

**CITY OF YUCAIPA
ADMINISTRATIVE RULES**

**FOR THE IMPLEMENTATION OF THE
YUCAIPA MOBILEHOME RENT
STABILIZATION ORDINANCE**

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CHAPTER 1. COMMISSION PROCESS

1.0001. COMMISSION MEETINGS

The Rent Review Commission (the "Commission") shall hold meetings whenever necessary to conduct the business of the Commission in the Council Chambers at Yucaipa City Hall or in such other place within the City limits to which said meetings may be adjourned. If by reason of fire, flood, or other emergency, including anticipated overcrowding of the Council Chambers, it shall be unsafe to meet in the Council Chambers, the meetings may be held for the duration of the emergency at such other place as is designated by the Chairperson or, if he/she should fail to act, by the Commission.

1.0002. STUDY SESSION

The Commission may meet in study sessions from time to time at dates, places and times, as may be determined by the Commission, for the purpose of hearing reports from the staff or other persons and reviewing, discussing and debating matters of interest to the Commission. Study sessions shall be open to the public and the press. No official actions shall be taken at a study session provided, however, that nothing herein shall be deemed to prevent the taking of an informal opinion poll on any matter under discussion. The participation of the public in such sessions shall be subject to the discretion of the Chairperson.

1.0003. SPECIAL MEETINGS

Special meetings may be called at any time by the Rent Administrator ("RA") or any two (2) voting Commissioners by delivering personally or by mail written notice to each Commissioner and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice must be delivered personally or by mail at least twenty-four (24) hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. The written notice may be dispensed with as to any Commissioner who, at or prior to the time the meeting convenes, files with the RA a written waiver of notice. Such waiver may be given by telegram. The written notice may also be dispensed with as to any Commissioner who is actually present at the meeting at the time it convenes. Notice shall be required regardless of whether any action is taken at the special meeting. The call and notice shall be posted in a location that is freely accessible to members of the public at least twenty-four (24) hours prior to the special meeting.

1.0004. ADJOURNED MEETINGS

The Commission may adjourn any meeting to a date, time and place specified in the order of adjournment less than a quorum may so adjourn from time to time.

If all Commissioners are absent from any regular or adjourned regular meeting, the RA may declare the meeting adjourned to a stated time and place, and he/she shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings. A copy of the order or notice of the adjournment to be given in the same manner as provided for special meetings.

A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the meeting was held within twenty-four (24) hours after the time of the adjournment.

1.0005. COMMISSIONERS

Commissioners shall attend all Commission meetings and hearings unless disqualified from participation or absence is excused.

1.0006. QUORUM

Three (3) Commissioners shall constitute a quorum. Three (3) affirmative votes are required for the adoption of any findings and/or order pertaining to an application for any rent adjustment; for the recommendation of adoption, amendment or repeal of any rules or regulations of the Commission; and for the adoption, amendment or repeal of any registration forms, application forms, consent forms; or to take any other action.

1.0007. MEETINGS TO BE PUBLIC: EXCEPTION FOR CLOSED SESSIONS

All Commission meetings, as well as study sessions, shall be public; provided, however, that the Commission may hold closed sessions during a meeting from which the public may be excluded, for the purpose of considering the matters referred to in California Government Code Section 54956.9, or in order to confer with the City Attorney pursuant to the attorney-client privilege, or to consider other matters allowed by law to be considered in closed sessions. No Commissioner, employee of the City, or any other such person present during a Closed Session with the Commission shall disclose to any person the content or substance of any discussion which took place during the closed session unless such disclosure is required, and only to the extent so required, by the provisions of Section 54957.1 of the Government Code other laws of the State of California.

1.0008. AGENDA

The Commission agenda shall be prepared in accordance with the following rules:

A. Except as otherwise provided in Subsection (B) and (C), below, or Section 1.0029 of these Administrative Rules, concerning public hearing items, all reports, communications, resolutions, contract documents or other matters to be submitted to the Commission at a meeting shall be delivered to the RA not later than 12:00 noon on the day which is fourteen (14) days preceding a Commission meeting (excluding the day of the meeting).

Except as otherwise provided in Subsections (B) and (C), below, concerning public hearing items, the Agenda shall be delivered to the Commissioners on the sixth (6th) calendar day preceding the meeting to which it pertains (excluding the day of the meeting), and shall be made available to the public after delivery to the Commissioners.

B. All applications for any capital improvement adjustments (pursuant to YMC Section 15.20.080(B)), any rent adjustment based on discontinuance or reduction in a service or amenity (YMC Section 15.20.090), or any net operating income adjustment (YMC Section 15.20.100), shall be submitted to the RA in accordance with requirements of Chapter 15.20 of the Yucaipa Municipal Code (YMC) – Mobilehome Park Rent Stabilization Program and these Administrative Rules.

As used herein, the term "application" shall include any and all reports, documents, election ballots or other information necessary to support the requested adjustment. The applicant shall submit eight at least (8) copies of each such application. The application shall include an affidavit of declaration, signed by the applicant under penalty of perjury, certifying that the representations and information set forth in the application are true and correct.

C. Any person wishing to submit any written opposition to an application for an adjustment shall submit at least eight (8) copies of such written opposition to the RA and one copy to the applicant not later than the twentieth (20th) day following the date that the application has been declared complete by the RA. However, the failure or inability of any person to submit the opposition within said time period shall not prejudice said person's right to represent the opposition to the Commission during the actual hearing on the application, and the Chairperson of the Commission may, in his/her discretion, allow the submission of such opposition at the time of the hearing on the application. Such written opposition shall be personally served or mailed to the applicant or the applicant's local representative no later than the same day as the filing of the written opposition to the RA, along with an affidavit or declaration, signed under penalty of perjury, certifying such service has been made and that all representations set forth in the opposition are true and correct to the best knowledge of the person submitting the opposition.

1.0009. COMMISSION CORRESPONDENCE

A. Correspondence addressed to the Commission, which is received by the RA or any other officer or employee of the City shall not become a public record until received and filed by the Commission at a meeting of the Commission. Provided that, nothing in this Subsection (A) or Subsection (B) shall prevent any park resident, park owner, or any other interested person, from reviewing any application submitted by any person for any rent adjustment pursuant to YMC Sections 15.20.080, 15.20.090, and 15.20.100. Correspondence shall not be read aloud at a Commission meeting unless requested by a voting Commissioner, or unless offered as evidence in a hearing pursuant to the YMC and these Administrative Rules.

B No item, which is exempt from disclosure by Section 6254 of the California Government Code, or any other provision of law, shall be disclosed or treated as a public record.

C. Notwithstanding the provisions of Subsection (A) of this Section 1.0009, any registration forms, and any applications for an annual adjustment, capital improvement adjustment, reduction or decrease in service or amenity adjustment, or net operating income adjustment, including any and all supporting documentation, as well as any written opposition submitted in opposition to said application, shall be public records and open to inspection in accordance with Government Code Section 6253. Agendas prepared by Staff for any meeting of the Commission shall not be public records until distributed to the Commission prior to the Commission meeting.

1.0010. RECEIPT OF EVIDENCE OUTSIDE OF MEETING AND PUBLIC CONTACT WITH COMMISSION

A. Except as otherwise provided herein, no member of the Commission shall, after an application necessitating a hearing or public hearing has been filed with the City, solicit or receive evidence outside of the hearing or public hearing on such application.

B. Receipt of unsolicited letters or other documents by individual Commissioners shall not constitute a violation of this section, but shall be disclosed as provided in Subsection (C) herein. Said documents shall be made a part of the record at the time of hearing or the public hearing.

C. Any Commissioner who has received evidence outside of the hearing or public hearing, or who has viewed the subject property, or is familiar with the subject property, shall fully disclose at the hearing or public hearing such evidence and his/her observations and familiarity with the property so that the applicant, opponent, interested persons and other members of the Commission may be aware of the facts or evidence upon which he/she is relying and have an opportunity to argue against it. All written evidence received or offered outside of the hearing shall be filed with the Clerk, provided that nothing herein is intended to require any Commissioner from disclosing any confidential communication with City staff and/or the City Attorney.

1.0011. PREPARATION OF MINUTES

The RA shall have responsibility for preparation of the minutes of the Commission meetings. Any directions for changes in the minutes shall be made only by majority action of the Commission, and to conform the minutes to fact.

1.0012. READING AND APPROVAL OF MINUTES

Unless the reading of the minutes of a Commission meeting is ordered by a majority vote of the Commission, such minutes may be approved as part of the consent calendar, without reading, if the RA has previously furnished each Commissioner with a copy.

