CITY OF YUCAIPA

ADMINISTRATIVE RULES

FOR THE IMPLEMENTATION OF THE YUCAIPA MOBILEHOME RENT STABILIZATION ORDINANCE (YMC 15.20)

Revised with the adoption of Resolution No. 2020-17 (04/13/2020)

Legislative History

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Resolution No. 1991-62 (Adopting Rules)	(8/12/91)
Resolution No. 1991-72 (Rescinding Resolution No. 1991-62)	(9/23/91)
Resolution No. 1994-25 (Rescinding Resolution No. 1991-72)	(7/25/94)
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Resolution No. 1999-26 (Rescinding Resolution No. 1997-18)	(11/8/99)
Resolution No. 1999-33 (Rescinding Resolution No. 1996-38)	(11/8/99)
Resolution No. 2001-32 (Rescinding Resolution No. 1999-33)	(10/22/01)
Resolution No. 2001-35 (Amending Resolution No. 1999-26 Section 2.0002)	(11/26/01)
Resolution No. 2002-04 (Rescinding Resolution No. 1999-26 and 2001-35)	(1/28/02)
Resolution No. 2003-40 (Rescinding Resolution No. 2002-04)	(11/24/03)
Resolution No. 2006-39 (Amending Resolution No. 2001-32 Section 1 and Resolution No. 2003-40 Section 2.0008 (A)(B)(C))	(9/25/06)
Resolution No. 2007-03 (Repealing Resolution No. 2001-32 and Replacing/Consolidating Resolution Nos. 2003-40 and 2006-39)	(1/22/07)
Resolution No. 2007-43 (Amending Resolution No. 2007-03 Section 2.0007 (B)(C)(D))	(9/10/07)
Resolution No. 2008-42 (Rescinding Resolution No. 2007-43 and Amending Resolution No. 2007-03 Section 2.0007 (B)(C)(D))	(9/8/08)
Resolution No. 2009-48 (Rescinding Resolution No. 2008-42 and Amending Resolution No. 2007-03 Section 2.0007(B)(C)(D))	(9/28/09)
Resolution No. 2010-44 (Rescinding Resolution No. 2009-48 and Amending Resolution No. 2007-03 Section 2.0007(B)(C)(D))	(9/13/10)

Resolution No. 2011-52 (Replacing and Consolidating Resolution Nos. 2007-03 and 2010-44)	(8/8/11)
Resolution No. 2011-60 (Amending Resolution No. 2011-52 Section 2.0007(B)(C)(D))	(9/26/11)
Resolution No. 2012-02 (Amending Resolution No. 2011-52 Sections 6.0003(G), 7.0003(B), 7.0005(C), 7.0006(A) and (C)) (to correct inconsistencies)	(1/9/12)
Resolution No. 2012-58 (Amending Resolution No. 2011-60 Section 2.0007(B)(C)(D))	(9/10/12)
Resolution No. 2013-50 (Amending Resolution No. 2011-52 Section 2.0007(B)(C)(D))	(9/16/13)
Resolution No. 2014-55 (Rescinding Resolution No. 2013-50 and Amending Resolution No. 2011-52 Section 2.0007(B)(C)(D))	(9/8/14)
Resolution No. 2015-52 (Rescinding Resolution No. 2014-55 and Amending Resolution No. 2011-52 Section 2.0007 (B)(C)(D))	(9/14/15)
Resolution No. 2016-44 (Amending Resolution No. 2011-52, Adding Section 5.0010; renumbering Section 5.0010 as 5.0011, and amending Sections 6.0004(E)(1) and 6.0004(G) (Effective 10/26/16)	(9/12/16)
Resolution No. 2016-45 (Rescinding Resolution No. 2015-52 and Amending Resolution No. 2011-52 Section 2.0007(B)(C)(D))	(9/26/16)
Resolution No. 2017-41 (Rescinding Resolution No. 2016-45 and Amending Resolution No. 2011-52 Section 2.0007(B)(C)(D))	(9/11/2017)
Resolution No. 2017-48 (Amending Resolution No. 2011-52 Sections 3.0001(b)(3), 4.0006(g), 6.0002(b), and 6.0004(b)(10)	(11/13/2017)
Resolution No. 2018-43 (Rescinding Resolution No. 2017-41 and Amending Resolution No. 2011-52 Section 2.0007(B)(C)(D))	(9/10/2018)
Resolution No. 2019-04 (Amending Resolution No. 2011-52, Sections 3.0001, 3.0002, and 4.0003(H)(4)	(3/11/2019)
Resolution No. 2019-34 (Rescinding Resolution No. 2018-43 and Amending Resolution No. 2011-52 Section 2.0007(B)(C)(D))	(8/26/2019)
Resolution No. 2020-10 (Amending Resolution No. 2011-52, Sections 1.0008, 3.0001, 4.0002, 4.0006 and 7.0004)	(effective 5/13/2020)
Resolution No. 2020-17 (Amending Resolution No. 2011-52 Section 3.0001)	(4/13/2020)

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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 shall 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, or 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 and other laws of the State of California.

1.0008. COMMISSION AGENDA

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

A. As used in these Rules, the term "agenda' means all staff reports, communications, resolutions, contract documents, proposals, expert reports, applications, oppositions, appeals, and other documents or matters to be submitted to the Commisison at a meeting. Except as otherwise provided in Subsection (B) and (C), below, or Section 1.0029 of these Administrative Rules, concerning public hearing items, all agendas 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 15.20.085), any rent adjustment based on discontinuance or reduction in a service or amenity (YMC Section 15.20.090), or any MNOI, readjustment to base year NOI, and/or fair return rent 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) – Rent Stabilization Program and these Administrative Rules.

As used herein, the term "application" shall have the meaning set forth in Section 4.0002(A)(1)(a) of these Rules. The applicant shall submit at least one copy of each such application to the City, along with an electronic copy (jpeg or pdf format). Concurrently with the filing of the application with the City, the applicant shall post a notice of the filing of the application, along with a copy of the application, in each of the following locations in the park for review and inspection by the park residents: the park office, the park clubhouse, and one other park location open to the residents during regular business hours. The notice shall contain all information and certification required by the City-approved notice form. The park owner shall maintain the notices and copies of the application (including but not limited to, any supplemental or additional information and documentation submitted to the City following the initial submittal of the application) in those designated locations for review and inspection by the park residents until the City has issued a final decision on the application. The park owner shall also serve one copy of the application on the park resident representative. The application shall include an affidavit or declaration, signed by the applicant under penalty of perjury, certifying that such service and posting have been made and that the representations and information set forth in the application are true and correct. The affidavit or declaration shall provide all information and certifications required by the City-approved form.

C. All oppositions to any application for any capital improvement adjustments (pursuant to YMC Section 15.20.085), any rent adjustment based on discontinuance or reduction in a service or amenity (YMC Section 15.20.090), or any MNOI, readjustment to base year NOI and/or fair return rent adjustment (YMC Section 15.20.100), shall be submitted to the RA in accordance with the requirements of Chapter 15.20 of the Yucaipa Municipal Code (YMC) – Mobilehome Park Rent Stabilization Program and these Administrative Rules.

1. As used herein, the term "opposition" shall have the meaning set forth in Section 4.0002(A)(1)(c) of these Rules.

2. Oppositions to rent adjustment applications shall be submitted in accordance with the following time requirements:

a. Any person wishing to submit any written opposition to an application for a capital improvement rent adjustment under YMC Section 15.20.085 or a special rent adjustment under YMC Section 15.20.100 shall submit at least one copy of such written opposition, along with an electronic copy (jpeg or pdf format), to the RA and one copy to the applicant in accordance with the following deadlines:

(i) Not later than the twentieth (20th) day following service of the notice from the RA that the application has been declared complete by the RA, or

(ii) Not later than the twentieth (20th) day following notice from the RA that the park owner will not submit any additional information or documentation to enable the RA to deem the application complete.

b. Any person wishing to submit any written opposition to an application for a rent decrease under YMC Section 15.20.090 shall submit at least one copy of such written opposition, along with an electronic copy (jpeg or pdf format), to the RA and one copy to the applicant, in accordance with the following deadlines:

(i) Not later than the thirtieth (30th) day following service of the notice from the RA that the application has been declared complete by the RA, or

(ii) Not later than the thirtieth (30th) day following service of notice from the RA that the park owner will not submit any additional information or documentation to enable the RA to deem the application complete.

c. The failure or inability of any person to submit the opposition within the time periods specified in subparagraph (a) or (b) of this subsection (2) 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 and containing all information and certifications required by the City-approved form, certifying such service has been made and that all representations set forth in the opposition are true and correct.

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 15.20.085, 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. Group Spokesperson. 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. Duties of Rent Administrator. The RA shall have the authority under YMC Sections 15.20.073, 15.20.080, 15.20.085, 15.20.090, 15.20.100, 15.20.105, 15.20.110, 15.20.115 and 15.20.120, to:

1. Evaluate applications and appeals to determine whether they are complete as required by YMC Chapter 15.20 and these Administrative Rules and require submittal of additional documentation by applicants and appellants as determined to be necessary to deem an application or appeal complete, and make recommendations to the Commission regarding the analysis and merits or rent adjustment applications.

2. Schedule hearings before the Commission on the merits of an application.

3. Schedule appeal hearings before the City Council following issuance of the decision of the Commission on any application or appeal pursuant to the Ordinance and these Rules.

4. Make recommendations to the Commission on any rent adjustment application or the City Council on any appeal.

5. Develop forms, procedures and policies for administration and implementation of the Ordinance to the extent not otherwise covered by these Administrative Rules.

6. Upon the Commission's adoption of its written decision, mail, by first class mail, postage prepaid, a copy of the Commission resolution to the park owner and park residents, and any duly authorized representative(s), along with an affidavit of mailing.

7. Upon the City Council's adoption of its written decision on an appeal, mail by first class mail, postage prepaid, a copy of the City Council resolution to the park owner and park residents, and any duly authorized representative(s), along with an affidavit of mailing.

8. Take such other actions as reasonably necessary to implement and administer the Ordinance and Administrative Rules.

C. Legal Counsel Representation and Participation under YMC Sections 15.20.085, 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.

D. 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.

E. 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.

F. Quantum of Proof and Evidentiary Standard. The applicant shall have the burden of proving entitlement to a rent adjustment, and the amount of 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.

G. 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 an application for a capital improvement rent adjustment, an application for a rent decrease based on discontinuance or reduction of a service or an amenity, an application for an MNOI rent adjustment, an application for a rent adjustment based on readjusted NOI, or an application for a fair return adjustment, 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. Final Decision. At the conclusion of the appeal hearing, the City Council shall issue a Resolution setting forth its decision in writing, including the basis for its ruling, and referencing the limitations period set forth in California Code of Civil Procedure Section 1094.6. The decision of the City Council shall be final on the date that the RA mails, by first-class mail, postage prepaid, a copy of the City Council Resolution setting forth its findings and decision, along with an affidavit of mailing, to the park owner and affected park residents.

C. Processing of Appeals from Commission decision. All appeals filed by a park owner, park resident or park resident representative from a decision of the Commission to the City Council pursuant to YMC Section 15.20.115 and this Section 1.0030, shall comply with the filing and posting requirements of Section 1.0008(B) of these Rules. Oppositions that are filed by any person in response to an appeal from a Commission decision pursuant to YMC Section 15.20.115 and this Section 1.0030, shall comply with the filing and posting requirements of Section 1.0008(C) of these Rules.

D. Application Fee for Appeals. 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 or appeal, plus the costs of transcripts of any underlying proceedings from which the appeal is made. The application fee shall be paid in full to the City as a condition of finding that the application is complete, and no hearing shall be set before either the Commission or City Council unless the full application fee has been paid.

1. Upon receipt of an appeal to the City Council from a Commission determination on an application for a capital improvement rent adjustment, rent decrease and/or special rent adjustment pursuant to YMC Section 15.20.115, the rent Administrator shall notify the appellant of the cost to prepare the transcripts from the Commission hearing, and the deadline for the appellant to deposit the costs of the transcript with the City. No appeal hearing shall be set before the City Council on any appeal from a Commission decision until the appeal fee has been paid and full costs of the transcript has been deposited with the City. In the event that both the park owner and park resident(s) appeal the Commission decision, each appellant shall pay the

full appeal fee of $1,750.00, but the cost of the transcripts shall be split equally between the appellants.

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 Section 15.20.073(C).

2.0006. DELINQUENT REGISTRATION

A park owner who fails to comply with the registration provisions outlined in these Administrative Rules or YMC Section 15.20.073 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

(Rescinding Resolution No. 2018-43 and Amending Resolution No. 2011-52 Section 2.0007(B)(C)(D))

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 $70.80 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 ($35.40) of this fee may be passed on to residents of those spaces subject to the YMC, in twelve (12) equal monthly installments of $2.95. 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 $5.90. 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 $2.95. 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 $5.90. 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 Section 15.20.080. 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. The RA's decision approving an Annual Adjustment shall be final upon the date that the RA mails, by first-class mail, postage prepaid, a copy of the RA's decision, along with an affidavit of mailing, to the park owner.

Commencing in 2002 and extending through 2018, the Annual Adjustment for each calendar year shall be calculated using the CPI index for the Los Angeles-Riverside-Orange County areas, All Urban Consumers for the preceding twelve-month period ending December 31.

The Annual Adjustments for 2019 shall be calculated using the CPI index for the Los Angeles-Long Beach-Anaheim Metropolitan Area, All Urban Consumers, for the preceding twelve-month period ending December 31.

Commencing in 2020, and thereafter, the Annual Adjustment for each calendar year shall be calculated using the increase in the CPI index for the Riverside-San Bernardino-Ontario areas, All Urban Consumers for the preceding twelve-month period ending November. In the event this index is no longer compiled by the BLS, a successor index shall be used.

