representative; or~~

~~ii. In the case of base year expenses, is not a reasonable representation of average expenditures for that item in the years preceding and following the base year; or~~

~~iii. In the case of current year expenses, is not a reasonable projection of future expenditures for that item, then said expense shall be averaged with expense levels for other years or amortized or adjusted by the CPI in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses.~~

K. "Rent" means any consideration, including any bonus, benefit or gratuity, demanded or received by a landlord for or in connection with the use or occupancy, including housing services, of a rental unit or in connection with the assignment of a lease or in connection with subleasing of the rental unit.

"Rent" shall not include:

1. Utility charges for charges for sub-metered gas and electricity.

2. Charges for water, refuse disposal, sewer service, and/or other services which are either provided and charged to mobile home residents solely on a cost pass-through basis and/or are regulated by state or local law.

3. Any amount paid for the use and occupancy of a mobile home unit (as opposed to amounts paid for the use and occupancy of a mobile home space).

4. Charges for laundry services.

5. Storage charges.

L. "Rent increase" means any rent demanded of or paid by a tenant - homeowner or tenant in excess of rent paid for the rental unit immediately prior to such demand or payment. Rent increase includes any reduction in the services provided to a tenant or transfer or assignment of the obligation to pay the cost of the service from the landlord to a third party without a corresponding reduction in the moneys demanded for or paid as rent.

M. "Rent stabilization administration fee" means the fee established from time to time by resolution of the city council in accordance with the provisions of Article II of this chapter.

N. "Rental agreement" means a written agreement between a landlord and a tenant - homeowner or mobile home tenant for the use and occupancy of a rental unit to the exclusion of others.

O. "Rental unit" means a mobile home or mobile home space, located in a mobile home park in the City of Sonoma, which is offered or available for rent. Rental unit includes the land, with or without a mobile home, and appurtenant buildings thereto and all housing services, privileges and facilities supplied in connection with the use or occupancy of the mobile home or mobile home space.

P. "Service reduction" means a decrease or diminution in the basic service level provided by the park occurring at any time since January 1, 1992 including but not limited to services the park owner is required to provide pursuant to:

1. California Civil Code Sections 1941.1 and 1941.2.
2. The Mobile Home Residency Law, California Civil Code Section 798 et seq.
3. The Mobile Home Parks Act, California Health and Safety Code Section 18200 et seq.
4. The landlord's implied warranty of habitability.
5. An express or implied agreement between the landlord and the resident.

~~J. "Owner" means the owner or operator of a mobilehome park or an agent or representative authorized to act on said owner's or operator's behalf in connection with the maintenance or operation of such park.~~

~~K. "Rehabilitation work" means any renovation or repair work completed on or in a mobilehome park which was performed in order to comply with the direction or order of a public agency, or to repair damage resulting from fire, earthquake, or other casualty.~~

~~L. "Rent" means the consideration paid for the use or occupancy of a mobilehome space.~~

~~M. "Rent stabilization administration fee" means the fee established from time to time by resolution of the city council in accordance with the provisions of Article II of this chapter.~~

~~N. "Rental increase" means any increase in rent charged by an owner to a tenant, including but not limited to lease offers, lease renewal offers, and increase in monthly rents.~~

~~OO. "Tenancy" means the right of a tenant to use or occupy a mobilehome park space.~~

~~RP. "Tenant" or "tenant - homeowner" means a person who has a tenancy in a mobilehome park or who has purchased or is in the process of purchasing or otherwise acquiring a mobilehome that will remain at a particular mobilehome park. (Ord. 98-6 § 1, 1998).~~

9.80.030 Applicability of chapter.

This chapter shall be applicable to all mobile home park spaces within the City of Sonoma except as provided in Section 9.80.035 of this chapter.

9.80 .035 Exemptions from this chapter.

A. Exemptions Provided by State Law. As of May 2016, the following exemptions from local rent

regulations are provided by state law:

1. Spaces that are subject to a lease which exempts that space from rent regulation pursuant to the California Mobilehome Residency Law, California Civil Code Section 798 et seq.

2. New mobile home park spaces which are exempted pursuant to Civil Code Section 798.45.

3. Spaces which are not the principal residence of the tenant - homeowner, which are exempt pursuant to Civil Code Section 798.21.

The purpose of this subsection is to provide information about exemptions based on state law which preempts local law, rather than to provide any basis for an exemption based on this section.

B. Units Owned or Operated by Government Agencies. This chapter shall not apply to mobile homes or mobile home parks owned or operated by any governmental agency or any rental unit whose rent is subsidized pursuant to a public program that limits the rent that can be charged for the mobile home.

C. Mobile Home Parks with Less Than Five Spaces. This chapter shall not be applicable to spaces in mobile home parks with less than five spaces.

Mobilehome park rental review board.

~~A. There is established in the city a mobilehome park rental review board, whose members shall be known as board members, to administer this chapter as provided in this section.~~

~~B. The board shall consist of seven members, each appointed by the city council, to serve at the council's pleasure. Five members of the board shall be voting members. No voting member of the board shall be a mobilehome park tenant or lessee. The two remaining members shall be nonvoting members who shall serve in an advisory capacity. One nonvoting member shall be nominated by the mobilehome park owners and the other nonvoting member shall be nominated by the mobilehome park residents. The council shall appoint from those nominated the representative who the council determines is most qualified. Residence in the city shall be a prequalification requirement for appointment to the board. Notwithstanding this residence requirement, in the event that the council is unable to appoint qualified individuals who meet the residency requirement, the council may select board members from applicants at large, including those residing outside the city.~~

~~C. Voting board members shall serve terms of two years. The council may also appoint an alternate member who may vote upon any question in the absence of any regular member.~~

~~D. The board shall establish the time of any hearings or meetings held pursuant to this chapter and such hearings or meetings shall be held in the council chambers, or other designated place, as often as the board determines to be necessary to discharge its duties under this chapter.~~

~~E. Three voting members shall constitute a quorum for the purpose of conducting a hearing or meeting. Decisions of the board shall be made by a majority vote of the members present.~~

~~F. The duties and responsibilities of the board shall include the hearing of rental increase applications and the determination either to approve or disapprove a rental increase in the manner provided for in this chapter. (Ord. 98-6 § 1, 1998).~~

9.80.035 — Rental increase applications.

~~Whenever in this chapter an owner is required to file an application to seek approval of a rental increase, the application shall be filed, and processed, as follows:~~

~~A. An owner may file with the clerk a rental increase application for one or more mobilehome spaces. Rental increases made pursuant to SMC 9.80.050 or 9.80.060 shall not be made more than once in any 12-month period per space. On or following the date on which the owner files a rental increase application with the clerk, the owner may~~

then provide all affected tenants with the 90-day notice of proposed rent increase as provided by the state Mobilehome Residency Law.

~~B. An application for a rental increase pursuant to this section shall be filed upon a form prescribed by the clerk and shall be accompanied by the payment of a fee which will be determined by the city council from time to time by resolution. Said application shall specify the address of the mobilehome park, the space number or numbers for which rent is requested to be increased, the amount of the requested rental increase for each specific space identified by its space number and the facts supporting the requested increase. The applicant shall produce, at the request of the clerk, any records, receipts, reports, or other documents that the department may deem necessary for the board to make a determination whether to approve a rental increase. The application shall be made under penalty of perjury and supporting documents shall be certified or verified as requested by the clerk.~~

~~C. The clerk shall determine within 30 days after receipt of a rental increase application whether said application is complete. If the clerk determines that said application is not complete, it shall notify the applicant in writing as to what additional information is required.~~

~~D. Upon receipt of a rental increase application, the clerk shall mail a notice to the affected tenants at the mobilehome spaces designated in the application, informing them of the receipt of such application, the amount of the requested rental increase, a brief summary of the owner's justification for the request, any supporting documents which may be inspected at the City Hall, the tenant's right to submit written statements, photographs or other documents relating to the application within 30 days after the date the notice is mailed, and the address where such statements or documents may be mailed or delivered. (Ord. 98-6 § 1, 1998).~~

9.80.040 Base rent.

Except as provided in this chapter, an owner shall not demand, accept, or retain rent for a mobilehome space exceeding the rent in effect for said space on January 1, 1992. If a previously rented mobilehome space was not rented on January 1, 1992, the owner shall not demand, accept, or retain rent for said space exceeding the rent in effect during the last month the space was rented prior to January 1, 1992. If a mobilehome space is rented for the first time after January 1, 1992, the owner shall not demand, accept, or retain rent for said spaces exceeding the rent first charged for the space. Unless provided otherwise, the "base year" means the calendar year 1992. (Ord. 98-6 § 1, 1998).

9.80.045 Automatic annual rental increases.

A. Once every 12 months, an owner shall be permitted an automatic rental increase for each space in a percentage amount equal to 80 percent of the percent change in the Consumer Price Index (CPI) between the CPI index in effect in the month the increase is calculated and that published 12 months prior, so that if the CPI in effect at the time of the calculation is the December index, the calculation will be based on the current December index and that published in the prior December; in no instance shall the rental increase permitted pursuant to this section result in a rental increase of greater than five percent per 12-month period over that in effect prior to the rental increase permitted pursuant to this section. (Ord. 98-6 § 1, 1998).

B. Notice of Allowable Annual Rent Increase.

1. Notice by City Manager. The allowable annual rent increase shall be annually calculated by the city manager and posted by February 15th of each year in City Hall and on the city's website, and on a notice board in each mobile home park and shall be mailed to each park owner and to the mobile home owner representative in each park.

2. Notice in Mobile Home Parks. A copy of the clerk's notice shall be posted in a prominent place by each park owner in each mobile home park within three work days after it is received by the park owner.

C. No Decrease if CPI Decreases. In the event that the CPI decreases, no rent decrease shall be required

pursuant to this section. In the event that the CPI decreases by more than two percent in any year, said decrease shall be subtracted from the following annual increase(s) allowable pursuant to this section; provided, however, that in the event the following annual increase is less than two percent, no rent decrease shall be required.

D. Banking of Allowable Annual Increases. Increases authorized pursuant to this section may be implemented by the landlord at any future time, subject to the precondition that by January 30th of each year the park owner notify the mobile home owner of each increase allowed pursuant to this section which has not been implemented and notification that the banked increase may be added to the rent at a future date.

E. Compliance with State Law. Rent increases permitted pursuant to this section shall not be effective and shall not be demanded, accepted, or retained until the landlord has given the notice required by state law.

9.80.050 Allowable rent following the expiration of an exempt lease.

In the event a mobilehome space was previously exempt under a lease pursuant to California Civil Code Section 798.17 but that lease has expired or expires, the base space rent, for purposes of calculating the annual adjustment pursuant to section 9.80.045, shall be the rent in effect under the lease as of the date of expiration of the lease; provided, that mobilehome space rents can be verified by information required on, and/or documentation submitted with, the annual registration application.

9.80.060 Full and partial vacancy decontrol – Establishment of new base rent.

A. A mobilehome park owner shall be permitted to charge a new base rent for a mobilehome space whenever an in-place transfer or lawful space vacancy occurs.

B. 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 mobilehome tenant in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.60, as amended, excepting Section 798.59; or

2. A vacancy of the mobilehome space arising from the voluntary removal of a mobilehome from the mobilehome space by the affected mobilehome tenant. A removal of the mobilehome from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the mobilehome shall not constitute a voluntary removal of the mobilehome.

C. For purposes of this chapter, an in-place transfer includes the situation where a mobilehome space occupancy changes as a result of the voluntary sale of the mobilehome and the voluntary termination of the mobilehome tenancy by the seller of the mobilehome.

D. When a new base rent is established following the vacancy of a mobilehome space pursuant to this section, the park owner shall give written notice to the new affected mobilehome tenant of the 12-month anniversary date for rental increases allowed in this section, 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.