1.0013. PRESIDING OFFICER

The Chairperson shall be the Presiding Officer at all meetings of the Commission. In the absence of the Chairperson, the Vice-Chairperson shall call the meeting to order and shall serve until the arrival of the Chairperson or until adjournment.

1.0014. POWERS AND DUTIES OF PRESIDING OFFICER

A. Participation. The Presiding Officer may move, second, debate, and vote.

B. Question to be stated. The Presiding Officer may request each question to be verbally restated by such member of the City staff as he/she may designate pursuant to his/her calling for the vote. Following the vote, the RA shall announce whether the question carried or was defeated.

The Presiding Officer, in his/her discretion, may publicly explain the effect of a vote for the audience or he/she may direct a member of City staff to do so before proceeding to the next item of business.

C. Signing of documents. The Presiding Officer shall sign all resolutions, contracts, and other documents necessitating his/her signature which were adopted in his/her presence unless he/she is unavailable, in which case the signature of an alternate Presiding Officer may be used.

D. Sworn testimony. During public hearings only, on applications for capital improvement adjustments, reduction or decrease in service or amenity adjustments or net operating income adjustments, the Presiding Officer shall require all witnesses addressing the Commission to be sworn in and to testify under oath, and all testimony shall be under penalty of perjury. In proceedings or meetings other than public hearings, the Presiding Officer may require any person addressing the Commission to be sworn as a witness and to testify under oath, and under penalty of perjury, and the Presiding Officer may do so if directed to do so by a majority vote of the Commission.

1.0015. RULES OF DEBATE

A. Prerequisite to Debate. Before any matter is open to formal debate or audience participation, it is necessary that a motion and a second be made by the Commissioners and that the motion be stated by the Presiding Officer. Informal consultation and discussion among the Commission and City staff is permitted prior to the motion being made or stated.

B. Taking the floor. Every Commissioner desiring to speak shall first address and gain recognition from the Presiding Officer, and shall confine himself/herself to the question under debate, avoiding indecent language.

C. Questions to City staff. Every Commissioner desiring to question City staff shall, after recognition by the Presiding Officer, address his/her questions to staff, who shall be entitled to either answer the inquiry themselves, or to designate a member of their staff for that purpose.

D. Interruptions. A Commissioner, once recognized, shall not be interrupted when speaking unless called to order by the Presiding Officer, a point of order or personal privilege is raised by another Commissioner or the speaker chooses to yield to a question by another Commissioner. If a Commissioner, while speaking, is called to order, he/she shall cease speaking until the question of order is determined and, if determined to be in order, he/she may proceed. Members of City staff, after recognition by the Presiding Officer, shall hold the floor until the Presiding Officer withdraws recognition.

1.0016. PROCEDURAL RULES OF ORDER

A. Matter under discussion. Once a main motion is properly placed on the floor, several related motions may be employed in addressing the main motion. These motions take precedence over the main motion, and if properly made and seconded, must be disposed of before the main motion can be acted upon. The following motions are appropriate and may be made by any Commissioner at any appropriate time during the discussion of the main motion:

1. Lay on the table. Any Commissioner may move to lay the matter under discussion on the table. This motion temporarily suspends any further discussion of the pending motion without setting a time certain to resume debate. It must be moved and seconded and passed by a majority vote. In order to bring the matter back before the Commission, a Commissioner must move that the matter be taken from the table, seconded, and passed by a majority. A motion to take from the table must be made at the same meeting at which it was placed on the table or at the next meeting of the Commission, otherwise the motion that was tabled dies, although it can be raised later as a new motion.

2. Move previous question. Any Commissioner may move to immediately bring the question being debated by the Commission to a vote, suspending any further debate. The motion

must be made and seconded without interrupting one who already has the floor. A two-thirds vote is required for passage.

3. Limit or extend limits of debate. Any Commissioner may move to put limits on the length of debate. The motion must be made and seconded and requires a two-thirds vote of the Commission to pass.

4. Postpone to a time certain. Any Commissioner may move to postpone indefinitely the motion on the floor, thus avoiding a direct vote on the pending motion and suspending any further action on the matter. The motion must be seconded and requires a majority vote for passage.

B. Motions of privilege, order, and convenience. The following actions by the Commission are to insure orderly conduct of meetings and for the convenience of the Commissioners:

1. Call for orders of the day. Any Commissioner may demand that the agenda be followed in the order stated therein. No second is required and the Presiding Officer must comply unless the Commission, by a two-thirds vote, sets aside the order of the day.

2. Question of privilege. Any Commissioner, at any time during the meeting, may make a request of the Presiding Officer to accommodate the needs of the Commission or his/her personal needs for such things as reducing noise, adjusting air conditioning, ventilation, lighting, etc.

3. Recess. Any Commissioner may move for a recess. The motion must be seconded and a majority vote is required for passage.

4. Adjourn. Any Commissioner may move to adjourn at any time, even if there is business pending. The motion must be seconded and a majority vote is required for passage.

5. Point of order. Any Commissioner may require the Presiding Officer to enforce the rules of the Commission by raising a point of order. The point of order shall be ruled upon by the Presiding Officer.

6. Appeal. Should any Commissioner be dissatisfied with a ruling from the Presiding Officer, he/she may move to appeal the ruling to the full Commission. The motion must be seconded to put it before the Commission. A majority vote in the negative or a tie vote sustains the ruling of the Presiding Officer.

7. Suspend the rules. Any Commissioner may move to suspend the rules if necessary to accomplish a matter that would otherwise violate the rules. The motion requires a second and a two-thirds vote is required for passage.

8. Division of question. Any Commissioner may move to divide the subject matter of a motion, which is made up of several parts to vote separately on each part. The motion requires a second and a majority vote for passage.

9. Reconsider. Except for votes regarding matters which require a noticed public hearing, the Commission may reconsider any vote taken at the same session, or at a recessed or adjourned session thereof, to correct inadvertent or precipitant errors, or consider new information not available at the time of the vote.

The motion to reconsider must be made by a Commissioner who voted on the prevailing side, must be seconded and requires a majority vote for passage regardless of the vote required to adopt the motion being reconsidered. If the motion to reconsider is successful, the matter to be reconsidered takes no special precedence over other pending matters and any special voting requirements related thereto still apply. Except pursuant to a motion to reconsider, once a matter has been determined and voted upon, the same matter cannot be brought up again at the same meeting.

C. Authority of the Presiding Officer. Subject to appeal, the Presiding Officer shall have the authority to prevent the misuse of the legitimate form of motions, or the abuse of privilege of renewing certain motions, to obstruct the business of the Commission by ruling such motions out of order. In so ruling, the Presiding Officer shall be courteous and fair and should presume that the moving party is making the motion in good faith.

D. Interruptions. Another Commissioner shall not interrupt a Commissioner, once recognized, when speaking unless called to order by the Presiding Officer, unless a point of order or personal privilege is raised by another Commissioner, or unless the speaker chooses to yield to a question. If a Commissioner while speaking is called to order, he/she shall cease speaking until the question of order is determined and, if determined to be in order, he/she may proceed. Members of the City staff, after recognition by the Presiding Officer, shall hold the floor until the Presiding Officer withdraws recognition.

1.0017. PROTEST AGAINST COMMISSION ACTION

Any Commissioner shall have the right to have the reason for his/her dissent from, or his/her protest against, any action of the Commission entered in the minutes. Such dissent or protest to be entered in the minutes shall be made in the following manner: "I would like the minutes to reflect that I am opposed to this action for the following reasons..."

1.0018. RULES OF ORDER

Except as provided herein, rules and procedures not included herein shall be adopted in accordance with the most recent revised edition of Robert's Rules of Order.

1.0019. FAILURE TO OBSERVE RULES OF ORDER

Rules adopted to expedite the transaction of the business of the Commission in an orderly fashion are deemed to be procedural only and the failure to strictly observe such rules shall not affect the jurisdiction of the Commission or invalidate any action taken at a meeting that is otherwise held in conformity with law.

1.0020. ADDRESSING THE COMMISSION

The following rules, in addition to those set out in Section 1.0029, "Public Hearings," shall govern public testimony before the Commission.

A. Manner of addressing the Commission. Each person desiring to address the Commission shall state his/her name and address for the record, state the subject he/she wishes to discuss, state whom he/she is representing if he/she represents an organization or other persons. Presentation time shall be limited to five (5) minutes or as defined by the Presiding Officer

unless a majority of the Commission disagrees. All discussion shall be addressed to the Commission as a whole and not to any member thereof. No question shall be asked of a Commissioner or of City staff without the permission of the Presiding Officer.