The RA shall provide the CPI figures and a calculation of the allowable Annual Adjustment to each 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. Space vacancies pursuant to YMC Section 15.20.050(B). In the event that the application includes a vacant space upon which there is no coach, pursuant to YMC Section 15.20.050 (B) (based on a "vacancy" as defined in subsection (1), (2) or (3) of YMC Section 15.20.020), 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, whichever was approved later, shall be provided in the application. In the event no rent has ever been charged for that vacant space, or the last rent charged is unknown, the application should so indicate. As used in this section 3.0001, 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.

a. In the event that there is no prior last rent charged for that vacant space, or the rent which was actually paid is unknown, or the park owner otherwise fails to document the last rent charged for the vacant space, the initial base rent to be listed for the vacant space in the application shall be determined using the vacancy adjustment formula set forth in Section 3.0001(H) of these Rules.

b. Space rents listed for vacant spaces in the application shall be verified by the RA using information required on, and/or documentation submitted with applicable Schedules of the Annual Registration Application, or the most recent City-approved annual adjustment application, whichever was approved later.

c. The initial base rent for that vacant space as approved by the RA pursuant to subsection (a) 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 MNOI 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 4% of current space rent, 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.

5. For any vacant space (based on a "vacancy" as defined in subsection (1), (2) or (3) of YMC Section 15.20.020, the initial base rent determined using the vacancy adjustment formula set forth in Section 3.0001(H) of these Rules shall be inserted on the Annual Adjustment form as the current rent for the vacant space as of the date of application. The initial base rent shall then be multiplied by the CPI increase determined pursuant to subsections (1) through (3) of this Subsection B, and the resulting sum shall be inserted in the application as the new rent to be charged for the vacant space if re-rented prior to the next Annual Adjustment. The anniversary date for the Annual Adjustment shall remain the same anniversary date as in effect prior to the vacancy. In the first year of occupancy following re-rental only, the applicable anniversary date may result in an Annual Adjustment imposed less than 12 months prior to the date of re-rental.

C. Notice of Adjustment to Resident. The park owner shall notify the residents affected by the Annual Adjustment in accordance with State law. The rent statement or invoice issued to the resident shall include the City approved annual CPI adjustment percentage and the dollar amount of the Annual Adjustment to be implemented on the subject space. A park owner shall not notice an Annual Adjustment prior to approval by the RA and park management shall concurrently post the City notice in the clubhouse, park office and one other location accessible to the residents at the same time as the rent increase notice is issued to the affected resident(s).

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 Maintenance of Net Operating Income (MNOI), Readjustment to Base Year NOI or Fair Return Rent 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 overcharged a resident, the RA shall instruct the park owner to refund the over-charge, including interest at the legal rate of seven percent (7%) per year, compounded monthly.

E. Space vacancies pursuant to YMC Section 15.20.050(A). The space rent upon a "vacancy", as defined in YMC Section 15.20.020, subsections (4), (5), (6) or (7), shall not be increased above the last rent charged prior to such vacancy. The Annual Adjustment application shall list the last rent charged for such space prior to the vacancy.

F. Spaces Previously Exempt. As established pursuant to YMC Section 15.20.050(D).

G. Park Owned Mobile Home Sold to an Existing Resident. As established pursuant to YMC Section 15.20.050(C).

H. Vacant Spaces. In accordance with YMC Section 15.20.050(B), upon "vacancy", as defined in YMC Section 15.20.020, subsection (1), (2) or (3), the park owner may increase the space rent on that mobilehome space by a vacancy adjustment in accordance with the following provisions.

1. Application for a vacancy adjustment pursuant to YMC Section 15.20.050(B) and this subsection shall be made to the RA. The RA shall grant the application within ten (10) 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 ten (10) days of receipt of the application. The RA's decision approving a vacancy rent adjustment pursuant to YMC Section 15.20.050(B) and this section shall be final upon the date that the RA mails, by first-class mail, postage prepaid, a copy of the RA's decision, along with an affidavit of mailing, to the park owner.

2. The vacancy adjustment shall be calculated by the RA in accordance with the following provisions.

a. Step One: The RA shall determine the last rent charged for the space prior to the vacancy, using the rent listed in the most recent City-approved annual registration form or annual rent adjustment, whichever was approved later. The last rent charged for the space prior to the vacancy shall be modified by any Annual Adjustments granted for comparable occupied spaces as of the date of filing a complete application for the vacancy adjustment.

(i) In the event that there is no prior last rent charged for that vacant space, or the rent which was actually paid is unknown, or the park owner otherwise fails to document the last rent charged for the vacant space, the current rent to be listed for the vacant space in the application 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.

b. Step Two: The combined average of all rent-controlled spaces in the park shall be determined, using the rents listed in the most recent City-approved annual registration form or annual rent adjustment, whichever was approved later. The RA shall thereafter add ten percent (10%) to the average rent determined pursuant to this subparagraph.

c. Step Three: The RA shall add thirty-five dollars ($35) to the last space rent in effect for the space, as determined under Step One.

d. Step Four: The RA shall compare the amount determined in Step Two with the amount determined in Step Three. The lesser of the two sums shall constitute the vacancy rent adjustment for the space and shall be set forth in the RA's decision issued to the park owner pursuant to subsection (1).

e. Notwithstanding subparagraphs (a) through (d), a park owner shall be entitled to only one vacancy rent adjustment for each annual adjustment period following the occurrence of each vacancy under YMC Section 15.20.050(B).

3. Thereafter, the new space rent determined in accordance with this subdivision (H) shall become the base rent upon which future rent adjustments pursuant to the Ordinance shall be calculated for that space.

I. Effect of Lease upon Mobilehome Abandonment. As established pursuant to YMC Section 15.20.050(B) and Section 3.0001(B), above. If a lease was in place prior to the abandonment of the mobilehome by the prior resident (as abandonment in-place is defined in

YMC Section 15.20.020), the lease is null and void and the new owner shall not be bound by the previous lease.

3.0002. CONSUMER PRICE INDEX (CPI).

Consumer Price Index ("CPI") shall mean:

1. For the purpose of calculating the Annual Adjustments for each of the years 1987 through 2018, the "Consumer Price Index" or "CPI" means the CPI index for the Los Angeles-Riverside-Orange Metropolitan Area, All Urban Consumers, published by the Bureau of Labor Statistics, U.S. Department of Labor.

2. For the purpose of calculating the 2019 Annual Adjustment, "Consumer Price Index" or "CPI" means the CPI index for the Los Angeles-Long Beach-Anaheim Metropolitan Area, All Urban Consumers, published by the Bureau of Labor Statistics, U.S. Department of Labor.

3. For the purpose of calculating Annual Adjustments beginning in 2020, the "Consumer Price Index" or "CPI" means the CPI for the Riverside-San Bernardino-Ontario, Metropolitan Area, All Urban Consumers, published by the Bureau of Labor Statistics, U.S. Department of Labor, or any successor index.

4. For the purpose of calculating Special Rent Adjustments, the "Consumer Price Index" or "CPI" for the years subsequent to 2017 means the CPI for the Riverside-San Bernardino-Ontario, Metropolitan Area, All Urban Consumers, published by the Bureau of Labor Statistics, U.S. Department of Labor, or any successor index.

CHAPTER 4. RENT INCREASE BY APPLICATION TO THE COMMISSION

4.0001. FAIR RETURN

A. Purpose. 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.

B. Resident Meeting prior to Special Rent Adjustment Application. The City encourages park owners to voluntarily meet with the residents to discuss the amount and reasons for a proposed rent increase with the affected residents, and to resolve differences and disputes with regard to the amount of the proposed rent adjustment, prior to filing an application for a rent adjustment to the City pursuant to YMC Section 15.20.100(A), (B) and/or (C) and this Chapter. The park owner and resident representatives may agree upon the procedures for the resident meeting. Suggested procedures for the conduct of a resident meeting may include but are not limited to, the following:

1. The resident meeting should be scheduled at a convenient time and location for representatives of the park owner and residents; and;

2. At least thirty days prior to the resident meeting, management should:

a. Serve written notice of resident meeting on the park resident representative(s), and post a copy of the notice of the resident meeting at the clubhouse, park office and other locations accessible to the residents; and

b. Provide information and documentation to the park residents regarding the proposed special rent adjustment, including an explanation of proposed rent increase and

reasons therefore in simple and clear language to facilitate resident understanding and discussion between the park owner and residents; and

3. The resident meeting should be conducted in a non-adversarial manner.

4. The City encourges the park owner to include all documentation of any meeting held between the park owner and residents, and the discussion and outcome, in the special rent adjustment application submitted to the City.

4.0002. RENT ADJUSTMENT FORMS AND DETERMINATION OF COMPLETENESS

A. Forms. Applications for rent adjustments and appeals and for opposition to rent adjustment applications or appeals shall be submitted in accordance with the requirements of this Section.

1. As used in these Rules, the following terms have the following meanings:

a. The term "application" shall include the application fee, completed application form (including the proofs of service and posting, declaration under penalty of perjury, and all information and documentation required by the City-approved form) and any and all reports, documents, notice of intent, election ballots, cover letter, notice, secret ballot or other information and documentation necessary to support the requested adjustment, including but expressly not limited to, all other information and documentation required by any other provisions of the Ordinance or these Rules.

b. The term "appeal" shall include the appeal fee, deposit(s), completed appeal form (including the proofs of service and posting, and all information and documentation required by the City-approved form) and any and all information and documentation necessary to support the appeal from the decision of the Commission on any rent adjustment application, including but not limited to all information and documentation required by any other provisions of the Ordinance or these Rules.

c. The term "opposition" shall include the written explanation of the opposition to the application or appeal, proofs of service and posting of the opposition and any and all information and documentation necessary to support the opposition, including but not limited to all information and documentation required by any other provisions of the Ordinance or these Rules.

2. The City has prepared forms for use in submitting applications and appeals. These forms are designed to ensure that an applicant or appellant submits all necessary information and documentation to support the requested rent adjustment or appeal; to demonstrate that the applicant or appellant has met his/her burden of proof under the Ordinance and these Rules; and to facilitate review and analysis by the RA, the public hearing and Commission deliberation process or City Council on appeal. Use of the City-approved application form or appeal form is not required, but submittal of all information and documentation as specified in the City-approved form is mandatory. Applicants and appellants are required to submit all information and documentation requested in the City-approved forms. All information and documentation submitted with an application or appeal shall be paginated, and shall also be clearly marked to correlate to the specific section and item number of the application form or appeal form to which it pertains. If an applicant or appellant fails to comply with this Section, the RA may deem the application or appeal incomplete. In addition, failure to comply with this Section may result in the Commission finding that the applicant or appellant failed to meet its burden of proof under the Ordinance and these Rules.

3. Any person wishing to submit any written opposition to rent adjustment application or appeals shall submit at least one copy of such written opposition, along with an electronic copy (jpeg or pdf format), to the RA. All information and documentation submitted with an opposition or response to an application or appeal shall be paginated, and shall also be clearly marked to correlate to the specific section and item number of the application form or appeal form to which it pertains. If an opposing party fails to comply with this Section, the RA may deem the opposition incomplete and may refuse to accept the opposition for filing until the opposition complies with the Ordinance and these Rules.

B. Determination of Completeness of Application.

Upon receipt of an application for a rent adjustment the RA shall review the application and determine whether the application is complete. As used in these Rules, the term "complete" means that the applicant completed the application form (or submitted a written statement providing all information requested by the application form); paid the requisite application fee and any hearing deposit (if applicable); and submitted all required information and documentation which supports the requested rent adjustment(s).

1. Necessary documentation shall include documentation establishing all categories of information set forth in these Rules to meet the park owner's burden of proof that they are entitled to a rent adjustment. In determining whether the application is complete, the RA shall review the application and its supporting documentation to determine whether the application contains all information and documentation to support each rent adjustment requested.

a. In order for an application for rent adjustment submitted under YMC Section 15.20.100(A) and Section 4.0003 of these Rules to be deemed complete, the application shall include all documentation reflecting the amount of each category of income and expense claimed (including all relevant financial statements, including but not limited to, profit and loss statement, general ledgers, and actual invoices, receipts, bills or other documentation substantiating that the income was received or the expense was incurred); that the claimed expenses are reasonable; the CPI indexing factor proposed to be used as the basis for that contention; the factual basis for any claimed amortization period claimed for any amortizable expense; and all other documentation to establish that an MNOI rent adjustment is warranted.

b. In order for an application submitted for a rent adjustment under YMC Section 15.20.100(B) and Section 4.0004 of these Rules to be deemed complete, the application shall include, in addition to the requirements of subparagraph (a), all documentation establishing each factor set forth in Section 4.0004(A)(1) through (5) of these Administrative Rules.

c. In order for an application submitted for a rent adjustment under YMC Section 15.20.100(C) and Section 4.0005 of these Rules to be deemed complete, the application shall include in addition to the requirements of subparagraphs (a) and/or (b), documentation establishing each factor set forth in Section 4.0005(B)(1) through (6) of these Rules, and documentation establishing that the park owner is entitled to a fair return rent adjustment under any other relevant factors pursuant to YMC Section 15.20.100(C).

d. In order to initiate the procedure for approval of a proposed special rent adjustment by voluntary meet and confer under YMC Section 15.20.100(E), the park owner shall comply with the provisions of Section 4.0006 of these Rules.

e. In order for an application submitted for a rent decrease based on discontinuance or reduction in service or amenity under YMC Section 15.20.090 and Chapter 7 of these Rules to be deemed complete, the application shall include all information and

documentation establishing each factor set forth in Sections 7.0004, 7.0005(B) (park resident application) and 7.0006(B) (park owner application) of these Rules.