E. No rental increase made pursuant to this section resulting from an in-place transfer shall be greater than 5 percent of the rent in effect prior to the increase unless the resulting rent is less than \$350.00 per month, in which case the rent may be increased to \$350.00 per month except that if the monthly rent in effect prior to vacancy is less than \$300.00, the maximum increase in rent shall be \$50.00 per month. No more than one rental increase per space shall be made under this section in any 12-month period. The \$350.00 minimum rent established in this section shall be adjusted annually on the anniversary date of the effective date of the ordinance codified in this chapter which change shall equal a percentage equal to 80 percent of the change in the CPI between the date of the prior change in the minimum rent (or the effective date of the ordinance codified in this chapter as the case may be) and the date of the annual adjustment.

9.80.050 — Permitted rental increases required to maintain net operating income.

An owner shall be permitted to obtain a rental increase necessary to maintain net operating income pursuant to the following process. It is presumed that the net operating income for the base year provided the owner with a fair and reasonable return; this presumption is subject to rebuttal in accordance with the provisions of SMC 9.80.060.

~~A. A copy of each rental increase application made pursuant to this section shall be provided to each member of the board after such application is determined to be complete. The board shall hold a hearing on said application within 45 days after such determination is made except as provided in subsection F of this section. Notice of the time, date and place of the hearing shall be mailed to the applicant and the affected tenants at the mobilehome spaces designated in the application at least 10 days prior to the hearing.~~

~~B. At the hearing, the applicant and the affected tenants may offer any testimony that is relevant to the requested rental increase. The applicant and affected tenants may offer documents, written declarations, or other written evidence for the first time at the hearing only if good cause is shown why such evidence was not filed with the department prior to the hearing. Good cause shall include but not be limited to a request to produce such documents or other evidence made by the board at the hearing. Formal rules of evidence shall not be applicable to such proceedings. Except as provided in subsection F of this section, within 15 days after the close of the hearing the board shall make its determination, pursuant to the standards established by subsection C of this section, approving or disapproving a rental increase for the mobilehome space or spaces specified in the rental increase application.~~

~~C. The board shall approve such rental increase if it determines necessary to maintain the net operating income (NOI) of the affected spaces. To determine a rental increase necessary to maintain net operating income, the board shall determine the base year net operating income and the net operating income for the 12-month period ending the month prior to the date of the rental increase application (current NOI). The board shall determine the percentage change in the CPI between the base year and the month prior to the date of the application ("CPI change"); the base year net operating income shall be multiplied by 80 percent of the CPI change; the amount derived from this calculation shall be added to the base year net operating income to arrive at the adjusted base year net operating income. The current NOI shall be subtracted from the adjusted base year net operating income; if the result is a positive number, this amount shall be divided by the number resulting from multiplying the number of spaces in the park times 12, and the resulting amount shall be approved as the monthly rental increase required to maintain net operating income of the park.~~

~~D. Notice of the board's determination shall be mailed to the applicant and all affected tenants at the mobilehome spaces designated in the application.~~

~~E. In the event that the board is unable to act and make its final determination on a completed rent increase application within the time limitations prescribed by this chapter the board may approve such interim rental increase for the mobilehome space or spaces specified in said application which clearly appears to be warranted when the factors set forth in subsection C of this section are considered, based upon the facts stated in the application, any written statements or documents filed with the department by the affected tenants, and any other facts known to the board. An approved interim rental increase shall expire on either (1) the last day of the month within which the board makes its final determination disapproving a rental increase, or (2) the effective date of a rental increase which is approved by a final determination of the board.~~

~~F. The time within which the board may conduct a hearing as provided in subsection A of this section or make its determination as provided in subsection B of this section may be extended by the board for a period of time not to exceed 30 days if the board approves an interim rental increase pursuant to subsection E of this section.~~

~~G. The decision of the board rendered in accordance with this section shall be final and binding upon the owner and all affected tenants. The decision of the board shall be subject to the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6. (Ord. 98-6 § 1, 1998).~~

9.80.070 Fair return standard.

A. Presumption of Fair Base Year Net Operating Income. It shall be presumed that the net operating income received by the landlord in the base year provided the park owner with a fair return.

B. Fair Return. A park owner has the right to obtain a rental increase to maintain net operating income ("MNOI") equal to the base year net operating income adjusted by one hundred percent of the percentage increase in the CPI since the base year. It shall be presumed this standard provides a fair return. Nothing in this chapter shall preclude the city manager or hearing officer from granting an increase that is necessary in order to meet constitutional fair return requirements. The base year CPI shall be the annual average CPI for 1992. The current year CPI shall be the annual average CPI for the calendar year which is used as the current year in the petition described in section 9.80.080.

C. Current Year. The current year shall be the calendar year that precedes the year in which the said petition is filed.

D. Adjustment of Base Year Net Operating Income. The park owner or tenant - homeowners may make an application to rebut the presumption that the base year net operating income provided the owner with a fair return and the city manager may approve said application if s/he is able to make one of the following findings in subsection (1) or (2) below, based upon substantial evidence in the record:

1. Exceptional Expenses in the Base Year. The park owner's operating expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses so the base year operating expenses reflect average expenses for the park over a reasonable period of time. The following factors shall be considered in making such a finding:

a. Extraordinary amounts were expended for necessary maintenance and repairs.

b. Maintenance and repair were below accepted standards so as to cause significant deterioration in the quality of services provided.

c. Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.

2. Exceptional Circumstances in the Base Year. The gross income during the base year was disproportionately low due to exceptional circumstances. The following factors shall be considered in making such a finding:

a. If the gross income during the base year was lower than it might have been because some tenants were charged reduced rent.

b. If the gross income during the base year was significantly lower than normal because of the destruction of the park and/or temporary eviction for construction or repairs.

c. The pattern of rent increases in the years prior to the base year and whether those increases reflected increases in the CPI.

d. Base period rents were disproportionately low in comparison to the base period rents of other comparable parks in the city.

e. Other exceptional circumstances, excluding any comparisons of base period rents to rents of other comparable parks located outside of the City or to market rents which are determined by comparisons of rents from comparable parks located outside of the City.

E. Calculation of Net Operating Income.

1. Net Operating Income. Net operating income shall be calculated by subtracting operating expenses from gross rental income.

2. Gross Rental Income.

a. Gross rental income shall include:

i. Gross rents calculated as gross rental income at one hundred percent occupancy, adjusted for uncollected rents due to vacancy and bad debts to the extent such vacancies or bad debt are beyond the control of the landlord. Uncollected space rents in excess of three percent of gross space rent shall be presumed to be unreasonable unless established otherwise and shall not be included in computing gross income.

ii. All other income or consideration received or receivable in connection with the use or occupancy of the rental unit, except as provided in subsection (E)(2)(b) of this section.

b. Gross rental income shall not include:

i. Utility charges for sub-metered gas and electricity.

ii. Charges for water, refuse disposal, sewer service, and/or other services which are either provided and charged to tenants solely on a cost pass-through basis and/or are regulated by state or local law.

iii. Any amount paid for the use and occupancy of a mobile home unit (as opposed to amounts paid for the use and occupancy of a mobile home space).

iv. Charges for laundry services.

v. Storage charges.

3. Operating Expenses.

a. Included in Operating Expenses. Operating expenses shall include the following:

i. Reasonable costs of operation and maintenance.

ii. Management Expenses. It shall be presumed that management expenses have increased by the percentage increase in rents or the CPI, whichever is greater, between the base year and the current year unless the level of management services has either increased or decreased significantly between the base year and the current year.

iii. Utility Costs. Utility costs except where the consideration of the income associated with the provision of the utility service is regulated by state law and consideration of the costs associated with the provision of the utility service is preempted by state law.

iv. Real Property Taxes. Property taxes are an allowable expense, subject to the limitation that property taxes attributable to an assessment in a year other than the base year or current year shall not be considered in calculating base year and/or current year operating expenses.

v. License and Registration Fees. License and registration fees required by law to the extent these expenses are not otherwise paid or reimbursed by tenants.

vi. Landlord-Performed Labor. Landlord-performed labor compensated at reasonable hourly rates.

(A) No landlord-performed labor shall be included as an operating expense unless the landlord submits documentation showing the date, time, and nature of the work performed.

(B) There shall be a maximum allowed under this subsection of five percent of gross income unless the landlord shows greater services were performed for the benefit of the tenants.

vii. Legal Expenses. Subject to section 9.80.075, reasonable attorneys' fees, expert witness' fees, expert's fees (including those paid to the city pursuant to section 9.80.080(C)(7)), and other costs (including fees paid to the city pursuant to section 9.80.080(C)(2)) (collectively, "legal expenses") incurred in connection with successful good faith (aa) attempts to recover rents owing, (bb) pursuit of rights under or in relationship to this chapter and regulations adopted pursuant to this chapter, including legal expenses incurred in the course of pursuing successful fair return petitions and (cc) unlawful detainer actions not in derogation of applicable law, and (cc) legal expenses necessarily incurred in dealings with respect to the normal operation of the park, to the extent such expenses are not recovered from adverse or other parties. In addition, in the event that the landlord successfully prosecutes a fair return petition and in connection therewith is awarded reasonable legal expenses, those expenses shall be separated out from any MNOI rent increase award and recovered from and invoiced to the tenants as a separate, limited time period, passthrough. These legal expenses shall be amortized and recovered in equal monthly payments over a five-year period, unless the city manager or hearing officer concludes that a different period is more reasonable, and the passthrough payment of these legal expenses by the tenants shall terminate after the full payment of these legal expenses with interest has been recovered by the park owner at the end of the amortization period.

viii. Interest Allowance for Expenses That Are Amortized. An interest allowance shall be allowed on the cost of permitted, amortized operating expenses, including but not limited to the legal expenses pass throughs provided for in subsection vii above; the allowance shall be the interest rate on the cost of the amortized expense equal to the "average rate" for thirty-year fixed rate home mortgages plus two percent. The "average rate" shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey (PMMS) as of the date of the initial submission of the petition. In the event that this rate is no longer published, the index which is most comparable to the PMMS index shall be used.

b. Exclusions from Operating Expenses. Operating expenses shall not include the following:

i. Mortgage principal or interest payments or other debt service costs.

ii. Any penalties, fees or interest assessed or awarded for violation of any provision of this chapter or of any other provision of law.

iii. Land lease expenses.

iv. Political contributions and payments to organizations which are substantially

devoted to legislative lobbying purposes.

v. Depreciation.

vi. Any expenses for which the landlord has been reimbursed by any utility rebate or discount, security deposit, insurance settlement, judgment for damages, settlement or any other method or device.

vii. Unreasonable increases in expenses since the base year.

viii. Expenses associated with the provision of master-metered gas and electricity services.

ix. Expenses which are attributable to unreasonable delays in performing necessary maintenance or repair work or the failure to complete necessary replacements (e.g., a roof replacement may be a reasonable, necessary capital improvement under section 9.80.090, but if water damage occurred as a result of unreasonable delays in replacing the roof, it would not be reasonable to pass through the cost of repairing the water damage).

c. Adjustments of Operating Expenses. Base year and/or current operating expense items may be averaged with other expense levels for the same types of items for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for the item(s) which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses. Grounds for such adjustments include, but are not limited to:

i. Either the amount or nature of an expense item for a particular year is not representative;

ii. The base year expense is not a reasonable projection of average past expenditures for that item in the years immediately preceding or following the base year;

iii. The current year expense is not a reasonable projection of expenditures for that item in recent years or of future expenditures for that item;

iv. If a particular item of expense exceeds the normal industry or other comparable standard for the area, the park owner shall bear the burden of proving the reasonableness of the expense. To the extent that it is found that the expense is unreasonable it may be adjusted to reflect the normal industry standard;

v. A base year expense is exceptionally low by industry standards and/or on an inflation adjusted basis is exceptionally low relative to the current year expense although the level or type of service for which the expense is incurred has not changed significantly;

vi. An increase in maintenance or management expenses is disproportionate to the percentage increase in the CPI, while the level of services has not changed significantly and/or is not justified by special circumstances.