B. Spokesman for group of persons. In order to expedite matters and to avoid repetitious presentations, whenever any group of persons wishes to address the Commission on the same subject matter, it shall be proper for the Presiding Officer to request that a spokesperson be chosen by the group to address the Commission and, if additional matters are to be presented by any other member of said group, to limit the number of such persons addressing the Commission.

C. After motion or after public hearing closed. After a motion has been made or a public hearing has been closed, no member of the public shall address the Commission from the audience on the matter under consideration without first securing permission to do so by the Presiding Officer.

D. Continuance of hearings. Any hearing being held or noticed or ordered to be held by the Commission at any meeting of the Commission may, by order or notice of continuance, be continued or re-continued to any subsequent meeting in the manner provided herein for adjourned meetings; provided that if the hearing is continued to a time less than twenty-four (24) hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or notice of continuance was adopted or made.

1.0021. RULES OF DECORUM

A. Commission Members. While the Commission is in session, the Commissioners must preserve order and decorum, and a Commissioner shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the Commission nor disturb any Commissioner while speaking or refuse to obey the orders of the Presiding Officer. Commissioners shall not leave their seats during a meeting without first obtaining the permission of the Presiding Officer.

B. Employees. Members of City staff and City employees shall observe the same rules of order and decorum as are applicable to the Commission, provided that members of City staff may leave their seats during a meeting without first obtaining the permission of the Presiding Officer.

C. Members addressing the Commission. Any person making impertinent, slanderous, or profane remarks or who become boisterous while addressing the Commission shall be called to order by the Presiding Officer and, if such conduct continues, may at the discretion of the Presiding Officer be ordered barred from further addressing the Commission during the meeting.

D. Members of the audience. Any person in the audience who engages in disorderly conduct such as hand clapping, stamping of feet, whistling, using profane language, yelling, and similar demonstrations which disturb the peace and order of the meeting, or who refuses to comply with the lawful orders of the Presiding Officer, shall upon instructions of the Presiding Officer, be removed from the meeting room.

1.0022. VOTING PROCEDURE

Any vote of the Commission including a roll call vote, may be registered by the members of the Commission by answering "yes" for an affirmative vote or by "no" for a negative vote upon his/her name being called or through the use of an electronic voting device.

1.0023. DISQUALIFICATION FOR CONFLICT OF INTEREST

Any Commissioner who is disqualified from voting on a particular matter due to a conflict of interest shall publicly state or have the Presiding Officer state the nature of such disqualification in open meeting.

A Commissioner who is disqualified due to a conflict of interest in any matter shall request and be given the permission of the Presiding Officer to step down from the Commission table. A Commissioner stating such disqualification shall not be counted as part of a quorum and shall be considered absent for the purpose of determining the outcome of any vote on such a matter, nor shall he/she participate in any discussion on such matter.

1.0024. FAILURE TO VOTE

Every Commissioner should vote unless disqualified for a conflict of interest. A Commissioner who abstains from voting, without a disqualifying conflict of interest, consents that a majority of the quorum may decide the question voted upon.

1.0025. TIE VOTE

Tie votes shall be lost motions and may be reconsidered.

1.0026. CHANGING VOTE

A Commissioner may change his/her vote only if he/she makes a timely request to do so immediately following the announcement of the vote and prior to the time that the next item in the order of business is taken up. A Commissioner who publicly announces that he/she is abstaining from voting on a particular matter shall not subsequently be allowed to withdraw his/her abstention.

1.0027. ORDINANCES, RESOLUTIONS, AND CONTRACTS

All ordinances, resolutions and contract documents shall, before presentation to the Commission, be approved as to form and legality by the City Attorney and shall have been examined and approved for administration by the City Manager or RA.

1.0028. CHAIR, ELECTION AND TERM, DUTIES GENERALLY

The Commission shall elect the Chair. He/she shall be elected to such office for a term of one (1) year. No Commissioner may hold the office of Chair for more than two (2) successive terms of one (1) year each. Except for the first election of the Chair, the election for Chair shall be held at a regular meeting.

1.0029. PUBLIC HEARINGS

The following procedural rules shall apply to all public hearings before the Commission. All other requirements of these Administrative Rules shall apply to such public hearings, where not inconsistent with the provisions of the Section. As used herein, the term "public hearing" shall

include all hearings on application for capital improvement adjustments, reduction or decreases in services or amenities adjustments, and net operating income adjustments.

A. Duties of Presiding Officer. The Presiding Officer shall have the authority to:

1. Administer oaths and affirmations.
2. Rule on offers of proof and receive relevant evidence.
3. State each question coming before the Commission, announce all decisions of the Commission on all subjects, and control the course of the hearing.
4. Rule on procedural requests.
5. Take such other actions as are authorized by the YMC, these Administrative Rules, and any other duly adopted ordinances, resolutions, rules and regulations by the City Council and/or the Commission pursuant to the YMC.

The functions of the Presiding Officer and the Commission shall be performed in an impartial manner.

B. Legal Counsel Representation and Participation under YMC §15.20.080(B), 15.20.090, 15.20.100 and 15.20.115.

1. All parties may be, but are not required to be, represented by legal counsel.
2. The Commission, staff, and the City Council, in the case of any appeal of the Commission's decision, may be assisted and advised by legal counsel. However, separate counsel shall be provided to each and the counsel representing staff shall not communicate with counsel for the Commission concerning the application or appeal under consideration, except concerning procedural matters, such as the dates and locations of public hearings, and except during the public hearing. Counsel for staff and counsel for the Commission shall not communicate with the counsel for the City Council concerning the appeal of any Commission decision except concerning procedural matters, such as the dates and locations of public hearings, and except during the public hearing.

C. Rules of Evidence.

1. Representatives of the City staff, the Commission and the City Council, representatives of the applicant, representatives of the residents of the applicant mobilehome park, and any other interested person, party or entity, shall have these rights: to call and examine witnesses; to introduce exhibits; to discuss evidence directly with the Commission without an attorney; to cross-examine opposing witnesses on any matter relevant to the issues contained in the application even though the matter was not covered on direct examination; to impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence against him/her.

2. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant and credible evidence, as defined in these administrative rules shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence or objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in and of itself to support a finding unless it would be

admissible over objections in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded. The evidence received shall be relevant to the specific rental adjustment, which is the subject of the application, as provided in Subsections (3) through (8), below.

3. Notwithstanding the provisions of Subsection (2) above, all evidence in the form of testimony and written documents pertaining to any application being considered at the public hearing must be relevant to determine whether an applicant is entitled to an increase or decrease in rents pursuant to the capital improvement, reduction or decrease in services or amenities, or net operating income adjustment provisions of the YMC and these Administrative Rules, pursuant to which the application seeks a modification to rents.

4. All evidence, whether it be in the form of oral testimony or written documents, which is not relevant to enable the Commission to determine whether a park owner is entitled to the increase being sought in the application, or the decrease being sought by the residents in the application, under the operation of the YMC and these Administrative Rules, shall be excluded from the Commission's consideration by the Presiding Officer.

5. Except as provided elsewhere in these Administrative Rules, or as provided in the YMC, the Commission shall hear all offered testimony and receive all offered documentary evidence relevant to determine whether the particular application (capital improvement, reduction or decrease in services or amenities, or net operating income adjustment) shall be granted under the YMC and these Administrative Rules.

6. Evidence Outside the Hearing. The provisions of Section 1.0010 shall apply to all hearings on capital improvement, reduction in services or amenities, or net operating income adjustment applications.

7. Submission of Evidence Not Previously Reviewed by Staff. All applicants for capital improvement, reduction or decrease in services or amenities, net operating income or fair return adjustments shall comply with the time deadlines set forth in Section 1.0008 and any other provision of these Administrative Rules concerning the submission of any documents and other written evidence in support of or in opposition to any application. The Commission shall not accept as evidence written or documentary materials that were not submitted within the timelines specified in the YMC and these Administrative Rules unless good cause is shown why the materials could not have been submitted earlier. If the Commission determines that good cause has been shown the materials shall be accepted. If good cause is not shown, the materials will become part of the official record but will not be considered by the Commission. Any such materials that are accepted shall be provided to all parties and a recess shall be called to allow the opposing party or parties and the Commission time to review the new materials. If the new materials that are accepted are extensive or if the Commission determines the opposing party would be prejudiced unless allowed time to analyze the new materials and prepare a response, the hearing shall be continued. Nothing in this Subsection shall preclude oral testimony by any person at the hearing on any application.