2. Not later than thirty (30) days after the application is filed with the City, the RA shall send written notice to the applicant informing him/her whether the application is complete pursuant to YMC Sections 15.20.105(B) and (E). This completeness determination shall not apply to a proposed special rent adjustment by voluntary meet and confer under YMC Section 15.20.100(E).

3. If the RA determines that the application is complete, hearings on rent adjustment applications filed under YMC Sections 15.20.090 or 15.20.100(A), (B), or (C), or hearings on appeals to the Commission from a RA decision on an application under YMC Section 15.20.085, shall be processed, heard and determined in accordance with YMC Sections 15.20.105 and 15.20.110. Commission hearings shall be noticed in accordance with the requirements of these Rules and the Ralph M. Brown Act. A proposed special rent adjustment by voluntary meet and confer under YMC Section 15.20.100(E) shall not be subject to this section.

4. If the RA determines that the application is incomplete, the notice sent by the RA to the applicant shall include a list of the information and documentation required under YMC Sections 15.20.085, 15.20.090, or 15.20.100(A), (B), or (C) and Section 15.20.105 and Chapters 4, 5 and/or 7 of these Rules, in order for the RA to find that the application is complete. The applicant shall have thirty (30) days to submit the additional information and/or documentation.

5. The application or appeal feel shall be paid in cash, or by cashier's check or by money order, made payable to the City of Yucaipa, concurrently with filing the application or appeal. Notwithstanding any other provision of these Rules, no application for rent adjustment, or application for an appeal from any decision of the RA, shall be deemed complete or set for hearing before the Commission unless the filing fee has been paid by the applicant or appellant.

6. If the applicant fails to submit the additional information or documentation to the city by the deadline, the RA shall notify the applicant in writing that he/she has no more than an additional thirty (30) days to submit the information and documentation necessary to deem the application complete. The RA will also notify the applicant that failure or refusal to submit the necessary information and/or documentation by the stated deadline may impact the Commission's decision on whether the applicant met his/her burden of proof that he/she is entitled to any rent adjustment or the particular rent adjustment sought by the applicant. If the application is incomplete because the applicant failed to pay the required filing fee, the RA will notify the applicant that the application is incomplete and that the application will not be set for hearing before the Commission until the applicant has paid the filing fee.

7. Upon a failure or refusal by the applicant to submit the necessary documentation or other information required in order for the RA to deem the application complete under the Ordinance and Rules (other than the failure to pay the required filing fee), the RA shall thereafter serve written notice of the application upon the park residents, and shall include an advisement that the application has been deemed incomplete. If the applicant is a park owner, the RA shall also serve a copy of such notice, and a copy of the application, upon the park resident representative. The park residents (or park owner pursuant to YMC Section 15.20.090(A) and Chapter 7 of these Rules) shall have the right to submit their response or opposition to the application in accordance with the Ordinance and Rules. The RA shall thereafter schedule a hearing before the Commission on the application, and shall notify the applicant and opposing party(ies) of the date and time of the hearing. The RA may make any appropriate recommendations to the Commission regarding the application, including but expressly not

limited to, the impact of the park owner's failure to submit a complete application upon the RA's ability to determine if the park owner has met his/her burden of proof regarding any particular elements of the application, or whether the park owner has met his/her overall burden of proof to show that he/she is entitled to a rent adjustment, or the amount of the rent adjustment sought in the application.

8. If an application or appeal is incomplete due to the applicant's or appellant's failure to submit all required information or documentation necessary for the RA to deem the application or appeal complete, the Commission hearing shall be held in accordance with YMC Section 15.20.110(A)(ii).

9. If the RA determined that an application is incomplete, the holding of a hearing on the merits of the application shall not constitute any finding that the application is complete, nor shall it preclude the Commission from requesting any additional information or documentation from the applicant or opponent(s) during the hearing, or from rendering any decision on the merits of the application or from examining any person testifying before the Commission at the hearing on the application. Notwithstanding any other provisions under the Ordinance and these Rules, if an application is incomplete, the Commission shall have the right and authority to issue any appropriate decision on the merits of the rent adjustment application, or any element thereof, including but expressly not limited to, disallowance of claimed expenses or income, modification or denial of the rent adjustment requested in its entirety, or such other actions or findings as deemed appropriate by the Commission based upon the failure of the applicant to meet his/her burden of proof or otherwise establish entitlement to a rent adjustment under the Ordinance and these Rules.

4.0003.MAINTENANCE OF NET OPERATING INCOME (MNOI) 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 Application.

The Application fee for a MNOI Application shall be $1,750.00 per application, and shall be paid prior to the application being declared complete. Notwithstanding any other provision of these Rules to the contrary, no application shall be deemed complete or set for hearing before the Commission if the applicant fails to pay the required application fee.

A. Base Year CPI

1. 1987 CPI. Except as otherwise provided in subsection (2), for the purposes of calculating rent adjustments under the provisions of this Chapter, the December 31, 1987 Consumer Price Index figure is 114.8.

2. If a park has received a special rent adjustment since 1987, the "base year CPI" shall be as defined in YMC Section 15.20.100(A)(2) for purposes of calculating the new special rent adjustment application under the provisions of this Chapter.

B. "Current" CPI. For the purposes of calculating rent adjustments under the provisions of this Chapter, the "Current" CPI shall be determined as follows: Staff shall be responsible for determining the "Current CPI". For purposes of this provision, CPI shall be determined as follows:

1. If the RA determined that the application was complete, the "Current" CPI shall be the CPI last reported as of the date the application is declared complete.

2. If the RA determined that the application was incomplete, the "Current CPI" shall be the CPI last reported as of the date that the rent administrator mailed written notification to the park owner and residents that the application is incomplete due to the park owner's failure to submit all necessary information and/or documentation by the final deadline required by YMC Section 15.20.105(C).

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 MNOI adjustment or MNOI rent adjustment based on readjusted Base Year NOI 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 MNOI 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 Section 3.0002 of these Rules. 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 expenses, as defined in YMC Section 15.20.020.

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. In determining the amount of legal expenses to be included in base year or current year operating expenses, if the Commission determines that the amount of legal expenses is unusually high or not likely to recur on an annual basis, the Commission may require that the allowable legal expenses be amortized over a five-year period, and only the amortized portion shall be included as an operating expense in the relevant year. For purposes of determining the amortized cost of allowable legal expenses, an interest cost of the lesser of either the current prime rate plus one percent, or the interest rate actually incurred by the mobilehome park owner in paying for the expenses, may be added,

provided that rate does not exceed reasonable and prudent financing rates generally available at the time the loan was obtained.

m. Any other allowable expenses for an item that the Commission finds are unusually high or not likely to recur on an annual basis. Based upon such a finding, the Commission may require that the allowable expenses be amortized over a five-year period, with an interest allowance in accordance with Subparagraph (m) of this Rule Section 4.0003(D)(3), and only the amortized portion thereof included as an operating expense in the relevant year.

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 capital improvements, as defined in YMC Section 15.20.080;

j. Expenses for installation of new improvements and facilities and/or the replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance and repairs, have a useful life of at least five years, and can be depreciated pursuant to the U.S. or California income tax codes, but which do not satisfy the requirements of a capital improvement rent adjustment under Section 15.20.085(A)(1) or an emergency capital improvement rent adjustment under Section 15.20.085(B); and

k. Any other expenses for 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 and repairs and have a useful life of at least five years.

5. In calculating operating expenses for any year, an 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, under any of the following circumstances:

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.

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 MNOI 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 MNOI Adjustment. The MNOI adjustment for the park shall be calculated as follows:

1. The Base Year CPI and the Current Year CPI shall be determined in accordance with YMC Section 15.20.100(A) and Section 4.0003(A) and (B) of this Chapter.

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 special rent adjustment application under this Chapter.

a. Method of Calculation of 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 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. Determination of Current MNOI Entitlement

a. For the purposes of calculating the percentage increase in the CPI that is used to determine the percentage increase in NOI over the base year level that would provide a fair return, for the period from December 1987 through December 2017, the Los Angeles-Riverside-Orange Metropolitan Area index shall be used. For the period subsequent to December 2017 to the date used as the current date in the petition the Riverside-San Bernardino-Ontario index shall be used. In the event the Riverside-San Bernardino-Ontario index is no longer compiled by the BLS, a successor index shall be used.

b. 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, (or from October 29, 1996 to the date that the RA mailed written notification to the park owner and residents that the application is incomplete due to the park owner's failure to submit all necessary information and/or documentation by the final deadline required by Section 15.20.105(C) of the Ordinance), and the resulting product 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 MNOI Entitlement."

5. The current NOI shall then be subtracted from the current MNOI entitlement. The positive difference is the amount of the maximum allowed NOI adjustment for the park or ("the park's MNOI adjustment"). If the difference is negative, then the park owner is not entitled to an MNOI 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 MNOI entitlement per rented space. The positive difference is the maximum allowed MNOI adjustment per rented space. If the difference is negative, then the park owner is not entitled to an MNOI adjustment for each rented space.

6. Except as otherwise provided in Subdivision (a) of this Subsection (6), the park's MNOI 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 MNOI adjustment shall be allocated to the individual regulated spaces. To allocate the MNOI adjustment to regulated spaces, the allocation should be made by multiplying the park's MNOI 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 MNOI 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 MNOI Adjustment. A MNOI 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. SPECIAL RENT ADJUSTMENT BASED ON VOLUNTARY MEET AND CONFER AND CONFIDENTIAL BALLOT

A. In accordance with YMC Section 15.20.100(E), any park owner may initiate a voluntary meet and confer process with the residents of the park's regulated spaces to reach agreement with those residents on a proposed special rent adjustment and approval by the RA in place of the application and noticed public hearing process for an MNOI rent adjustment under YMC Section 15.20.100(A) and Section 4.0003 of these Rules, or an MNOI rent adjustment based on a readjusted Base Year NOI under YMC Section 15.20.100(B) and Section 4.0004 of these Rules under this Chapter, and/or a Fair Return rent adjustment under YMC Section 15.20.100(C). A proposed special rent adjustment by voluntary meet and confer pursuant to YMC Section 15.20.100(E) shall be conducted by the park owner and park residents in accordance with subdivision (B) through (K) of this Section.

B. Terms of Special Rent Adjustment. Any special rent adjustment negotiated between the park owner representatives and park resident representatives and consented to by at least 51% of the residents of regulated spaces may be on any terms as negotiated between the respective parties, subject to the following requirements:

1. The park owner shall not apply for, demand, impose or collect an Annual Adjustment under YMC Section 15.20.080, or a special rent adjustment authorized by YMC Section 15.20.100(A) or (B) less than 12 months after imposition of the special rent adjustment approved pursuant to YMC Section 15.20.100(E) and this Section; and

2. This procedure shall not be applicable to capital improvements, which shall be subject to the capital improvement rent adjustment provisions set forth in YMC Section 15.20.085 of the Ordinance and Chapters 4 and 5 of these Rules, (including but expressly not limited to Sections 4.0003(D)(4)(i) and (j)), 4.0004, 4.0005, and 5.0008).

C. Initiation of Meet and Confer. The park owner shall initiate the meet and confer by service of a written notice on all residents of the regulated spaces in the park and RA, by personal delivery or first-class mail, along with proof of service of the notice. The written notice shall be consistent with the form*s* approved by the City, and shall include all of the following:

1. A request for appointment of not more than three (3) persons residing in the regulated spaces to represent the park residents at the meet and confer with the park owner; and

2. The amount of the proposed special rent adjustment, the method by which the proposed special rent adjustment was determined, the base year and current year used in the Meet and Confer Application and that a completed Meet and Confer Application and an MNOI Rent Adjustment and/or MNOI Rent Adjustment based on readjusted MNOI Application, which shall comply with Section 4.0003 and/or 4.0004 of these Rules and YMC Section 15.20.100(A) and (B), along with all information and supporting documentation supporting the proposed special rent adjustment are posted in the clubhouse, park office and one other location accessible to the residents; and

3. The proposed date and location for the meet and confer, which shall occur not more than sixty (60) days following service of the park owner's written notice on the park

residents. The meet and confer shall be scheduled at a date, time and location mutually convenient to the park owner representatives and the park resident representatives and shall be scheduled on a date that is not less than fourteen (14) days after the park owner's service of the notice on each resident pursuant to this subdivision.

D. Park resident representatives. The park residents may select no more than three person(s) to serve as the park resident representatives in the meet and confer, based on a method determined by the residents of the park. The process by which the park residents select their representative(s) shall be confidential.

E. Mediator. Either party may use a mediator of their choice to assist in the negotiations, with the cost to be borne by the party selecting the mediator or as otherwise determined by mutual agreement between the park owner and park residents.

F. Conduct of meet and confer. Subject to Subdivision (C)(3), the meet and confer shall take place at a mutually convenient date and time, between the park owner representatives and park resident representatives.

G. Confidential Resident Vote. If no agreement is reached at the meet and confer between the park owner representatives and park resident representatives regarding a proposed special rent adjustment, then all further proceedings under this Section shall cease. If agreement is reached at the meet and confer between the park owner representatives and the park resident representatives regarding a proposed special rent adjustment, then a resident vote by confidential ballot shall take place in accordance with the following provisions:

1. Finalization of Ballot Documents. During the meet and confer, upon agreement to a proposed special rent adjustment, the park owner representatives and the park resident representatives shall each sign the following documents:

a. The confidential ballot containing the agreed-upon proposed special rent adjustment to be voted upon by the residents of the regulated spaces in the park; and

b. The agreed-upon notice of results of meet and confer form; and

c. The agreed-upon proof of service; and

d. A list of the full names and addresses of the current occupants of each regulated space in the park; and

e. The park owner representatives shall provide the park resident representatives with the originals of these agreed-upon signed documents, along with copies of each agreed-upon signed document in a number equal to at least the total number of regulated spaces in the park.

