

RESOLUTION NO. 2025-54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIMESA AMENDING THE ADMINISTRATIVE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE CALIMESA MOBILE HOME RENT STABILIZATION ORDINANCE (CHAPTER 9.05 OF THE CALIMESA MUNICIPAL CODE) AND SUPERSEDING AND REPEALING RESOLUTION NO. 2025-36

WHEREAS, the City Council of the City of Calimesa ("City") previously adopted Chapter 9.05, containing Sections 9.05.010, et seq., of the Calimesa Municipal Code, pertaining to Mobile Home Rent Stabilization (the "Ordinance"), and further adopted Administrative Rules for the implementation of the Ordinance ("Rules"); and

WHEREAS, on August 19, 2010, the City Staff conducted a study session with the Calimesa Mobile Home Rent Stabilization Board regarding possible amendments to the Ordinance and Rules, and thereafter conducted a duly noticed public workshop with the park residents on February 23, 2011, and on February 24, 2011 and June 29, 2011, conducted duly noticed workshops with the park owners and their representatives, and thereafter on August 15, 2011 and September 19, 2011, conducted duly noticed public hearings on proposed amendments to the Ordinance and the Rules; and

WHEREAS, on September 19, 2011, the City Council adopted Resolution No. 2011-34, approving the amended Rules with additional amendments to provide for payment of the registration fee monthly and require updated registrations twice a year; and

WHEREAS, on October 17, 2011, staff presented the amended Rules with the additional changes requested by the City Council at its meeting on September 19, 2011 so that the City Council could adopt the Rules with all amendments; and

WHEREAS, the City Council directed the issuance of a request for proposal seeking Mobile Home Rent Stabilization Hearing Officer services in place of the Mobile Home Rent Stabilization Board processes; and

WHEREAS, on October 20, 2025 the City Council adopted Ordinance No. 410 updating and clarifying provisions of Chapter 9.05 of the Calimesa Municipal Code pertaining to Mobile Home Rent Stabilization and amending the Calimesa Municipal Code pertaining to the implementation of a hearing officer process and repeal of the Mobile Home Rent Stabilization Board; and

WHEREAS, this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq., hereafter the "Guidelines"), and the City's environmental guidelines. The City has determined that this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378. Specifically, this Resolution constitutes organizational or administrative activities of City government that will not result in direct or indirect physical changes in the environment. (Guidelines Section 15378(b) (5)). Therefore, because it is not a "project," this Resolution is not subject to CEQA's requirements. Further, even if this Resolution were deemed a "project" and therefore subject to CEQA, the Resolution would be covered by the general rule that CEQA applies only to projects that have the potential to cause a significant effect on the environment. (Guidelines Section 15061 (b) (3)). As an organizational or administrative activity which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, this Resolution does not have the potential to cause

a significant effect on the environment and is therefore exempt under this general rule. Further, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and thus this Resolution is not subject to CEQA (Guidelines Section 15061(b) (3));

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALIMESA DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. All facts set forth in the Recitals of this Resolution are true and correct.

Section 2. The Administrative Rules for the Implementation of the Calimesa Mobile Home Rent Stabilization Ordinance are hereby amended in their entirety to read as set forth in Exhibit "A", attached hereto.

Section 3. Resolution No. 2025-36 is hereby superseded and repealed by this Resolution No. 2025-xx

Section 4. Neither the adoption of this Resolution nor the repeal or amendment by this Resolution of the Administrative Rules, or part or portion of any Administrative Rules, previously in effect in the City or within the territory comprising the City, shall in any manner affect the prosecution for the violation of any provision of the Administrative Rules which violation was committed prior to the effective date of this Resolution, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such Administrative Rules.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Resolution, or Exhibit "A", attached hereto, for any reason is held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity or the remaining portions of this Resolution or Exhibit "A". The City Council of the City of Calimesa hereby declares that it would have adopted this Resolution and Exhibit "A", attached hereto, and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions were to be declared invalid or unconstitutional.

Section 6. This Resolution shall take effect upon adoption.

Section 7. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 20th day of October 2025.


LINDA MOLINA, MAYOR

ATTEST:


DARLENE GERDES, CITY CLERK

STATE OF CALIFORNIA }
COUNTY OF RIVERSIDE }
CITY OF CALIMESA } SS.


I, **DARLENE GERDES**, City Clerk of the City of Calimesa, California, DO HEREBY CERTIFY, that the aforementioned **Resolution No. 2025-54** known as:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIMESA AMENDING THE ADMINISTRATIVE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE CALIMESA MOBILE HOME RENT STABILIZATION ORDINANCE (CHAPTER 9.05 OF THE CALIMESA MUNICIPAL CODE) AND SUPERSEDING AND REPEALING RESOLUTION NO. 2025-36.

And which is on file in the Office of the City Clerk, City of Calimesa California.

Said Resolution was adopted by the said City Council at a regular meeting thereof held on the 20th day of October 2025 by the following vote:

AYES: Cervantez, Cundieff, Garcia, Manly and Molina
NOES: None
ABSENT: None
ABSTAINED: None



DARLENE GERDES, CITY CLERK

Dated this 21st day of October 2025



**ATTACHMENT: Exhibit "A" – Administrative Rules for the
Implementation of the Mobile Home Rent Stabilization Ordinance**

**EXHIBIT "A" TO
CITY COUNCIL RESOLUTION NO. 2025-54**

CITY OF CALIMESA

**ADMINISTRATIVE RULES FOR THE
IMPLEMENTATION OF THE MOBILE
HOME RENT STABILIZATION
ORDINANCE**

(includes amendments through October 15, 2011 pursuant to Ordinance No. 316 and City Council Resolution No. 2011-38) and amendments through October 20, 2025 pursuant to Ordinance No. 410 and City Council Resolution No. 2025-54.

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CITY OF CALIMESA

ADMINISTRATIVE RULES FOR THE IMPLEMENTATION OF THE MOBILE HOME RENT STABILIZATION

CHAPTER 1 - GENERAL PROVISIONS

1.1 Purpose and Interpretation.

- A. These Administrative Rules and Regulations for the Implementation of the Mobile Home Rent Stabilization Ordinance (“Administrative Rules” or “Rules”) were adopted by the City Council of the City of Calimesa for the purpose of administering and enforcing the Mobile Home Rent Stabilization Ordinance (“Ordinance”), as codified in Chapter 9.05 of the Calimesa Municipal Code (“CMC”).
- B. Except as otherwise expressly provided herein, all Rules are mandatory.
- C. In the event of any conflict between the Ordinance and the Rules, the Ordinance shall prevail.
- D. The City Council shall adopt and shall be the sole approving body of these Administrative Rules and any amendments to these Rules shall be made by resolution and shall be submitted to the City Council for review and approval.
- E. These Rules shall be interpreted according to their terms, and in accordance with the purposes of the Ordinance. The City Council shall be the final arbiter of any dispute over the interpretation of any provision of these Rules.

1.2 Public Access and Open Meetings

All meetings of the City Council and all meetings conducted by the Mobile Home Park Rent Stabilization Hearing Officer shall be conducted in accordance with Article I, Section 3 of the California Constitution and the Ralph M. Brown Act (California Government Code Section 54950 et seq., as amended from time to time).

1.3 Posting and Delivery of Ordinance to Park Residents

In accordance with CMC Section 9.05.010(C), the park owner or park management shall deliver a copy of the Ordinance to every mobile home owner or tenant now residing within their respective mobile home park or parks within thirty days of the adoption of the Ordinance or any amendments thereto, and within thirty days of execution of a rental agreement with any new resident. A copy of the Ordinance, and any amendments thereto, shall be maintained in the manager’s office or other common area location for review by the Park residents during business hours. Evidence of management’s compliance with this Rule shall be included in the annual registration statement filed by management with the City in accordance with Chapter 5 of these Rules.

CHAPTER 2 – DEFINITIONS

The following terms shall have the following meanings in these Rules:

- 2.1 “Annual Increase” means a permitted annual rent increase determined pursuant to CMC Section 9.05.080 and Chapter 6 of these Rules.
- 2.2 “Appeal” means an appeal filed with the City Council by a park owner or park resident, or their respective representative(s), in accordance with CMC Section 9.05.120 and Chapter 9 of these Rules, seeking review of a decision of the Mobile Home Park Rent Stabilization Hearing Officer on a petition for a special rent increase, a petition for a capital improvement rent increase, or a petition for temporary rent increase. “Appeal” shall include the completed appeal form, the required appeal fee, deposit(s), all supporting information and documentation, and the written justification for the appeal, as further provided in and required by these Rules and the appeal form.
- 2.3 “Bureau of Labor Statistics” means the Bureau of Labor Statistics, U.S. Department of Labor
- 2.4 “Capital Improvement Rent Increase” means a rent increase based on a capital improvement in accordance with CMC Section 9.05.090 and Chapter 10 of these Rules.
- 2.5 “City” means the City of Calimesa.
- 2.6 “City Council” means the City Council of the City of Calimesa.
- 2.7 “City Manager” means the City Manager of the City of Calimesa, or his/her designee.
- 2.8 “CMC” means the Calimesa Municipal Code.
- 2.9 “Consumer Price Index” or “CPI” means the CPI All-Items in Riverside-San Bernardino-Ontario, CA, All Urban Consumers, not seasonally adjusted, published by the Bureau of Labor Statistics, U.S. Department of Labor, or any successor index.
- 2.10 “Day” means a calendar day, unless otherwise expressly stated in these Rules.
- 2.11 “Exempt space” means either of the following: (a) a space exempt from rent control based upon a long-term lease or other rental agreement entered into pursuant to California Civil Code Section 798.17 (also referred to as a “leased space”), or (b) a space exempt from rent control pursuant to California Civil Code Section 798.45 (also referred to as “new construction”).
- 2.12 “Hearing Officer” or “Mobile Home Park Rent Stabilization Hearing Officer” means the person established by Chapter 9.05 of the Calimesa Municipal Code to perform such duties as may be delegated by the City Council.

- 2.13 "Lease" means a long-term lease or other rental agreement establishing the terms and conditions of a park tenancy, for any space exempt from rent control pursuant to California Civil Code Section 798.17.
- 2.14 "Management" means the owner of a mobile home park, or an agent or representative authorized to act on his/her behalf in connection with matters relating to a tenancy in the park and the Ordinance.
- 2.15 "Month-to-month space" means a space subject to rent control under the Ordinance. Also known as a "regulated space".
- 2.16 "Ordinance" or "CMC Chapter 9.05" means Chapter 9.05, Section 9.05.010, et seq., of the Calimesa Municipal Code, and as said Ordinance may be amended from time to time.
- 2.17 "Park Owner" or "Owner" means the owner or operator of a mobile home park or an agent or representative authorized to act on behalf of the owner or operator in connection with the maintenance or operation of such park and matters arising under the Ordinance.
- 2.18 "Petition" means a petition filed with the City pursuant to CMC Section 9.05.110 and Chapter 8 of these Rules for approval of (a) a capital improvement rent increase under CMC Section 9.05.090 and Chapter 10 of these Rules, (b) a petition for a special rent increase to provide a reasonable return on property under CMC Section 9.05.100 and Chapter 7 of these Rules, and (c) a petition for temporary rent increase in accordance with CMC Section 9.05.140 and Chapter 11 of Rules; and shall include the completed Petition form, the requisite filing fee, deposit(s), and all information and documentation supporting the requested rent increase as required by these Rules and petition form.
- 2.19 "Petitioner" means any person who submits a petition for a rent increase for a mobilehome park under CMC Chapter 9.05 and these Rules.
- 2.20 "Public hearing" or "hearing" means an evidentiary hearing before the Calimesa Mobile Home Rent Stabilization Hearing Officer on a petition for a capital improvement rent increase, a special rent increase and/or a temporary rent increase under CMC Section 9.05.110 and Chapter 8 of these Rules.
- 2.21 "Public Utilities Commission" or "PUC" means the California Public Utilities Commission.
- 2.22 "Regulated space" means a mobile home space subject to the Ordinance. Also known as a month-to-month space.
- 2.23 "Rent Administrator" or "RA" means the City Manager of the City of Calimesa, or his/her designee assigned to administer and implement the Ordinance in accordance with CMC Chapter 9.05 and these Rules.
- 2.24 "Special Rent Increase" means a rent increase to provide a reasonable return, including a maintenance of net operating income ("MNOI") increase, a rent increased

based on a readjusted base year NOI, and/or a fair return rent increase, in accordance with CMC Section 9.05.100(D), (E), or (F) and Chapter 7 of these Rules.