8. Requests for Production of Evidence. Any Commissioner or Staff member may request the attendance of witnesses and/or the production of books or other documents by proponents, opponents or their interested parties during the course of the hearing or any other matter pending before the Commission (including at any point in time after an application has

been filed) if: (1) the evidence sought would be helpful or necessary to the Commission's determination as to whether the applicant is entitled to the relief requested; or (2) the evidence would be helpful or necessary to the Commission's exercise of its powers or duties.

If any evidence requested by a Commissioner or staff member is not available at the time of the hearing or other proceeding before the Commission, the hearing or other proceeding may be continued pursuant to Section 1.0029 (D) to allow time for the production of evidence or witnesses sought.

D. Adjournment; Continuances. Any hearing being held, noticed, or ordered to be held by the Commission may, by motion, second and majority vote of the quorum of the Commission, be adjourned or continued to another date and time upon the consent of the applicant and the opponents, or upon a finding of good cause by the Commission. Notice of adjournment or continuance shall be posted in conformity with Government Code Sections 54955 and 54955.1; provided that, if the hearing is continued to a time less than twenty-four (24) hours after the time specified in the order of hearing, a copy of the order or notice of continuance shall be posted outside the meeting room immediately following the meeting at which the order of continuance was made.

E. Quantum of Proof and Evidentiary Standard. The applicant shall have the burden of proving entitlement to the rent adjustment sought. The decisions of the Commission shall be supported by substantial evidence in light of the entire record of the proceedings. Evidence is substantial when it is relevant, credible and reliable and provides enough information, together with the reasonable inferences from that information, to support a conclusion even though other conclusions might also be reached. No decision may be supported solely by hearsay evidence.

F. Decision. The Commission shall consider all evidence properly presented in accordance with the YMC, these Administrative Rules, and any supplemental rules adopted by the Commission, and shall articulate, during the Commission's deliberation at the public hearing, their findings of fact, reasoning and conclusions for their decision on all issues, and shall issue a written decision or determination concerning the application. Said decision shall include findings of fact and conclusions based upon those findings of fact. The decision shall include the determination of the maximum allowable rent for each affected mobilehome space.

1.0030. APPEAL TO CITY COUNCIL

A. In reviewing an Appeal from a Resolution of the Commission deciding a petition for a Capital Improvement rent increase, or a petition for a rent adjustment based on adjusted NOI, the City Council shall:

1. Limit its review to the record of the proceedings, including the resolution of the Commission, the verbatim transcripts of proceedings before the Commission, staff reports, and exhibits and reports, which were considered and/or approved by the Commission during its hearings. The City Council may provide guidelines for submission of written briefs, and may (but is not required to) permit limited oral argument on certain issues or all issues decided by the Commission;

2. Determine whether, in light of the record, "substantial evidence" exists in the Record to support the Commission's decision;

3. Determine whether the findings set forth in the Resolution of the Commission, which is the subject of the appeal, are supported by the evidence;

4. Determine whether the Commission's actions and decision were undertaken in accordance with the City's duly-enacted Rent Stabilization Ordinance and whether the Commission's interpretation of the pertinent sections of the YMC was reasonable. If such substantial evidence is found to exist, the City Council should uphold the decision of the Commission. If the Commission's actions or decisions are found lacking, the City Council may either decide the matter differently or refer it back to the Commission, with directions, for further consideration; and

5. Make any further findings and determinations, which the City Council determines to be reasonable and necessary in deciding the appeal.

B. The application fee for Appeals to the Rent Review Commission of Staff Determinations and Appeals to the City Council of Rent Review Commission Determinations shall be \$1,750.00 per application, plus the costs of transcripts of any underlying proceedings from which the appeal is made. The application fee shall be paid in full and collected by the City prior to setting the appeal hearing of either the Rent Review Commission or City Council.

1.0031. INTERPRETATION AND MODIFICATION OF ADMINISTRATIVE RULES

A. The Council shall adopt and shall be the sole approving body of these Administrative Rules. Any amendment to these Administrative Rules shall be made by resolution and shall be submitted to the City Council for review and approval.

B. The Commission may adopt its own supplemental rules and regulations to approve forms, set the dates, times and places of Commission meetings, appoint a chairperson, hearing officer, and other officer as is necessary, appoint subcommittees as needed, and such other rules not inconsistent with the YMC or these Administrative Rules. Any amendments to the Commission rules shall be subject to Commission review and approval.

CHAPTER 2. REGISTRATION

2.0001. PURPOSE

The purpose of mobilehome park registration is to enable the Commission to control and monitor rents as mandated by the YMC. Park owner registration will provide the Commission with information necessary to facilitate the implementation of these Administrative Rules.

2.0002. SWORN AFFIDAVIT OR DECLARATION

All registration forms, and any documentation accompanying any registration forms, shall be complete, and 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. A designated agent shall either be a principal in a licensed property management company, which is contractually bound to operate and manage the mobilehome park, or an individual (not an on-site manager), who is employed by a property owner for the sole purpose of operating the mobilehome park business. This designated agent will provide a declaration, under penalty of perjury, with the registration form affirming that he/she/it has a

contractual arrangement that gives he/she/it authority to operate and manage all aspects of the mobilehome park business.

2.0003. LEASED SPACES

In the event a mobilehome park owner believes that his/her park contains any space which is subject to a lease, which exempts that space from rent regulation pursuant to the California Mobilehome Residency Law (Civil Code Section 798, et seq.), the park owner shall submit documentation setting forth the lease terms, rents, provision for rental increases, execution dates and expiration dates, and any other information necessary to demonstrate compliance with Civil Code Sections 798 et seq.

In the event that a resident or park owner questions the terms of a long-term lease, he/she may request that the RA review the terms to determine whether it satisfies the requirements for a long-term lease exemption from rent control.

2.0004. SUBMISSION OF COMPLETE INFORMATION REQUIRED

A registration form shall be accepted for filing by the RA only if it contains all information required by the YMC and these Administrative Rules, including but expressly not limited to the required registration fee, affidavit or declaration under penalty of perjury, and leased space information. No park owner shall be permitted to apply for any rent adjustment until the RA has accepted the park registration form.

2.0005. TIMES WHEN REGISTRATION IS REQUIRED

Registration is required at the following times:

A. Initial Registration. Initial registration is required on or before January 31, 1991, within thirty (30) days after the effective date of the Ordinance.

B. Annual Registration. Annual registration is due no later than the 31st day of January each year and shall include the following items:

1. The rents charged for each space in the park.
 2. The services/utilities provided as part of the rent.
 3. The services/utilities charged separately from the rent.
 4. List of amenities provided in park.
 5. Which spaces are subject to a long-term lease, pursuant to California Civil Code Sections 798 et seq., and the lease terms, rents, provisions for rental increases, and execution and expiration dates, for each lease.
 6. A registration fee worksheet.
 7. Registration fee.
 8. Significant maintenance performed in the preceding year.
- C. New Lease/Renewed Lease Registration. Pursuant to YMC §15.20.110(C).

2.0006. DELINQUENT REGISTRATION

A park owner who fails to comply with the registration provisions outlined in these Administrative Rules or YMC §15.20.110 shall not be entitled to charge, collect, retain, or apply for any rent increase permitted by the YMC until a determination is made by the RA that the park owner has brought the park into full compliance with the registration provisions outlined in these Administrative Rules and the YMC.

2.0007. REGISTRATION FEES

A. The fee determined in accordance with these Administrative Rules shall accompany any registration form submitted to the City.

B. Initial and Annual Registration. The Yucaipa City Council has established an initial and annual registration fee of \$85.44 per space not exempt from the YMC. The total registration fee is due and payable on or before January 31st of each year. One half (\$42.72) of this fee may be passed on to residents of those spaces subject to the YMC, in twelve (12) equal monthly installments of \$3.56. This fee may be included in the monthly statement of rent due, but must be itemized separately, and shall not be deemed to be a part of the rent or included in the rent base when calculating rent adjustments.

C. Prorated Registration Fees. In the event a space comes under the jurisdiction of the YMC after January 31st of each year, a prorated registration fee shall be due and payable no later than January 31st of the following year as part of the Annual Registration application. The total prorated registration fee shall be calculated by determining the number of months remaining in the calendar year, including the initial month the space is subject to the YMC, and multiplying that figure by \$7.12. The resulting figure is the total prorated registration fee for that space. One half of this fee may be passed onto the resident of said space in equal monthly installments of \$3.56. This fee must be noticed in accordance with the provisions of State law. This fee may be included in the monthly statement of rent due, but must be itemized separately, and shall not be deemed to be a part of the rent or included in the rent.