F. Rent Increases for Periods Preceding Date That a Park Owner May Implement Rent Increases Pursuant to Section 9.80.080. In the event that the period for determining the allowable rent increase pursuant section 9.80.080 exceeds one hundred twenty days, the park owner may recover a retroactive rent charge to cover the time period from the date that the rent increase would have begun if the rent increase decision had been made within one hundred twenty days. Delays or continuances that are mutually agreed to in writing by all parties concerned, any extensions in the 60 day decision period specified in section 9.80.080(D)(11), and the number of days that lapse

between petitioner receiving notice of the necessity of replenishing its deposit and paying the required amount pursuant to sections 9.80.080(C)(2) and/or (C)(7) shall not be counted in determining whether said 120 day period has expired. In order to avoid undue hardship on the tenants affected by the decision, this retroactive rent charge shall be amortized and paid over a period of five years, unless the City manager or hearing officer determines that a different amortization period is more reasonable, and then shall be eliminated at the end of that applicable time period. Interest may be charged on this amortized rent charge in an amount calculated pursuant to subsection 9.80.070 (E)(3)(a)(viii).

G. Per Space Rent Adjustment Pursuant to Fair Return Standard. The allowable rent increase per mobile home space pursuant to this section shall not be increased as a result of the fact that there are exempt spaces in the park.

9.80.075 Legal Expenses and Settlement Proposals.

A. Procedure at City Manager Stage.

1. At least ten (10) days prior to the time that the city manager takes a petition filed pursuant to sections 9.80.080, 9.80.090, or 9.80.100 under submission ("submission date") pursuant to section 9.80.080(D)(1), the designated tenant representative (defined in Section 9.80.130, below) and/or the landlord may submit a written offer to the other party to settle the claims or requests made in the petition and to allow a decision or award to be made in accordance with the terms and conditions stated in the offer. The written offer shall include a statement of the offer, containing the terms and conditions of the award or decision which the offering party is willing to accept, and a provision that allows the accepting party to indicate acceptance of the offer by signing a statement that the offer is accepted. At the same time that the offering party submits its offer to the other party, the offering party shall also file a copy of the written settlement offer with the city clerk in a separately sealed envelope, with a statement on the outside of the envelope identifying the offeror and stating that it is a written settlement offer submitted pursuant to this section. Any acceptance of the offer must be in writing and shall be signed by the counsel for the accepting party or, if not represented by counsel, by the accepting party (under this chapter, either the landlord or the designated tenant representative).

2. If the offer is accepted, the parties shall notify the city manager and the city manager shall enter the accepted offer as the final decision of the city manager respecting the petition.

3. If the offer is not accepted prior to the submission date or within seven (7) calendar days after the offer's receipt by the opposing party, whichever occurs first, it shall be deemed withdrawn and cannot be given in or considered as evidence as part of the city manager's decision-making. Said submission date and said seven (7) day period may be continued and enlarged, respectively, upon written stipulation of the parties, subject to the city manager's approval. Any such continuance or enlargement shall not be counted against the one hundred twenty (120) day period specified in section 9.80.070(F).

4. The sealed copy of the written settlement offer that is so filed with the city is not to be opened by the city until it is either timely accepted by the opposing party or, if it is not timely accepted by the opposing party and deemed withdrawn, the offer shall be opened after the city manager has rendered a final decision on the petition.

B. Procedures at Appellate Stage.

1. At least ten (10) days prior to the date of the appeal hearing noticed pursuant to section 9.80.080(D)(5), the designated tenant representative and/or the landlord may submit a written offer to the other party to settle the claims or requests made in the petition and to allow a decision or award to be made in accordance with the terms and conditions stated in the offer. The written offer shall include a statement of the offer, containing the terms and conditions of the award or decision which the offering party is willing to accept, and a provision that allows the accepting party to indicate acceptance of the offer by signing a statement that the offer is accepted. At the same time that the offering party submits its offer to the other party, the offering party shall also file a copy of the written settlement offer with the city clerk in a

separately sealed envelope, with a statement on the outside of the envelope identifying the offeror and stating that it is a written settlement offer submitted pursuant to this section. Any acceptance of the offer must be in writing and shall be signed by the counsel for the accepting party or, if not represented by counsel, by the accepting party (under this chapter, either the landlord or the designated tenant representative).

2. If the offer is accepted, the parties shall notify the city manager and the hearing officer and the hearing officer shall enter the accepted offer as the final decision of the hearing officer respecting the petition.

3. If the offer is not accepted prior to the appeal hearing date or within seven (7) calendar days after the offer's receipt by the opposing party, whichever occurs first, it shall be deemed withdrawn and cannot be given in or considered as evidence upon the trial of the appeal. Said appeal hearing date and said seven (7) day period may be continued and enlarged, respectively, upon written stipulation of the parties, subject to the hearing officer's approval. Any such continuance or enlargement shall not be counted against the one hundred twenty (120) day period specified in section 9.80.070(F).

4. The sealed copy of the written settlement offer that is so filed with the city is not to be opened by the city until it is either timely accepted by the opposing party or, if it is not timely accepted by the opposing party and deemed withdrawn, the offer shall be opened after the hearing officer has rendered a final decision on the petition.

C. Procedures Common to both Stages.

1. If an offer made pursuant to this section is not accepted and the rejecting party fails to obtain a more favorable award or decision, the rejecting party shall not recover his or her post-offer legal expenses and shall pay the legal expenses incurred by the offering party from the time of the offer. If competing offers to settle are timely submitted but have not been timely accepted, the city manager or hearing officer, as the case may be, shall determine which party has failed to obtain a more favorable decision or award and assign responsibility for the payment of legal expenses accordingly.

2. That assignment of responsibility shall be memorialized in a "Notice of Assignment of Legal Expense Liability" ("Legal Expense Notice") and mailed and emailed to the parties and the DTR within seven days after the city manager or hearing officer has issued his/her final decision on the petition. Within seven (7) days of his/her/its receipt of the Legal Expense Notice, the parties shall submit written requests for the awarding of and an accounting of their legal expenses and serve those requests simultaneously on the city manager or hearing officer, and all parties by regular mail and electronic mail. Said requests shall include detailed records of fee billings, time records and supporting declarations executed under penalty of perjury. Within seven days of receiving the requests, opposing parties may file objections to those requests and serve said oppositions in the same fashion as the original requests were served. Within seven days of the date that oppositions are served or within seven days of the deadline for the filing of oppositions, if none is submitted, the city manager or hearing officer shall submit a proposed supplemental decision stating the amount of legal expenses each party is required to pay and the reasons therefor.

a. When issued by the city manager, said supplemental decision shall become final when it is issued and shall be appealable separate from the city manager's decision pertaining to the merits of the petition. The appellate procedures set forth in section 9.80.080 (D)(2) shall govern an appeal of a city manager's decision pertaining to the awarding of legal expenses, but shall be consolidated with any appeal taken of the city manager's final decision pertaining to the merits of the petition.

b. When issued by the hearing officer, said supplemental decision shall become final in seven days after the proposed decision, unless either party requests an evidentiary hearing within said seven days, in which case a final decision shall be made within seven days after the hearing is concluded. Scheduling of the hearing shall be left to the sound discretion of the hearing officer. For purposes of any challenge to the hearing officer's decisions, the hearing officer's decision

shall become final upon the mailing, with proofs of service, to all parties of (a) the hearing officer's final decision on the merits of the petition, or (b) the hearing officer's final decision on the awarding of any legal expenses, whichever occurs last.

c. In his or her discretion, the city manager or the hearing officer, as the case may be, may reduce or offset from any award made in favor of the petitioner on the petition the amount of legal expenses that petitioner may be required to pay to another party as a result of the operative affect of this section.

3. Subject to section 9.80.075(C) (2) (c), any award of legal expenses that is made against a party as a result of the operation of this section shall be separated out and invoiced by the park owner separately from any MNOI rent increase award, capital improvement rent increase award, or reduction in services award as a separate, limited time, pass-through. Such legal expenses shall be amortized and recovered in equal monthly payments over a 5-year period (plus interest as calculated in section 9.80.070(E)(3)(a)(viii)), unless the city manager or hearing officer concludes that a different period is more reasonable and shall be eliminated after payment is completed at the end of the amortization period. In the case of a rent reduction petition submitted pursuant to Section 9.80.100, where the landlord is required to pay legal expenses to the tenants as a result of rejected settlement offers, the landlord's obligation to pay said legal expenses shall be amortized and paid in equal monthly payments over a 5-year period (plus interest as calculated in Section 9.80.070(E)(3)(a)(viii)), unless the city manager or hearing officer concludes that a different period is more reasonable, and shall be extinguished after payment is completed at the end of the amortization period. In the cases of an MNOI petition and/or a petitioner filed pursuant to section 9.80.090 where the landlord is required to pay legal expenses to the tenants as a result of rejected settlement offers, and the amount owed to the tenants has not been used to offset or reduce any landlord recovery pursuant to section 9.80.075(C)(2)(c), the landlord's obligation to pay said legal expenses to the tenants shall be amortized and paid in equal monthly payments over a 5-year period (plus interest as calculated in Section 9.80.070(E)(3)(a)(viii)), unless the city manager or hearing officer concludes that a different period is more reasonable, and shall be extinguished after payment is completed at the end of the amortization period.

4. In determining whether a party "has obtained a more favorable award or decision" than that proffered in a settlement offer not accepted by that party, the city manager or hearing officer shall rely upon and be guided by legal precedent and authorities construing the same term used in California Code of Civil Procedure § 998.

9.80.060 — Rebutting base year net operating income fair return presumption.

An owner shall be permitted to make an application to rebut the presumption that the base year net operating income provided the owner with a fair return on investment and the board may approve an increase in the base year rent if it is able to make the findings in either subsection A or B of this section:

~~A. The owner's operating expenses during the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses so the base year operating expenses reflect average expenses for the property over a reasonable period of time. The board shall consider the following factors in making this finding:~~

- ~~1. Extraordinary amounts were expended for necessary maintenance and repair;~~
- ~~2. Maintenance and repair was below accepted standards so as to cause significant deterioration in the quality of services provided;~~
- ~~3. Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.~~

~~B. The gross income during the base year was disproportionately low. In such instances, adjustments may be made in calculating gross income so that the base year gross income reflects the average gross income for substantially similar properties. The board shall consider the following factors in making this finding:~~

~~1. The gross income during the base year was lower than it might have been because some tenants were charged substantially lower rent than similarly situated spaces within the city and the neighboring communities, so long as the board takes into consideration the comparable facilities, services, amenities, and quality of the park whose space rents are being compared to those of the subject park;~~

~~2. The gross income during the base year was significantly lower than normal for other demonstrable reasons beyond the reasonable control of the park owner or due to other peculiar or exceptional circumstances.~~

~~C. Notwithstanding any other provision of this chapter the board shall have the authority to grant an increase necessary to meet constitutional fair return requirements.~~

~~D. For any space for which the maximum rent allowed for that space pursuant to this chapter is less than \$300.00 per month, the annual calculation set forth in SMC 9.80.045 shall be made as if the rent in effect at the time of the calculation is \$300.00 (the calculation base), so that if the rent in effect for a space is \$250.00 per month, and the change in CPI for the year is two percent, the rent for that space may be increased under SMC 9.80.045 by \$4.80 per month rather than \$4.00 per month.~~

~~E. In evaluating the park owner's request for an increase, the board shall have the right to determine the weight to give the information provided by the park owner, taking into account the failure of the park owner to voluntarily provide the board accounting and other business documentation available to the park owner, which would corroborate his or her representations to the board. (Ord. 98-6 § 1, 1998).~~

9.80.080 Procedures for review of fair return petitions.

A. Right to Petition. A park owner may petition for a rent increase in order to obtain a fair return. This petition is sometimes referred to herein as "MNOI petition" or "fair return petition." No petition may be filed in November or December except in cases of exceptional unforeseen circumstances.