2. Notice to Residents and Circulation of Ballots. Not later than five (5) days following the conclusion of the meet and confer, the park resident representatives shall serve a copy of the agreed-upon written notice of results of meet and confer, confidential ballot and envelopes, and proof of service on all residents of the regulated spaces on City-approved forms. The documents shall be served on each resident by the park resident representatives by personal

delivery or by First Class mail, postage prepaid, and shall contain all of the following information and documentation:

a. The notice shall be on the City-approved form and shall contain all of the following information:

(1) The date(s) and time(s) when the meet and confer was conducted, and the names, addresses and telephone numbers of the representatives of the park owner and park residents at the meet and confer; and

(2) The agreed upon proposed special rent adjustment; the method by which the proposed special rent adjustment would be determined; and that all documentation upon which the proposed special rent adjustment may be inspected by the residents at the park clubhouse, park office and a third location as determined by the park resident representatives and specified in the notice; and

(3) The right of the residents from each regulated space to vote by confidential ballot on whether or not to consent to the proposed special rent adjustment (based on a vote by one adult resident per space), by submittal of a confidential ballot to the Rent Administrator not later than fifteen (15) days following service of the notice upon the resident by the park resident representative, and insertion of the specific deadline date by which the confidential ballot must be filed with the Rent Administrator; and

(4) That the resident or a representative of a resident must return the confidential ballot to the Rent Administrator by personal delivery or by mail, in the pre-addressed envelope to the Rent Administrator provided with the notice by the specified deadline; and

(5) That the proposed special rent adjustment shall not be effective unless consented to by at least fifty-one percent (51%) of the residents of the regulated spaces based on the results of the confidential ballot election.

b. The Confidential Ballot, in the form approved by the City and agreed upon between the park owner representatives and park resident representatives at the meet and confer; and

c. Envelopes pre-addressed to the Rent Administrator (one envelope per space) as previously provided by the park owner representatives to the resident representatives in accordance with Subdivision (G)(2) of this section; and

d. The agreed-upon meet and confer results; and

e. Proof of service, on the City-approved form.

3. Effective Date of Service on Park Residents. For purposes of determining the 15-day deadline for residents to file their confidential ballots with the Rent Administrator, service of the notice and confidential ballot form under Section 4.0006(G)(2) shall be deemed effective on the date of personal delivery to a resident or, if mailed, upon deposit in the U.S. Mail, to a resident. The park resident representatives shall serve all notices, envelopes pre-addressed to the

Rent Administrator, and confidential ballot forms required by Subparagraph (2) of this Subdivision (G) on all residents of regulated spaces at the same time.

4. Park Resident Representative Service on City. Prior to or concurrently with serving the notice and all required documentation on the residents under Section 4.0006(G)(2), the park resident representatives shall serve the following documents on the Rent Administrator, using the City-approved forms:

a. Complete copies of the notice, confidential ballot form and all other required documentation set forth in Subdivision (G)(2); and

b. A list of the full names~~,~~ and addresses of the current occupants of each regulated space in the park; and

c. A declaration or affidavit, on the City-approved form, and signed under penalty of perjury, verifying that the park resident representatives provided the residents of the regulated spaces with all documents and information required by Subdivision (G)(2) of this section.

5. Park Owner Service on City and Park Resident Representatives Following Meet and Confer. Not later than five (5) days following the conclusion of the meet and confer the park owner or his/her representative shall comply with all of the following requirements:

a. The park owner shall file with the City the following documents:

(1) One set of address labels addressed to the current occupants of each regulated space in the park;

(2) A declaration or affidavit, on the City-approved form, and signed under penalty of perjury, verifying that the park owner representatives provided the park residents with all information and documentation required by Section 4.0006 and that true and correct copies of all information and documentation required by Section 4.0006(G) has been posted at the three locations in the park as required by Subdivision (C)(2) of this section.

(3) A proof of service on the resident representatives confirming the park owner's compliance with the service requirements of this Subsection 5, on the City–approved form, served by personal delivery or by First Class mail, postage prepaid.

b. The park owner shall serve a copy of the proof of service on the resident representatives, on the City-approved form, confirming the park owner's compliance with this Subsection 5, served on the park resident representative by personal delivery or by First Class mail, postage prepaid.

6. Submittal of Confidential Ballots. Within fifteen (15) days of service of the notice and supporting documentation on the residents, the residents shall submit their confidential ballots to the Rent Administrator, indicating whether or not they consent to the proposed rent adjustment. Each regulated space shall have the right to submit one vote by one Mobilehome Park adult resident on behalf of all residents of that regulated space. Any confidential ballot received by the Rent Administrator after the 15-day deadline shall not be counted. A confidential ballot may be delivered to the Rent Administrator by a representative of a resident (excluding the

park owner, park manager or any other representative of the park owner or manager), so long as such ballot is accompanied by a written authorization from the resident designating that person as his/her representative, under penalty of perjury, on the City-approved form.

H. Rent Administrator Review and Decision. Following the fifteen-day deadline, the RA shall approve the special rent adjustment only if the RA finds that (i) at least 51% of the residents of the regulated spaces consented to the special rent adjustment, and (ii) the park owner and residents complied with all meet and confer procedures set forth in subdivisions (B) through (G).

1. The RA shall accept only written confidential ballots by the residents of the regulated spaces on the confidential ballot forms approved by the City.

2. In counting the confidential ballots, if at least fifty-one percent (51%) of the residents of the regulated spaces consent to the proposed special rent adjustment, the proposed special adjustment shall be deemed consented to by the residents of the regulated spaces. If the proposed rent adjustment is not consented to by at least 51% of the residents of the regulated spaces, the proposed special adjustment shall be deemed disapproved by the residents of the regulated spaces.

3. In determining if at least 51% of the residents of the regulated spaces consented to the special rent adjustment, the RA shall count only those confidential ballots filed with the City by the deadline for submittal of ballots. It shall be presumed by the RA that any regulated space not represented by a confidential ballot represents the intent of the residents of that space to disapprove the proposed special rent adjustment. In the event that more than one adult resident of a regulated space submits a confidential ballot to the RA, the RA shall randomly select one ballot from that regulated space by lots as the official confidential ballot for that space.

4. Rent Administrator Decision and Notification. Not later than fifteen (15) days following the deadline for submittal of the confidential ballots to the RA, the RA shall provide written notification to the park owner and park residents of the results of the confidential ballot election. The RA's notification shall include (i) whether or not the RA approved the special rent adjustment; (ii) the number of spaces consenting to the proposed special adjustment, (iii) the number of spaces indicating disapproval; (iv) the number of spaces where no response was received; (v) if the RA determined that all procedures of this Section were met, the reason(s) for such determination; and (vi) if the RA determined that all procedures of this Section were not met, the reason(s) for such determination. Unless otherwise required by law, the City shall not reveal to the park owner the names or any residents voting for or against the proposed rent adjustment or any resident not submitting a confidential ballot.

I. Park Owner Notice of Rent Increase. The park owner shall notify the residents affected by the Special Rent Adjustment approved by confidential ballot and the RA in accordance with State law. A park owner shall not notice a Special Rent Adjustment approved under this Section prior to approval and notification by the RA pursuant to Subdivision (H)(4) of this Section.

J. Final Decision. The RA's decision approving or denying a special rent adjustment submitted pursuant to YMC Section 15.20.100(E) and this Section shall be final and not subject to any appeal to the Commission or City Council.

K. Subsequent Rent Adjustment Applications.

1. Disapproval by Park Residents or Denial by City. Denial of a special rent adjustment by voluntary meet and confer pursuant to YMC Section 15.20.100(E) and Subdivision (H) of this Section shall not preclude a park owner from applying for a special rent adjustment under YMC Section 15.20.100(A), (B) and/or (C) and Rules 4.0003, 4.0004 and/or 4.0005 of this Chapter. The application shall be processed in accordance with YMC Section 15.20.105 and these Rules.

2. Subsequent Rent Adjustments Following Approval by Residents and RA.

a. Annual Adjustment or Special Rent Adjustment. If at least 51% of the residents of the regulated spaces and the RA approves a special rent adjustment based on meet and confer pursuant to YMC Section 15.20.100(E) and Subdivision (H) of this Section, the park owner shall not apply for, demand payment of, or impose an Annual Adjustment under YMC Section 15.20.080, or a special rent adjustment authorized by YMC Section 15.20.100(A) or (B) less than 12 months after imposition of the special rent adjustment approved pursuant to YMC Section 15.20.100(E) and this Section.

b. Capital Improvement Rent Adjustment. In accordance with YMC Section 15.20.085(D), costs of a capital improvement shall not be included in a proposed special rent adjustment submitted to the residents of the regulated spaces under this Section 4.0006, and the RA shall not approve any proposed special rent adjustment that includes or is based upon any capital improvement costs. Rent adjustments based on capital improvements shall be submitted to the RA in accordance with YMC Section 15.20.085 and Chapter 5 of these Rules.

c. Rent Adjustment based on Discontinuance or Reduction of a Service or Amenity. The approval or disapproval of a special rent adjustment based on voluntary meet and confer pursuant to YMC Section 15.20.100(E) and this Section, shall not preclude a park owner or park resident from submitting an application for a rent adjustment based on discontinuance or reduction of a service or amenity pursuant to YMC Section 15.20.090 and Chapter 7 of these Rules."

4.0007 ALLOWABLE RENT ADJUSTMENTS AND APPLICATIONS FOLLOWING MNOI ADJUSTMENTS

Following approval of an MNOI adjustment, an MNOI adjustment based on a readjusted base year NOI, or a fair return adjustment by the Commission under YMC Section 15.20.100 and Sections 4.0003, 4.0004 or 4.0005 of these Rules, or a Special Rent Adjustment by voluntary meet and confer under YMC Section 15.20.100(E) and Section 4.0006 of these Rules, 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 special 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 15.20.085 and Chapter 5 of these Administrative Rules, at any time following approval of the MNOI adjustment, MNOI adjustment based on a readjusted base year NOI or fair return adjustment.

CHAPTER 5. ADJUSTMENTS BASED ON CAPITAL IMPROVEMENTS

5.0001. DEFINITIONS

A. Capital Improvements. A 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.

B. Ordinary maintenance and repairs. Ordinary maintenance and repairs include costs associated with the restoration of real property or personal property to a sound state, or which merely keep such property in operating condition over the probable useful life for which it was acquired, or which otherwise result from the normal maintenance and upkeep of the property. Ordinary maintenance and repairs are not capital improvements.

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. Notwithstanding any other provision of these Rules to the contrary, no Capital Improvement Application shall be deemed complete or set for hearing before the Commission if the applicant fails to pay the required application fee.

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:

$$\frac{\$\ 10{,}000.00}{10\ \text{years}} = \$\ 1{,}000.00\ \text{annual amortization}$$

$$\frac{\$\ 1{,}000.00}{12\ \text{months}} = \$\ 83.33\ \text{monthly amortization cost}$$

$$\$\ 83.33 = \$\ 2.78\ \text{monthly rent increase per space for 10 years}$$

30 spaces

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, unless there is substantial evidence that a different amortization period is more appropriate.

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 and Walls	
Block Walls	15
Wood	7
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
Paving (asphalt, cement or micro-surfacing; but excluding patch-work or pothole repairs or slurry seal)	15
Plastering	10
Plumbing	
Fixtures	10
Pipes	15
Pumps	7
Refrigerator	7
Roofing	10

Improvement	**Amortization Period In Years**
Security Entry Telephone Intercom	7
Smoke Detector	7
Stove	7
Stucco	10
Structural Walls (complete replacement; excluding wall patches or repairs to holes or cracks)	10
Washing Machine	7
Water Heater	7
Window Coverings	7
Windows	15

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:

$ 2.78 (proposed capital improvement rent increase) = 2.1%(increase)

$130.00 (existing base rent)

5.0005. COST OF THE CAPITAL IMPROVEMENT

The applicant may provide documentary evidence of the actual cost incurred for the capital improvement. The cost thereof may 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 may be included as a part of the capital improvement cost. In determining the reasonable amount of time over which interest may be allowed, the RA may 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 may 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 capital improvements necessary for health and safety under YMC Section 15.20.085(A)(1) 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:

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. EMERGENCY CAPITAL IMPROVEMENTS

A. Definition. As used in this Section 5.0007, "capital improvements" means work that constitutes 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 and repairs, and have a useful life of at least five (5) years.

B. Required Findings. Emergency capital improvements pursuant to YMC Section 15.20.085(B) means capital improvements necessary because of damage to or destruction of any improvement, facility, or building or any part thereof in a park where such damage or destruction resulted from or was caused by fire, earthquake or other natural elements; the damage or destruction is not covered by insurance or other third party sources; and which meet all of the following conditions as determined by the City:

1. The emergency resulted from either:

a. An earthquake, fire, storm or other weather condition or other natural element; or the sudden and unexpected damage to, or destruction or failure of the park's sewer, water or other utility system where such utility system was properly and adequately maintained by the park owner and met all applicable health and safety code requirements prior to the occurrence of the damage, destruction or failure of the utility system; or

b. The natural element or damage, destruction or failure occurred without any reasonable warning to the park owner such that the park owner did not have any reasonable opportunity to protect the property in advance or which was of such severity that the park owner could not protect the property irrespective of any advance warning.

2. It was necessary for the park owner to immediately perform the work in order to prevent an imminent threat to the health and safety of the park, its residents or neighbors, without first holding a resident meeting and Capital Improvement Election pursuant to the timing requirements set forth in YMC Section 15.20.085(A)(1).