D. Prorated Registration Fee Refund. In the event a space under the jurisdiction of the YMC becomes exempt as outlined in YMC Section 15.20.030 after January 31st each year, a park owner may apply for a prorated refund at the time of the annual registration. The prorated refund for said space shall be calculated by multiplying the total number of months that the space was exempt by \$7.12. The resulting figure may be deducted from the annual registration fee. The park owner may be required to show proof of exemption for any space for which a prorated registration fee refund is requested.

2.0008. DELINQUENT REGISTRATION FEES

A. Penalties. If a park owner fails to pay the required registration fees by January 31st, he/she shall not pass the registration fees through to the tenants. Once the registration fees are paid, the park owner may commence passing the registration fees through to the tenants in accordance with the provisions of Section 2.0007. Failure to pay the required registration fees by a park owner in a timely manner shall also be considered a failure to register as outlined in Section 2.0006.

B. Waiver of Penalties. A waiver of the penalty for failure to pay the required registration fees may be granted by the RA upon a showing of exceptional circumstances beyond

the control of the park owner, which made it impossible for the registration fees to be made in a timely manner.

CHAPTER 3. ANNUAL ADJUSTMENT BASED ON THE CPI

3.0001. ANNUAL ADJUSTMENT BASED ON THE CPI

A park owner may increase the rent on a mobilehome space once every twelve (12) months pursuant to YMC §15.20.080(A). Application for a rent increase pursuant to this subsection shall be made to the RA and may be for one or more spaces. The RA shall grant the application within twenty (20) days of receipt of a complete application if it complies with this subsection. If the application is incomplete or does not comply with this subsection, the RA shall notify the applicant in writing of the reasons it is incomplete or does not comply with this subsection within twenty (20) days of receipt of the application. Commencing in 2002, the CPI index for the Los Angeles-Riverside-Orange County areas, All Urban Consumers for the preceding twelve-month period ending December 31, shall be used in calculating the annual adjustment. The RA shall provide the CPI figure to the park owner by February 1 of each year.

A. Application Approval. An application approval for an Annual Adjustment shall be filed on a form provided by the RA and shall include the following information:

1. The name of the park.
2. The date of the last rent increase for each space and the reason for that increase
3. All spaces for which an Annual Adjustment is being requested.
4. The rent currently being charged for each space.
5. In the event that the application includes a vacant space upon which there is no coach, pursuant to YMC §15.20.050 (B), the last rent in effect prior to the space becoming vacant, or the last rent authorized by the City pursuant to any prior annual adjustment, shall be provided. In the event no rent has ever been charged for that vacant space, the application should so indicate. As used herein, the phrase "the last rent charged" shall mean the last rent, which was actually paid by the most recent resident of that space prior to its vacancy. In the event that there is no prior rent for that vacant space, or the rent which was actually paid is unknown, the initial base rent shall be the average of all space rents for comparable occupied spaces in the park, which were in effect on December 31, 1987, as modified by any annual adjustments granted for any comparable occupied spaces as of the date of filing of a complete application. In the event a space has been vacant for more than one year, the new base rent shall be determined as follows: The last rent charged for the space shall be modified by any annual adjustments granted for comparable occupied spaces as of the date of filing of a complete application. Space rents shall be verified by using information required on, and/or documentation submitted with applicable Schedules of the Annual Registration Application. If space rent information is not provided, no vacant space increase shall be approved. The initial base rent for that vacant space shall be used in determining any subsequent rent adjustments authorized under the YMC.
6. The amount of the proposed Annual Adjustment.
7. The proposed new rent.

B. Method of Calculation. The Annual Adjustment for each space shall be determined in accordance with the following formula:

1. The prior CPI shall be determined. As determined herein, "Prior CPI" shall mean the CPI used in approving the prior annual adjustment or NOI Adjustment (or in effect on the date of the vacancy adjustment).

2. The current CPI shall be determined. As used herein, "Current CPI" shall mean the CPI most recently available as of the date the application is determined to be complete.

3. The CPI used in the Annual Adjustment shall then be subtracted from the current CPI. The resulting sum shall be multiplied by 100. The resulting sum shall then be divided by the prior CPI. The resulting sum shall then be multiplied by 80%. The result or 5%, whichever is less, shall be referred to as the "CPI Increase."

4. Each space rent, as determined pursuant to the last approved adjustment, shall be multiplied by the CPI increase to arrive at the new rent for the space.

C. Notice of Adjustment to Resident. The park owner shall notify the residents affected by the Annual Adjustment in accordance with State law. A park owner shall not notice an Annual Adjustment prior to approval by the RA.

D. Eligibility. For a space to be eligible for an Annual Adjustment the space shall have been subject to rent control for a minimum of twelve (12) months, and the park owner shall be in compliance with these Administrative Rules and the YMC and shall not have had an Annual Adjustment (YMC Section 15.20.080) or Net Operating Income Adjustment (YMC Section 15.20.100) in the preceding twelve (12) months prior to approval by the RA.

In the event a resident questions a charge(s) on his/her monthly or other periodic statement, he/she may request that the RA review the statement to determine whether it satisfies the requirements for authorized fees pursuant to Civil Code Section § 798.31. In the event the RA determines that a park owner has improperly billed a charge, the RA shall instruct the park owner to refund the over-charge, to include interest at the current legal rate.

E. Spaces Previously Exempt. As established pursuant to YMC §15.20.050(B)(4).

F. Park Owned Mobile Home Sold to a Resident. As established pursuant to YMC §15.20.050(B)(2).

G. Vacant Spaces. As established pursuant to YMC §15.20.050(A), (B) and (C).

H. Abandoned Mobile Homes. As established pursuant to YMC §15.20.050(B)(3).

3.0002. CONSUMER PRICE INDEX (CPI).

Consumer Price Index ("CPI") shall mean the CPI published by the Bureau of Labor Statistics for the Los Angeles-Riverside-Orange County Area, All Urban Consumers.

CHAPTER 4. RENT INCREASE BY APPLICATION TO THE COMMISSION

4.0001. FAIR RETURN

It is the intent of YMC Section 15.20.100 to establish rents at a level, which will provide park owners with a fair and reasonable return on investment while protecting the residents from excessive rent increases.

4.0002. APPLICATION FORM

All applications for a rent increase must be submitted on a form provided by the RA.

4.0003. NET OPERATING INCOME (NOI) APPLICATION

A park owner may apply to the Rent Review Commission for a rent increase for the park on the grounds that the rent increases described in Chapter 4 of these Rules and YMC Section 15.20.100 do not provide a just and reasonable or fair return based on a maintenance of net operating income ("MNOI") formula. This type of application shall be referred to as an MNOI or NOI Application.

The Application fee for a NOI Application shall be \$1,750.00 per application, and shall be paid prior to the application being declared complete.

A. 1987 CPI. For the purposes of calculating rent adjustments under the provisions of this Chapter, the December 31, 1987 Consumer Price Index figure is 114.8.

B. "Current" CPI. For the purposes of calculating rent adjustments under the provisions of this Chapter, the "Current" CPI shall be the CPI last reported as of the date the application is declared complete. Staff shall be responsible for determining the "Current CPI". For purposes of this provision, CPI shall be as defined in Section 3.0002.

C. Leased Spaces, Vacant Spaces and Calculation of the NOI Adjustment. Except as otherwise provided in Section 4.0003(H) of these Rules, when calculating the NOI adjustment pursuant to YMC 15.20.100, the park's NOI shall be calculated for all spaces in the park, including month-to-month spaces, vacant spaces, and all spaces subject to long-term leases as defined in the California Mobilehome Residency Law (Civil Code Sections 798 et seq.). However, only those spaces, which are month-to-month spaces shall receive a rental increase, based upon a prorated allocation of the NOI adjustment among all spaces in the park. Exempt leased spaces shall continue to be regulated by the provisions of their leases. Vacant spaces shall continue to be assigned the last rent in effect prior to the vacancy, as modified by any annual adjustment approved by the City during any such vacancy pursuant to YMC 15.20.050.

D. Definitions. For purposes of space rent adjustment proceedings, the following definitions shall be used:

1. "Net Operating Income" or "NOI" means Gross Income less Operating Expenses.
2. "Gross Income" is defined as follows:
 - a. Gross rents, computed as gross rental income, plus
 - b. Interest from rental deposits, unless directly paid by the park owner to the tenants (interest shall be computed at the rate of 5 ½ % per annum of all deposits unless such deposits earn greater interest), plus
 - c. Late fees, fees collected for services and amenities not included in space rent, including, but not limited to, fees for recreational vehicle storage, cable TV, security, use of recreational facilities, income from coin operated facilities, collections for utility service only if the regulation of rates for the service provided are not pre-empted by regulations of the Public Utilities Commission ("PUC"), plus

d. All other income or consideration received or receivable for or in connection with the use, occupancy or operation of the park.