B. Limit on Frequency of Petitions. Only one petition pursuant to this section may be filed for a mobile home park within a twelve-month period. An exception to this limitation shall be authorized in the event of extraordinary circumstances that could not reasonably have been foreseen at the time the prior petition was filed.

C. Submission of Petition.

1. Petition Form Required. Such petition shall be on a form prescribed by the city manager.

2. Petition Fee. Upon the receipt of a fair return petition, the city manager shall determine the estimated costs the city will incur in staff time and city attorney time in processing and acting upon the petition. The city manager will notify the petitioning party ("petitioner") of the amount of that fee and the time within which it must be deposited with the city. The city manager shall keep an accounting of the fee and how it is used to defray the city's costs. If at any time during the processing of the petition, the remaining balance of the fee is less than \$1,000, the city manager shall notify the petitioner of the remaining balance and the amount that and the time by when the petitioner must pay to replenish the deposit. The petition shall not be further processed until the petitioner has paid to the city the fees described in this section. Any unused portion of the deposit shall be refunded to the petitioner within sixty (60) days after the date of the final decision made with respect to the petition.

3. Contents of Petition Form. The form may require any information deemed relevant by the city manager. The form shall include, but not be limited to:

a. A list of the names and addresses of all mobile home park tenants subject to the proposed rent increase.

b. A statement of the date the rent increase is proposed to be effective.

- c. The rent for each space in the park in the base year, the current year, and the three prior years.
- d. An income and expense statement for the base year, the current year, and the three years prior to the current year.
- e. Evidence documenting the income and expenses claimed by the landlord.
- f. All other documentation and opinion testimony upon which the park owner is relying to justify the rent increase.
- g. A statement of the petitioner's theories in support of the rent increase application.

4. Notice of Petition. The park owner and the city shall provide notice of a petition as follows:

- a. The petitioner and city: by sending a hard copy and electronic .pdf copy of the petition to the designated tenant representative;
- b. The petitioner: by providing the city with hard and electronic copies of the petition;
- c. The petitioner: by notifying each tenant household that the petition has been filed on a city-approved form.

5. Determination That the Petition Is Complete. The city manager will determine if a petition filed pursuant to this section is complete within thirty days after the petition is submitted. A petition will be considered complete only if and when the required fees have been paid. If the petition is incomplete, the city manager will inform the petitioner in writing as to what additional information is required. Within thirty (30) days of petitioner's submission of any additional information or fees submitted at the direction of the city manager, the city manager shall determine whether the petition is complete and notify petitioner of the city manager's determination. If additional information or payments remain lacking, the petitioner shall submit such information and/or payments and the city manager shall again have thirty (30) days to determine the petition's completeness. This process shall continue until the city manager issues to petitioner a written notice advising the petitioner that the petition is complete. The time period specified in section 9.80.070(F) shall begin running on the date the city manager delivers said completeness notice to petitioner.

6. Access to the Petition. The documentation required by this section shall be available for inspection and copying by any person during the normal business hours of the city. The city shall make a copy of all submissions by the park owner and the tenants in conjunction with a petition that shall be available in the form of an electronic .pdf file which shall be accessible through the city's website.

7. Cost of Expert Analysis. Upon the receipt of a fair return petition, the city manager shall determine if the employment of experts will be necessary or appropriate for the city to thoroughly and competently analyze the petition. Depending upon the complexity of the fair return petition, and the park owner's use of experts, the city manager may retain a certified public accountant to, among other things, verify the accuracy of the expense and income items stated in the petition; an expert in the use and theory of the fair return and MNOI methods utilized in this chapter for determining fair return petitioners; and, if appropriate or necessary, a licensed appraiser. If the city manager so determines, the city manager shall also determine the anticipated cost of employing any such experts. The resulting figure shall be communicated to the petitioner. The city manager shall keep an accounting of the fee and how it is used to defray the city's costs. If at any time during the processing of the petition, the remaining balance of the fee is less than \$1,000, the city manager shall notify the petitioner of the remaining balance and the amount that and the time by when the petitioner must pay to replenish the deposit. The petition shall not be further processed until the petitioner has paid to the city the estimated cost of expert analysis. Any unused portion for payments so collected shall be refunded to the petitioner.

8. Contents of Expert Analysis. At a minimum, any analysis pursuant to this subsection shall include a determination of:

a. Base year and current year rental income;

b. Base year and current year operating expenses by category;

c. Base year and current year overall operating expenses;

d. Base year and current year net operating income;

e. The percentage change in net operating income between the base period and the current period;

f. The percentage change in the CPI between the base period and the current period;

g. The ratio of the percentage change in net operating income to the percentage change in the CPI between the base period and the current period; and

h. The rent adjustment required under an MNOI standard pursuant to chapter.

9. Submission by tenant - homeowners. The tenant - homeowners may submit a written response to the park owner's petition within thirty days after the petition is determined complete, unless the city manager determines that there is good cause to extend that deadline. The tenant -- homeowners' written response shall be delivered to the landlord and to the city clerk.

D. Review Procedures.

1. Initial Decision by City Manager. A fair return petition shall be decided by the city manager, without a hearing or personal appearances by any of the involved parties or their representatives. The decision will be made within sixty (60) days of the date that the petition is determined complete, unless the city manager determines that there is good cause to extend that deadline. The city manager shall email all the involved parties or their representatives the date on which the city manager shall consider the matter submitted and beyond which the city manager will not accept any additional information, briefs, evidence or arguments (the "submission date"). The city manager shall email notice of the submission date to all parties or their representatives at least twenty one (21) days prior to the submission date. The city manager's decision on the merits of the petition shall be emailed and sent by mail, with proof of mailing, to the park owner, the park owner's and tenant's representatives, and the designated tenant representative.

2. Appeal of City Manager's Decision. The decision of the city manager may be appealed, within twenty (20) days after the date of its mailing, to a hearing officer. An appeal by the landlord shall be signed by the landlord or its/his/her lawfully appointed agent. An appeal by the tenant - homeowners must be signed by tenant - homeowners residing on a majority of the mobile home spaces that are subject to the city manager's decision (That is, if tenants renting 50 spaces are affected by the city manager's decision, the written appeal of one adult tenant from each of 26 separate spaces would be required.). An appeal must be in writing and must be delivered to the opposing parties and the city within the twenty (20) day appeal period specified above. If the city manager's decision is not timely appealed, the city manager's decision shall become final on the twenty-first day after the decision has been mailed. The appealing party shall be required to pay for the costs of the appeal process, including those imposed by the appellate hearing officers (see below) and those established by resolution of the city council. The appeal shall be conducted through a de novo evidentiary hearing, which shall consider at least the following: the fair return petition, all information, expert opinions and arguments submitted by the park owner or the tenants to the city manager in support of or in opposition to the petition; the City manager's decision; the opinions of the city's independent witness(es); and any additional arguments or facts upon which the city manager's decision is based; and the briefs, evidence and

testimony accepted or rejected by the city manager in support of or in opposition to the petition by any of the parties to the proceedings.

3. Procedure for Selection of a Hearing Officer.

a. Qualifications. Hearing officers shall be licensed attorneys of the State Bar of California in good standing, and shall have no financial interest in mobile homes, mobile home spaces or mobile home parks and shall not have represented mobile home park owners or mobile home park tenant - homeowners in rent setting cases or park closings or park conversions or any disputes between park owners and park residents.

b. A hearing officer shall be selected through the California Office of Administrative Hearings (OAH). In the event that it is not possible to set up a hearing through the OAH, the city manager may elect to contract with another agency that provides arbitration or hearing officer services or may establish a panel from which the hearing officer is selected in accordance with the following procedure set forth in subsection (D)(3)(c) of this section.

c. In the event that a panel of hearing officers is established, the city manager shall make all reasonable efforts to ensure that there are at least five qualified candidates who will comprise the panel of prospective hearing officers. A hearing officer shall disqualify himself or herself from serving as hearing officer in a particular matter where he/she has a conflict of interest within the meaning of the Political Reform Act (Government Code Section 87100 et seq.), and shall otherwise comply with the disqualification provisions of Canon 3.E. of the Code of Judicial Ethics. The city shall make the initial selection of the hearing officer from the panel. The parties to the appeal shall be advised in writing of the selected hearing officer, and advised of their right to disqualify the selected hearing officer within five (5) days of receipt of the notice of selection. In the event of a disqualification, another hearing officer shall be randomly selected from the panel by the city, and a new notice of hearing sent to the parties. Each party shall have the right to disqualify one hearing officer for a particular appeal if there are five or fewer hearing officers on the list and may disqualify up to two hearing officers if there are eight or more hearing officers on the list.

4. Time of and Scheduling of Hearing.

a. A hearing on the appeal shall commence within thirty days of the selection of a hearing officer unless both parties agree to a different schedule. The hearing shall be completed within fifteen days after it is commenced. These time deadlines may be extended if the hearing officer finds that there is good cause to commence and/or complete the hearing at a later date.

b. The hearing may be scheduled during the normal business hours of the city unless a majority of the residents that are subject to the petition requests that the hearing be scheduled during the evening. The hearing shall be scheduled at a time that it is convenient for the residents' and park owner's representatives.

c. The presentations of each party at the hearing and of the city staff and experts shall be limited to ninety minutes each unless the hearing officer determines that there is good cause to enlarge those time periods. Each party and the city shall be permitted one hour of cross-examination of expert witnesses, unless the hearing officer determines that there is good cause to enlarge those time periods. The city may provide legal counsel to help prepare the city's experts for their presentation at the appeal hearing, to defend the city's expert witness and to cross examine the expert witnesses of the parties.

d. Notwithstanding anything to the contrary stated herein, whether or not the city decides to appear, submit documents and/or briefs, retain counsel to represent the city, or otherwise participate in the administrative appellate proceedings described in this chapter shall be left to the

sound discretion of the city.

5. Notice of Hearing. Written notice of the time, date and place of the hearing shall be given at least twenty one (21) days prior to the hearing.

6. Requests for Additional Information (Not Offered to the City Manager) by Opposing Party.

a. Either party or the city may request that additional, supporting documentation (not previously provided to the city manager as part of his/her initial examination of and decision on the petition) be provided to substantiate the claims made by a party. The request shall be presented in writing to the hearing officer.

b. The hearing officer may order ~~portion~~ of such requested documentation, if the hearing officer determines the information is relevant to the proceedings.

7. Submission of Reports.

a. Responses may be submitted by the tenants or the park owner to the decision of the city manager or to reports by the city's experts. Said responses shall be submitted to the other parties and hearing officer at least ten days prior to the hearing. The submissions shall be in printed and electronic form.

b. Rebuttal reports may be submitted by the park owner, tenant - homeowners and/or city staff and/or a consultant on behalf of the city; it shall be submitted to the parties and hearing officer at least five days prior to a hearing.

c. The parties' responses, provided in subsection "a" above, and their and the city's rebuttal reports, provided in subsection "b" above, shall be considered the pre-hearing briefs of the parties and the city and no other pre-hearing briefs shall be allowed unless requested by the hearing officer for good cause. The submissions shall be in printed and electronic form.

d. For good cause, the hearing officer may accept additional information at the ~~hearing~~

8. Conduct of Hearing.

a. The hearing shall be conducted in accordance with such rules and regulations as may be promulgated by the city council and any rules set forth by the hearing officer.

b. The hearing officer shall have the power and authority to require and administer oaths or affirmations where appropriate, and to take and hear evidence concerning any matter pending before the hearing officer.

c. The rules of evidence generally applicable in the courts shall not be binding in the hearing. Hearsay evidence and any and all other evidence which the hearing officer deems relevant and proper may be admitted and considered.

d. Any party or such party's representative, designated in writing by the party, may appear at the hearing to offer such documents, oral testimony, written declaration or other evidence as may be relevant to the proceedings.

e. The hearing officer may grant or order not more than two continuances of the hearing for not more than ten working days each. Additional continuances may be granted only if all parties stipulate in writing or if the hearing officer finds that there is a good cause for the continuance. Such continuances may be granted or ordered at the hearing without further written notice to the parties.

f. A tape recording of the proceedings shall be made or arranged by the city manager in a format that is easily made available and is easily usable.

g. The hearing shall be conducted in a manner that ensures that parties have an opportunity to obtain documents and to obtain information about the theories and facts to be presented by the opposing parties in adequate time in advance of the hearing to enable preparation of their respective cases.