3. All necessary governmental permits and approvals were obtained by the park owner prior to performance of the emergency capital improvements.

4. All necessary governmental approvals and sign-offs were obtained by the park owner upon completion of the emergency capital improvements.

5. The emergency capital improvements were commenced within two weeks of the occurrence of the event causing the imminent threat to the public health and safety.

6. The application for a rent adjustment based on emergency capital improvements was submitted to the City in accordance with the following deadlines:

a. Within (i) one month of completion of the emergency capital improvements, or (ii) within four months from the occurrence of the emergency, whichever occurs later; and

(b) Not more than six months from the date of occurrence of the emergency. The City may excuse the park owner from compliance with this six-month deadline only if the park owner presents evidence demonstrating by clear and convincing evidence that the six-month deadline is unreasonable under the circumstances due to factors outside the park owner's control

and that the park owner exercised reasonable diligence to file the application within that six-month period.

7. The park owner submits all information and documentation necessary for the City to make the determination that emergency capital improvements were warranted and that a capital improvement rent adjustment is otherwise justified under YMC Section 15.20.085(B) and this Chapter.

C. Application and Hearing Procedures. An application for approval of a rent adjustment based on emergency capital improvements shall be submitted to the RA and processed in accordance with the requirements of YMC Section 15.20.085(A)(2). Appeals to the Commission and City Council shall be processed in accordance with YMC Section 15.20.085(E) and (F), and 15.20.115 and Chapter 1 of these Rules.

D. Burden of Proof.

1. In any application submitted for approval of a rent adjustment based on emergency capital improvements, the park owner shall bear the burden of proof by competent evidence, to demonstrate that all of the requirements of YMC Section 15.20.085(B) and this Chapter are met.

2. In determining whether the park owner met his/her burden of proof that the immediate performance of the work was necessary because of an imminent threat to the health and safety of the park, its residents or neighbors, the City shall consider all relevant evidence, including but not limited to, the following:

a. The ability of the park owner holding a resident meeting and Capital Improvement Ballot Election at the park, or at a location within reasonable distance of the park for the park residents to attend and participate in the resident meeting and election, in accordance with the requirements of YMC Section 15.20.085(A)(1), prior to carrying out the emergency capital improvements.

b. The nature of the threat to the public health or safety caused by the damage or destruction, including but not limited to contamination of the water supply to the residents, unsafe electrical or gas conditions, walls or buildings in danger of imminent collapse, blocking or destruction of access roads, rights-of-way or other areas accessible to or needed by the residents for the conduct of their normal lives or by park management to carry out park operations, or blocking or destruction of other areas, buildings or facilities within the park necessary to park management for park operations.

c. The ability of park management to shut off, screen, or wall or block off the damaged or destroyed property, or turn off electricity or other utilities to protect the park, its residents, or neighbors from any imminent health or safety threat, and without impairing the ability of residents to live in their homes with enough visibility to carry out normal activities, and depending on the season, to heat or cool their homes.

d. The importance or necessity of the damaged or destroyed property to the normal lives of the residents and whether such property is necessary for the health or safety of the residents. Common area facilities such as pools, tennis courts, and other recreational amenities or areas, or any portion thereof, shall not be eligible for emergency capital improvements unless the damage or destruction caused an imminent threat to the physical health or safety of the park, its residents or neighbors.

e. The issuance of any order or citation by any governmental agency ordering the performance of emergency capital improvements in order to provide for the immediate replacement or rehabilitation of the property damaged or destroyed as the direct result of an emergency event described in Subsections (B)(1) and (B)(2) of this Section 5.0007. Enactment or amendment of a statute, ordinance or regulation requiring modifications to or implementation of equipment, systems or structures to facilities, buildings, or structures within parks shall not fall within this subsection.

f. The length of time between the date of the occurrence of event causing the damage or destruction to the property or improvement and the date of commencement of the improvements.

g. The dates when the park owner applied for and received permits or approvals from other governmental agencies to commence the work.

h. The date of actual commencement of the work.

i. The extent or complexity of the work needed to replace or rehabilitate the damage or destruction.

j. The date of completion of the work.

k. The reason(s) for any delay in seeking governmental permits or approvals, commencing or finishing the work.

l. If the park owner did not commence construction of the emergency capital improvements within two weeks of the emergency event resulting in the need for the emergency capital improvements, as required by Subsection (B)(5) of this Section 5.0007, all information and documentation to establish an exception to the two-week commencement period in accordance with YMC Section 15.20.085(B)(1)(c) and Subsection (B)(5) of this Section 5.0007.

m. Photographs, notices to park resident representatives, park residents, the City and any other information and documentation relevant to the determination whether performance of the work resulted from an emergency as defined above and was necessary in order to prevent an imminent threat to the health and safety of the park, its residents or neighbors.

n. All documentation and other evidence submitted by the park owner to establish supporting the costs of the emergency capital improvements.

o. All documentation and other evidence submitted by the park owner to justifying the proposed claimed interest rate and amortization period to support the claimed capital improvement rent adjustment.

p. If the park owner did not submit the emergency capital improvement rent adjustment application to the City within the time deadline required by Subsection (B)(6) of this Section 5.0007, all reasons and supporting evidence provided by the park owner to justify the delay in submitting the application.

q. Any other information and documentation relevant to the issue whether the performance of the work was an emergency necessary to be carried out without a resident meeting and Capital Improvement Ballot Election in order to prevent an imminent threat to the health and safety of the park, its residents and/or its neighbors.

E. Subsequent Capital Improvement Rent Adjustment Application Following Denial of Emergency Capital Improvement Rent Adjustment Application.

1. If the City denied an emergency capital improvement rent adjustment application under YMC Section 15.20.085(B) and Section 5.0007 of this Chapter, the City shall not approve a subsequent capital improvement application under YMC Section 15.20.085(A)(1) based on some or all of those same costs, unless the City is able to make all of the following findings.

a. The City denied the prior emergency capital improvement rent adjustment application because either (i) the park owner failed to comply with the time deadlines under YMC Section 15.20.085(B)(1)(c) or 15.20.085(B)(1)(d) and Section 5.0007(B)(5) or (6) and (2) of this Chapter, or (ii) the park owner failed to establish that the work was an emergency capital improvement as defined in YMC Section 15.20.020 and Section 15.20.085(A) and 5.0007(A) and (B) (1) and (2) of this Chapter, and

b. The work constitutes a capital improvement as defined in Section 5.0007(A) of this Chapter; and

c. The park owner conducted a resident meeting and Capital Improvement Ballot Election either (i) within three months of the denial of the emergency capital improvement application by the City or (ii) within twelve (12) months of completion of the capital improvements, whichever occurs later; and

d. Either: (i) at least fifty-one percent (51%) of the residents approved the capital improvements, or (ii) the capital improvements were necessary for the health and safety of the park, its residents or its neighbors; and

e. The subsequent capital improvement rent adjustment application otherwise complies with all other requirements of YMC Section 15.20.085(A) and this Chapter.

2. Prior finding binding. If the City denied the prior emergency capital improvement rent adjustment application because the City determined that the work failed to qualify as a capital improvement (as defined in Subsection (A) of this Section 5.0007), the City's prior finding shall be binding in the City's consideration of any subsequent capital improvement rent adjustment application under YMC Section 15.20.085(A) containing costs for that same work, and no subsequent capital improvement rent adjustment application containing those same costs shall be approved by the City.

5.0008. SPECIAL RENT ADJUSTMENT APPLICATION

A. MNOI Rent Adjustment Application under Section 4.0003 or Section 4.0004. If the City denied a park owner's application for a capital improvement application under YMC Section 15.20.085(A) or an emergency capital improvement rent adjustment under YMC Section 15.20.085(B), and the park owner includes some or all of those same costs in a subsequent special rent adjustment application submitted under YMC Section 15.20.100(A) or (B) and Section 4.0003 (MNOI rent adjustment) or Section 4.0004 (Readjusted Base Year NOI) of these Rules, those costs shall be removed and excluded from the base year or current year operating expenses in determining whether the park owner qualifies for the special rent adjustment. In considering such a separate capital improvement application, all of the following provisions shall apply:

1. The capital improvement costs shall be processed by the City as a separate capital improvement application, and be heard concurrently with the hearing on the special rent adjustment application.

2. The City shall not approve a capital improvement rent adjustment based on those costs unless the City finds that all of the following conditions have been met:

a. The park owner conducted a resident meeting and Capital Improvement Ballot Election in accordance with the time deadlines under Section 5.0007(D)(1)(c) of this Chapter; and

b. Either (i) at least fifty-one percent (51%) of the residents approved the work; or (ii) the work separately qualifies as capital improvements necessary for health and safety reasons under YMC Section 15.20.085(A)(1) and Section 5.0006 of this Chapter; and

c. The claimed costs qualify as a capital improvement as defined in Section 5.0007(A) of this Chapter; and

d. The claimed costs meet all other application requirements of YMC Section 15.20.085(A)(1) and (2).

3. If the City is unable to make all of the findings required by Subsection (2), the City shall not approve a capital improvement rent adjustment for those expenses. In no event shall the costs of any such alleged capital improvements be included in determining a special rent adjustment under Section 4.0003 (MNOI rent adjustment) or Section 4.0004 (Readjustment to base year NOI) of these Rules.

B. Fair Return Rent Adjustment Application under Section 4.0005. If the City denied a park owner's application for a capital improvement application under YMC Section 15.20.085(A)(1) or an emergency capital improvement rent adjustment under YMC Section 15.20.085(B), and if the park owner includes any or all of those costs in a special rent adjustment application for a fair return under YMC Section 15.20.100(C) and Section 4.0005 of these Rules, all of the following provisions shall apply:

1. Prior Denial of Capital Improvement or Emergency Capital Improvement Rent Adjustment Application.

a. If the City denied the park owner's prior application for a capital improvement rent adjustment or an emergency capital improvement rent adjustment because the work failed to qualify as a capital improvement (as defined in Subsection (A) of Section 5.0007 of this Chapter), the City shall exclude those costs from consideration of the park owner's fair return rent adjustment application under YMC Section 15.20.100(C) and Section 4.0005 of these Rules. The City's prior finding that the work failed to qualify as a capital improvement shall be binding upon the City in any such subsequent fair return rent adjustment application under YMC Section 15.20.100(C) and Section 4.0005 of these Rules.

b. If the City denied the park owner's prior application for an emergency capital improvement rent adjustment under YMC Section 15.20.085(B) because the park owner failed to comply with the timing requirements set forth in YMC Section 15.20.085(B)(1)(c) or 15.20.085(B)(1)(d) and Section 5.0007(B)(5) or (6) of this Chapter, the City may consider those costs in a subsequent fair return rent adjustment application only if the work qualifies as a capital improvement as defined in Section 5.0007(A).

c. The failure of the park owner to conduct a resident meeting or Capital Improvement Ballot Election, or to obtain at least 51% consent to the work shall not bar consideration of those costs in determining whether the park owner is entitled to a fair return rent adjustment under YMC Section 15.20.100(C) and Section 4.0005 of these Rules so long as all other requirements of this Subsection (B) of this Section 5.0008 are met.

2. No prior capital improvement or emergency capital improvement rent adjustment application. If the park owner includes the costs of alleged capital improvements in a fair return rent adjustment application under YMC Section 15.20.100(C) and Section 4.0005 of these Rules,

but did not previously file a capital improvement or emergency capital improvement rent adjustment application with the City based on the same work, the City may consider those costs along with other relevant factors to determine if the park owner is entitled to a fair return rent adjustment, only if the City finds that the work qualifies as a capital improvement, as defined in Section 5.0007(A) of this Chapter.

C. Exclusions. Except as otherwise provided in Subsections (A) and (B) of this Section 5.0008, costs incurred in performing any alleged capital improvements shall not be included in any special rent adjustment application under YMC Section 15.20.100 and Sections 4.0003, 4.0004 or 4.0005 of these Rules.

5.0009. IMPROVEMENTS UNNECESSARILY DEFERRED

A. In reviewing and acting upon a capital improvement rent adjustment application under YMC Section 15.20.085(A) or (B), 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 in determining the amount of any capital improvement rent adjustment otherwise determined to be appropriate, but shall not be grounds to deny a capital improvement rent adjustment if all other requirements of YMC Section 15.20.085(A) or (B) and this Chapter are met, 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.

5.0010. CERTIFICATION OF CAPITAL IMPROVEMENTS

A. If a park owner intends to apply for a capital improvement rent adjustment for expenses incurred in carrying out street improvements or flatwork improvements (e.g., sidewalks, driveways, patios), the application shall include a certification signed by a registered or licensed civil engineer verifying the following:

1. That the work was carried out under the supervision of a licensed or certified engineer to make sure that the capital improvements were properly constructed in accordance with the proposal, contract or bid;

2. That the improvement meets the standards required by the City of Yucaipa AC Pavement Specifications or other engineering standards to ensure adequacy of access and parking throughout the area of the improvement in accordance with the requirements of Title 25 of the California Code of Regulations;

3. That the improvement complies with all grading and drainage requirements of Title 25 including but not limited to the urban storm water runoff management requirements of the applicable MS-4 permit issued by the California State Regional Water Quality Control Board;

4. To the extent that the area of improvement qualifies as a place of public accommodation under the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) (ADA), that the improvement complies with all applicable accessibility requirements of the ADA, including but expressly not limited to parking;

5. That the improvement will maintain the existing circulation and access for fire, life safety, service vehicles and trash trucks; and

6. That the improvement will be inspected and tested upon completion to ensure compliance with the required standards as indicated in item 2 above.