3. "Operating Expenses" shall include the following:

a. Real property taxes and assessments.

b. Utility expenses . If the utility service is regulated by the Public Utilities Commission (PUC), those utility expenses are not an allowable operating expense except for expenses attributable solely to the common areas if those expenses have been properly separated from expenses attributable to the provision of service to the individual mobile homes.

c. Management expenses (contracted or owner performed), including necessary and reasonable advertising, accounting, insurance, managerial expenses, and allowable legal expenses. Management expenses are presumed to be the same percentage of gross income that were incurred in the base year unless the applicant produces evidence sufficient to justify that expenses increased at a higher rate despite prudent management. In the event the base year expenses are not available they shall be estimated by taking the current expenses and decreasing them downward according to the CPI between the base year and the application year, unless the applicant produces evidence sufficient to establish that management expenses increased at a higher rate despite prudent management.

d. Normal repair and maintenance shall include, but shall not be limited to painting, cleaning, fumigation, landscaping, and repair of all standard services, including furnished appliances, carpeting, recreational facilities, power, electrical, plumbing, sanitary sewer and carpentry.

e. Owner-performed labor, if actually performed by the park owner. Owner-performed labor shall be compensated at the following hourly rates upon documentation being provided, showing the date, time, and nature of the work performed:

General Maintenance: \$10.38/hr

Skilled Labor: \$19.28/hr

Hourly rates will be adjusted pursuant to the change in the Consumer Price Index (CPI) as per §3.0002. Hourly rates for general maintenance and skilled labor will be based on January's index and will be reviewed and adjusted during the biennial review process.

Notwithstanding the above, a park owner may receive greater or lesser compensation for self-labor if it can be shown that the amounts set forth above are substantially unfair in a given case.

There shall be a maximum allowance under this paragraph of five percent (5%) of gross income, unless the park owner demonstrates that such additional expenses were reasonable and consistent with prudent business practices.

f. Operating supplies such as janitorial supplies, gardening supplies, stationery, etc.

g. License and registration fees required by law to the extent same are not otherwise paid by park residents.

h. Amortizable capital expenses. As used herein, amortizable capital expenses shall mean expenses for improvements and replacements which have a useful life of at

least five (5) years and can be depreciated pursuant to the U.S. or California income tax codes, but do not qualify for a capital improvement increase pursuant to YMC Section 15.20.080(B), or Chapter 5 of these Administrative Rules.

i. Repair work done on or in a mobilehome park in order to comply with an order issued by the building department, or to repair damage resulting from fire, earthquake or other natural disaster, to the extent not otherwise covered by insurance.

j. Insurance premiums based on the amount of the annual premium.

k. Other taxes, fees, and permits.

l. Allowable legal expenses, which include attorney's fees and costs incurred in connection with successful actions to evict residents or recover back rent and matters pertaining to the title or operation of the mobilehome park.

4. Operating expenses shall not include:

a. Mortgage principal and interest payments, land lease expenses or any other debt service.

b. Any penalties, fees or interest assessed or awarded for violation of the YMC or any other state or federal law.

c. Attorneys' fees and legal costs in connection with legal proceedings against the Commission or City challenging the YMC or these Administrative Rules, or any other payments made to any organization for purposes of litigating or challenging rent control.

d. Depreciation.

e. Any expense for which the owner has been reimbursed by any insurance settlement, judgment for damages, settlement or any other method.

f. Fees assessed under Section 2.0007 of these Administrative Rules, to the extent reimbursed by park residents.

g. Any late charges incurred by the park owner for failure to pay any registration fee to the City authorized by the YMC.

h. Any expenses to the extent that they resulted due to the park owner's failure to undertake prudent and ongoing maintenance activities or costs which were caused by unnecessarily and unreasonably deferred negligent, or otherwise improper repair and/or maintenance or other acts or omissions of the park owner, including but expressly not limited to, any expenses incurred with regard to vacant spaces. In acting upon a net operating income adjustment application, the Commission may reduce allowable operating expenses to the extent that the Commission finds that any claimed expenses resulted from the park owner's failure to undertake prudent and ongoing maintenance activities or which such costs were caused by unnecessarily and unreasonably deferred negligent or otherwise improper repair and/or maintenance or other acts or omissions of the park owner.

i. Expenses for which a capital improvement increase has been granted shall be excluded and the amount of any amortizable capital expense shall be divided by the number of years in its useful life and only the dividend thereof shall be utilized as an operating expense for any given year in performing NOI calculations.

5. In calculating operating expenses for any year, when:
 - a. An expense item for a particular year is not representative; or
 - b. In the case of base year expenses, when the expense is not a reasonable projection of average past expenditure for that item; or
 - c. In the case of current year expenses, when the expense is not a reasonable projection of future expenditures of that item, said expense shall be averaged with other expense levels for other years or amortized or adjusted by the CPI or may otherwise be adjusted 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.

E. Reasonableness of Operating Expenses. The park owner shall have the burden of proving that all operating expenses are reasonable. Whenever a particular expense exceeds the normal industry or other comparable standard, the park owner shall bear the burden of establishing the reasonableness of the expense. To the extent that the Commission finds any such expense to be unreasonable, the Commission shall adjust the expense to reflect the normal industry or other comparable standard.

F. Schedule of Increases in Operating Expense. Where scheduling of rental increases, or other calculations, require projections of income and expenses because actual data is not available, it shall be presumed that operating expenses and management expenses, exclusive of property taxes, increase at the rate of the increase in the CPI for the applicable year; and that property taxes increase at two percent (2%) per year.

G. Presumption of Base Year Net Operating Income. For the purposes of calculating an NOI Application, it shall be presumed in the absence of evidence to the contrary presented pursuant to Section 4.0004 of these Administrative Rules, that the NOI earned by the mobilehome park in calendar year 1987 provided a just and reasonable return to the park. In the event a park has received a special adjustment since the base year, the income and expense year on which the special adjustment was based shall be deemed the base year for the purposes of evaluating a rent adjustment application.

H. Method of Calculation of NOI Adjustment. The NOI adjustment for the park shall be calculated as follows:

1. As used in these Administrative Rules, the "1987 CPI" shall mean the CPI as defined in Section 4.0003(A) of these Administrative Rules. As used in these Administrative Rules, the "Current CPI" means the CPI most recently available as of the date that the application is determined to be complete.

2. The 1987 Gross Income (or "1987 GI") of the entire park, including leased, vacant and month-to-month spaces, shall be calculated. The 1987 Operating Expenses (or "1987 OE") for the entire park shall be calculated. The 1987 OE shall then be subtracted from the 1987 GI to arrive at the 1987 Net Operating Income (or "1987 NOI"). In the event a park has received a special adjustment since the base year, the income and expense year on which the special adjustment was based shall be deemed the base year for the purposes of evaluating a rent adjustment application.

- a. Method of Calculation of Rent Adjustment upon Changed Vacancy Rate. In the event that there as been an increase of more than three percent (3%) in the vacancy rate

since the base year, the following provisions shall govern the determination of any rent adjustment under this Section 4.0003:

1. The 1987 GI as determined under Section 4.0003 (H) (2), above, shall be divided by the total number of occupied spaces. The resulting sum shall be known as the "1987 GI per rented space."

2. The 1987 OE as determined under Section 4.0003 (H) (2), above, shall be divided by the total number of occupied spaces. The resulting sum shall be known as the "1987 OE per rented space."

3. The 1987 rented space OE shall be subtracted from the 1987 rented space GI to arrive at the 1987 rented space net operating income for the rented spaces. The resulting sum shall be known as the "1987 NOI per rented space."

3. The gross income for the twelve (12) months preceding the date of application (or "current GI"), including leased, vacant and month-to-month spaces, shall be calculated. The operating expenses for the twelve (12) months preceding the date of application (or "current OE"), including leased, vacant and month-to-month spaces, shall be calculated. The current OE shall then be subtracted from the current GI to arrive at the net operating income for the twelve (12) months preceding the date of application (or "current NOI"), for all spaces.

a. Method upon changed vacancy rate. In the event that there has been an increase of more than three percent (3%) in the vacancy rate since the base year, the following provisions shall govern the determination of any rent adjustment under this Section 4.0003:

1. The current GI, as determined under Section 4.0003(H)(3), above, shall be divided by the total number of occupied spaces. The resulting sum shall be known as the "current GI per rented space."

2. The current OE, as determined under Section 4.0003(H)(3), above, shall be divided by the total number of occupied spaces. The resulting sum shall be known as the "current OE per rented space."