9. Required Findings in Decision. Any decision pursuant to this subsection shall include a determination of:

a. Base year and current year rental income;

b. Base year and current year operating expenses by ~~city~~

c. Base year and current year overall operating expenses;

d. Base year and current year net operating income;

e. The percentage change in net operating income between the base period and the current period;

f. The percentage change in the CPI between the base period and the current period;

g. The ratio of the percentage change in net operating income to the percentage change in the CPI between the base period and the current period;

h. The rent adjustment required under the MNOI standard pursuant to Section 9.80.070 and this section.

10. Conditions for Allowance or Disallowance of Rent Increase. The allowance or disallowance of any proposed rent increase (or decrease) or portion thereof may be reasonably conditioned in any manner necessary to effectuate the purposes of this chapter.

11. Deadline for Decision. A petition for a fair return adjustment shall be decided by the hearing officer within sixty days of the date of the filing of the appeal and the payment of all appellate fees, unless the hearing officer determines that there is good cause for an extension of this period or the city manager extends this period due to the length of time required to accommodate scheduling availability and limitations required to obtain the services of a hearing officer.

12. Notice of Decision. The city manager shall mail copies of the hearing officer's decision to the park owner and all affected tenants within three days of the city's receipt of the hearing officer's written decision. Copies of the decision shall be emailed to the park owner's and residents' representative as soon as possible after the decision is received by the city and in all cases within twenty-four hours after the decision is received by the city.

13. Preservation of Record. Any written findings made by the final decision-maker pursuant to this section shall be permanently preserved in the city records, so that they are available in the event of a future rent increase petition involving the same mobile home park.

14. Representation of Parties.

a. The parties in any hearing may be represented at the hearing by a person of the party's choosing. The representative need not be an attorney.

b. Written designation of representatives shall be filed with the city manager or hearing officer.

c. The written designation of the representative shall include a statement that the representative is authorized to bind the party to any stipulation, decision or other action taken by the city manager or the hearing officer at the administrative hearing.

15. Modification of Decision in the Event of Mathematical or Clerical Inaccuracies. Any party alleging that the hearing officer's statement of decision contains mathematic or clerical inaccuracies may so notify the hearing officer and the other party within fifteen calendar days of the mailing of the decision to that party. The hearing officer may make any corrections warranted, and re-file the statement of decision within ten working days after receiving the allegation of the mathematical error. Alternatively, the hearing officer may decline to make any such corrections, but shall so notify the parties of his/her determination. Upon re-filing of the statement of decision with corrections or the filing of the hearing officer's declination to make corrections, the hearing officer's decision shall be final.

E. Overall Period for Review of Fair Return Petition. Except as is otherwise provided in this chapter, from the time a petition is determined complete to the time a final decision on that petition is made, no more than one hundred twenty (120) days shall pass, unless the hearing officer determines that there is good cause for extending this deadline or the city manager extends this period due to the length of time required to accommodate scheduling availability and the time involved in obtaining the services of a hearing officer.

F. The petitioner shall bear the burden of proof, by a preponderance of the evidence, on all issues necessary to the granting of the petitioner's petition, both at the city manager and hearing officer levels of review.

9.80.09065 Pre-approved temporary rental increases for specified capital improvements.

A. An owner shall be permitted to obtain a temporary rental increase to obtain reimbursement for specified capital improvements pursuant to the provisions of this section.

B. The city manager or city council shall from time to time adopt an amortization schedule for typical capital improvements subject to the provisions of this section.

C. - Prior to making a necessary capital improvement described in the adopted amortization schedule or a necessary capital improvement reasonably similar to the types of improvements described in the adopted amortization schedule, the park owner shall be permitted to file a petition with the city seeking approval of a temporary rental increase to reimburse the owner for the cost of the capital improvement. Except as is provided in subsection F, below, a park owner who commences and completes an allegedly necessary capital improvement prior to obtaining approval under this chapter for a temporary rental increase to reimburse the owner for the cost of that improvement shall be deemed to have conclusively waived the right to seek a rental increase for that cost.

D. In order to obtain approval for such a temporary rental increase, the owner must submit a petition to the city seeking such approval and providing the following, minimum, information:

1. a description of the proposed capital improvement and its cost and evidence establishing that the improvement is a capital improvement and not an item of maintenance and/or repair. The cost of the proposed capital improvement shall be reflected in at least two, fully executed and binding contracts, bids or proposals from qualified and licensed (if required by law) contractors, installers and/or builders. Resumes, references and a list of similar projects previously successfully completed by the contractors/builders/installers shall also be included with the petition;

2. evidence establishing that the improvement is necessary at the time the owner seeks to implement it;

3. the date(s) upon which the owner proposes to commence and complete the capital improvement work;

4. the method and manner by which the city will be notified by the owner as to the commencement and prosecution of the work so that the city can adequately and timely monitor the work as it is being performed to assure, as much as is practicable, that the work which may be ultimately approved as a result of the owner's petition has been completed in accordance with the information provided as part of the petition and as approved hereunder;

5. the period of time over which the owner proposes to amortize the petitioned-for rental increase and the rationale therefor;

6. evidence that ~~The clerk shall provide notice of the application to all affected tenants. The notice shall indicate the proposed capital improvement, the amortization schedule including interest for the capital improvement, and the resulting temporary rental increase proposed. Within 15 calendar days following the mailing date of such notice the clerk shall approve the proposed temporary rental increase; provided, that each of the following findings can be made:~~

1. ~~That the capital improvement is warranted;~~

2. ~~That the amortization period is consistent with the amortization schedule;~~

3. ~~That the interest to be charged during that amortization period is comparable to interest that would be charged on a commercially available loan; and~~

4. ~~7. That the rental increase has been fairly and evenly distributed to all affected tenants. evidence that the capital improvement is made at a direct cost of not less than one hundred dollars per affected rental unit or at a total direct cost of not less than five thousand dollars, whichever is lower;~~

8. evidence that the costs, less any insurance proceeds, available grants or other applicable recovery or sources of funds, are averaged on a per unit basis for each rental unit actually benefited by the improvement. In this connection, the owner shall have an affirmative duty to, in good faith, make a diligent search for and reasonable inquiry about the available of sources of funds to pay for the cost other than by increasing the rents charged by the owner and the petition shall contain a representation by the owner, executed under penalty of perjury, that such diligent search and reasonable inquiry was conducted and that no such alternative funds were found to exist (or that such funds were found to exist, stating the amount and source thereof and how they are to be used in paying for the subject improvement(s));

9. evidence that the costs are to be amortized over a period of not less than thirty-six months;

10. evidence that the costs do not include any additional costs incurred for property damage or deterioration that result or have resulted from any unreasonable delay in undertaking or completing any repair or improvement;

11. evidence that the costs do not include costs incurred to bring the park, rental unit(s), improvement or other property into compliance with a provision of the Sonoma Municipal Code or state law where the original installation of the improvement was not in compliance with code requirements;

12. a representation by the owner stating that at the end of the amortization period, the allowable monthly rent will be decreased by any amount it was increased because of a rent increase approval granted under this section; and

13. evidence that the amortization period is in conformance with any schedule adopted by the city manager or city council, unless it is determined that an alternate period is justified based on the evidence presented during the consideration of the owner's petition.

E. The city clerk shall provide notice ("Capital Improvement Notice") of the petition to all affected tenants. The notice shall indicate the proposed capital improvement, the amortization schedule including interest for the capital improvement, and the resulting temporary rental increase proposed. The city clerk shall email by pdf or other format the petition and all of its attachments to the designated tenant representative. The city shall make a copy of all submissions by the park owner and the tenants in conjunction with the petition that shall be available in the form of an electronic .pdf file which shall be accessible through the city's website. The owner shall post a complete, physical copy of the petition and its attachments at a location that is obvious and accessible to all tenants. If the clerk makes a contrary determination, he or she shall deny the application, or approve it with conditions required to make the rental increase consistent with the provisions of this section.

1. In the event that 50 percent plus one of the affected tenants renting spaces the rent for which is controlled by this chapter (with each space receiving one vote) (That is, if tenants renting 50 controlled spaces are affected by the proposed rent increase, the approval of one adult tenant from each of 26 separate spaces would be required.) whose rent would be increased were the petition approved receiving notice of the temporary rental increase protest the petition application in writing to the clerk which said protests are received by the city clerk within thirty (30) days after the date the clerk mails or emails the Capital Improvement Notice to the affected tenants, the 15-day notice period, the city manager shall determine whether the petition is complete pursuant to section 9.80.080, including determining whether all applicable fees have been paid, and process the petition in accordance section 9.80.080 as described below. Upon the city manger's determination that the petition is complete, the city manager may (i) retain whatever expert assistance s/he may require in order to examine and decide the petition, (ii) require the owner to pay the necessary amounts to cover the experts' costs pursuant to section 9.80.080, and (iii) require the owner to provide any additional information or evidence necessary in order for the city manager to make his/her decision on the petition. In addition, the city manager shall identify the submission date pertinent to the petition and so inform all affected parties and shall otherwise follow the review procedures set forth in section 9.80.080 as the city manager deems are applicable and appropriate for the disposition of the petition. clerk shall schedule a public meeting of the board where all affected tenants may respond to the proposed capital improvement. At said meeting, it shall be the responsibility of the protestors to provide reasonable, quantifiable evidence as to why the temporary rental increase should not be approved or conditionally approved by the clerk pursuant to findings 1 through 4 of this subsection C.

a. In order for the city manager to grant the petition, the city manager must find that petitioner's submittals have proven, by a preponderance of the evidence, that each of the criteria and evidentiary requirements specified in subsection 9.80.090(D) has been satisfied.

b. The city manager's decision on the petition shall be appealable pursuant to section 9.80.080 (D)(2)-(8), (10)-(15) and (F).

2. In the event that 50 percent plus one of the tenants renting spaces the rent for which is controlled by this chapter whose rent would be increased were the petition approved do not protest the petition in writing to the clerk within thirty (30) days after the date the clerk mails or emails the Capital Improvement Notice to the affected tenants, the city manager shall approve the petition as submitted, and send a notice to the petitioner and the affected tenants stating that the petition has been granted and identifying the amount of the rent increase allowed to be charged the affected tenants. Said decision by the city manager shall be final and shall not be administratively appealable.

No such rental increase shall become effective until the first full month following the filing of a notice of completion of the capital improvement with the clerk. Any rental increase approved pursuant to the provisions of this section shall be itemized separately on any rental statement or billing provided to the affected tenant and shall terminate upon the conclusion of the approved amortization period.

~~DE.~~ A park owner shall be entitled to seek a temporary rent increase in order to make an upgrade capital improvement only if the park owner has:

1. _____ Consulted with the park ~~tenants~~residents prior to initiating construction of the improvements regarding the nature and purpose of the improvements and the estimated cost of the improvements;
2. _____--Obtained the prior written consent of at least one adult resident from each space of a majority of the mobilehome spaces to include the upgrade as a capital improvement eligible for amortization as a temporary rental increase. (That is, if the park has 50 spaces, the approval of one adult ~~tenant~~resident from each of 26 separate spaces would be required.) Evidence of such consent must be presented at the time of filing the petition with the cityapplication.

Provided that the above, two criteria have been satisfied, the city manager shall approve the petition as submitted, and send a notice to the petitioner and the affected tenants stating that the petition has been granted and identifying the amount of the rent increase allowed to be charged the affected tenants. Said decision by the city manager shall be final and shall not be administratively appealable.