- 2.25 “Temporary Rent Increase” means a temporary rent increase approved by the City for a specified period of time to reimburse the park owner for the reasonable costs incurred by the park owner in successfully preparing and presenting his/her petition for a special rent increase to the Hearing Officer in accordance with CMC Section 9.05.140 and Chapter 11 of these Rules.
- 2.26 “Vacancy” or “vacant” means:
- A. For mobile home spaces subject to CMC Section 9.05.070(A), “vacancy” means a change in ownership of a mobile home occupying a space subject to rent control but excludes a change of ownership between husband and wife, or parent and child, or a change of ownership made for estate planning purposes.
 - B. For mobile home spaces subject to CMC Section 9.05.070(B), “vacancy” means a mobile home space upon which there is no mobile home or a mobile home space upon which there is mobile home owned by the park owner.
- 2.27 “Vacancy Increase” means:
- A. For spaces subject to CMC Section 9.05.070(A), “Vacancy Increase” means a rent increase upon vacancy as defined in Section 2.25(A) of this Chapter.
 - B. For park owner-owned mobile homes or space upon which there is no mobile home, “Vacancy Increase” means a rent increase upon vacancy as defined in Section 2.25(B) of this Chapter.

CHAPTER 3 – POWERS AND DUTIES

- 3.1 City Council. Within the limitations provided by the Ordinance and law, the City Council shall have the following powers and duties:
- A. To conduct any appropriate periodic review of the provisions of the Mobile Home Rent Stabilization Ordinance as deemed necessary and appropriate by the City Council.
 - B. To adopt rules, regulations, policies, guidelines and forms for use by the City Manager, Hearing Officer, park owners and park residents in seeking rent increase under Chapter 9.05 of the Calimesa Municipal Code.
 - C. To hear appeals from decisions of the Mobile Home Rent Stabilization Hearing Officer on petitions for rent increases.
 - D. To interpret and apply the Ordinance and Rules in accordance with the purpose and intent of the Ordinance.

- E. To carry out such other powers and duties as deemed necessary by the City Council to implement and administer CMC Chapter 9.05 and these Rules.

3.2 Mobile Home Park Rent Stabilization Hearing Officer. Within the limitations provided by the Ordinance and law, the Hearing Officer shall have the following powers and duties:

- A. To hold meetings from time to time as requested by the Mayor, the City Council, the City Manager, or upon the filing of a petition with the City Clerk.
- B. To examine any rental agreement submitted to the Hearing Officer by any party to the rental agreement for the purpose of determining whether the space is subject to rent control under this chapter when reviewing a petition for a rent increase under this chapter.
- C. To receive, investigate, conduct hearings on and approve, conditionally approve or disapprove petitions for, or protests against, increases of rents in mobile home parks. All hearings of the Hearing Officer shall be open to the public.
- D. To conduct such studies, surveys, investigations and public hearings and obtain such information as may be necessary to carry out his/her duties.
- E. Subject to the approval of the City Council, to adopt, promulgate, amend and rescind such administrative rules and regulations as the Hearing Officer finds reasonable and necessary for the conduct of his/her affairs and to implement and administer the provisions of this chapter.
- F. Except where such rules are in direct conflict herewith, the Hearing Officer shall be subject to the regulations and standards of conduct for city commissioners, committee members, board members and hearing officers as established and amended from time to time by resolution of the City Council.
- G. To keep records of their proceedings which shall be submitted to the City Council and open for inspection by the public.
- H. To perform such other duties as may be delegated to the Hearing Officer by the City.

3.3 Rent Administrator. Within the limitations provided by the Ordinance and law, the Rent Administrator shall have the following powers and duties:

- A. To review and rule upon protests filed against annual rent increases filed pursuant to CMC Section 9.05.080 and Chapter 6 of these Rules.
- B. To review and evaluate petitions for rent increases and appeals filed pursuant to the Ordinance and these Rules to determine if the petitions are complete, and to require submittal of additional information and documentation as may be required for the Rent Administrator to deem a petition or appeal complete, to

schedule public hearings before the Hearing Officer on such petitions or the City Council on any appeal, and to make recommendations to the Hearing Officer and the City Council in accordance with CMC Chapter 9.05 and these Rules.

- C. To develop forms, procedures and policies for administration and implementation of the Ordinance and these Rules to the extent not inconsistent with the Ordinance, Rules or forms adopted by the City Council.
- D. To serve the park owner and park residents with a copy of the final decision of the Hearing Officer on a petition, and the final decision of the City Council on any appeal.
- E. To perform such other duties as are specified in CMC Chapter 9.05 and these Rules and take such other actions as may be necessary to implement and administer the provisions of the Ordinance and these Rules.

CHAPTER 4 - MOBILE HOME PARK RENT STABILIZATION HEARING OFFICER MEETING AND HEARING PROCESS

4.1 Hearing Officer Meetings. Hearing Officer meetings may be called at any time by the Rent Administrator ("RA") or the Hearing Officer appointed by the City, for the Hearing Officer to conduct evidentiary hearings on applications for special rent increases and temporary rent increases based on special rent petition and hearing costs, or applications for capital improvement rent increases, and to consider any other matters within the jurisdiction of the Hearing Officer pursuant to the Ordinance. The Hearing Officer may adjourn any meeting to a date, time and place specified in the order of adjournment.

If Hearing Officer is absent from any meeting, the RA or City Clerk 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 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.

4.2 Hearing Officer Hearings to be Public. All hearings conducted by the Hearing Officer on rent increase petitions shall be open to the public.

4.3 Meeting Agenda. The Hearing Officer agenda shall be prepared in accordance with the following rules:

- A. **Definition.** As used in these Rules, the term "agenda" means (1) the order of business, including all items and matters to be discussed and/or considered at a Hearing Officer meeting; and (2) all staff reports, communications, resolutions, contract documents, proposals, expert reports, petitions, oppositions, appeals, and other documents or matters to be submitted to the Hearing Officer for consideration and/or action at a meeting.

B. Submittal Deadlines.

1. All documents and materials of any kind proposed by any person to be included in an Hearing Officer agenda on any non-public hearing matter shall be delivered to the RA not later than 12:00 noon on the day which is fourteen (14) days preceding a Hearing Officer meeting (excluding the day of the meeting).
2. The Agenda shall be delivered to the Hearing Officer 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 submission to the Hearing Officer.
3. All rent increase petitions, including petitions for capital improvement rent increases (pursuant to CMC Section 9.05.090), petitions for an MNOI rent increases, readjustment to base year NOI, and/or fair return rent increases (pursuant to CMC Section 9.05.100), and/or petitions for temporary rent increases (pursuant to CMC Section 9.05.140), and all oppositions or other responses to any rent increase petition, shall be submitted to the RA in accordance with timing requirements of CMC Chapter 9.05 and Chapters 8, 9, 10 and 11 of these Administrative Rules. Documents submitted after the time deadlines specified therein shall not be admitted into evidence at a rent increase hearing except upon a finding of good cause by the Hearing Officer pursuant to Rule 8.6(C)(7).
4. All appeals to the City Council, and opposition or responses to any appeal, shall be submitted to the RA in accordance with the time deadlines and other requirements set forth in CMC Section 9.05.120 and Chapter 9 of these Rules.

4.4 Hearing Officer Correspondence

- A. No document or other writing which is exempt from disclosure by the Public Records Act (Section 7920.000 et seq. of the California Government Code), or any other provision of law, shall be disclosed or treated as a public record.
- B. Except as otherwise provided by law, registration forms, petitions for rent increases, opposition or response to any rent increase petition, appeals and/or any opposition or response to any appeal, along with any and all supporting documentation or other materials submitted in response to any such petition, opposition and/or appeal, shall be public records and open to inspection in accordance with the Public Records Act (Government Code Section 792.000 et seq.). Agendas, including any staff reports, minutes, correspondence and other documentation prepared by Staff for any meeting of the Hearing Officer shall not be public records until distributed to the Hearing Officer prior to the Hearing Officer meeting except as may be otherwise required by the California Public Records Act (California Government Code Section 7920.000, et seq.)

and/or the Ralph M. Brown Act (Government Code Section 54950, et seq.).

4.5 Receipt of Evidence Outside of Meeting and Public Contact with Hearing Officer

- A. Except as otherwise provided in these Rules, the Hearing Officer shall not, after a petition necessitating a public hearing has been filed with the City, solicit or receive evidence outside of the public hearing on such petition.
- B. Receipt of unsolicited letters or other documents by the Hearing Officer shall not constitute a violation of Subsection (A) of this Rule but shall be disclosed as provided in Subsection (C) herein. Said documents shall be made a part of the record at the time of the public hearing on a rent increase petition unless such documents are submitted after any filing deadline set forth in Chapter 9.05 or these Rules. Any late submitted documents shall not be admitted into evidence at a rent increase hearing except upon a finding of good cause by the Hearing Officer pursuant to Rule 8.6(C)(7).
- C. A hearing officer who has received evidence outside of the public hearing, or who has viewed the subject property, or is familiar with the subject property, shall fully disclose at the public hearing such evidence and his/her observations and familiarity with the property and/or subject matter so that the petitioner, opponent, and other interested persons may be aware of the facts or evidence upon which s/he is relying and have an opportunity to controvert it. All written evidence received or offered to the Hearing Officer outside of the hearing shall be filed with the Rent Administrator.

4.6 Recording of Meetings

All Hearing Officer meetings, including any public hearings on rent increase petitions, shall be recorded by the City in accordance with the procedures for recording of City Council and Planning Commission meetings. The Hearing Officer may, in his/her discretion, direct that the Rent Administrator keep minutes of each meeting.

4.7 Sworn Testimony.

- A. During public hearings on rent increase petitions, including petitions for capital improvement rent increases, special rent increases and temporary rent increases, the Hearing Officer shall require all witnesses to be sworn in and testify under oath, and all testimony shall be under penalty of perjury. In any other proceedings or meetings before the Hearing Officer, the Hearing Officer may require any person addressing the Hearing Officer to be sworn as a witness and to testify under oath and under penalty of perjury.
- B. During any appeal before the City Council from any decision of a Hearing Officer on a rent increase petition, the City Council shall require all witnesses to be sworn in by the City Clerk and testify under oath, and all testimony on any appeal shall be under penalty of perjury.

4.8 Addressing the Hearing Officer

The following rules, in addition to those set out in this Chapter 4 and Rule 8.6, "Public Hearings before Mobile Home Rent Stabilization Hearing Officer", shall govern public testimony before the Hearing Officer.