3. The current rented space OE shall be subtracted from the current rented space GI to arrive at the current rented space net operating income per rented space. The resulting sum shall be known as the "current NOI per rented space."

4. The 1987 CPI shall then be subtracted from the current CPI, and the difference shall be multiplied by 100. The product shall then be divided by the 1987 CPI to identify the percentage change in the CPI. The percentage change in the CPI shall then be multiplied by 66.67% from December 31, 1987 to October 28, 1996 and 80% of the increase in the CPI from October 29, 1996 to the date that the application is declared complete, and the resulting sum shall be known as the "CPI increase." The CPI increase shall then be multiplied by the 1987 NOI (or adjusted NOI, where applicable). The product of this calculation shall then be added to the 1987 NOI. The sum shall be known as the "Current NOI Entitlement." In cases in which there has been an increase of more than three percent (3%) in the vacancy rate since the base year, the CPI increase shall be multiplied by the 1987 rented space NOI, and the resulting sum shall be known as the "Current NOI entitlement per rented space."

5. The current NOI shall then be subtracted from the current NOI entitlement. The positive difference is the amount of the maximum allowed NOI adjustment for the park or ("the

park's NOI adjustment"). If the difference is negative, then the park owner is not entitled to an NOI adjustment.

a. In the event that there has been an increase of more than three percent (3%) in the vacancy rate since the base year, the current NOI per rented space shall be subtracted from the current NOI entitlement per rented space. The positive difference is the maximum allowed NOI adjustment per rented space. If the difference is negative, then the park owner is not entitled to an NOI adjustment for each rented space.

6. Except as otherwise provided in Subdivision (a) of this Subsection (6), the park's NOI adjustment shall be allocated among all spaces in the park, including month-to-month, vacant and leased spaces, provided that, no adjustment shall be added to any space rent for a space currently exempt from rent control pursuant to the California Mobilehome Residency Law (Civil Code Section 798, et seq.), and no adjustment shall be added to any vacant space. A prorated amount of the park's NOI adjustment shall be allocated to the individual regulated spaces. To allocate NOI to regulated spaces, the allocation should be made by multiplying the park's NOI adjustment calculated pursuant to Section 4.0003(H)(5), above, by a fraction which is the number of regulated rental months divided by the total annual rental months for the park.

Exempt leased spaces shall continue to pay the space rent required pursuant to their individual leases. Vacant spaces shall continue to be assigned the space rent that was in effect immediately preceding the vacancy, or the most recent annual adjustment approved by the City for that vacant space under the YMC and these Administrative Rules.

a. Rent Adjustment upon Changed Vacancy Rate. In the event that there has been an increase of more than three percent (3%) in the vacancy rate since the base year, the following provisions shall govern the allocation of the rent adjustment. The NOI adjustment per rented space calculated in Section 4.0003(H)(5)(a), above, shall be the maximum rent adjustment imposed on each month-to-month space. Vacant spaces shall continue to be assigned the space rent that was in effect immediately preceding the vacancy, or the most recent annual adjustment approved by the City for that vacant space under YMC Section 15.20.050(C) and these Administrative Rules.

7. In determining operating expenses when there has been an increase of more than three percent (3%) in the vacancy rate since the base year, calculations of base year and current year operating expenses may be adjusted by the Commission so that a reasonable comparison of the expense charges associated with rented spaces is obtained for the purpose of comparing base year and current year operating expenses and to adjust for in operating expenses due to the increased vacancy rate.

I. Notice of NOI Adjustment. A NOI Adjustment is a rent increase, which must be noticed in accordance with State law.

J. Park Owner Did Not Own Subject Property in Base Year. In the event the park owner did not own the subject property during the base year, the operating expenses for 1987 shall be determined based upon the previous owner's actual expenses as defined in Section 4.0003(D). In the event that an applicant does not have and cannot obtain records due to circumstances beyond the applicant's control (e.g., when the records no longer exist, were destroyed by fire or flood, when the prior owner will not provide the necessary documents), the Commission may consider actual operating expenses for the first calendar year of ownership, discounted to the base year by the schedule in Section 4.0003(F). This provision would not

apply to an applicant who refuses to provide documents and information on the ground that it is unnecessary, unreasonably burdensome or irrelevant.

4.0004. ADJUSTMENT TO 1987 NOI

A. Rebutting the Presumption of a Fair Return in 1987. YMC Section 15.20.100(A) provides that in the absence of evidence to the contrary that it shall be presumed that the 1987 NOI provided a fair return. YMC Section 15.20.100(B) provides that the owner may rebut this presumption by presenting evidence that the park's 1987 NOI was insufficient to provide a fair return based on one or more of the following circumstances:

1. The park's operating expenses in 1987 were unusually high despite prudent business practices. Evidence that unusual repairs were required, an uninsured loss from natural events or vandalism occurred or that the park was unable to perform necessary repairs or maintenance in prior years resulting in unusually high expenses in 1987 could be used to establish this circumstance.

In this circumstance, the calculation of the park's 1987 NOI may be adjusted by substituting the average of the park's operating expenses over a reasonable time or the average operating expenses in comparable parks in 1987 for the park's actual 1987 operating expenses.

2. Gross income was disproportionately low in 1987 despite prudent business practices. Evidence of a large number of vacancies arising from evictions for cause under State law or the voluntary removal of homes from a park could be used to establish this circumstance. This circumstance might also arise during the initial years of a park's operation before it has been filled. In this circumstance, the calculation of the 1987 NOI may be adjusted by adding the difference between actual 1987 gross income and that which would have been earned but for this circumstance to the park's 1987 gross income.

3. The rent during 1987 was disproportionately low when compared to rents being charged in comparable parks in 1987 in the City. Evidence that there were no rent increases during 1987 or rents were not established in arm's-length transactions and rents were below those in comparable parks because lower or fewer increases had been imposed in a park than in comparable parks in 1987 or prior years, could be used to establish this circumstance. In this circumstance, the calculation of the 1987 NOI may be adjusted by increasing rental income from those spaces which were charged a disproportionately low rent by the difference between the rents actually charged in the park and the rents charged in comparable parks in 1987.

4. Capital improvements were made during 1987, but were not reflected in rent increases collected in 1987. Evidence that the improvement is completed and operational and evidence of the cost incurred is required to establish this circumstance. In this circumstance, the calculation of the 1987 NOI may be adjusted by adding to the park's gross income the amount of the additional annual revenue which would have been received if a rent increase equal to the cost of the improvement, divided by its useful life and divided by the number of spaces, had been charged during each month of 1987.

5. The rent in 1987 was not sufficient to provide a just and reasonable return by providing evidence of the return actually earned by the park in 1987 and of the return earned by comparable parks in the city in 1987. Examples of the type of information that may be used to establish this circumstance include evidence of the investment in the park, the return earned on that investment, the purchase price of the park and its net operating income in 1987, prior years

and subsequent years, and the same information for comparable parks in the City. In this circumstance, the calculation of the 1987 NOI shall be adjusted by adding to the park's 1987 gross income, the amount of rental income required to provide a just and reasonable return in 1987.

B. Burden of Proof. In order to qualify for an adjustment to the 1987 NOI under YMC Section 15.20.100, the owner shall have the burden of proving the existence of one of the circumstances enumerated above and in YMC Section 15.20.100, and of providing reliable, credible evidence of the rents, operating expenses, gross income, NOI and return on investment at the park and comparable parks or of the capital improvement costs which are necessary to make the appropriate adjustment to the 1987 NOI under Section 4.0004(A). In reviewing the evidence and comparing rents, gross income, operating expenses, NOI and return on investment at the park with those at comparable parks, the term "comparable park" shall mean a park in the City subject to the YMC, which has similar quality, number and type of amenities, construction and services, is located in a similar neighborhood and provides similar access and proximity to schools, medical and educational facilities, recreation, entertainment, parks, shopping and other services and amenities and is similarly maintained as the applicant's park.

4.0005. FAIR RETURN PROVISION

A park owner may rebut the presumption that the increase calculations provided in YMC Section 15.20.100(A) and Section 4.0003 of these Administrative Rules and modified by YMC Section 15.20.100(B), and in Section 4.0004 of these Administrative Rules, are sufficient to provide a just and reasonable return by presenting evidence that the rate of return being earned by the mobilehome park is not just and reasonable.

A. Burden of Proof. The park owner shall have the burden of proving the park is not earning a just and reasonable return.