B. The application for a capital improvement rent adjustment shall not be deemed complete by the rent administrator under YMC §§15.20.085(A)(2) and 15.20.105 unless the application contains this certification. In the event that the applicant fails or refuses to submit the certification, the application shall be processed in accordance with YMC §§15.20.085(A)(2) and 15.20.105, and the rent administrator or Commission may consider the failure or refusal to submit the certification in determining whether the applicant (or appellant) met his or her burden of proof that he or she is entitled to a capital improvement rent adjustment.

5.0011. APPLICABILITY OF THESE ADMINISTRATIVE RULES. (Renumbered 5.0010 as 5.0011)

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.

CHAPTER 6. TEMPORARY RENT ADJUSTMENT FOR SPECIAL RENT ADJUSTMENT APPLICATION AND HEARING COSTS INCURRED BEFORE THE COMMISSION

6.0001. SCOPE

A park owner may request a temporary rent adjustment for application and hearing costs incurred by the Park Owner in connection with a successful special rent adjustment application submitted under Section 15.20.100 of the Ordinance, and Chapter 4 of these Rules, subject to the following requirements.

6.0002. ELIGIBILITY AND BURDEN OF PROOF

A. A Park Owner may recover the reasonable cost of professional services actually incurred in presenting the owner's application to the Commission, through a temporary rent adjustment, if the park owner successfully obtains approval of a special rent adjustment under Section 15.20.100 of the Ordinance pursuant to a final decision of the City.

B. The park owner shall bear the burden of proof to demonstrate, by substantial evidence, that he/she is entitled to a temporary rent adjustment under this Chapter, including that he/she is the prevailing party on the special rent adjustment application, the amount of the costs incurred in the Commission proceedings, that he/she actually incurred such costs, the

reasonableness of the costs, that the claimed costs bear a reasonable relationship to the special rent adjustment awarded by the Commission pursuant to YMC 15.20.100 based on the factors set forth in Section 6.0004(B) of these Rules, and the amount of the proposed temporary rent adjustment."

6.0003. DEFINITIONS

As used in this Chapter, the following terms shall have the following meanings:

A. "Fees, costs and other expenses" means hourly rates, lump sum charges based on specific tasks or projects, and duplication costs. "Fees, costs and other expenses" shall exclude all of the following: costs to recover documents from storage, costs to compile documents from computer records or other electronic records, development of software programs, and costs to print information or documents from a computer or other electronic device.

B. "Final Decision" means either (i) a final decision issued by the Commission on a special rent adjustment application when no timely appeal is filed, or (ii) a final decision issued by the City Council when a timely appeal from the Commission's decision on the application is filed.

C. "Prevailing Party" means a park owner who obtains approval of a special rent adjustment pursuant to a final decision of the City.

D. "Professional Services" means:

1. Legal, accounting, financial, appraisal, bookkeeping, property management, or engineering services actually incurred by the Park Owner in presenting his/her successful special rent adjustment application to the Commission; except that legal expenses shall not include any legal expenses included as an operating expense for the Current Year under Section 4.0003(D) of these Rules; and

2. Legal expenses must be performed by an attorney duly licensed to practice before the courts of the State of California, and any certified paralegal working under the supervision of any such attorney; and shall exclude costs for secretarial or other clerical services or expenses.

3. Accounting services shall be performed by a Certified Public Accountant, or an accountant working directly under the supervision of a CPA; other financial analyses shall be performed by person(s) with the requisite degree or license in their area of expertise.

E. "Relevant geographical area" means the City of Yucaipa and the County of San Bernardino; provided that, a park owner may submit evidence of factors justifying use of a geographical area in addition to, or in place of, the geographical area required by this section, if the park owner may demonstrate that based upon the services provided, a different or broader geographical area is more representative of the reasonable costs incurred by the park owner in connection with the application.

F. "Special Rent Adjustment" means a rent adjustment approved pursuant to Section 15.20.100 of the Ordinance and Chapter 4 of these Rules.

G. "Substantial evidence" means evidence as defined in Section 1.0029(F) of these Rules.

6.0004. PROCEDURES

A. Application Form and Timing. A park owner who intends to seek recovery of the reasonable costs of professional expenses incurred by him/her in presenting his/her application to

the Commission, shall be required to submit his/her request as part of his/her application for a special rent adjustment in accordance with the requirements specified in the City-approved form.

B. Factors to Determine Reasonableness of Fees, Costs and Other Expenses. Any award of fees, costs and other expenses awarded for professional services under this Chapter shall be awarded only if the Park Owner demonstrates by substantial evidence that he/she is the prevailing party, that such fees, costs and other expenses for professional services were reasonably incurred and that said fees, costs and other expenses were reasonable in amount. The Commission shall consider all relevant factors, including but not limited to, the following:

1. Whether the services were performed by a person possessing a duly issued license or certificate in accordance with applicable state, local or federal requirements, as applicable.

2. The experience of the person who performed the services in connection with the application or appeal.

3. Whether the services and/or resulting costs were unnecessarily duplicative, including but not limited to use of multiple personnel and/or excessive time incurred, given the nature and complexity of the issues, and experience of the professional(s).

4. The rate charged for those professional services in the relevant geographic area.

5. The complexity of the matter.

6. Whether the records provided in support of the claimed costs reflect business practices consistent with the industry standard, such as well-documented records and contemporaneously prepared at the time services were rendered.

7. Whether the records provided reflect work duplicative of work presented in other proceedings and not correlated to specific work performed in the present proceeding.

8. Whether, and to what extent, the costs incurred reflect unwarranted delay or extended hours intended to maximize the cost rather than complete the tasks in a reasonable period of time.

9. Whether, and to what extent, the party claiming such costs refuses or fails to disclose details of the work performed, and the reasons for such failure or refusal.

10. The relationship of the result obtained to the expenses, fees, and other costs incurred (that is, whether professional assistance was reasonably related to the result achieved) and consistent with the purposes and intent of the Ordinance and these Rules in relation to any special rent adjustment sought under the Ordinance and these Rules**,** including but not limited to the amount of the Applicant's requested special rent adjustment and supporting methodologies contained in the Applicant's special rent adjustment application, the amount of the special rent adjustment granted by the Commission, the methodology used by the Commission in determining the approved special rental adjustment, and the percentage difference between the Commission-approved special rent adjustment and the amount of the Applicant's claims under YMC 15.20.100.

In approving any temporary rent adjustment, the Commission may make adjustments to the Applicant's claimed expenses based upon its findings with respect to the factors set forth in this Subsection (B) and all other provisions of this Chapter."

C. Documentation Required. A Park Owner who seeks a temporary rent adjustment for recovery of fees, costs and other expenses for professional services pursuant to this Chapter

shall be required to submit the following information and documentation with his/her request for a temporary rent adjustment:

1. The retainer agreement or other contract reflecting the hourly rate or other charge, the scope or assignment of work to be performed, the specific tasks to be performed, by the professional, and the person(s) who assigned or determined the specific tasks to be performed by the professional.

2. Documentation reflecting actual hours incurred and specific tasks performed, with sufficient detail for the Commission (or City Council on appeal) to determine whether the factors set forth in the Ordinance and this Chapter have been met by the park owner seeking recovery of costs.

3. A declaration or affidavit signed under penalty of perjury by the person performing each professional service, confirming his/her performance of the services, the relevance of the tasks to the application or appeal at issue, and the reasonableness of the claimed costs and all other factors as required by the City-approved form.

4. A declaration or affidavit signed under penalty of perjury by the park owner or designated representative, certifying that such party has paid, or is obligated to pay, for such costs incurred by the professional on his/her behalf in connection with the hearing on the special rent adjustment application.

5. Any additional information or documentation required by the RA and/or the Commission that is reasonably necessary to assist the City in determining whether an application should be granted.

D. Application Processing. An application for a temporary rent adjustment to recover fees, costs and other expenses for professional services shall be processed in accordance with and subject to the procedures set forth in YMC Section 15.10.116 and Chapter 4 of these Rules.

E. Commission Award to Successful Park Owner; Final Decision.

1. At the conclusion of the hearing on a special rent adjustment application, if the park owner is the prevailing party on such application, the Commission shall also have the authority to deny, approve, or approve a modified temporary rent adjustment to the park owner in accordance with this Chapter 6. The Commission's decision shall be included in the Commission's decision on the underlying special rent adjustment application, and shall include:

(a) findings pursuant to Section 15.20.116 of the Ordinance and Administrative Rule §6.0004(B); and

(b) if the application is granted, (i) the amount of the temporary rent adjustment and the reasons therefore; (ii) the amortization period; (iii) the expiration date for the temporary rent adjustment, (iv) the right of each resident to pay the temporary rent adjustment in a lump sum; (v) a provision prohibiting park management from demanding, collecting or retaining any temporary rent adjustment after its expiration date; and (vi) a provision prohibiting park management from including the temporary rent adjustment in the base rent for purposes of future permissive, capital improvement and special rent adjustments; or

(c) if the application is denied, the basis for denial of any such temporary rent adjustment.

2. In determining the amount of a temporary rent adjustment, the Commission shall calculate the amount owed if any resident chooses to pay the temporary rent adjustment in one

lump sum rather than over a five-year period, without the payment of any interest; and the Commission shall also calculate the amount owed as a temporary rent adjustment over a five-year period, including interest at the rate of seven percent (7%) per year, compounded monthly. Any resident may pay the temporary rent adjustment in one lump sum so long as such resident pays the lump sum in full no later than thirty (30) days following the final decision by the City. Upon payment in full of the temporary rent adjustment, the resident shall be deemed to have fully paid such adjustment, and the temporary rent adjustment shall not be included on any statement issued to the resident thereafter.

3. The Commission's decision on any temporary rent adjustment to recover hearing costs shall be final unless the park owner or park resident representative files a timely appeal from the Commission's decision in accordance with Section 15.20.115 of the Ordinance, in accordance with the Appeal procedures established by Rule 1.0030 of these Rules, and Subdivision (F) of this Chapter.

F. Right of Appeal; Final Decision of City Council.

1. A park owner and any park resident shall have the right to file an appeal from the Commission's decision on the park owner's request for a temporary rent adjustment in accordance with the provisions of YMC Section 15.20.115 and Section 1.0030 of these Rules. Any appeal filed shall be filed as part of the underlying appeal of the Commission's decision on the special rent adjustment. Nothing in these Rules shall preclude a park owner or park resident from filing an appeal on the Commission's decision on the temporary rent adjustment application only.

G. City Council Decision. If the park owner successfully appeals the decision of the Commission on a special rent adjustment (including successfully appealing the Commission's decision on a special rent adjustment under Chapter 4, or the Commission's decision on a temporary rent adjustment under this Chapter 6, or successfully opposes an appeal filed by the park resident representative (or a park resident) from the decision of the Commission), at the conclusion of the appeal hearing the City Council shall also have the authority to deny, approve or approve a modified temporary rent adjustment for the successful Park Owner in accordance with this Chapter 6. The City Council's decision shall include:

(a) findings on the factors set forth in this Section and the reasons therefore; and

(b) if the appeal is granted, (i) the amount of the temporary rent adjustment and the reasons therefore; (ii) the amortization period; (iii) the expiration date for the temporary rent adjustment; (iv) the right of each resident to pay the temporary rent adjustment in a lump sum; (v) a provision prohibiting park management from demanding, collecting or retaining any temporary rent adjustment after its expiration date; and (vi) a provision prohibiting park management from including the temporary rent adjustment in the base rent for purposes of future permissive, capital improvement and special rent adjustments; or

(c) if the appeal is denied, the basis for denial of any such temporary rent adjustment.

H. Final Decision. The City Council's decision on an appeal from the decision of the Commission on a park owner's application for a temporary rent adjustment pursuant to this Chapter 6 shall be included in the final decision of the City Council on any such appeal issued pursuant to Section 1.0030 of these Rules.

CHAPTER 7. RENT ADJUSTMENT BASED ON DISCONTINUANCE OR REDUCTION OF A SERVICE OR AMENITY

7.0001. PURPOSE AND SCOPE

A. The purpose of this Chapter is to establish a procedure for park owners and residents to submit applications for a rent decrease due to the substantial reduction or elimination of services or amenities provided to the residents under the following circumstances:

1. The cost of the service or amenity is included in the space rent and either:

(a) Reduction in Service or Amenity. The park owner reduced (or proposes to reduce) a service or amenity to a level substantially below the level provided to the residents since the most recent rent adjustment approved under the Ordinance (or since the last rent increased imposed on a space previously exempt from the Ordinance under a long-term rental agreement entered into under Civil Code Section 798.17); or

(b) Discontinuance of Service or Amenity. The park owner discontinued (or proposes to discontinue) a service or amenity in its entirety to the park residents since the most recent rent adjustment approved under the Ordinance (or since the last rent increase imposed on a space previously exempt from the Ordinance under a long-term rental agreement entered into under Civil Code Section 798.17); and

2. The reduction or discontinuance in the service or amenity will result in a substantial cost saving to the park owner; and

3. The park owner fails to demonstrate that the rent decrease will preclude the park owner from earning a fair return on the park.

B. In determining if the cost of the service or amenity is included in the space rent under Subsection (A), whether such service or amenity is listed in the park's initial or annual registration statement may be considered but shall not be the sole or conclusive factor in determining if the service or amenity is included in the space rent.

C. Applications for a decrease in rent based on the discontinuance or reduction of a service or amenity may be filed by the park owner or a park resident.

D. Eligible Services or Amenities.

1. The types of services or amenities that this Chapter applies to include but are not limited to the following: vehicle and/or RV parking; storage facilities, areas or services; laundry room or facilities; security gates, fences or services; landscaping, grounds keeping or other janitorial or maintenance services; on-site or off-site management; clubhouse, pool, spa or other recreational facility or amenity; heating; air-conditioning; hot and/or cold water, provided that, the discontinuance of hot water in any facility, building or area shall not constitute a reduction or discontinuance of a service for which a rent decrease may be granted if hot water is not required by applicable law, so long as water service itself is provided; and painting (if painting for exterior common areas or facilities is not done at least once every seven years, or if painting for interior common areas of facilities is not done at least once every four years unless the park owner can show that painting was not necessary because it is still in good condition).