- A. **Manner of Addressing the Hearing Officer.** Each petitioner or other person desiring to address the Hearing Officer shall state his/her name and address for the record, state the subject s/he wishes to discuss, state whom s/he is representing if s/he represents an organization or other person. Presentation time shall be limited to five (5) minutes, or as otherwise defined by the Hearing Officer. Except as otherwise allowed by the Hearing Officer during examination of a witness, all comments or other discussion by any person shall be addressed to the Hearing Officer.. No question shall be asked of City staff or another person without the permission of the Hearing Officer.
- B. **Group Spokesperson.** In order to expedite matters and to avoid repetitious presentations, whenever any group of persons wishes to address the Hearing Officer on the same subject matter, it shall be proper for the Hearing Officer to request that a spokesperson be chosen by the group to address the Hearing Officer and, if additional matters are to be presented by any other member of said group, to limit the number of such persons addressing the Hearing Officer.
- C. **After Public Hearing Closed.** After a public hearing has been closed, no member of the public shall address the Hearing Officer from the audience on the matter under consideration without first securing permission to do so by the Hearing Officer.
- D. **Continuance of Hearings.** Any public hearing being held or noticed or ordered to be held by the Hearing Officer or Rent Administrator 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.

4.9 Rules of Decorum

- A. **Hearing Officer.** While the meeting is in session, the Hearing Officer shall be responsible for preserving order and decorum.
- B. **Employees.** Members of the Administrative staff and other employees of the City shall observe the same rules of order and decorum members of the public or as otherwise instructed by the Hearing Officer, provided that members of City staff may leave their seats during a meeting without first obtaining the permission of the Hearing Officer. Any staff member desiring to address the Hearing Officer, or any members of the public shall first be recognized by the Hearing Officer. All remarks shall be addressed to the Hearing Officer and not any member of the public, except as otherwise authorized by the Hearing

Officer during examination of a witness.

- C. **Unacceptable Conduct.** Any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the Hearing Officer or during examination of a witness shall be called to order by the Hearing Officer, and, if such conduct continues, may at the discretion of the Hearing Officer be ordered barred from further questioning any witness, addressing the Hearing Officer and/or ordered to leave 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 refuse to comply with the lawful order(s) of the Hearing Officer shall, upon instructions from the Hearing Officer, be removed from the meeting room.

CHAPTER 5 - REGISTRATION

5.1 Annual Registrations

- A. **Deadline for Submittal.** Annual registration is due no later than the 31st of January each year and shall be submitted under penalty of perjury on the City-approved form and shall include all information and documentation set forth in Subsections (B) through (H) of this Rule 5.1.
- B. **Applicable Time Period.** The owner shall provide all information and documentation for all categories listed in Subsections (C) through (H) for (i) the time period extending from January 1st of the immediately preceding calendar year and (ii) current as of the date of submittal of the annual registration statement
- C. **Current Rent Rolls.** The park owner shall provide a list of all spaces by space number or other identifying number/address, and copies of the rent rolls showing all current rents for all spaces in the park.
- D. **Month-to-Month Spaces.** The park owner shall provide the current rent charged for each month-to-month space; the effective date of the current rent for each space; the utilities, housing services and amenities included in the space rent for each month-to-month space; the utilities, housing services and amenities charged separately from the space rent for each space; and for any space that came off an exempt lease or rental agreement during the immediately preceding calendar year, the lease expiration date and the monthly space rent in effect as of the lease or rental agreement expiration or termination date.
 - 1. If more than one rent increase was imposed on a space during the immediately preceding calendar year, the registration form shall also include all other rent increases imposed on the space during the immediately preceding calendar year; the effective date of each other

rent increase; the amount of each other rent increase; and the provision of the Ordinance or other basis upon which each other rent increase was imposed (e.g., exempt space, CMC Section 9.05.080, CMC Section 9.05.100).

2. If any utilities, housing services or amenities were previously included in the rent, but were separated from the rent during the immediately preceding calendar year, the annual registration shall also include a list of each utility, service and/or amenity separated from the rent during the immediately preceding calendar year; the date that the separate billing became effective; the amount by which rent was reduced; and the initial amount charged for each separately billed utility, service and/or amenity.

E. **Exempt Spaces.**

1. For each space exempt pursuant to CMC 9.05.020(A), the park owner shall provide a list of the space numbers; current space rent charged for each space; the utilities, housing services and amenities included in the space rent for each exempt space; the utilities, housing services and amenities charged separately from the space rent for each exempt space; and the commencement date and expiration date or termination date for each exempt long-term lease or other rental agreement).
2. For each space exempt under CMC 9.05.020(B), the park owner shall provide a list of the space numbers; current space rent for each space; and dates of construction of each space.

F. **Vacant Spaces.** The park owner shall provide a list of all vacant spaces in the park, the dates of vacancy during the immediately preceding calendar year up to and including the date of registration, and for any space subject to CMC 9.05.070(A) and (B), the initial rent upon re-occupancy following vacancy during the immediately preceding calendar year up to and including the date of registration and the utilities, housing services and amenities included in the space rent and charged separately from the space rent for each time period.

G. **Park Ownership Changes.** The park owner shall provide the date of any change of ownership of the park; and the full name and all other registration information for the new park owner, as of the date of submittal of the Petition, and during the immediately preceding calendar year.

H. **Management-Owned Mobile Homes.** The park owner shall provide the date each mobile home became owned, rented, leased or used by management; the space numbers for all such mobile homes owned, rented, leased and/or used by management; dates of park ownership, rental, lease or use; current rent for each space; the utilities, housing services and amenities included in the current rent for each space, and the utilities, housing services and amenities charged separately from the current rent for each space; and if owned, rented, leased or used by the park owner or manager during the immediately preceding calendar year, the utilities, housing services and amenities included

in the rent for each space for the immediately preceding calendar year and the utilities, housing services and amenities charged separately from the rent for the immediately preceding calendar year.

5.2 Updated Registration Upon Changes During Calendar Year

Parks subject to the Ordinance shall submit an updated registration statement to the Rent Administrator on or before June 30th of each calendar year under penalty of perjury in accordance with Rule 5.1 and the following provisions:

- A. **Changes in Space Status.** The updated annual registration statement shall include complete information on the change in status of any space that occurred since the last annual registration statement was filed in accordance with the following requirements:
 - 1. As used herein, "change in status" means (i) any change in the occupancy of a space as a month-to-month space, exempt space or vacant space; or (ii) any change in ownership, rental or use of a mobile home from a mobile home owned by a tenant to a mobile home owned, leased, rented or used by management; or (iii) any change in the mobile home occupying a space, such as the placement of a new mobile home in a space from outside the Park, or the transfer of a mobile home from one space in the Park to another space in the same Park; and (iv) any other change in the status of a mobile home and/or occupant in a space.
- B. **Park Ownership Changes.** The updated registration form shall include complete information on all park ownership changes that have occurred since the most recent annual registration statement was filed. The updated registration statement shall include all information required by Rule 5.1 for the new owner and any new or modified information from the prior registration statement.
- C. **Management Changes.** The updated registration statement shall include all changes in the park's onsite or offsite management that have occurred since the last annual registration statement was filed including the information required by Rule 5.1 for the new manager, and any new or modified information from the prior registration statement.

The updated annual registration statement shall be filed with the Rent Administrator on the City-approved form.

5.3 Registration Fees

- A. **Establishment of Registration Fee.** The initial registration fee shall be forty-three dollars and eight cents (\$43.08) per year, or three dollars and fifty-nine cents (\$3.59) per month per regulated month-to-month space in each park subject to the Ordinance. The City Council may amend from time to time, by resolution, the registration fee and penalties for late registration as well as a failure to register for each regulated mobile home park. The park owner shall

pay the annual registration fee on a monthly basis, no later than the thirtieth (30th) day of each month. The park owner shall not be current on the registration fee until payment of the required registration fee for that month for all regulated spaces in the park. No registration fee shall be charged to any exempt space.

- B. **Non-Compliance.** A park owner's failure or refusal to pay any required registration fees in a timely manner shall also be considered delinquent registration and/or a failure to register or delinquent registration as outlined in Rule 5.5.
- C. **Waiver of Penalties.** A waiver of the penalty for failure to pay the required registration fees may be granted by the Rent Administrator 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.
- D. **Resident Payment.**
 - 1. The park owner may bill a maximum of one-half of the total monthly registration fee paid to the City to the regulated spaces in the Park each month, not to exceed \$1.79 per month per space (the "Park Resident Registration Fee Portion"). The park owner shall not bill the residents of any regulated space in a lump sum for the residents' share of the annual registration fee (\$21.48). The City Council may amend from time to time, by resolution, the amount that a park owner may bill to each regulated space in the mobile home park. The Park Resident Registration Fee Portion may be included in the monthly statement of rent due, but shall be itemized separately, and shall not be deemed to be a part of the rent or included in the rent base when calculating rent increases. At no time shall the amount of registration fee billed to any resident on a rent statement exceed one-half of the monthly amount paid by the Park Owner to the City for that space for the relevant year, except as otherwise provided in paragraph (4) of this Rule 5.3(D) regarding retroactive billing.
 - 2. Residents shall pay their Park Resident Registration Fee Portion to the park owner not later than the deadline for payment of space rent under the rental agreement.
 - 3. No park resident shall be charged any late fee, penalty or other charge in connection with his/her late payment or nonpayment of the Park Resident Registration Fee Portion (collectively "Registration Late Fee") except in accordance with the following provisions:
 - a. The Park Resident Registration Fee Portion shall be late if not paid prior to the date that space rent is defined as "late" under the applicable rental agreement for the space. If there is no rental agreement, or the rental agreement does not include any late charge provision, the resident portion shall be late if not paid prior

to the first of the month immediately following the month in which the registration fee is due.

- b. The Registration Late Fee charged to a regulated space shall not exceed the monthly Park Resident Registration Fee Portion due for the space, or not more than \$1.79. The maximum amount of a Registration Late Fee paid for any regulated space shall be the total annual registration fee due from the Park Owner for that space, or not more than \$21.48 from any regulated space. This limit applies regardless of the number of months that a resident fails to pay, or pays is late paying any or all of the Park Resident Registration Fee Portion, and regardless of the number of occupants of the regulated space.
4. If a park owner fails or neglects to bill the residents of a regulated space for the Park Resident Registration Fee Portion (or any part of such portion) for any month, the park owner may retroactively bill the park residents of a regulated space for the previously unbilled registration fees only if the park owner provides the residents with the same time period to pay as the park owner was late in billing for the fee. The park owner shall not retroactively bill the park residents for any unbilled fees covering any period of time longer than 12 months prior to the date of retroactive billing. The park owner shall not charge late fees or any other charges on the payment of any retroactively billed registration fees if the Park Resident Registration Fee Portion is paid by the residents within the time allowed by this sub-paragraph but may charge a Registration Late Fee if paid thereafter.
5. Except as otherwise provided in the Ordinance or this Rule, no other charges, fees, penalties, fines or payments of any kind shall be charged to, imposed on, or demanded or collected from any resident of any regulated space in connection with any registration fee, nonpayment of registration fee and/or late payment of any registration fee.
6. In each annual and updated registration statement and rent schedule filed with the City, the park owner shall list the amounts billed to and collected from each regulated space for the Park Resident Registration Fee Portion, Registration Late Fee, and any retroactively billed Park Resident Registration Fees, for the period covered by the registration statement and rent schedule, in accordance with the City-approved forms.

5.4 Complete Information Required.

The park owner shall submit all information and documentation required by the City-approved registration form. If the RA determines that the registration form is incomplete, or indicates a possible violation of the Ordinance, the RA shall have the authority to request any additional information or documentation from the owner. No registration shall be deemed complete until the RA issues a written determination to

the owner that the owner submitted all information required by this chapter. Within thirty (30) days after a registration form is submitted, the RA shall either notify the owner that the registration form is complete or notify the owner of the additional information or documentation required in order to complete the registration process.