G. _____ No rental increase granted pursuant to this section shall become effective until the first full month following the filing of a notice of completion of the capital improvement with the city clerk and the filing of a notice with the clerk by the city's building official stating that the work has been completed in accordance with the petition and the information and evidence upon which the rent increase was granted. Any rental increase approved pursuant to the provisions of this section shall be itemized separately on any rental statement or billing provided to the affected tenants and shall terminate upon the conclusion of the approved amortization period.

~~E. An increase in rent or a portion of an increase in rent granted by the board pursuant to this section as a result of the costs of capital improvements to the mobilehome park shall be limited to the length of time necessary to allow the park owner to reasonably amortize the cost of a capital improvement, including interest. Such increase granted as a result of the capital improvement shall not continue beyond the time necessary for reasonable amortization of the cost of such improvement. In the event that the capital improvement expenditure is necessitated as a result of an accident, disaster, or other event for which the park owner received insurance benefits, only those capital improvement costs otherwise allowable exceeding the insurance benefits may be calculated as capital improvements.~~

F. Nothing in this section shall prevent the park owner from making emergency capital improvements required as a result of a disaster or other unpredictable event; in such event, the park owner may make such limited and reasonable capital improvements required to protect the public health and safety and to limit further damage to the park, and to thereafter or simultaneously seek a capital improvement rental adjustment for such capital improvement pursuant to the provisions of this section. (~~Ord. 98-6-§-1, 1998~~). Any such petition shall be filed, processed and decided in accordance with subsections D and E, above.

~~9.80.070 — Full and partial vacancy decontrol — Establishment of new base rent.~~

~~A. A mobilehome park owner shall be permitted to charge a new base rent for a mobilehome space whenever a coach-in-place sale or lawful space vacancy occurs.~~

~~B. 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 mobilehome tenant in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.60, as amended, excepting Section 798.59; or~~
- ~~2. A vacancy of the mobilehome space arising from the voluntary removal of a mobilehome from the mobilehome space by the affected mobilehome tenant. A removal of the mobilehome from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the mobilehome shall not constitute a voluntary removal of the mobilehome.~~

~~C. For purposes of this chapter, a coach-in-place sale occurs when a mobilehome space occupancy changes as a result of the voluntary sale of the mobilehome and the voluntary termination of the mobilehome tenancy by the seller of the mobilehome.~~

~~D. When a new base rent is established following the vacancy of a mobilehome space pursuant to this section, the park owner shall give written notice to the new affected mobilehome tenant of the 12-month anniversary date for rental increases allowed in this section, 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.~~

~~E. No rental increase made pursuant to this section resulting from a coach-in-place sale shall be greater than 10 percent of the rent in effect prior to the increase unless the resulting rent is less than \$350.00 per month, in which case the rent may be increased to \$350.00 per month except that if the monthly rent in effect prior to vacancy is less than \$300.00, the maximum increase in rent shall be \$50.00 per month. No more than one rental increase per space shall be made under this section in any 12-month period. The \$350.00 minimum rent established in this section shall be adjusted annually on the anniversary date of the effective date of the ordinance codified in this chapter which change shall equal a percentage equal to 80 percent of the change in the CPI between the date of the prior change in the minimum rent (or the effective date of the ordinance codified in this chapter as the case may be) and the date of the annual adjustment. (Ord. 98-6 § 1, 1998).~~

9.80.100 Rent reductions for service reductions.

A. Submission of Service Reduction Petition to City Manager. A service reduction petition shall be submitted to the city manager in writing and should state:

1. The affected spaces;
2. The prior level of service established by the park owner for that tenant - homeowner's mobile home space and common facilities used by that tenant;
3. The specific changes in the prior level of services comprising the alleged reduction in service;
4. The date the service reduction was first noticed by the tenant - homeowner;
5. The date of notice to the park owner of the alleged service reduction, and if such notice was given, whether the notice was given orally or in writing;
6. When and how the park owner responded to the tenant - homeowner's notice, if notice was given;
7. Whether the condition was improved or corrected, and if so, when and how;
8. The status of the condition as of the date the petition is signed;
9. How the reduction or lack of the service in question has affected the petitioner's enjoyment of his/her rental unit, specifying, if possible, the nature of the effect and the time(s) during each day that the affect is manifested; and
10. Whether such service reduction was the result of a vote of a majority of the affected tenant - homeowners.

B. Filing, Processing and Deciding Service Reduction Petitions.

1. Subject to the provisions of this section 9.80.100, the filing, processing, and deciding of a service reduction petition shall be governed by sections 9.80.080 (C) (1), (2), (5), (6), (7) and 9; 9.80.080(D)(1-8), (10), (12), (14), (15), (F).
2. The petitioner seeking a service reduction rent decrease shall serve a copy of the petition and all supporting papers on the park owner's representative and the designated tenant representative at the same

time petitioner files the petition with the city.

C. If the city manager or hearing officer finds that a material service reduction has occurred, the city manager or hearing officer shall determine the resultant percentage reduction in the tenant - homeowners' enjoyment of their rental units due to the service reduction. Rent shall be reduced by that percentage or amount. The tenant - homeowners also shall be entitled to a rebate of the following sum: the monthly rent reduction multiplied by the number of months between the date the homeowners notified the park owner of the reduction in service, and the date the city manager determined the rent reduction. Said rebate shall be amortized and paid to the affected tenants in equal monthly installments over a five (5) year period, bearing interest at the rate specified in section 9.80.070(E)(3)(a)(viii). In the event the park owner was not notified of the service reduction by the tenants or petitioner and the park owner did not know nor should have known that the service reduction occurred prior to the filing of the petition, then no rebate shall be awarded. If a preponderance of the evidence proves that the park owner knew or should have known of the reduction in service, then a rebate shall be awarded and calculated from the date that the park owner knew or should have known of the advent of the reduction.

D. A service reduction shall not include the elimination or reduction of a recreational facility or service when such elimination or reduction and rent decrease resulting therefrom have the prior written approval of tenants renting two-thirds of the rental units in the park. In such cases no rebate shall be required.

E. No recreational service or facility which has been reduced or eliminated shall be reinstated at any cost to the homeowners without prior written approval of tenants renting two-thirds of the rental units in the park.

F. Consolidation of Service Reduction Petition with Consideration of Fair Return Petition. In the event that a service reduction petition is filed while a fair return petition is pending, either the city, the park owner, or the tenants may require consideration of the petition filed pursuant to this section in conjunction with the fair return petition.

9.80.110 Waivers.

A. Any waiver or purported waiver by a tenant - homeowner of rights granted under this chapter shall be void as contrary to public policy.

B. It shall be unlawful for a landlord to require or attempt to require, as a condition of tenancy in a mobile home park, a tenant - homeowner, a mobile home owner, mobile home tenant, prospective mobile home owner, or prospective mobile home tenant to waive in a lease or rental agreement or in any other agreement the rights granted to a mobile home owner or mobile home tenant by this chapter.

C. It shall be unlawful for a landlord to deny or threaten to deny tenancy in a mobile home park to any person on account of such person's refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a mobile home owner or mobile home tenant by this chapter.

9.80.120 Information to be supplied by the park owner to tenant - homeowners and prospective tenant - homeowner .

A. Posting of Chapter. A copy of this chapter shall be posted in the office of every mobile home park and in the recreation building or clubhouse of every mobile home park.

9.80.125 Information to be provided by the city to the public.

The city's web page shall include a copy of this chapter and other information (determined in the city's sole discretion) related to mobile home park space rentals within the city, and a copy of California's Mobilehome Residency Law.

9.80.130 Designated Tenant - Homeowners' Representatives.

A. The tenant - homeowners of each mobile home park in the city who rent spaces controlled by this chapter shall annually elect by majority vote, with one vote per space, a designated resident representative ("designated tenant representative" or "DTR") to receive all notices and documents which by this chapter are required to be delivered to the DTR. In addition, on behalf of the tenant – homeowners, said DTR shall have the authority to accept and reject settlement offers submitted pursuant to section 9.80.075, which said acceptance or rejection by the DTR shall be binding upon the said tenant- homeowners.

B. The elected DTR shall advise the city manager of the name, address and phone number of the elected DTR in writing no later than January 31st of each year and shall promptly notify the city manager of any change of representative. Said writing shall be dated, signed and also include the following certification, or a certification substantially similar to the following:

"I certify that I have been elected as the designated tenant representative (DTR) for the _____ mobilehome park ("park") as the result of a duly noticed election. All tenants of spaces in the park which are governed by Chapter 9.80 of the Sonoma Municipal Code were delivered written notices advising them of (a) their right to vote for the park's DTR, (b) the authority and obligations of the DTR, (c) the slate of candidates running for the position of the park's DTR, (d) the date by when and how they must cast their vote and (e) the place to cast their vote. I further certify that of the ballots timely cast, _____ [number] or _____ % were cast in favor of the undersigned."

C. In the event no person is elected or willing to serve as the DTR, then the president or presiding officer of any existing tenants' organization or association shall be requested to serve as the DTR until said position can be filled by election as set forth above. In the event that no person will or can serve as the DTR in a given park, then the duties and authorization imposed upon and granted, respectively, to the DTR hereunder shall not be discharged or exercised, respectively, with respect to that park.

D. In addition to the DTR's duties and authorization set forth in subsection (A) above, the DTR shall discharge the following obligations:

1. upon receipt of the notices and documents which the DTR is to receive under this chapter, the DTR shall (a) post copies of same in a community center or other place in the park that is readily accessible to and frequented by the tenants, and (b) electronically send them to all affected tenants but only to the extent that the DTR personally has the equipment, technology and know-how to accomplish this task (and the DTR only needs to electronically send said material to those affected tenants who have provided the DTR their email addresses);

2. make good faith and timely efforts to notify all affected tenants of any settlement offers received by or proposed by the DTR pursuant to section 9.80.075. In this connection, the DTR shall develop and follow procedures aimed at soliciting and obtaining the maximum input practicable from those tenants affected by such settlement offers so that the DTR is reasonably certain that the positions the DTR takes vis a vis such offers is representative of the desires of those tenants who are renting a majority of the spaces affected or potentially affected by the offers.

E. During his/her term of office as the DTR, the DTR cannot also serve on any city council, commission, committee or board.

9.80.140 Rights of prospective tenant - homeowners.

Any prospective tenant - homeowner must be offered the option of renting a mobile home space in a manner which will permit the "tenant-to-be" to receive the benefits of the mobile home space rent stabilization program codified herein which includes, but is not limited to, rental of a mobile home space on a month-to-month basis. Such a person cannot be denied the option of a tenancy of twelve months or less in duration.

The park owner shall provide each prospective tenant - homeowner with a photocopy of the written notification attached as Appendix A to this chapter and will provide each prospective tenant with a copy of this chapter.

Any effort to circumvent the requirements of this section shall be unlawful.

9.80.150 Annual registration and other notices required from owner.

A. Due Date. No later than May 31 of each year, each park owner shall file an annual registration statement, on a form prescribed by the city manager.

B. Contents of Registration Form. The registration form shall include the name(s), business address(es), and business telephone number(s) of each person or legal entity possessing an ownership interest in the park and the nature of such interest; the number of mobile home spaces within the park; a rent schedule reflecting the current space rents within the park; a listing of all other charges, including utilities not included in space rent, paid by mobile home owners within the park and the approximate amount of each such charge; the name and address to which all required notices and correspondence may be sent; the name and address of each mobilehome owner; the name and address of each person renting a mobilehome; an identification of those spaces or mobilehomes which the park owner considers exempt from this chapter and a statement of the reasons therefor; a statement of the number of recreational vehicle spaces in the park; and other information required by the city manager.

C. Certification of Registration Forms. All registration forms, and any documentation accompanying any registration forms, shall contain an affidavit or declaration, signed by the park owner or a designated agent, with his/her signature notarized, certifying that the information contained therein is true, correct and complete.