2. The failure to include any service or amenity in this list shall not in any manner preclude a park owner from submitting an application to decrease rents for any reason.

3. Minor (De Minimis) Conditions. In some cases, the reduction or discontinuance of certain services or amenities may have only a minimal impact on park residents, do not violate

any applicable health and safety laws or regulations, do not affect the use and enjoyment of the premises, and may exist despite regular maintenance of services or amenities. Such conditions are considered to be minor or de minimis in nature, and shall not provide the basis for a rent decrease under YMC Section 15.20.090 or Chapter 7 of these Rules.

a. Schedule "A" to this Chapter contains a schedule of conditions that generally do not constitute the discontinuance of or reduction in a service or amenity. However, this schedule is not intended to be exclusive, and is not determinative in all cases and under all circumstances. There may be circumstances where a condition, although included on Schedule A, will nevertheless be found to constitute a reduction or discontinuance of required service or amenity that may provide the basis for a rent decrease under YMC Section 15.20.090 and this Chapter.

b. In determining whether a condition is de minimis, the City may consider the passage of time during which a disputed service was not provided, and during which no complaint was filed by any resident alleging failure to maintain such disputed service, as evidencing that such service condition is de minimis, and does not constitute a failure to maintain a required service. Any such passage of time shall be measured without reference to any changes in park ownership or the occupants of the subject mobilehome space.

4. Services Required by Law. Services or amenities required to be provided by federal or state laws or regulations, such as the Mobilehome Residency Law, State Housing Laws, shall not be treated as de minimis under YMC Section 15.20.090 or this Chapter.

7.0002. BURDEN OF PROOF

A. The applicant shall have the burden of proof to demonstrate, by substantial evidence, that a service or amenity was discontinued or reduced, that the reduction or discontinuance of a service or amenity resulted in a substantial cost savings to the park owner, and the proportionate amount of such cost savings that must be passed on to the affected mobilehome park spaces as a rent decrease.

B. If the park owner contends that a proposed rent decrease will preclude the park owner from earning a fair return, the park owner shall bear the burden of proof and the burden of producing evidence to establish on this issue, regardless of who submitted the application for a rent decrease to the City.

C. Failure of an applicant to submit a complete application may be considered by the Commission in determining whether the applicant met his/her burden of proof to demonstrate that he/she is entitled to a rent decrease under this Chapter, and/or the amount of such rent decrease.

7.0003. DEFINITIONS

As used in this Chapter, the following terms shall have the following meanings:

A. “Rent decrease” means an adjustment reducing rents pursuant to Section 15.20.090 of the Ordinance and this Chapter.

B. “Substantial evidence” means evidence as defined in Section 1.0029(F) of these Rules.

7.0004. GENERAL APPLICATION REQUIREMENTS

The following requirements shall apply to all applications for a rent decrease based on the

discontinuance or reduction of a service or amenity filed by a park owner or park resident under Section 15.20.090 of the Ordinance:

A. Format. The applicant shall submit one copy of the application, all supporting information and documentation, and the filing fee, along with a copy of the application in electronic format (jpeg or pdf format). The application and all supporting information and documentation shall be submitted in accordance with the City-approved forms.

B. Filing Fee. Concurrently with filing the application, the applicant shall pay a filing fee of $1,750.00. The filing fee may be periodically updated by Resolution of the City Council. No application shall be deemed complete or set for hearing unless the applicant has paid the required filing fee.

C. Service and Posting. The application shall be served and posted by the applicant in accordance with Section 1.0008 of these Rules. Proof of service and posting shall be filed with the application.

D. Declaration. The application shall be accompanied by a declaration or affidavit signed under penalty of perjury, in accordance with the City-approved forms, certifying that a copy of the application was posted and served in accordance with the Ordinance and these Rules; and that all information and documentation contained in the application is true and correct.

E. Resident Meeting. Prior to submittal of an application for a rent decrease under this Chapter, the park resident or park owner may request a resident meeting to discuss the proposed application. Documentation of the meeting should be maintained, including sign-in sheets, notice of meeting, materials handed out at the meeting, and a record of any vote or other action taken at the meeting, and any such documentation should be filed with the application. The City strongly encourages park residents to hold a meeting with the park owner to facilitate and streamline the application and hearing process and clarify the issues, but failure to hold the resident meeting shall not preclude the granting of an application under this Chapter.

F. Reduction in Service or Amenity. In considering an application for a rent decrease based on the reduction in a service or amenity, only substantial reductions in services or availability of an amenity that will result in significant cost savings to the park owner can be the basis of a rent decrease under this Chapter.

G. Evidence. A proposed rent decrease must be supported by competent written or oral evidence. Mere speculation shall not be sufficient to support a rent decrease under this Chapter.

7.0005. PARK RESIDENT APPLICATION FOR RENT DECREASE

In addition to the requirements set forth in Section 7.0004, the following provisions shall apply to all applications submitted by park residents (or park resident representative) for a rent decrease under YMC Section 15.20.090 and this Chapter.

A. Resident Request for Restoration of Service or Amenity. A resident who intends to file a rent decrease application shall, at least thirty (30) days but not more than sixty (60) days prior to filing the application, serve on the park owner and manager a notice of intent to file an application for a rent decrease and request for restoration of services or amenity. Service may be accomplished by personal delivery upon the park owner and park manager, or by deposit in the U.S. Mail, first-class delivery, postage prepaid. The notice of intent shall be accompanied by proofs of service on the park owner and manager, and a declaration under penalty of perjury certifying that the notice has been served in accordance with the Ordinance and these Rules and

that the information contained in the notice of intent is true and correct. The notice of intent and supporting documents shall be in accordance with the City-approved forms. If the park owner fails to restore the service or amenity to the prior condition or level within thirty (30) days of service of the notice of intent on the park owner and manager, the resident or resident representative(s) may file an application for a rent decrease in accordance with this Chapter.

B. Application contents. An application for a rent decrease filed by a park resident based on the discontinuance or reduction of a service or amenity under YMC Section 15.20.090(B) shall contain all of the following information and documentation in addition to the requirements of Section 7.0004 and Subsection (A) of this Section 7.0005.

1. Applicant information. The complete name, address and telephone number of the applicant, and each person joining in the application; and if the applicant is a representative of a park resident(s), the representative capacity of the applicant (including but not limited to the name(s) of the person(s) upon whose behalf the application is submitted), and written documentation of the applicant's authority to submit the application on behalf of that park resident(s).

2. Request for restoration of services. A copy of the request for restoration of services, served and posted by the applicant in accordance with Subsection (A) of this Section 7.0004, and any response received from the park owner or manager in response to the request.

3. Resident meeting. Documentation establishing any resident meeting held with the residents and park owner prior to submittal of the application.

4. Prior rent decrease. If, as of the time of filing the application, the park owner has already decreased the rent due to the discontinuance of or reduction in the service or amenity, all of the following information must be provided: the amount of the rent decrease; the date of notice of the rent decrease; the effective date of the rent decrease; the explanation given by the park owner for the rent decrease; any documents or other information provided by the park owner to support the rent decrease; and why the applicant contends the amount of the rent decrease is insufficient.

5. Discontinuance of service or amenity. An application for a rent decrease based on discontinuance of a service or amenity filed by a park resident shall contain all of the following additional information and documentation:

a. A detailed explanation of the service or amenity discontinued. Examples include removal of all on-site laundry machines, elimination of all on-site manager services or maintenance services, or the closing of the pool, clubhouse or on-site manager's office. De minimis conditions shall not be included.

b. Photographs of the before and after-condition (where feasible).

c. The date that the service or amenity was initially provided.

d. The date the service or amenity was discontinued.

e. Whether the park owner agrees that the service or amenity was discontinued.

f. The reason(s), if any, provided by the park owner to the resident(s) for the discontinuance of the service or amenity.

g. The amount of the rent decrease requested by the applicant, and the methodology used by the applicant to determine the amount of the rent decrease.

h. The cost savings to the park owner resulting from the discontinuance of the service or amenity, and the methodology used by the applicant to determine the cost savings.

i. Whether the park owner agrees with the amount of the rent decrease requested by the applicant.

j. Any impact on resident health and safety as a result of the discontinuance of the service or amenity.

6. Reduction in Service or Amenity. An application for a rent decrease based on the reduction of a service or amenity filed by a park resident shall contain all of the following additional information and documentation:

a. A detailed explanation of the facts demonstrating the reduction in the service or amenity provided. Relevant evidence includes, but is not limited to a detailed description of the service or amenity provided prior to the reduction in the service or amenity, and a detailed description of the level of service or amenity provided as of the date of the application. Only substantial reductions in services or availability of an amenity that will result in significant cost savings to the park owner can be the basis of a rent decrease under this section. De minimis conditions shall not be included.

(1) Examples include a substantial reduction in the number of months a pool is open or heated; a substantial reduction in the number of days on which the clubhouse is open and available to residents or a substantial decrease in the number of hours the clubhouse is open each day.

(2) The written explanation shall include an explanation of the level of service or amenity provided in the park as of each of the following dates: (i) date of commencement of the tenancy of the applicant and any other affected residents in the park; (ii) dates during which the prior level of the service or amenity was provided to the tenant and other affected residents prior to the reduction in the level of the service or amenity; (iii) level of the service or amenity provided during each of the last five years up to and including the date of the reduction of the service or amenity; and (iv) current level of service provided.

b. Photographs of the before and after-condition (where feasible).

c. The date that the service or amenity was initially reduced. If reductions occurred over a period of time, the dates of such reductions.

d. Whether the park owner agrees that the service or amenity has been reduced.

e. The reason(s), if any, provided by the park owner to the resident(s) for reducing the service or amenity.

f. Any impact on resident health and safety as a result of the reduction of the service or amenity.

g. The cost savings to the park owner resulting from the reduction of the service or amenity, and the methodology used by the applicant to determine the cost savings.

h. The amount of the rent decrease requested, and the methodology used by the applicant to calculate the rent decrease due to the reduction of the service or amenity.

i. Whether the park owner agrees with the amount of the rent decrease requested by the applicant.

7. Park owner notification. Any documents issued by the park owner to the applicant or other residents prior to the date of the application, explaining or describing the services or amenities provided by the park owner to the residents, any changes or reductions in such services or amenities and the dates of such changes or reductions.

8. Governmental citations or orders. Any notices, orders or findings issued by any other state, federal or local agency confirming or addressing the alleged reduction or discontinuance of the service or amenity, or any finding that a service or amenity is inadequate or does not comply with the law.

9. Any additional information or documentation required by the RA and/or the Commission that is reasonably necessary to assist the City in determining whether an application should be granted.

C. Park Owner Response to Park Resident Application for Rent Decrease. Within twenty (20) days of service of the application on the park owner by the RA, the park owner may file a response to the resident's application in accordance with this section.

1. Service and posting. The park owner's response shall be served on the park residents and park resident representatives in accordance with Section 1.0008 of these Rules, and filed with the City in accordance with YMC Sections 15.20.090(B) and 15.20.100(E).

2. Content of Response. The response shall contain all of the following information, and supporting documentation, in addition to any other information or documentation required by the Ordinance and these Rules:

a. Whether the park owner agrees that the service or amenity has been reduced or discontinued.

b. If the park owner denies that the service or amenity has been reduced or discontinued, all facts and documents supporting the park owner's contentions.

c. If the park owner agrees that the services or amenities were reduced or discontinued for a period of time, but have been restored to their previous level(s), the park owner shall include information and documentation demonstrating (i) the date(s) when the service or amenity was reduced or discontinued; (ii) the reason(s) why the service or amenity was reduced or discontinued; (iii) the date(s) that the service or amenity was restored to its prior level; (iv) that the service or amenity has been restored to the prior level, when it was so restored, and whether the residents have been so notified.

d. Whether the park owner agrees with the amount of the rent decrease proposed by the application.

e. If the park owner disagrees with the amount of the proposed rent decrease, the facts and documents supporting the park owner's contentions.

f. If the park owner contends that any rent reduction requested by the residents will prevent the park owner from earning a fair return, the park owner shall include the factual basis for his/her position and all supporting information and documentation, including but not limited to the information and documentation required by Section 7.0005 of these Rules.

3. Proof of Service and Posting. The response shall include the proof of service and posting and declaration under penalty of perjury required by Sections 1.0008 of these Rules.

4. Declaration. A declaration or affidavit signed under penalty of perjury by the person filing the response, certifying that a copy of the response was served on the applicant and

the applicant's designated representative, if any; and posted in the park in accordance with these Rules, and that all information contained in the response is true and correct, in accordance with the City-approved forms.

7.0006. PARK OWNER APPLICATION FOR A RENT DECREASE

In addition to the requirements set forth in Section 7.0004, the following provisions shall apply to all park owner applications for a rent decrease.

A. Park Owner Notice of Intent to File Application. A park owner who intends to file a rent decrease application shall, at least thirty (30) days but not more than sixty (60) days prior to filing the application, notify the affected park residents, and the park resident representative(s), in writing of the service or amenity that the park owner will discontinue or reduce and the basis therefor, and the amount of rent by which the park owner intends to reduce the rent. Service may be accomplished by personal delivery upon the residents, or by deposit in the U.S. Mail, first-class delivery, postage prepaid. A copy of the notice shall also be posted in each of the following three locations: the park office, the clubhouse and one other location mutually accessible to the park residents and owner. The notice shall be accompanied by proofs of service of the notice on residents and a declaration signed by the park owner or park owner representative under penalty of perjury, certifying that the notice has been served and posted in accordance with the requirements of this Chapter and the Ordinance, and that the information contained in the notice of intent is true and correct. The notice and accompanying documents shall be in accordance with the City-approved forms.