5.5 Failure to Pay Registration Fee; Delinquent Registration

A park owner who fails to comply with the registration provisions outlined in Section 9.05.060 of the Ordinance or this Chapter, including but not limited to a failure to submit the complete annual registration form or a failure to pay the required registration fee, shall not be entitled to charge, collect, retain, or apply for any rent increase permitted by the CMC. A park owner shall not be eligible for an Annual Increase unless his/her park is registered as required by the Ordinance and this Chapter, and the park owner is current on payment of his/her monthly registration fees required by CMC Section 9.05060(F) and Rule 5.3. No petition for a Capital Improvement Rent Increase, Special Rent Increase or Temporary Rent Increase shall be filed with the City until the park owner receives written confirmation from the RA that the park's registration statement(s) and payment of the park's monthly registration fees are current, as required by the Ordinance and these Rules. This provision shall not apply to any park exempt from the Ordinance pursuant to State law.

No Capital Improvement Rent Increase, Special Rent Increase or Temporary Rent Increase shall be approved by the City unless the park owner is currently registered and current on payment of his/her monthly registration fees as required by CMC Section 9.05.060 and Chapter 5 of these Rules.

CHAPTER 6 – PERMITTED ANNUAL RENT INCREASES

6.1 Definitions. In addition to the definitions set forth in Chapter 2, the following definitions shall be used in determining an Annual Increase under Section 9.05.080 of the Ordinance and this Chapter:

- A. "Annual Increase" or "Permitted Annual Increase" means an Annual Increase in space rent based on eighty percent (80%) of the increase in the CPI over the prior twelve (12) months.
- B. "Current space rent" means the space rent in effect for a space as of the date of issuance of a notice of rent increase based on an Annual Increase determined in accordance with this Chapter.

6.2 Procedures for Determination of Annual Increase

Except as otherwise provided in the Ordinance, a park owner may increase the rent on a mobilehome space once every twelve (12) months by 80% of the increase in the CPI during the preceding twelve (12) months.

6.3 Eligibility. A park owner shall not be eligible for an Annual Increase for any regulated space in his/her park unless (i) the park is currently registered with the City and otherwise in compliance with these Rules and the Ordinance, and (ii) the space has not received a rent increase or other increase in rent during the preceding twelve

months.

6.4 Determination of CPI Indexing Figure. In determining an Annual Increase under CMC Section 9.05.080, the park owner shall comply with the following requirements.

- A. **Rent Administrator Provision of CPI Indexing Figure.** Management shall obtain the CPI from the U.S. Department of Labor, Bureau of Labor Statistics, and shall use the CPI most recently available to determine the CPI Indexing Figure under this Chapter. Management may contact the Rent Administrator to confirm the applicable CPI Indexing Figure to be used in calculating the Annual Increase.
- B. **Explanation of Rent Increase.** The notice of rent increase issued to any park resident shall include an explanation of the method and calculations by which the rent increase was determined under this Rule.

6.5 Rent Schedule. Pursuant to CMC Section 9.05.08(D), concurrently with issuance of the notice of rent increase to the affected residents, management shall file a rent schedule with the Rent Administrator, in accordance with the following requirements:

- A. **Form.** The rent schedule shall be consistent with the form approved by the City and shall be accompanied by a declaration under penalty of perjury under the laws of the State of California, certifying that the information contained in the schedule is true and correct.
- B. **Contents.** The schedule shall contain all of the following information:
 - 1. The name of the park..
 - 2. The complete name of the park owner, and if ownership changed during the prior twelve months, the full name, business address, mailing address of the new owner, and the date of the current owner's purchase or acquisition of the park.
 - 3. A list of all spaces to be subject to the proposed Annual Increase.
 - 4. The date of the last rent increase imposed for each space, and the reason and type of rent increase. If the last rent increase charged was based upon a rent increase authorized under the Ordinance, the schedule shall specify the type of rent increase, the applicable section or subsection under the Ordinance, the effective date of approval of the rent increase, the methodology used, and the amount of the rent increase approved by the City and/or pursuant to the Ordinance. If the last rent increase charged was based on a Vacancy Increase, the schedule shall specify the method by which the Vacancy Increase and the applicable reason under CMC Section 9.05.070 and provide any supporting documentation. If the last rent increase charged was based on a-lease or rental exempt from this chapter pursuant to CMC Section 9.05.020(A), the schedule shall specify the method by which the rent

increase was determined based on the lease and provide supporting documentation.

5. A list of all spaces subject to the Annual Increase.
6. The rent currently being charged for each affected space as of the date of service of the notice of rent increase.
7. The amount of the proposed Annual Increase, and the method and calculation by which the proposed Annual Increase for each space was determined under Subsection (B) of this Rule 6.5.
8. The proposed new rent for each space is based on the proposed Annual Increase.

6.6 Protest by Park Residents.

- A. **Form.** The Rent Administrator may adopt a form for use by park residents in filing a protest to any proposed Annual Increase. Use of the form shall be optional, so long as the protest is in writing, and all information requested by the form is contained in the written protest.
- B. **Contents.** A protest shall include the following information:
 1. The name, address and telephone number of the resident filing the protest. If the protest is filed by a resident representative, the protest shall also include the full name, address, and telephone number of the resident representative..
 2. The grounds for the protest, including the specific Ordinance or Rules provision(s) allegedly violated by the park owner, the factual basis for the protest, and the documentation supporting the protest.
 3. Proof of service of the protest on the park owner by personal delivery or mailing by first-class mail, postage pre-paid, to the last known business address for management.
 4. A declaration under penalty of perjury under the laws of the State of California that the information contained in the protest is true and correct.

6.7 Rent Administrator Action and Determination.

- A. Upon receipt of the protest, the Rent Administrator shall serve management with written notice of receipt of the resident protest, along with a copy of the protest.
- B. In reviewing a protest filed by the park resident(s), the Rent Administrator may

request such additional information and/or documentation from the park owner or park residents as the Rent Administrator determines may be necessary to resolve the protest. The Rent Administrator's decision shall include findings pursuant to CMC Section 9.05.080(H).

- C. Within thirty (30) days of receipt of the protest, the Rent Administrator shall send a copy of his/her written decision by first-class mail, postage prepaid, to management and to each resident or other interested person who filed the protest. The Rent Administrator's decision shall be effective upon deposit of the decision in the U.S. Mail.

6.8 Notice of Annual Increase to Residents.

A park owner shall notify the residents affected by the Annual Increase in accordance with State Law. A park owner shall not notice an Annual Increase prior to filing the rent schedule with the City, but such may occur concurrently.

6.9 Spaces Previously Exempt under Civil Code Section 798.17.

In the event that a space was previously exempt from the Ordinance under a lease or other long-term rental agreement pursuant to California Civil Code Section 798.17, upon expiration or termination of the exempt lease or rental agreement the base space rent, for purposes of calculating the Annual Increase, shall be the rent in effect as of the date of expiration of the exempt lease or other rental agreement, and the previously exempt space shall thereafter be subject to all provisions of the Ordinance and these Rules.

6.10 Vacancy Increases.

In addition to the information set forth in Rule 6.5, the park owner shall also include the following information regarding Vacancy Increases in the park rent schedule or updated schedule filed with the City:

A. Parks Subject to CMC Section 9.05.070(A)

For any regulated park, or portion thereof, subject to CMC Section 9.05.070(A), the park owner shall include all Vacancy Increases imposed on any spaces exempt from the Ordinance in the park rent schedule or updated park rent schedule filed with the City pursuant to CMC Section 9.05.060.

B. Parks Subject to CMC Section 9.05.070(B)

For any regulated parks subject to CMC Section 9.05.070(B), the park owner shall include all Vacancy Increases imposed on any park owner-owned mobile homes, or any mobile homes moved onto a vacant space, in the park rent schedule or updated park rent schedule filed with the City pursuant to CMC Section 9.05.060.

CHAPTER 7 - PETITION FOR SPECIAL RENT INCREASE TO PROVIDE A FAIR RETURN

7.1 Fair Return

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

7.2 Petition Form and Filing Fee

All petitions for a Special Rent Increase pursuant to CMC Sections 9.05.100 and 9.05.110 must be submitted, in accordance with the requirements set forth in this Chapter and Chapter 8 of these Rules.

7.3 Maintenance of Net Operating Income (“MNOI”) Petition

An owner who believes the Annual Increases provided by the Ordinance are not sufficient to provide him/her with a fair return, may apply to the City Rent Administrator for a rent increase for the park on the ground that an additional rent increase is necessary to allow the park owner to maintain net operating income (“MNOI”) in accordance with CMC Section 9.05.100(A) through (D). A petition for an increase under these provisions shall hereinafter be referred to as a “Petition For MNOI Increase” or “MNOI Petition”.

A. **Complete Petition Required.** An MNOI Petition shall not be deemed complete unless the Park Owner submits a Petition as required by the Ordinance and these Rules, including all information and documentation required by the Petition form, and payment in full of the filing fee and any applicable deposit(s).

B. **Definitions.** For purposes of Special Rent Increase proceedings under CMC Sections 9.05.100 and 9.05.110, and this Chapter, the following definitions shall be used:

1. “Base Year”: Base Year shall be determined in accordance with CMC Section 9.05.100(B)(1).

a. Examples of Base Year Determination

Example #1 (“Base Year” under CMC Section 9.05.100(B)(1)(a)): Green Park files a petition for a Special Rent Increase under CMC 9.05.100(D) for the first time in 2012. The “Base Year” is the fiscal year commencing July 1, 1991 and ending June 30, 1992 (or “fiscal year 1991/1992”).

Example #2 (“Base Year” under CMC Section 9.05.100(B)(1)(b)): Blue Park obtained approval of a Special Rent Increase under CMC Section 9.05.100(D) for the first time in 2006. Calendar year 2005 was the “current year” used in determining the Special Rent Increase in the 2006 petition. In

2013, Blue Park petitions for another Special Rent Increase under CMC Section 9.05.100(D). The “Base Year” to be used to evaluate the 2013 petition is calendar year 2005.

Example #3 (“Base Year under CMC Section 9.05.100(B)(1)(b)):

Red Park filed a petition for a Special Rent Increase under CMC Section 9.05.100(D) in 2003, which was denied by the City. Calendar year 2002 was the “Current Year” in the 2003 petition. In 2014, Red Park files another petition for a Special Rent Increase under CMC Section 9.05.100(D). The “Base Year” to be used to evaluate the 2014 petition is fiscal year 1991/1992.

2. “Base Year CPI”: The Base Year CPI shall be determined in accordance with CMC Section 9.05.100(B)(2).

- a. Examples of “Base Year CPI”

Example #1 (Base Year CPI under CMC Section 9.05.100(B)(2)(a)): The “Base Year CPI” for purposes of calculating an initial MNOI Rent Increase under CMC Section 9.05.100(D) or 9.05.100(E) and this Chapter shall be 146.2.

Example #2 (Base Year CPI under CMC Section 9.05.100(B)(2)(b)): Blue Park obtained approval of a special rent increase under CMC Section 9.05.100(D) for the first time in 2006. Calendar year 2005 was the “current year” used in determining the Special Rent Increase in the 2006 petition, and the “current year CPI” used in evaluating the 2006 petition was 211.1. In 2013, Blue Park petitions for another Special Rent Increase under CMC Section 9.05.100(D). The “Base Year CPI” to be used in evaluating the 2013 petition is 211.1.