D. Notice of Sale of a Park. Upon the sale or transfer of a mobile home park, the seller or transferor shall notify the city manager of the sale or transfer and of the name and address of the buyer or transferee. Within ten days of the sale or transfer of a mobile home park, the buyer or transferee shall provide a new registration form meeting the requirements of this section.

E. Notice to Prospective Park Purchasers. The park owner shall provide prospective park purchasers with a copy of this chapter and notice that the following would be a prerequisite to filing a rent increase application pursuant to Sections 9.80.080 and 9.80.090:

1. A statement of the base year income, expenses, and net operating income of the park with a breakdown of income and expenses by category.

2. Documents supporting the amounts reported in the income and expense statement.

9.80.160 Retaliation prohibited.

A. It shall be unlawful for any landlord to evict a tenant - homeowner or mobile home tenant where the landlord's dominant motive in seeking to recover possession of the rental unit is:

1. Retaliation for the tenant - homeowner's or mobile home tenant's organizing, petitioning government for rent relief, or exercising any right granted under this chapter; or

2. Evasion of the purposes of this chapter.

B. It shall be unlawful for a landlord to retaliate against a tenant - homeowner or mobile home tenant for the owner's or tenant's assertion or exercise of rights under this chapter in any manner, including but not limited to:

1. Threatening to bring or bringing an action to recover possession of a rental unit.

2. Engaging in any form of harassment that causes the tenant - homeowner to quit the premises.

- 3. Decreasing housing services.
- 4. Increasing rent.
- 5. Imposing or increasing a security deposit or other charge payable by the owner or tenant.

9.80.170 Excessive Rents or Demands Therefor.

It shall be unlawful for a park owner to demand, accept, receive, or retain any rent in excess of the amounts authorized by this chapter.

9.80.080 Fees.

~~A. The costs of administration of this chapter shall be borne by the city, subject to reimbursement of the city's general fund by imposition of a rent stabilization administration fee chargeable against each mobilehome space in the city. The park owner who pays these fees may not pass through any of the fees assessed against a mobilehome space to the tenants.~~

~~B. The fees imposed by this section shall be paid annually. The time and manner of payment, delinquency status, and assessment and collection of penalties for delinquent payment of the fees imposed by this section shall be as provided by separate ordinance of the city council. The clerk shall recommend to the city from time to time the amount of such fee and the city council shall adopt such fee by resolution. (Ord. 98-6 § 1, 1998).~~

9.80.175000 Permissible reasons for terminating or refusing to renew a tenancy.

A tenancy which is not subject to the provisions of the Mobilehome Residency Law shall not be terminated nor shall its renewal be refused, except for one or more of the following reasons:

- A. Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency;
- B. Conduct by the tenant, upon the mobilehome park premises, which constitutes a substantial annoyance to other tenants;
- C. Failure of the tenant to comply with a reasonable rule or regulation of the mobilehome park. No act or omission of the tenant shall constitute such failure to comply unless and until the owner has given the tenant written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven days;
- D. Nonpayment of rent, utility charges, or reasonable incidental service charges;
- E. Condemnation of the mobilehome park;
- F. Change of use of the mobilehome park; provided, that the provisions of subsection (f) of Section 798.56 of the California Civil Code are followed:
 - 1. _____The owner gives the tenant written notice of the proposed change 12 months or more before the date of the proposed change,
 - 2. _____The owner gives each proposed tenant whose tenancy will commence within 12 months of the proposed change written notice thereof prior to the inception of that person's tenancy. Notice of termination or refusal to renew must be given in writing in the manner prescribed by Section 1162 of the Code of Civil Procedure or at least 60 days prior to the termination date of the tenancy. Said notice shall state the date the tenancy terminates, the reason for the termination or refusal to renew, and the specific facts upon which the owner is relying. (Ord. 98-6 § 1, 1998).

9.80.100180 Refusal of tenant to pay illegal rent.

A tenant may refuse to pay any rent in excess of the maximum rent permitted by this chapter. The fact that such unpaid rent is in excess of the maximum rent shall be a defense in any action brought to recover possession of a mobilehome space for nonpayment of rent or to collect the illegal rent. (Ord. 98-6 § 1, 1998).

9.80.190120 Remedies.

A. Any person who demands, accepts or retains any payment or rent in violation of the provisions of this chapter shall be liable in a civil action to the person from whom such payment is demanded, accepted or retained for damages in the sum of three times the amount by which the payment or payments demanded, accepted, or retained exceed the maximum rent which could be lawfully demanded, accepted or retained together with reasonable attorney's fees and costs as determined by the court. (Ord. 98-6 § 1, 1998).

B. Remedies provided by this section are in addition to any other legal or equitable remedies and are not intended to be exclusive.

C. The city council may institute a civil action to compel compliance with this chapter.

Article II. Administration Fees**9.80.130 — Definitions for Article II.**

~~A. As used in this article, "owner" and "owner of a mobilehome park" mean any owner, lessor or sublessor of a mobilehome park in the city who receives or is entitled to receive rents for the use or occupancy of any mobilehome space thereof, and the representative, agent or successor of such owner, lessor or sublessor, and who reports to the Internal Revenue Service any income received or loss of income resulting from such ownership or claims any expenses, credits or deductions because of such ownership.~~

~~B. As used in this article, "mobilehome park," "mobilehome," and "mobilehome space" shall have the same meanings as set forth in SMC 9.80.020. (Ord. 98-6 § 1, 1998).~~

9.80.140 — Registration — Required.

~~On or before May 31st of each year, each owner of a mobilehome park, as defined in SMC 9.80.130, in the city, as long as the city council may so authorize and/or allow, shall register with the city clerk of the city by providing, in writing, the name and address of each such mobilehome owner, and a statement of the number of mobilehome spaces including both occupied and unoccupied spaces and spaces subject to lease agreements, as described under Civil Code Section 798.17, contained in each such park, and a statement of the number of recreational vehicle spaces in the park. Reregistration and provision of this information must also be made upon change of ownership of the mobilehome park or an increase or a decrease in the number of spaces. (Ord. 98-6 § 1, 1998).~~

9.80.200150 Administration Fees.

A. Except as to any fees assessed pursuant to section 9.80.080(C), the costs of administration of this chapter shall be borne by the city, subject to reimbursement of the city's general fund by imposition of a rent stabilization administration fee chargeable against each mobilehome space in the city. The park owner who pays the fees imposed by this section may not pass through any of these fees assessed against a mobilehome space to the tenants.

B. On or before June 30th of each year, each owner of a mobilehome park, as defined in SMC 9.80.130, shall pay to the city clerk of the city a mobilehome park rent stabilization program administration fee in the sum of \$24.00 per year for each "mobilehome space" as defined in SMC 9.80.020, including both occupied and unoccupied mobilehome spaces not subject to a rental agreement in full compliance with the requirements of Civil Code Section 798.17(a) and (b). The City Council shall be authorized to increase this fee each year by the amount of the annual increase of the CPI. City staff shall determine the rise in the CPI from December to December, and round this percentage amount to the nearest Five Cents (\$.05).

C.B. ___ -The city clerk of the city shall forward these funds to the city's community development department to administer the mobilehome park rent stabilization ordinance enacted in Article I of this chapter. Further, the city clerk of the city shall issue to each mobilehome park owner a receipt for payment of the fees required to be paid in this article.

D.C. ___ Any person owing money to the city under the provisions of this article shall be liable to an action brought in the name of the city for the recovery of such amount. (~~Ord. 98-6 § 1, 1998~~).

9.80.210160 Late payment – Fee.

A service fee equal to one and one-half percent per month will be charged on all late payments of administration registration fees under this chapterarticle. (~~Ord. 98-6 § 1, 1998~~).

9.80.220 City Manager Authorized to Promulgate Rules and Regulations.

The city manager is authorized to adopt and promulgate rules and regulations not inconsistent with this chapter and which implement the provisions of this chapter.

APPENDIX A

IMPORTANT NOTICE TO PROSPECTIVE HOMEOWNER REGARDING THE PROPOSED RENTAL AGREEMENT FOR THE MOBILE HOME 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 MOBILE HOME SPACE FROM THE PROVISIONS OF THE CITY OF Sonoma MOBILE HOME RENT STABILIZATION ORDINANCE FOR THE TERM OF THIS RENTAL AGREEMENT.

THE CITY OF SONOMA MOBILE HOME RENT STABILIZATION ORDINANCE AND THE STATE MOBILE HOME RESIDENCY LAW (CALIFORNIA CIVIL CODE SEC. 798 et 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 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 MOBILE HOME 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 MOBILE HOME 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 SONOMA MOBILE HOME RENT REVIEW LAW, OR BECAUSE OF YOUR CHOICE TO ENTER INTO A RENTAL AGREEMENT WHICH IS SUBJECT TO THE PROVISIONS OF THAT LAW.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 3. Effective date. This ordinance shall become effective 30 days after the date of adoption.

Section 4. Posting. This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in the Sonoma Index Tribute, a newspaper of general circulation, published in the City of Sonoma, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in the Sonoma Index Tribune at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

THE FOREGOING ORDINANCE was first introduced at a regular meeting of the Sonoma City Council on the ____ day of _____, 2016, and was passed and adopted at a regular meeting of the Sonoma City Council on the ____ day of _____, 2016, by the following vote:

AYES: Councilmembers

NOES: Councilmembers

ABSENT: Councilmembers

ABSTAIN: Councilmembers

Mayor of the City of Sonoma

Attest:

City Clerk of the City of Sonoma

Approved as to form:

City Attorney of the City of Sonoma

CITY OF SONOMA

RESOLUTION 57-1998

**ADOPTING ADMINISTRATIVE GUIDELINES FOR THE MOBILEHOME SPACE RENT
PROTECTION ORDINANCE (CHAPTER 9.80 SMC)**

WHEREAS, the City Council adopted revisions to the Mobilehome Space Rent Protection Ordinance on August 12, 1998; and

WHEREAS, administrative guidelines have been drafted in order to clearly establish the procedures for implementing certain provisions of said ordinance; and

WHEREAS, said guidelines have been reviewed by representatives of the owners and residents of affected mobilehome parks in the City of Sonoma; and

WHEREAS, the City Council considered the draft guidelines and related public testimony at its meeting of September 30, 1998.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sonoma hereby adopts the following guidelines for the administration of Mobilehome Space Rent Protection Ordinance:

Automatic Annual Rent Increases

A. Automatic annual increases shall be permitted in May of each year.

B. The Clerk of the Mobilehome Park Rental Review Board (hereinafter "Clerk") shall announce the annualized percentage change in the Consumer Price Index (CPI) on or about January 15 of each year.

C. Park owners shall provide the Clerk with a list of all park spaces subject to the automatic annual increase, the current monthly rent and the amount of the rent increase for those spaces resulting from the automatic increase.

D. Upon receipt of the information provided to the Clerk pursuant to subsection C, the Clerk shall send a copy of the application materials to the Sonoma Tri-Park Committee and a copy shall be made available for public review at City Hall.

E. Within five working days of the receipt of information provided pursuant to subsection C for an automatic annual increase, the Clerk shall confirm

to the park owner in writing that said increase has been correctly calculated pursuant to 80% of the announced change in the CPI.

F. In recognition of the fact that there are varying time periods between the date of the last rent increase and the first automatic annual rental increase permitted pursuant to Section 9.80.045 as amended in 1998, the first year's increase shall be determined by the percentage change in the CPI in effect one month prior to the effective date of the notice of last rent increase and the CPI in effect in January 1999.

G. Starting in the year 2000, in order to calculate the allowable increase, the percentage change in the CPI shall be computed by calculating the percentage change between the CPI in effect in the preceding January and the CPI in effect in January of the prior year.

H. If a space was exempted from Chapter 9.80 in the prior calendar year pursuant to an exempt lease the allowable increase shall be calculated by calculating the percentage change between the CPI in effect on the date of the termination of the exempt lease and the CPI used to calculate the automatic annual increase.