B. Application contents. An application by the park owner for a decrease in rent based on the discontinuance or reduction of a service or amenity under YMC Section 15.20.090 shall contain all of the following information and supporting documentation in addition to the requirements of Section 7.0004 and Subsection (A) of this Section 7.0006.

1. Applicant Information. The complete name, address and telephone number of the park owner, and if the applicant is a representative of the park owner, the representative capacity of the applicant (including but not limited to the name(s) of the park owner upon whose behalf the application is submitted), and written documentation of the applicant's authority to submit the application on behalf of that park owner.

2. Notice of Intent. A copy of the notice of intent to file application served on the residents and posted in accordance with Section 7.0005 of this Chapter, and the response(s) of the residents, if any, to the notice of intent.

3. Resident Meeting. Documentation establishing any resident meeting held with the residents and park owner prior to submittal of the application.

4. Prior Rent Decrease. If, as of the time of filing the application, the park owner has already decreased the rent based on the proposed discontinuance of or reduction in the service or amenity, all of the following information: the amount of the rent decrease, the date of notice of the rent decrease, the effective date of the rent decrease, the explanation given by the park owner to the residents for the rent decrease, and any documents or other information already provided by the park owner to the residents to explain the rent decrease.

5. Discontinuance of Service or Amenity. An application for a rent decrease based on the proposed discontinuance of a service or amenity filed by a park owner shall contain all of the following additional information and supporting documentation:

a. A detailed explanation of the service or amenity proposed to be discontinued. Examples include removal of all on-site laundry machines, elimination of all on-site manager services or maintenance services, or the closing of the pool, clubhouse or on-site manager's office. De minimis conditions shall not be included.

b. The date that the service or amenity was initially provided.

c. The date the park owner proposes to discontinue the service or amenity.

d. The reason(s) for the proposed discontinuance of the service or amenity.

e. The amount of the rent decrease requested by the applicant, and the methodology used by the applicant to calculate the rent decrease.

f. The cost savings to the applicant that will result from the proposed discontinuance of the service or amenity, and the methodology used by the applicant to determine the cost savings.

g. Whether the park residents agree with the amount of the proposed rent decrease requested by the applicant.

h. Any impact on resident health and safety that would occur as a result of the discontinuance of the service or amenity.

6. Reduction in Service or Amenity. An application for a rent decrease based on the proposed reduction of a service or amenity filed by a park owner shall contain all of the following additional information and documentation:

a. A detailed explanation of the proposed reduction in the service or amenity. Relevant evidence includes, but is not limited to a description of the type of service or amenity, a detailed description of the level of the service or amenity or service currently provided, and the level of service or amenity proposed to be provided. Only substantial reductions in services or availability of an amenity that will result in significant cost savings to the park owner can be the basis of a rent decrease under this section. De minimis conditions shall not be included.

(1) Examples include a substantial reduction in the number of months a pool is open or heated; a substantial reduction in the number days on which the clubhouse is open and available to residents or a substantial decrease in the number of hours the clubhouse is open each day.

(2) The written explanation shall include an explanation of the level of service or amenity provided in the park as of each of the following dates: (i) dates of commencement of the tenancy of the affected residents in the park; (ii) dates during which the level of the service or amenity was previously reduced, if any; (iii) dates during which the level of the service or amenity was restored to the prior level(s); (iv) current level of the service or amenity provided as of the date of the application; and (v) level of service proposed to be provided after the reduction in the level of the service or amenity.

b. Photographs of the before and after-condition (where feasible).

c. The reason(s) for the proposed reduction in the level of service or amenity to be provided.

d. The reason(s), if any, provided by the park owner to the resident(s) for the proposed reduction in the level of the service or amenity.

e. Any impact on resident health and safety as a result of the reduction of the service or amenity.

f. The cost savings to the park owner resulting from the proposed reduction of the service or amenity, and the methodology used by the applicant to determine the cost savings.

g. The amount of the rent decrease requested, and the methodology used by the applicant to calculate the rent decrease due to the reduction of the service or amenity.

h. Whether the park residents agree with the amount of the rent decrease requested by the applicant.

7. Park resident notification. Any documents issued or provided to the residents prior to the date of the application, which such documents set out or explain the services or amenities provided by the park owner to the residents during the period covered by the prior rent increase(s), any changes or reductions in such services or amenities and the dates of such changes or reductions.

8. Governmental citations or orders. Any notices, orders or findings issued by any other state, federal or local agency confirming or addressing the alleged reduction or discontinuance of the service or amenity, or any finding that a service or amenity is inadequate or does not comply with the law.

9. Any additional information or documentation required by the RA and/or the Commission that is reasonably necessary to assist the City in determining whether the application should be granted.

C. Park Resident Response to Park Owner Application. Within twenty (20) days of service or a copy of the notice of the application on the park residents by the RA (or within twenty (20) days of service of the application on the park resident representative by the RA), the park residents (or park resident representative) may file a response to the park owner's application in accordance with this section.

1. Service and posting. The park resident's response (or response of the resident representative) shall be served on the park owner and park owner's designated representative, if any, in accordance with Section 1.0008 of these Rules, and filed with the City in accordance with YMC Sections 15.20.090(B) and 15.20.100(E).

2. Content of Response. The response shall contain all of the following information, and supporting documentation, in addition to any other information or documentation required by the Ordinance and these Rules:

a. Whether the park resident(s) agrees with the amount of the rent decrease requested in the application.

b. If the park resident(s) disagree with the amount of the proposed rent decrease, all of the facts and documents supporting their contentions.

c. If the park resident(s) contend that other services or amenities were reduced or discontinued, the facts and documents supporting their contentions.

d. If the park resident(s) contend that the service or amenity cannot be discontinued or reduced because such service or amenity is required by other laws or to maintain health and safety and/or habitability standards, the response shall specify the laws or regulations requiring that such service or amenity be maintained at their prior level and the specific health or

safety reasons that such service or amenity must be maintained, and all supporting documentation.

e. Any other information and documentation supporting the park resident's response to the park owner's application and relevant to the issues for determination under YMC Section 15.20.090(A) and this Chapter.

3. Proof of Service and Posting. The response shall include the proof of service and posting and declaration under penalty of perjury required by Section 1.0008 of these Rules.

4. Declaration. A declaration or affidavit signed under penalty of perjury by the person filing the response, certifying that a copy of the response was served on the applicant and the applicant's designated representative, if any; and posted in the park in accordance with these Rules, and that all information contained in the response is true and correct, in accordance with the City-approved forms.

7.0007. RENT ADMINISTRATOR REVIEW

A. Application Processing. Upon receipt of the application, the RA shall review the application and determine whether it is complete, in accordance with YMC Section 15.20.105 and Section 4.0002 of these Rules.

B. Utility Services. If a park owner provides utility services to a mobilehome space discontinues or eliminates such service by separate metering or other lawful means of transferring responsibility for payment from the park owner to the resident(s) of such space, the prospective rent decrease resulting from such transfer shall be determined in accordance with Civil Code Section 798.41, or any successor statute. As used in this Subsection (B) the term "utilities services" means natural gas or liquid propane gas, electricity, water, cable television, garbage or refuse service, and sewer service, or as Civil Code Section 798.41 may be amended from time to time.

C. Repairs. For purposes of evaluating an application under this Chapter, the park owner's removal of a service or amenity to have it repaired shall not be grounds for a rent decrease so long as the park owner returns the service or amenity in good working order within a reasonable period of time.

7.0008. COMMISSION PROCEEDINGS

A. Commission Hearing. The Commission hearing shall be conducted in accordance with Chapter 1 of these Rules.

B. Commission Decision. At the conclusion of the hearing on an application to reduce rent under this Chapter, the Commission shall have the authority to approve, approve a modified rent decrease, or deny a rent decrease to the applicant. The Commission's decision shall be issued in writing, and shall contain findings of fact in support of the decision. The Commission's decision shall include the amount of the monthly decrease in rent for each space, and the commencement date of the rent decrease.

C. Final Decision. The Commission's decision on any rent decrease in rent shall be final unless a timely appeal is filed from the Commission's decision in accordance with Section 15.20.115 of the Ordinance, and Sections 1.0029 and 1.0030 of these of these Rules.

7.0009. APPEAL

A. Right of Appeal; Final Decision of City Council. A park owner and any park resident shall have the right to file an appeal from the Commission's decision on an application for a rent decrease in accordance with YMC Section 15.20.115 and Section 1.0030 of these Rules.

B. City Council Decision. The City Council shall conduct an appeal hearing in accordance with YMC Section 15.20.115 and Section 1.0030 of these Rules. Upon the conclusion of the appeal hearing, the City Council shall have the authority to deny, approve or approve a modified rent decrease in accordance with this Chapter 7 and Section 1.0030 of Chapter 1 of these Rules, and YMC Section 15.20.115. The City Council's decision shall include: (a) findings on the factors set forth in this Section; (b) the amount of any prospective rent decrease granted and reasons therefore, if any; or (c) if the appeal is denied, the basis for denial.

C. Final Decision. The City Council's decision on an appeal from the decision of the Commission on an application for a rent decrease pursuant to this Chapter 7, shall final upon the date of service of the written decision in accordance with YMC Section 15.20.115 and Section 1.0030 of these Rules.

7.0010. CHAPTER 7 – SCHEDULE A - DE MINIMIS CONDITIONS

(reference: Section 7.0001(D)(3)(a) of Chapter 7)

Minimal changes (also known as "de minimis conditions") do not qualify for a rent decrease under YMC Section 15.20.090 or this Chapter. The following list provides examples of de minimis conditions.

1. Air Conditioning: Failure to provide air-conditioning in non-enclosed public areas, such as hallways, stairwells, and other similar areas.

2. Appliances, Clubhouse and other Common Area: Chips on appliances, counter tops, fixtures or tile surfaces; color-matching of appliances, fixtures or tiles.

3. Building Entrance Door: Removal of canopy over door; changes in door-locking devices, where security or access is not otherwise compromised.

4. Carpeting: Change in color or quality under certain circumstances; isolated stains on otherwise clean carpets; frayed areas which do not create a tripping hazard.

5. Cracks: Sidewalk cracks which do not create a tripping hazard; cracks in walls and ceilings that do not constitute any health or safety hazard, provided there is no water leak; street cracks which do not create any traffic hazard and which otherwise comply with the law where such streets are otherwise regularly maintained.

6. Decorative Amenities: Modification (e.g., fountain replaced with rock garden); removal of some or all for aesthetic reasons.

7. Doors: Lack of alignment, provided the condition does not prevent proper closing or locking of entrance doors or closing of interior doors.

8. Floors: Failure to provide furnishing, refinishing or waxing; discrete areas in need of cleaning or dusting, where there is evidence that janitorial services are being regularly provided and most areas are clean (See also Janitorial Services, Subsection 12).

9. Parking: Any condition that does not interfere with the use of the parking lot (if any) or an assigned parking space (e.g., peeling paint where there is no water leak).

10. Graffiti: Minor graffiti inside the building; any graffiti outside the building where the owner submits an "affidavit of on-going maintenance" indicating a reasonable time period when the specific condition will be next addressed.

11. Landscaping: Modification; failure to maintain a particular aspect of landscaping where the grounds are generally maintained.

12. Janitorial Services: Failure to clean or dust discrete areas, where there is evidence that janitorial services are being regularly provided because most areas are, in fact, clean.

13. Lighting in Common Areas or Other Public Areas: Missing light bulbs or fixtures where the lighting is otherwise adequate.

14. Common Area Decorative Items: Discontinuance of flowers (fresh-cut or artificial); modification of furniture; removal of some furnishings (determined on a case-by-case basis); removal of decorative mirrors; reduction in space where reasonable access and use remain (determined on a case-by-case basis); elimination of public area door mat; removal or replacement of window coverings.

15. Mail distribution: Removal of door-to-door or other methods of internal mail distribution where other forms of distribution (e.g., U.S. mail) are maintained.

16. Masonry: Minor deterioration; failure to repair or replace exterior bricks or other masonry where there is no interior leakage or other danger to health or safety;

17. Painting: Change in color in common areas when otherwise not in violation of any other applicable law or regulation; replacement of wallpaper or stenciling with paint in the common areas; isolated or minor areas where paint or plaster is peeling, or other similarly minor areas requiring repainting, provided there are no active water leaks; any painting condition in any area that is not part of the common area or not usually meant for or used by the park residents; failure to repaint if less than seven years (exterior common area buildings or facilities) or less than four years (interior common area buildings or facilities).

18. Recreational Facilities: Modifications to pool, shuffle board court(s), clubhouse, such as reasonable substitution of equipment, combination of areas, or reduction in the number of items of certain equipment where overall facilities are maintained.

19. Sinks: Failure to provide or maintain in recreational facilities, laundry room areas or clubhouse.

20. Storage Space: Removal or reduction of, unless storage space service is provided for in a specific provision of a lease or other rental agreement), or unless the owner has provided formal storage boxes or bins to the residents within three years of the filing of a resident's complaint alleging an elimination or a reduction in storage space service.

21. Maintenance Staff: Decrease in the number of maintenance staff, provided that there is no decrease in janitorial, landscaping, grounds keeping or other maintenance services.

22. Management: Decrease in the number of staff, other than security, provided there is no decrease in management services (elimination of on-site management office may be considered a reduction or discontinuance of a service upon a case-by-case basis).

23. Windows: Sealed, vented, other than in areas used by residents (e.g., laundry rooms); cracked fire-rated windows; peeling paint or other non-hazardous conditions of exterior window frames.