Example #3 (Base Year CPI under CMC Section 9.05.100(B)(2)(b)): Red Park filed a petition for a Special Rent Increase under CMC Section 9.05.100(D) in 2003, which was denied by the City. Calendar year 2002 was the “Current Year” in the 2003 petition, and the Current Year CPI was 212.5. In 2014, Red Park files another petition for a Special Rent Increase under CMC Section 9.05.100(D). The “Base Year CPI” to be used in evaluating the 2014 petition is 146.2.

- b. The Rent Administrator shall be responsible for determining the Base Year CPI.
3. “Comparable park” shall have the meaning set forth in CMC Section 9.05.100(B)(3).
 4. “Current Year” shall have the meaning set forth in CMC Section 9.05.100(B)(4).

5. "Current Year CPI" or "Current CPI" shall have the meaning set forth in CMC Section 9.05.100(B)(5). The Rent Administrator shall be responsible for determining the Current CPI.
6. "Gross Income" or "GI" includes all income categories set forth in CMC Section 9.05.100(B)(6).
 - a. Utility services: In accordance with CMC Section 9.05.100(B)(6)(d), gross income shall not include any income from utility service(s) if the rates are subject to PUC jurisdiction, unless the utility income is attributable solely to use of the common areas and documentation is provided which separates the common area utility services income from any income attributable to the provision of the utility service to the individual mobile homes).
7. [Blank].
8. "Net Operating Income" or "NOI" means Gross Income less Operating Expenses.
9. "Operating Expenses" includes all operating expense categories identified in CMC Section 9.05.100(B)(7), and subject to the following additional requirements:
 - a. Management expenses pursuant to CMC Section 9.05.100(B)(7)(b) shall be subject to the following):
 - (i) As provided in CMC Section 9.05.100(B)(7)(b), management expenses which have not increased by more than the CPI since the Base Year, or which are the same percentage of gross income in the Base Year and in the Current Year, are presumed to be reasonable; provided that, management or park residents may rebut this presumption by clear and convincing evidence. Rebuttal evidence may include but is not limited to evidence that the fees are exceptionally high by industry standards and/or exceptionally high relative to the value of the services provided or by evidence that the level of management services has increased or decreased since the Base Year.
 - (ii) In the event that documentation of actual Base Year management expenses is not available, Base Year management expenses shall be estimated by taking the Current Year management expenses and decreasing them downward according to the change in CPI between the Base Year and the Current Year, as modified by any

increases based on the difference between owner-managed and contracted-managed expenses in the park between the Base Year and Current Year, unless the petitioner establishes by a preponderance of evidence that management expenses increased from the Base Year to the Current Year at a higher rate despite prudent management;

- (iii) Allowable legal expenses may be included in accordance with Paragraph (k), below; plus,
- b. Normal repair and maintenance expense pursuant to CMC Section 9.05.100(B)(7)(c).
- c. Utility expenses: If the utility service is regulated by the PUC, only that portion of the utility expenses solely attributable to the operation, maintenance, and repairs to the Park's common areas may be included in Operating Expenses, and only if all of the following requirements are met:
 - (i) The common area utility expenses are not subject to PUC regulation (including but not limited to any submeter discount);
 - (ii) The common area utility expenses are separated from the utility expenses attributable to the provision of utility services to the individual mobile homes and for individual homeowner usage;
 - (iii) The petitioner provides documentation demonstrating, based on a preponderance of evidence, that the utility expenses relate solely to maintenance, repair and/or provision of common area utility service; and
 - (iv) In determining whether a preponderance of evidence exists under Subparagraph (3), the mere fact that there is an excess or differential between the amount charged to a petitioner by the utility for total usage for the park, and the amount charged to the park owner by the utility for individual mobile homes and/or individual park resident usage, shall not be sufficient to meet the park owner's burden of proof that the excess or differential represents common area utility expense; plus
- d. Owner-performed labor pursuant to CMC Section 9.05.100(B)(7)(d): Eligible owner-performed labor shall be included only upon a satisfactory showing of the date, time and nature of the work performed, and hourly rate allowed pursuant to CMC Section 9.05.100(B)(7)(d), through credible and reliable

documentation that demonstrates the hours and nature of services provided. Labor which has not increased by more than the CPI since the Base Year, or which is the same percentage of gross income in the Base Year and Current Year, is presumed to be reasonable, unless rebutted by clear and convincing evidence as provided in Subparagraph(b)(1) of this Rule 7.3(B)(9); plus,

- e. Amortized capital improvements and major repairs with a total cost of more than \$100.00 per year per benefitted space pursuant to CMC Section 9.05.100(B)(7)(g). When the useful life of the improvement or major repair is at least five years, an interest cost of the lesser of current prime rate plus 1% per annum or the actual interest rate incurred by the park owner for the improvement or major repair may be added. In those cases where the owner finances the capital improvement or a part thereof with his/her own funds, interest at the current prime rate plus 1% per annum, computed over a reasonable amount of time shall be included for the portion self-financed, as a part of the capital improvement cost. In determining the reasonable amount of time over which interest shall be allowed the RA shall be guided by the current practices of state and federally chartered banks and/or savings and loan associations as to the length of time for repayment of improvement loans, provided, however, that the time shall not exceed the amortization period determined by the RA and used in calculating the allowable capital improvement rent increase. The factors set forth in Chapter 10, Rule 10.2 and the amortization periods set forth in Appendix "A" of these Rules shall be used in determining whether an expense qualifies as a capital improvement under this provision and the proposed amortization period and interest rate; plus
- f. Insurance, based on the amount of the annual insurance premium; plus
- g. Operating supplies, such as janitorial supplies, gardening supplies, stationery, and similar items; plus
- h. Allowable legal expenses: Eligibility of legal expenses shall be determined in accordance with CMC Section 9.05.100(B)(9) to the extent not otherwise precluded by this Chapter.

D. Reasonableness of Operating Expenses.

- 1. All operating expenses shall be reasonable, and the park owner shall have the burden of proving the reasonableness of all of the claimed operating expenses. Whenever a particular expense exceeds the normal industry or other comparable standard, the park owner shall bear the burden of providing the reasonableness of the expense. To the extent that the Hearing Officer finds any such expense to be

unreasonable, the Hearing Officer shall adjust the expense to reflect the normal industry or other comparable standard..

2. When an expense item for a particular year:
 - a. is not representative, or
 - b. in the case of base year expenses, is not a reasonable representation of average expenditures for that item in the years preceding and following the base year, or
 - c. in the current year expenses, is not a reasonable projection of future expenditures for that item,

said expense shall be averaged with expense levels for other years or amortized or adjusted by the CPI or some other reasonable methodology in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison between the recurring level of the expense(s) in the base year and current year.

- E. **Schedule of Increases in Operating Expenses.** 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, exclusive of property taxes, and management expenses, increase at the rate of the increase in the CPI for the applicable year; that property taxes increase at two percent (2%) per year; and that management expenses increase or decrease in the same percentage as the change in CPI between the Base Year and Current Year. These presumptions may be rebutted by clear and convincing evidence.
- F. **Presumption of Base Year Net Operating Income.** For the purposes of evaluating an MNOI Petition, it shall be presumed in the absence of evidence to the contrary presented, pursuant to Rule 7.5 of this chapter, that the NOI earned by the mobile home park in Base Fiscal Year July 1, 1992 ending June 30, 1992 provided a just and reasonable return to the park.
- G. **Method of Calculation of MNOI Increase.** The MNOI increase for the park under Section 9.05.100(D) of the Ordinance and this Chapter shall be calculated as follows:
 1. Determination of Base Year NOI.
 - a. The Gross Income for the Base Year (or "Base Year GI") for all spaces in the park, and the Operating Expenses for the Base Year (or "Base Year OE") for all spaces in the park, shall each be calculated. The Base Year OE shall be subtracted from the Base Year GI, and the difference shall be known as the Base Year Net Operating Income (or "Base Year NOI") for the park. As used herein, "all spaces in the park" means all leased, vacant and

month-to-month spaces in the park.

- b. **Method of Calculation of Rent Increase upon Changed Vacancy Rate.** In the event that there has been an increase of more than three percent in the vacancy rate in the park since the Base Year and the park owner fails to demonstrate that the vacancy rate is beyond his/her control, the City finds that it would be contrary to the purposes of rent stabilization to authorize additional rent increases for occupied spaces in order to offset reductions in income due to those increased vacancies. In effect, allowing additional rent increases for occupied spaces because there are more vacant spaces in a park would allow park owners to obtain higher rents from existing tenants, than it is possible to obtain from the prospective residents, whose homes are still “mobile” and whose options have not been restricted by the process of moving into the park. Therefore, in the event that there has been an increase of more than three percent in the vacancy rate in the park since the base year, calculations of base year and current year operating expenses may be adjusted by the Hearing Officer so that a reasonable comparison of the expenses and charges associated with rented spaces is obtained for the purpose of comparing Base Year and Current Year operating expenses and to adjust for variations in operating expenses due to the increased vacancy rate.
2. **Determination of Current Year NOI.** The Gross Income for the Current Year (or “Current Year GI”) for all spaces in the park shall be calculated, and the Operating Expenses for the Current Year (or “Current Year OE”) for all spaces in the park, shall be calculated. The Current Year OE shall then be subtracted from the Current Year GI and the difference shall be known as the Current Year Net Operating Income (or “Current Year NOI”) for the park. As used herein, “all spaces in the park” means all leased, vacant and month-to-month spaces in the park.
3. **Determination of Current Year NOI Entitlement.** The Base Year CPI shall be subtracted from the Current Year CPI, and the difference shall be multiplied by 100. The product shall then be divided by the Base Year CPI to identify the percentage change in the CPI. The percentage change in the CPI shall then be multiplied by 80%. The product of this calculation shall then be multiplied by the Base Year NOI as determined in Rule 7.3(G)(2). The product of this calculation shall then be added to the Base Year NOI. The resulting sum shall be known as the “Park Current Year NOI Entitlement.”
4. **Determination of Park’s MNOI Increase.** The Current Year NOI shall then be subtracted from the Park Current Year NOI Entitlement. The positive difference is the amount of the maximum allowed MNOI increase for the park (or “the Park MNOI increase”). If the difference is zero or a negative number, then the park owner is not entitled to an

MNOI increase.

5. **Method of Allocation of the Park MNOI Increase for Month-to-Month Spaces.** A prorated amount of the Park MNOI Increase shall be allocated and charged to the individual month-to-month spaces, in accordance with the following provisions.

- a. Except as otherwise provided in Subparagraph (b) of this Rule 7.3(G)(5), the Park MNOI Increase shall first increase be allocated among all spaces in the park, including month-to-month, vacant and leased spaces. Provided that, no rent increase shall be added to any space rent for any exempt space or vacant space.
- b. To allocate the Park MNOI Increase to regulated spaces, the allocation should be made by multiplying the Park MNOI Increase (calculated pursuant to Subsection (G)(4) of this Rule 7.3), above, by a fraction which is the number of regulated rental months divided by the total annual rental months for the park.
 - (i) Leased spaces shall continue to pay the space rent required pursuant to their individual leases.
 - (ii) Vacant spaces shall continue to be assigned the space rent that was in effect immediately preceding the vacancy, except as otherwise provided by Section 9.05.070 of the Ordinance.

H. **Notice of MNOI Increase.** An MNOI Increase is a rent increase which must be noticed in accordance with State Law.

I. **Park Owner Did Not Own Subject Property in 1991/1992 Base Year.** If the park owner did not own the park in the 1991/1992 Base Year, the following rules shall apply in determining Base Year Operating Expenses.