B. Relevant Evidence. The Commission shall consider all relevant evidence, including, but not limited to:

1. The rents being charged for spaces subject to the YMC in comparable mobilehome parks subject to the YMC in the City of Yucaipa.
2. The capitalization rate being earned by the mobilehome park in the application year, each of the preceding five years, and in the first year after the park was purchased. For purposes of this section capitalization rate means the ratio of a park's NOI to its purchase price.
3. The capitalization rate associated with the purchase of comparable mobilehome parks in the application year and the preceding five years.
4. The mobilehome park's pattern of income and expenses over each of the past five (5) years.
5. The quality of the services, amenities and maintenance provided at the mobilehome park and any decrease or increase in services, maintenance and amenities.
6. Any evidence of delay on the part of the park owner in seeking a rent increase pursuant to this section. If the Commission finds that the park owner unreasonably delayed in submitting a rent increase application pursuant to this section, the Commission may, at its

discretion, grant a rent increase to be implemented in increments over a period not greater than the period of delay.

C. Comparable Parks. As used in Section 4.0005, the term "comparable park" is defined in Section 4.0004(B) of these Administrative Rules.

4.0006. ALLOWABLE RENT ADJUSTMENTS AND APPLICATIONS FOLLOWING NOI ADJUSTMENTS

Following approval of an NOI adjustment by the Commission, a park owner shall not apply for an Annual Adjustment pursuant to YMC 15.20.080(A) and Chapter 3 of these Administrative Rules, until the expiration of at least twelve (12) months following the approval of the NOI adjustment under Sections 4.0003, 4.0004 or 4.0005 of these Administrative Rules. A park owner may apply for a capital improvement rent adjustment pursuant to YMC Section 15.20.080(B) and Chapter 5 of these Administrative Rules, at any time following approval of the NOI adjustment.

CHAPTER 5. ADJUSTMENTS BASED ON CAPITAL IMPROVEMENTS

5.0001. DEFINITION

Capital improvement is defined by the YMC to mean the installation of new improvements and facilities and/or the replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance or repairs, have a useful life of at least five (5) years and have been consented to by fifty-one percent (51%) of the spaces in the mobilehome park or are necessary for the health and safety of the park, its residents or its neighbors. A capital improvement shall be established under the standard applicable under the law at the time the application is filed. Nothing in this Chapter shall prohibit a park owner from performing a capital improvement if the park owner chooses not to apply for a rent adjustment under the provisions of the YMC or this Chapter.

5.0002. APPLICATION FEES

The Application fee for a Capital Improvement Application shall be \$1,750.00 per application, which shall be paid prior to the application being declared complete.

5.0003. CALCULATION OF ALLOWABLE INCREASES

Straight-line depreciation based on the useful/amortizable life of an improvement shall be used to calculate the allowable capital improvement rent increase for the improvement. Useful/amortizable life shall mean, that period of time during which a particular improvement will, in the opinion of professionals (such as architects, engineers, contractors, and accountants), remain functional with only ordinary maintenance and/or repairs. The RA shall evaluate the useful/amortizable life of an improvement for which a capital improvement rent increase is sought. To apply straight-line depreciation in calculating the allowable rent increase, the RA

shall divide the total cost of the improvement by its useful/amortizable life and then divide the result of that calculation by twelve and then by the number of spaces in the park.

For example, the allowable capital improvement rent increase for a street replacement costing \$10,000 and having a useful/amortizable life of ten (10) years is calculated as follows:

$$\begin{array}{r} \$10,000.00 \\ \hline 10 \text{ years} \end{array} = \$1,000.00 \text{ annual amortization.}$$

$$\begin{array}{r} \$ 1,000.00 \\ \hline 12 \text{ months} \end{array} = \$83.33 \text{ monthly amortization cost.}$$

$$\begin{array}{r} \$ 83.33 \\ \hline 30 \text{ spaces} \end{array} = 2.78 \text{ monthly rent increase per space for 10 years.}$$

5.0004. AMORTIZATION

A. Capital Improvements shall be amortized in accordance with the following schedule; or, if not itemized therein, in accordance with any useful life table utilized by the Internal Revenue Service. An asterisk (*) next to the number shown below indicates that if the improvement is performed during initial construction, it shall be depreciated as a part of the building over thirty-one and a half (31.5) years.

Improvement	Amortization Period In Years
Air Conditioners	7
Appliances (other than those listed)	7
Cabinets	7
Carpentry	10*
Carpeting	7
Dishwasher	7
Doors	10*
Dryer	7
Electrical Wiring	15*
Elevator	20*
Fan	7
Fencing	15
Fire Alarm System	7
Fire Escape	15
Floor Covering (linoleum or vinyl)	7*
Flooring	7*
Furniture	7

Garbage Disposal	7
Gates	15
Gutters	15
Heating	10*
Insulation	10*
Landscaping	15
Locks	7
Painting (exterior)	7
Paving	15
Plastering	10*
Plumbing	10*
Pumps	7
Refrigerator	7
Roofing	10*
Security Entry Telephone Intercom	7
Smoke Detector	7
Stove	7
Stucco	10*
Washing Machine	7
Water Heater	7
Window Coverings	7

B. In general, a capital improvement should not be amortized over a period which would yield a monthly per space increase over ten percent (10%). In such a case, a longer amortization period may be appropriate. The percent increase represented by a particular capital improvement rent increase shall be calculated by dividing the proposed capital improvement rent increase by the amount of the existing base rent.

Thus, in the case of the above street replacement example, the percent increase is calculated as follows:

$$\text{\$ } 2.78 \text{ (proposed capital improvement rent increase)} = 2.1\% \text{ (increase)}$$

$$\text{\$}130.00 \text{ (existing base rent)}$$

5.0005. COST OF THE CAPITAL IMPROVEMENT

The applicant shall provide documentary evidence of the actual cost incurred for the capital improvement. The cost thereof shall include the interest expense incurred on money borrowed to pay for the capital improvement or a part thereof. In the event that the applicant used his/her own funds to pay for the improvement, interest at the rate equal to the prime rate, plus 2½ percent as of the date of the application, computed over a reasonable amount of time shall be included as a part of the capital improvement cost. In determining the reasonable amount of time over which interest shall be allowed, the RA shall be guided by the current practices of state and federally chartered banks and/or savings and loan associations as to the length of time for repayment of improvement loans, provided, however, that the time shall not exceed the amortization period determined by the RA and used in calculating the allowable capital improvement rent increase.

5.0006. IMPROVEMENTS NECESSARY FOR HEALTH AND SAFETY

Examples of improvements necessary for health and safety include, but are not limited to the following, and shall be established under the standard applicable under the law at the time the application is filed are:

- A. Replacement of plumbing, electrical, water and sewer lines necessary to conform to City and State ordinances, statutes, codes and regulations and maintain habitability standards and;
- B. Replacement of roads, which have become dangerous and are necessary for ingress, egress and safe vehicular and pedestrian movement within a park.
- C. Replacement of an amenity such as a swimming pool is not a capital improvement necessary for health and safety, but such an amenity must be shut down if it becomes unsafe, dangerous or fails to conform to health and safety regulations.

5.0007. IMPROVEMENTS UNNECESSARILY DEFERRED

In reviewing and acting upon a capital improvement rent adjustment application, the RA, or the Commission on any appeal, shall consider whether the costs of the capital improvement, in whole or in part, could have been minimized or avoided by the park owner through prudent and ongoing repair and maintenance activities. To the extent that the need for or extent of the claimed capital improvement was exacerbated through unnecessarily deferred, negligent or otherwise improper repair and maintenance or other acts or omissions of the park owner, said costs shall be disregarded, and the RA (or Commission, on appeal), shall modify, reduce or deny the capital improvement rent adjustment application in whole or in part accordingly, as determined in the discretion of the RA or the Commission (on appeal). The RA or Commission, on any appeal, may further condition the approval of any capital improvement rent adjustment application in order to ensure that future ongoing repair and maintenance activities will be taken by the park owner to minimize or avoid the need for replacement or reconstruction of said capital improvement in the future. Such conditions include, but are expressly not limited to, a condition providing that should the capital improvement not last the duration of the amortization period, the park owner may not pass on all or a portion of the cost of any replacement or reconstruction of the same capital improvement to the park residents.

5.0008. APPLICABILITY OF THESE ADMINISTRATIVE RULES.

These Administrative Rules shall apply to all Capital Improvements performed after the adoption of the Rent Stabilization Ordinance. A capital improvement increase may be granted if it was completed between April 1, 1988 and the adoption of the moratorium on rent increases by Ordinance No. 36 on June 6, 1990, provided that:

- A. No rent increase has been charged based upon or including the cost of the capital improvement; and
- B. The improvement meets the definition of capital improvements set forth in YMC Section 15.20.020.