I. The amount of any allowable increase shall be rounded to the nearest one-quarter of a percent.

Automatic Annual Increases after the Termination of a Lease Exempted by State Law

A. For the purposes of calculating automatic annual increases after the termination of a lease exempted from rent regulation by the Mobilehome Residency Law (California Civil Code Sec. 798.17) the rent in effect at that time the lease terminates shall be used for the purpose of determining the allowable increase and the calculation of the allowable CPI increase shall be equal to the percentage change between the CPI in effect on the date the lease terminates and the CPI used to determine the allowable annual-automatic increase.

Determination of Income and Expenses

Calculation of Base Year Operating Costs Pursuant to Maintenance of Net Operating Income Formula when Applicant does not have Base Year Information and Presumptions about Increases in Management and Maintenance Expenses

A. In cases where an applicant cannot provide complete information on base year operating costs despite good faith efforts to obtain such information, said expenses shall be projected.

In order to project costs, if the costs are determined by public regulation or public charges or fees, changes in these charges between the base year and the current year shall be considered. (For example, if water rates have increased by 40% since the base year, it shall be presumed that water expenses have increased by 40% since the base year, unless there is evidence that consumption patterns have changed thereby affecting annual costs.)

B. There shall be a rebuttable presumption that maintenance expenses have increased by the percentage increase in the CPI, unless the level of maintenance has significantly increased or decreased since the base year.

C. There shall be a rebuttable presumption that management expenses have increased by the percentage increase in the CPI, unless the level of management services has significantly increased or decreased since the base year.

Capital Improvements - definition

A. Capital improvements are expenditures which materially add to the value of a property or appreciably prolong its life, which have a life of ten or more years, and are not treated as an expense for income tax purposes.

B. Expenses related to the provision of gas and electricity, facilities for which a fee is charged (such as coin operated washers and dryers), or for which reimbursement may be obtained shall not be considered.

Interest Rate for Capital Improvement Expenses

A. The interest rate for capital improvements shall be equal to the prime interest rate as reported by the *Wall Street Journal*, on the date the application is deemed complete.

Amortization Periods

A. Capital improvements shall be amortized according to the following schedule. If an improvement is not itemized in the schedule, it shall be amortized in accordance with the useful life tables of the Internal Revenue Service which are used to set depreciation schedules. If it shown by a preponderance of the evidence that the amortization schedule should be different than the schedule in this section or the IRS tables, than a schedule shall be set based on the evidence. Improvements that are made in conjunction with the construction of a building shall be amortized over the life of the building.

<u>Improvement</u>	<u>Amortization Period</u> (Years)
Fencing	15
New building	27.5
"Petromat" paving	10
Reroofing	18
Sewer Systems	50
Water distribution systems	50

Notification of the Amount of Capital Improvement Increases and their Amortization Period

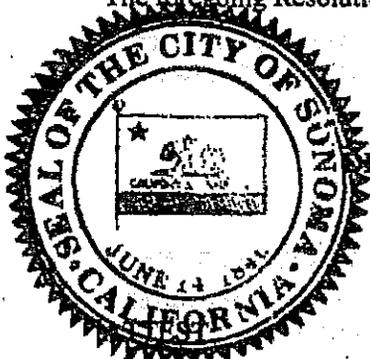
A. All notices to tenants of their rent levels, shall separately set forth amount of any capital improvement increases and the termination date(s) of those increases.

Definition "in-place" sale

A. For the purposes of determining if an in-place sale has occurred pursuant to Section 9.80.070.C. of the Sonoma Municipal Code the following types of transfers shall not be considered in-place sales: transfers to a spouse, former spouse, child, sibling, mother or father in-law, sister or brother in-law; transfers upon death to any of the foregoing relatives.

The foregoing Resolution was duly adopted this 30th day of September, 1998 by the following roll call vote:

AYES: (5) Clm. Barnett, Dorf, Mazza, Ramponi, Mayor Carter
 NOES: (0) None
 ABSENT: (0) None
 DISQUALIFIED: (0) None



[Signature of Syllia Carter]

 MAYOR

[Signature of Eleanor Berts]

 CITY CLERK

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Sonoma at a regular adjourned meeting thereon held September 30, 1998.

[Signature of Eleanor Berts]

 CITY CLERK

DECISION MATRIX

Council's Straw Vote
(October 2015)
Yes No

Council Comments
(October 2015)

Proposed
Ordinance
Revisions

Issue	Council's Straw Vote (October 2015) Yes No		Council Comments (October 2015)	Proposed Ordinance Revisions
HOMEOWNERS' PROPOSED AMENDMENTS				
1. Disbanding the Rental Review Board as the decision maker on rent increase applications, and, instead, assigning that responsibility to the City Manager, whose decision is based solely on experts' evaluations without hearing, and is appealable to an independent hearing officer selected through the State's Office of Administrative Hearings.	5 - 0			9.80.080
A. Applicable to fair return petition.	5 - 0			9.80.080(A)
B. Applicable to service reduction petition.	5 - 0			9.80.100(B)(1)
C. Applicable to capital improvement pass-through petition.	5 - 0		As long as experts are paid for by park owner. Need oversight on project.	9.80.090(E)(1) 9.80.090(D)(4) 9.80.090(G)
2. Authorizing the city manager to retain experts to assist the city manager in making decisions on individual rent increase applications and requiring the applicant to advance funds to pay for such experts. Proposed revisions allow the applicant to recoup those costs in the form of rent increases if the applicant is successful in achieving the results sought in its application.	5 - 0		Costs are to be amortized over 5 years, plus interest	9.80.080(C)(7) 9.80.070(E)(3)(a)(vii)
3. Setting up a process whereby the residents, in response to the filing of a rent increase application, can make a settlement offer to the applicant-park owner agreeing to accept a certain rent increase. If that offer is not accepted by the park owner and the application is prosecuted to a final decision that is less favorable than the settlement, then the park owner is not entitled to recover its expenses incurred in prosecuting its rent increase application after the offer was made by the residents and the residents' costs in defending the application incurred after the offer was made are recoverable against the park owner.	5 - 0		Need to create time lines for settlement proposal. Need greater detail re how residents' representative is empowered.	9.80.075 9.80.130

DECISION MATRIX

Issue	Council's Straw Vote (October 2015)		Council Comments (October 2015)	Proposed Ordinance Revisions
	Yes	No		
4. A corresponding right on the part of the park owners to offer a settlement proposal is established.	5 - 0		Need time line clarified. Consequences need to be better explained.	9.80.075
A. Applicable to fair return petition.	5 - 0			9.80.075(A)(1)
B. Applicable to service reduction petition.	5 - 0			9.80.075(A)(1)
C. Applicable to temporary capital improvement pass-through petition.	5 - 0			9.80.075(A)(1)
5. Requiring that each park's residents annually elect a resident as the residents' representative. This representative is vested with the authority to speak on behalf of and bind the residents to certain decisions made by the representative.			Assure minimum of notice and participation by residents in selecting rep. and empowering him/her. Need contingency plan to select representative in event park residents fail to do so. Conflict - can't serve on any city body? Only residents subject to rent control to vote. Must keep residents fully informed.	9.80.130
A. What decisions should the representative be able to make on behalf of residents.	See above			9.80.130
6. Reduce vacancy control limitation of increasing rent to 10% above prior rents to no more than 5% of pre-existing rent.	5 - 0			9.80.060(E)
7. Expanding the definitions and provisions governing what constitutes income and expenses in the context of a petition seeking rental increases in order to MNOI.	No Action			9.80.070(E)(2), (3)
8. Requiring park owners to file "complete" applications for rent increases before time periods begin running and as a condition to the City's obligation to process the application.	5 - 0			9.80.080(C)(5)

DECISION MATRIX

Issue	Council's Straw Vote (October 2015)		Council Comments (October 2015)	Proposed Ordinance Revisions
	Yes	No		
9. Except where settlement offers have been made by the homeowners or park owner, requiring that the legal and expert fees and other costs incurred by a park owner in processing a successful rent increase application be passed through to the residents, provided that they are amortized over 5 years, with interest.	5 - 0		Make sure interest is identified.	9.80.080(E)(3)(a)(vii)
10. Amortizing park owners' legal costs and expert fees over 5 years, with interest.	5 - 0			9.80.080(E)(3)(a)(vii)
11. If a decision granting a rent increase petition is delayed beyond 120 days. City is required to grant retroactive rent increase covering the delay period. It is to be amortized over 5 years with interest.	5 - 0		Need to talk to OAH re time processing	9.80.080(F)
12. Adding a provision expressly authorizing residents to petition for rent reductions in those situations where the park has reduced services or amenities as defined in the proposed revisions.	5 - 0		Meet with park owner and residents to see what services could be eliminated.	9.80.100
13. Imposition of a supplemental administrative fee, chargeable to residents, but to be collected by park owners. If residents do not pay supplemental administrative fee, the City must pursue collection against the non-paying resident, not the park owner.	3; 1 (Leave it open Maybe in future for cause.)	1	Want to know the cost of administering No unanimity in addressing this fee.	Upon recommendation of City Manager, did not include in ordinance.
14. In response to park owner's request for a temporary rent increase to pay for a capital improvement, residents are given 15 days to submit protests signed by 50% plus one of the affected residents and city clerk is given the same time period to determine whether to issue her preliminary approval, disapproval or conditional approval of same. The residents are proposing to enlarge this time period to 30 days.	5 - 0		How does this impact the 120-day decision-making time limit? Maybe the 120-day limit should be inapplicable to capital pass-through petitions.	9.80.090(E)(1), (2); 9.80.080(F) 120-day limit only applicable to MNOI petitions.
15. City Manager or City Council to adopt implementing rules and regulations?				9.80.220 City Manager given authority to promulgate regulations.

DECISION MATRIX

Issue	Council's Straw Vote (October 2015)		Council Comments (October 2015)	Proposed Ordinance Revisions
	Yes	No		
PARK OWNERS' PROPOSED AMENDMENTS				
1. Increase annual automatic rent increase from 80% to 100% of the CPI and eliminate the 5% cap.		5 - 0		9.80.045
2. Eliminate vacancy control, thus permitting park owners to charge market rents to new owners of in-place mobile homes.		5 - 0		9.80.060
3. Amend the MNOI formula to increase permitted rent increases in NOI from 80% of the CPI change to 100% in the change of the CPI. See, SMC Section 9.80.050(C). [Note: It appears that the ordinance proposed by the homeowners does not include the 80% limitation.]	5 - 0			9.80.070(B)
4. Amend Resolution No. 57-1998 to change the amortization period for sewer systems from 50 to 15 years and for water distribution systems from 50 to 25 years.			Put off for discussion of regulations.	
5. Clarify the types of expenses that do not meet the definition of "Capital Improvements" set forth on page 2(B) of Resolution No. 57-1998.			Put off for discussion of regulations.	
6. Amend SMC Section 9.80.065(C) to eliminate the homeowners' right to protest a rent increase for necessary capital improvements (defined at SMC Section 9.80.020(B)(1)).		5 - 0		9.80.090(E)
7. Amend Resolution No. 57-1998 which excludes identified types of in-place sales of mobile homes from those types of in-place sales for which the landlord can increase the rent to the new owner by 5% such that the only exclusion from this limited form of vacancy control is a transfer to a spouse.		5 - 0		
8. Add a section that would allow park owners to pass through to homeowners any fees or charges that a majority of the homeowners' request or agree should be passed through.		5 - 0		

DECISION MATRIX

Issue	Council's Straw Vote (October 2015)		Council Comments (October 2015)	Proposed Ordinance Revisions
	Yes	No		
9. If the City amends the ordinance to permit the City to charge a park owner for the services of an expert retained by the City to analyze a park owner's rent increase application, the park owner's attorney is recommending that a section be added that would allow the park owner to "immediately" pass through such cost to the homeowners on a pro rata basis.		5 - 0		