1. The Base Year Operating Expenses shall be determined based upon the previous owner's actual expenses for that year as determined by the Hearing Officer pursuant to Section (B) of this Rule 7.3. Where actual figures are unavailable, the Hearing Officer may consider actual Operating Expenses for the petitioner's first calendar year of ownership, discounted to the 1991/1992 Base Year by the schedule in Rule 7.3(E).
2. Subsection (1) does not apply to a park owner who refuses to provide documents and information on the ground that it is unnecessary, unreasonably burdensome or irrelevant.

7.4 MNOI Increase Pursuant to Readjusted to July 1, 1991 to June 30, 1992 NOI

A. **Rebutting the Presumption of a Fair Return in the July 1, 1991 to June 30,**

1992 Base Year. Section 9.05.100(A) of the Ordinance provides that, in the absence of evidence to the contrary, it shall be presumed that the NOI for fiscal year July 1, 1991 through June 30, 1992 (or "1992 NOI") provided a fair return. Section 9.05.100(E) of the Ordinance provides that the owner may rebut this presumption by presenting evidence that the park's 1992 NOI was insufficient to provide a fair return based on one or more of the following circumstances:

1. Operating expenses were unusually high despite prudent business practices. Evidence that unusual repairs were required, an uninsured loss occurred or that the park was unable to perform necessary repairs or maintenance in prior years resulting in unusually high expenses in July 1, 1991 to June 30, 1992 could be used to establish this circumstance. In this circumstance, the calculation of the park's 1992 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 July 1, 1991 to June 30, 1992 for the park's actual July 1, 1991 to June 30, 1992 operating expenses..
2. Gross income was disproportionately low from July 1, 1991 to June 30, 1992 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 July 1, 1991 to June 30, 1992 NOI may be adjusted by adding the difference between actual July 1, 1991 to June 30, 1992 gross income and that which would have been earned, but for this circumstance to the park's July 1, 1991 to June 30, 1992 gross income.
3. The rent during July 1, 1991 to June 30, 1992 was lower than rent in comparable parks during July 1, 1991 to June 30, 1992. Evidence that there were no rent increases during July 1, 1991 to June 30, 1992 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 during July 1, 1991 to June 30, 1992 or prior years could be used to establish this circumstance. In this circumstance, the calculation of the July 1, 1991 to June 30, 1992 NOI may be adjusted by increasing rental income from those spaces which were charged lower rent by the difference between the rents actually charged in the park and the rents charged in comparable parks during July 1, 1991 to June 30, 1992.
4. Capital improvements were made occurring July 1, 1991 to June 30, 1992 but were not reflected in rent increases collected in July 1, 1991 to June 30, 1992. 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 1992 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 July 1, 1991 to June 30, 1992.

5. The 1992 NOI was not sufficient to provide a just and reasonable return. 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 July 1, 1991 to June 30, 1992, prior and subsequent years, and the same information for comparable parks could be used to establish this circumstance. In this circumstance, the calculation of the 1992 NOI shall be adjusted by adding to the park's July 1, 1991 to June 30, 1992 gross income, the amount of rental income required to provide a just and reasonable return on investment in July 1, 1991 to June 30, 1992.

B. **Eligibility.** A park owner shall be eligible to apply for a Special Rent Increase under Section 9.05.100(E) of the Ordinance and this Rule only if the subject park has never received a Special Rent Increase under Section 9.05.100(D) or (E) of the Ordinance (or any predecessor ordinance(s).) If the City has previously granted a Special Rent Increase to the Park under Section 9.05.100(D) or (E) of the Ordinance, the subject park shall not be eligible for a MNOI rent increase pursuant to this Rule 7.4.

C. **Burden of Proof.** In order to qualify for an MNOI Rent Increase based on a readjustment to the 1992 NOI under CMC Section 9.05.100(E) and this Rule, the owner shall have the burden of proving the existence of one of the circumstances enumerated in Section (A), above and of providing reliable, credible evidence of the rents, operating expenses, gross income, NOI, purchase price, 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 1992 NOI. 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 have the meaning set forth in Rule 7.3(B)(3).

7.5 Petition for Special Rent Increase Based on Fair Return Provision

In accordance with CMC Section 9.05.100(F) and this Rule 7.5, a park owner may rebut the presumption that the rent increase calculations provided by Rules 7.3 and/or 7.4 are sufficient to provide a just and reasonable return by presenting evidence that the rate of return being earned by the mobile home 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.** In determining whether a park owner is entitled to a Special Rent Increase under CMC Section 9.05.100(F) and this Rule 7.5, the Hearing Officer shall consider all relevant evidence, including but not limited to:

1. The purchase price of the park;

2. The NOI of the park at the time of purchase;
3. Any capital improvements made in the park by the owner;
4. The park's current income and expenses and income and expenses for the past 5 years;
5. The return earned by the park;
6. The return earned by comparable residential rental enterprises with commensurate risks and benefits;
7. The return earned by comparable mobile home parks measured by the "capitalization rate" (or "cap rate") of those parks determined by dividing a park's net operating income by its purchase price; and
8. The mobile home park's pattern of income and expenses over each of the past five years, including any unavoidable increases or decreases in maintenance, repairs and other operating expenses (including but expressly not limited to deferred maintenance or substantial deterioration in the mobile home park other than as the result of normal wear and tear).

C. **Hearing Officer Determination.** Any written determination by the Hearing Officer that the park owner is entitled to a Special Rent Increase under this Rule 7.5 shall set forth all facts and circumstances supporting the Special Rent Increase granted, and the documentation upon which the Hearing Officer's decision is based.

7.6 Allowable Rent Increases and Petitions Following Special Rent Increase

Following approval of a Special Rent Increase by the Hearing Officer under CMC Section 9.05.100 and this Chapter, a park owner shall not apply for an Annual Increase pursuant to Section 9.05.080 of the Ordinance and Chapter 6 of these Administrative Rules, until the expiration of at least twelve (12) months following the approval of the Special Rent Increase. A park owner may apply for Capital Improvement Rent Increase at any time following approval of the Special Rent Increase.

CHAPTER 8 – SPECIAL RENT INCREASE PUBLIC HEARING PROCESS

8.1 General Petition Requirements

The Petition for a Special Rent Increase under Section 9.05.100 of the Ordinance and Chapter 7 of these Rules, shall be submitted along with the filing fee in accordance with CMC Section 9.05.110 and the requirements set forth in this Chapter.

A. **Form.** The City has prepared forms for use in seeking or opposing a Special Rent Increase, including a Petition form, affidavits, declarations and notices. Park owners are encouraged to use the City-approved documents. Although use of the City-approved forms is not mandatory, a petitioner shall provide all information and documentation required by the City-approved forms. Failure to provide all information and documentation required by the City and/or filing fee may result in a determination by the RA that the Petition is not complete.

B. **Content of Petition.**

1. In accordance with CMC Section 9.05.110(D), the Petition shall include all of the following and also comply with all other requirements of this Chapter:

- a. The filing fee as established by the City.
- b. The space numbers and names, addresses and telephone numbers of all affected residents.
- c. The current rent of the affected spaces.
- d. For any exempt space, an explanation of the basis of the exemption and all supporting documentation.
- e. The proposed rent increase and the proposed new rent for each space.
- f. The calculations and detailed explanation of the methodology used in determining the proposed MNOI rent increase, rent increase based on readjusted base year NOI, or fair return rent increase, under CMC Section 9.05.100 and Chapter 7 of these Rules.
- g. All proofs of service and posting and affidavit as required by Subsections (D) through (G) of this Rule.

All documents, records and other information supporting the petitioner's calculations and contentions. shall be attached to and shall become part of the Petition.

C. **Format.** All pages of the Petition form and supporting documentation must be paginated; and all supporting documentation must be marked to correspond to the related section and page of the Petition form. Seven (7) copies of the Petition and all supporting documentation and records, including but not limited to, proofs of service and posting and affidavits, must be filed with the Rent Administrator, along with an electronic copy of the Petition and supporting documents and records, and two sets of stamped envelopes addressed to the affected residents. All copies shall be identical. Documentation submitted shall be correlated by the petitioner to the order set forth in the Petition instructions,

so that the Rent Administrator, the Hearing Officer and the residents may ascertain the portion of the Petition to which any set of documentation pertains. Failure to do so may result in a determination by the Rent Administrator that the Petition is not complete.

- D. **Service on Opposing Party.** In accordance with CMC Section 9.05.110(F), prior to or concurrently with filing the Petition with the city, the petitioner shall:
1. Serve a copy of the Petition on the designated park resident representative, along with proof of service.
 2. Serve notice of filing of the Petition on each affected resident in the park, along with proof of service, in accordance with the City-approved notice form by personally delivering the notice to the residents, or by mailing the notice to each resident by first-class mail, postage prepaid.

The petitioner shall also include a copy of the proofs of service with the petition filed with the City.

- E. **Maintenance of Copies of Complete Petition at Park.** Four complete copies of the Petition, and any additional information or documentation filed by the petitioner during the review and processing of the Petition, shall be maintained at the park until issuance of a final decision by the City on the Petition, in accordance with CMC Section 9.05.110(E).
- F. **Posting Requirements.** Notice of filing of the Petition, and any information or documentation filed by the petitioner during the review and processing of the Petition by the City, shall be posted by the petitioner in the park in accordance with CMC Section 9.05.110(E).
- G. **Affidavit or Declaration Under Penalty of Perjury.** The Petition shall include an affidavit of or declaration in accordance with the City-approved form, signed by the petitioner under penalty of perjury under the laws of the State of California, certifying that:
1. The petitioner complied with each of the service and posting requirements of Sections (A) through (F) of this Rule; and
 2. All representations and information set forth in the Petition are true and correct.

8.2 Filing Fee

- A. **City Council Action.** The Petition for Special Rent Increase shall be accompanied by the filing fee established by resolution of the City Council. The filing fee shall be used to offset the costs incurred for staff time, time incurred by experts retained by the City to evaluate the petition, and postage and duplication.

- B. **Additional Fee.** If the City determines that Staff will incur additional time and expert costs to evaluate the petition, the petitioner shall be required to submit any additional deposit(s) deemed necessary to cover the additional costs. The City Council may modify the filing fee by resolution from time to time, and any such modification shall be incorporated herein by this reference on the date of adoption of the City Council Resolution.
- C. **Failure to Pay Filing Fee.** The petitioner must pay the initial filing fee with his/her Petition in order for the Petition to be deemed complete, in addition to any other requirements of this chapter. Any additional fee required by the City must be paid at least sixty days prior to the public hearing before the Hearing Officer.

8.3 Requirement for Submittal of Complete Petition.

A park owner who seeks a Special Rent Increase shall submit a complete Petition, in accordance with Chapter 7 and the following requirements.

- A. **Documentation.** As used in this Rule 8.3, “documentation” or “document” includes, but shall not be limited to, invoices, cancelled checks, spreadsheets, profit and loss statements, general ledgers, balance sheets, account books, bank statements, deeds, title reports, appraisals, audits, rent statements, bills, receipts, insurance policies and certificates, journals, logs, contracts, bank statements, notes, memoranda and any other instrument of any kind, in written, recorded or electronic form, that supports or documents any claimed income or expense category.
- B. **MNOI Rent Increase under Section 9.05.100(D) of the Ordinance.** In addition to the requirements set forth in Rules 8.1 and 8.2, a Petition for an MNOI Rent Increase under Section 9.05.100(D) of the Ordinance and Rule 7.3 shall be required to contain all information and documentation establishing the following for all spaces in the Park:
 - 1. The park’s income and operating expenses incurred in the Base Year;
 - 2. Capital improvements made by the park owner in the Base Year;
 - 3. The park’s income and operating expenses incurred in the Current Year;
 - 4. Capital improvements made by the park owner in the Current Year;
 - 5. The park’s income and expenses in each of the last five (5) years;
 - 6. If the subject park previously received approval of a Special Rent Increase pursuant to CMC Section 9.05.100 and 9.05.110 of the Ordinance (or any predecessor ordinance), the park’s income and operating expenses since its last Special Rent Increase;
 - 7. All information and documentation required by Rule 8.1;

8. All information and documentation required by Rule 8.3(E); and
9. Such other information and documentation as determined by the Rent Administrator as necessary and relevant for the City and its experts to complete their analysis and for the Hearing Officer to properly determine whether the owner is entitled to an MNOI rent increase under CMC Section 9.05.100(D) and Rule 7.3 of Chapter 7.

C. **MNOI Rent Increase based on readjusted Base Year NOI under Section 9.05.100(E) of the Ordinance.** A Petition for an MNOI Rent Increase under Section 9.05.100(E) of the Ordinance and Rule 7.4, shall be required to contain all information and documentation set forth in Rules 8.1, 8.2 and 8.3(A) and (B), above. The park owner shall also submit all such additional information and documentation for all spaces in the park, as follows:

1. For a petition filed under Rule 7.4(A)(1), the factual basis and supporting evidence for the owner's contention that the park's base year operating expenses were unusually high or low despite prudent business practices;
2. For a petition filed under Rule 7.4(A)(2), the factual basis and supporting evidence establishing that the park's Gross Income was disproportionately low during July 1, 1991 to June 30, 1992 despite prudent business practices;
3. For a petition filed under Rule 7.4(A)(3), the factual basis and supporting evidence for the owner's contention that rents during the base year were lower than rents in comparable parks because the rents were not established in an arm's-length transaction;
4. For a petition filed under Rule 7.4(A)(4), the factual basis and supporting evidence for the owner's contention that capital improvements that were made in the base year but were not reflected in rent increases collected during the base year;
5. For a petition filed under Rule 7.4(A)(5), the factual basis and supporting evidence for the owner's contention that the NOI for fiscal year 1991/1992 was not sufficient to provide a just and reasonable return, including but expressly not limited to: the park's purchase price and NOI at the time of purchase; improvements made after purchase of the park, before and during the base year; the park's income, expenses and NOI in the Base Year, the park's income and expenses for the preceding 5 years; the return being earned; the cap rates of comparable mobile home parks; the return being earned by other residential real estate investments with comparable risks and benefits in the Base Year;
6. All information and documentation required by Rule 8.1;

7. All information and documentation required by Rule 8.3(E); and
8. Such other information and documentation determined by the Rent Administrator to be necessary and relevant for the City and its experts to complete their analysis and for the Hearing Officer to properly determine whether the owner is entitled to an MNOI Rent Increase under any of the factors listed in CMC Section 9.05.100(E) and Rule 7.4 of Chapter 7.

D. Fair Return Increase under Section 9.05.100(F) of the Ordinance. A Petition for a Fair Return Rent Increase under Section 9.05.100(F) of the Ordinance and Rule 7.5 shall be required to contain all information and documentation set forth in Rules 8.1, 8.2 and 8.3(A) and (B), above. The park owner shall also submit all information and documentation to establish the following:

1. The purchase price paid by the owner for the park;
2. The park's NOI or cap rate (as defined in Rule 7.5(B)(7)) at the time of purchase;
3. The park's income and expenses for the current year for all spaces in the park;
4. The park's income and expenses in each of the last five (5) years for all spaces in the park;
5. The park's income and expenses for all spaces in the park at the time of its last Special Rent Increase to provide a fair return granted under Section 9.05.100 of the Ordinance (or any predecessor ordinance(s)), and every year since that time;
6. All capital improvements made by the owner in the base year for the park, and since the date of purchase or the date of the last Special Rent Increase;
7. The park's current cap rate and the cap rate for comparable mobile home parks;
8. The return earned by comparable residential rental enterprises with commensurate risks and benefits;
9. All information and documentation that supports the owner's contention that the return earned by the mobile home park is not just and reasonable; and
10. All information and documentation required by Rule 8.1; and
11. All information and documentation required by Rule 8.3(E); and

12. Such other information and documentation determined by the Rent Administrator to be necessary and relevant for the City and its experts to complete their analysis and for the Hearing Officer to properly determine whether the owner is entitled to a Fair Return Increase under Section 9.05.100(F) of the Ordinance and Rule 7.6.

E. Filing Preconditions. In addition to the requirements set forth in Rule 8.3(B), (C) and (D), all Petitions for Special Rent Increases filed under CMC Section 9.05.100(D), (E) and/or (F) shall comply with the following additional requirements.

1. A Petition for an MNOI Rent Increase under CMC Section 9.05.100(D) may be submitted without a Petition for an MNOI Rent Increase based on a re-adjustment to the Base Year NOI under CMC Section 9.05.100(E) or (F). A Petition for an MNOI Rent Increase based on a re-adjustment to the Base Year NOI under CMC Section 9.05.100(E) cannot be submitted without a Petition for an MNOI Rent Increase under CMC Section 9.05.100(D). A Petition for a Fair Return Rent Increase under CMC Section 9.05.100(F) cannot be submitted unless accompanied by a Petition for an MNOI Rent Increase under CMC Section 9.05.100(D) and/or (E). A Petition for Special Rent Increase which does not comply with this Section (D)(1) of this Rule shall be deemed incomplete.
2. A Petition for a Special Rent Increase under CMC Section 9.05.100(D), (E) and/or (F) and Rules 7.3, 7.4 and/or 7.5 of these Rules shall also include complete information and supporting documentation establishing all of the following:
 - a. Annual Increases. To the extent not included in the registration statements and/or rent schedules on file with the City, the petitioner shall provide the following Annual Increase information and supporting documentation with the Petition:
 - (i) A list of each Annual Increases imposed by the park owner under Section 9.05.080 of the Ordinance for the Base Year, including the amount of each Annual Increase, the affected space(s), and the implementation date(s), and space rent charged before and after the implementation of the Annual Increase;
 - (ii) A list of each Annual Increases imposed by the owner under Section 9.05.080 of the Ordinance for each of the years since the Base Year and up to and including the Current Year, the affected space(s), the implementation date(s), and the space rent charged before and after implementation of the Annual Increase; and
 - (iii) A list of each Annual Increases for which the owner has

issued a notice of rent increase under State law but which has not yet become due and payable by the affected residents as of the date of filing of the Petition for Special Increase with the City, the affected space(s), the space rent before the proposed rent increase; the proposed space rent after implementation of the Annual Increase; and the proposed implementation date of each Annual Increase.

- b. **Exempt Spaces.** To the extent not included in the registration statements and/or rent schedules on file with the City, the petitioner shall provide the following exempt space information and supporting documentation with the Petition:
 - (i) For all spaces exempt from the Ordinance pursuant to CMC Section 9.05.020(A) during the Base Year: a list of all exempt spaces; the space rent charged for each exempt space; the utilities, housing services and amenities included in the space rent for each exempt space; the utilities, housing services and amenities charged separately from the space rent for each space; and the commencement date and expiration date of the exempt lease or other rental agreement;
 - (ii) For all spaces that were exempt at any time during the Current Year pursuant to CMC Section 9.05.020(A) but which are month-to-month spaces as of the date of the Petition: a list of all exempt spaces, the space rent charged for each exempt space; the utilities, housing services and amenities included in the space rent for each exempt space; the utilities, housing services and amenities charged separately from the space rent for each space; the commencement date and expiration date of the exempt lease or other rental agreement; and the monthly space rent initially imposed as of the lease expiration date; and
 - (iii) For all spaces exempt pursuant to CMC Section 9.05.020(A) as of the date of filing the complete Petition: a list of all exempt spaces; the space rent charged for each exempt space; the utilities, housing services and amenities included in the space rent for each exempt space; the utilities, housing services and amenities charged separately from the space rent for each space; the commencement date and expiration date of the exempt lease or other rental agreement.
- c. **Vacant Spaces.** To the extent not already included in the registration statements and/or rent schedules on file with the City

pursuant to Chapter 5 of these Rules, the petitioner shall provide the following information and supporting documentation with the Petition for vacant spaces:

- (i) A list of each rent increase (including any vacancy increase) imposed by the park owner for the Base Year, including the amount of each increase, the affected space(s), and the implementation date(s), space rent charged before and after the implementation of the increase, and utilities, housing services and amenities included in the space rent and charged separately from the space rent;
 - (ii) A list of each rent increase (including any vacancy increase) imposed by the owner for each of the years since the Base Year and up to and including the Current Year, the affected space(s), the implementation date(s), the space rent charged before and after implementation of the increase, and the utilities, housing services and amenities included in the space rent and charged separately from the space rent; and
 - (iii) A list of each rent increase (including any vacancy increase) for which the owner has issued a notice of rent increase under State law but which has not yet become due and payable by the affected residents as of the date of filing of the Petition for Special Increase with the City, the affected space(s), the space rent before the proposed rent increase, the proposed space rent after implementation of the increase, the utilities, housing services and amenities included in the space rent and charged separately from the space rent, and the proposed implementation date of each increase.
- d. Park Ownership and Management Changes If ownership or management of the park changed during the Current Year, or since submittal of the most recent Annual Registration Statement, the petitioner shall provide the following information and supporting documentation with the Petition:
- (i) The date of change of ownership of the park; and the full name and all other information for the new park owner required by Chapter 5.
 - (ii) The date of change of management; and the full name and other information required for the park manager required by Chapter 5. As used herein, "management" includes both on-site and off-site management.

- e. Park-Owned and/or Management-Owned Mobile Homes. To the extent not included in the Initial or any Annual Registration Statements and/or rent schedule filed with the City, the petitioner shall provide the following information and supporting documentation regarding mobile homes owned, rented, leased or used by management with the Petition:
 - (i) A list of all mobile homes owned, rented, leased or used by the park owner or management during the Base Year, during the Current Year, and as of the date of filing of the Petition, including the date each space became owned , rented, leased or used by the park owner or management; space rent; the utilities, housing services and amenities included in the space rent; the utilities, housing services and amenities charged separately from the space rent; and
 - (ii) Such information and documentation shall be separately provided for each time period.

8.4 Rent Administrator Authority

Upon receipt of the Petition, the Rent Administrator shall review the Petition and determine whether the Petition is complete in accordance with the following provisions.

- A. **Notification to Park Owner.** The Rent Administrator shall determine whether the Petition contains all information and documentation required by CMC Sections 9.05.100 and 9.05.110 and these Rules. Not later than thirty (30) days after the Petition was filed with the City, the Rent Administrator shall send written notice to the petitioner, informing him/her whether the Petition is complete.
- B. **Procedures Upon Determination that Petition is Incomplete.**
 - 1. If the Rent Administrator determines that the Petition is incomplete, the notice sent by the Rent Administrator shall include a list of the information and documentation required under CMC Sections 9.05.100 and 9.05.110 and these Rules in order for the Petition to be deemed complete.
 - 2. The petitioner shall have thirty (30) days to submit the additional information or documentation set forth in the notice. The Rent Administrator may extend this 30-day period for up to an additional 30 days upon a request by the petitioner prior to the expiration of the initial 30-day period that such additional time is needed for the petitioner to obtain and submit the additional documentation.
 - 3. Upon expiration of the thirty-day period (or the additional period of time

as extended by the Rent Administrator), the petition shall thereafter be set for hearing before the Hearing Officer. If the petitioner failed to submit the additional information or documentation requested by the Rent Administrator to deem the petition complete, the Rent Administrator shall serve written notice on the park residents and designated park resident representative that the Petition has been filed with the City but that it is incomplete, and that the failure of the petitioner to submit a complete petition may be considered by the Hearing Officer in determining whether the petitioner met its burden of proof for a Special Rent Increase. The notice shall be issued in accordance with Section 9.05.110 of the Ordinance and these Rules. The Rent Administrator shall thereafter schedule the public hearing on the merits of the Petition before the Hearing Officer in accordance with CMC Section 9.05.100 and this Rule 8.4.

4. The scheduling of an incomplete petition for consideration by the Hearing Officer shall not constitute any finding by the Rent Administrator or the Hearing Officer that the petition is complete. In reviewing an incomplete Petition, the Hearing Officer may consider the failure of the petitioner to submit a complete petition in evaluating whether the petitioner met its burden of proof that petitioner is entitled to a Special Rent Increase.

C. Procedures Upon Determination that Petition is Complete.

1. Upon the City's determination that a Petition is complete in accordance with these Rules, the Rent Administrator shall serve written notice on the park residents and designated park resident representative that the Petition has been filed with the City, in accordance with CMC Section 9.05.110 and these Rules. The Rent Administrator shall thereafter schedule the public hearing on the merits of the Petition before the Hearing Officer.
2. Any determination by the Rent Administrator that a Petition is complete pursuant to this Rule 8.4 shall not constitute any finding by the Rent Administrator that the petitioner has met his/her/its burden of proof that the petitioner is entitled to a Special Rent Increase.
3. Any determination by the Rent Administrator that a Petition is complete pursuant to this Rule 8.4 shall not preclude the Hearing Officer from requesting or directing that the petitioner provide any additional information or documentation at or during the public hearing on the Petition itself, in order for the Hearing Officer to reach a decision on the merits of the Petition for a Special Rent Increase.

8.5 Protest in Response or Opposition to Petition for Special Rent Increase.

Any person wishing to submit any written opposition or response to a Petition for a Special Rent Increase shall submit a written protest that complies with all the following

requirements.

- A. **Form.** The City has prepared forms for use in opposing or responding to a petition for Special Rent Increase, including a Protest form, affidavits, declarations and notices. Persons responding to or opposing a petition are encouraged to use the City-approved documents. Although use of the City-approved forms is not mandatory, any person filing a Protest with the City shall provide all information and documentation required by the City-approved forms, relevant to the basis for the Protest to the Petition, as required by the Protest form and as further provided in these Rules.
- B. **Format.** Any person submitting a Protest shall submit at least seven (7) copies of the written opposition or response to the Rent Administrator, including all affidavits, declarations, notices and supporting documentation, along with an electronic copy, not later than the thirtieth (30th) day following the date of the notice served upon the park residents that the petition was filed and has been declared complete by the City. All pages of the Protest form and supporting documentation must be paginated; and all supporting documentation must be marked to correspond to the related section and page of the Protest form. Documentation submitted shall be correlated to the order set forth in the Protest form instructions, so that the Rent Administrator, the Hearing Officer and the residents may ascertain the portion of the Protest to which any set of documentation pertains.
- C. **Service on Park Owner.** Upon receipt of Protest by the City, the Rent Administrator shall serve a copy of the Protest upon the park owner.
- D. **Affidavit or Declaration Under Penalty of Perjury.** The Protest shall also include an affidavit of or declaration in accordance with the City-approved form, signed by the person submitting the Protest, under penalty of perjury under the laws of the State of California, certifying that:
 - 1. The person filing the protest served a copy of the Protest on the petitioner and the petitioner's representative as required by this Rule; and.
 - 2. All representations and information set forth in, and documentation submitted with, the Protest are true and correct.

8.6 Public Hearings before the Mobile Home Park Rent Stabilization Hearing Officer

The following procedural rules shall apply to all public hearings before the Hearing Officer on petitions for special rent increases, Capital Improvement Rent Increases, and Temporary Rent Increases, except as otherwise expressly provided in CMC Chapter 9.05 or these Rules. All other requirements of Chapter 4 shall also apply to such public hearings, where not inconsistent with the provisions of this Rule 8.6.

- A. **Duties of Presiding Officer.** During a public hearing, the Hearing Officer shall serve as the presiding officer and have the authority to:

1. Administer oaths and affirmations;
2. State each question coming before the Hearing Officer, announce all decisions of the Hearing Officer on all subjects, and control the course of the hearing;
3. Rule on procedural requests; and
4. Take such other actions as are authorized by the Ordinance, these Administrative Rules, and any other duly adopted ordinances, resolutions, rules and regulations of the City Council and/or the Hearing Officer pursuant to the Ordinance.
5. The functions of the Hearing Officer shall be performed in an impartial manner.

B. Legal Counsel Representation and Participation.

1. All parties may be, but are not required to be, represented by legal counsel during Special Rent Increase hearings and appeals..
2. City staff may be assisted and advised by legal counsel in connection with review and evaluation of the petition and may be assisted by legal counsel in presentation of City Staff's recommendations to the Hearing Officer.
3. The Hearing Officer shall rule on offers of proof and receive relevant evidence and make any necessary evidentiary rulings.

C. Rules of Evidence.

1. Format of Documentation. The documents and records submitted in support of the petition must be legible, reproducible, organized and presented in a manner appropriate and acceptable by reasonable accounting standards and appraisal standards, where applicable. The calculation of the proposed rent increase and the supporting material must be certified by a certified public accountant as accurate and computed in the same manner as books and records kept for income tax purposes. Upon request of the Hearing Officer, the petitioner shall be required to show to the Hearing Officer the original document from which any photocopy was made and all documents, papers, or written memoranda which support or are evidence of claimed expenses of any nature. Failure to comply with these provisions shall be good and sufficient cause to deny the petition..
2. Rights of Petitioner and Other Interested Persons. Representatives of the City, representatives of the petitioner, representatives of the residents of the petitioning mobile home park, and any other interested

person, party or entity, shall have these rights during any public hearing to consider a Petition for Special Rent Increase:

- a. To call and examine witnesses.
 - b. To introduce exhibits.
 - c. To discuss evidence directly with the Hearing Officer without an attorney
 - d. To cross-examine opposing witnesses on any matter relevant to the issues contained in the petition even though the matter was not covered on direct examination.
 - e. To impeach any witness regardless of which party first called the witness to testify.
 - f. To rebut the evidence against him/her.
3. Oath. All testimony offered by any person at the public hearing shall be under oath, in accordance with Section 4.12.
4. Hearsay and Privileges. 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 by the Hearing Officer 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 increase, which is the subject of the petition, as provided in Subsections 5 through 11, below.
5. Relevancy Requirement.
- a. Notwithstanding the provisions of Subsection 4, above, all evidence in the form of testimony and written documents pertaining to any petition being considered at the public hearing must be relevant to determine whether a park owner is entitled to an increase in rents pursuant to the Capital Improvement Rent Increase, Special Rent Increase, and/or Temporary Rent Increase provisions of the Ordinance and these Administrative Rules.

- b. All evidence, whether it be in the form of oral testimony or written documents, which is not relevant to enable the Hearing Officer to determine whether a park owner is entitled to the increase being sought in the petition, under the operation of the Ordinance and these Administrative Rules, shall be excluded by the Hearing Officer from his/her consideration in reaching a decision on the rent increase petition.
 - c. Except as provided elsewhere in these Administrative Rules, or as provided in the Ordinance, the Hearing Officer shall hear all offered testimony and receive all offered documentary evidence relevant to determine whether the particular rent increase petition shall be granted under the Ordinance and these Administrative Rules.
6. Evidence Outside the Hearing. The provisions of Rule 4.5 all apply to all hearings on Petitions for Special Rent Increases, Capital Improvement Rent Increases and Temporary Rent Increases.
7. Submission of Evidence Not Previously Reviewed by Staff. All petitioners for Special Rent Increases, Capital Improvement Rent Increases, and Temporary Rent Increases, and all persons filing a protest to any such rent increase petition, shall comply with the time deadlines set forth in CMC Section 9.05.110, and in Rule 4.6 and this Chapter 8 (for Special Rent Increases), Chapter 10 (for Capital Improvement Rent Increases) and Chapter 11 (for Temporary Rent Increases) concerning the submission of any documents and other written evidence in support of or in opposition to any petition.
- a. The Hearing Officer shall not accept as evidence written or documentary materials that were not submitted within the timelines specified in the Ordinance and these Rules unless good cause is shown why the materials could not have been submitted earlier.
 - b. If the Hearing Officer determines that good cause has been shown the materials shall be accepted into evidence during the public hearing, subject to further examination of witnesses by the parties to the hearing. 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 Hearing Officer time to review the new materials. If the new materials that are accepted are extensive or if the Hearing Officer determines the opposing party would be prejudiced unless allowed time to analyze the new materials and prepare a response, the hearing shall be continued.
 - c. If good cause is not shown, the materials will become part of the official record but will not be considered by the Hearing Officer

during any public hearing or during any appeal to the City Council

- d. Nothing in this Subsection shall preclude oral testimony by any person at the public hearing on any Petition for a Capital Improvement Rent Increase, Special Rent Increase and/or Temporary Rent Increase.
8. Requests for Production of Evidence. The Hearing Officer or Staff may request the attendance of witnesses and/or the production of books or other documents by proponents, opponents or other interested parties during the course of the hearing or any other matter pending before the Hearing Officer(including at any point in time after a Petition has been filed) if: (a) the evidence or testimony sought would be helpful or necessary to the Hearing Officer's determination as to whether the petitioner is entitled to the relief requested; or (b) the evidence or testimony would be helpful or necessary to the Hearing Officer's exercise of its powers or duties..
 9. Unavailability of Evidence. If any evidence or testimony requested by the Hearing Officer or staff is not available at the time of the hearing or other proceeding before the Hearing Officer, the hearing or other proceeding may be continued by the Hearing Officer pursuant to Section (D) of this Rule to allow time for the production of evidence or witnesses sought.
 10. Rights of Hearing Officer. During the public hearing, the Hearing Officer, staff's legal counsel, representatives of the petitioner, and representatives of the park residents shall have the right to question any witness and examine any document proposed to be admitted into, or admitted into, evidence by the Hearing Officer at the public hearing.
- D. **Continuances.** Any hearing being held or noticed or ordered to be held by the Hearing Officer may, be continued to another date and time upon the consent of the petitioner and the opponents, or upon a finding of good cause by the Hearing officer. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of the continuance; 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 shall be posted outside the meeting room immediately following the meeting at which the order of continuance was made.
- E. **Quantum of Proof and Evidentiary Standard.** The petitioner shall have the burden of proving entitlement to the rent increase sought. The decision of the Hearing Officer shall be supported by substantial evidence in light of the entire record of the proceedings. Evidence is substantial when it is relevant, credible and reliable and provides enough information, together with the reasonable inferences from that information, to support a conclusion even though other

conclusions might also be reached. No decision may be supported solely by hearsay evidence.

- F. **Decision.** The Hearing Officer shall consider all evidence properly presented in accordance with the Ordinance, these Administrative Rules, and any supplemental rules adopted by the City Council and shall articulate, during the Hearing Officer's deliberation at the public hearing, his/her findings of fact, reasoning and conclusions for their decision on all issues. Following the conclusion of the public hearing, the Hearing Officer shall issue a written decision or determination concerning the petition, which 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 mobile home space, if any, and such other terms and conditions deemed necessary by the Hearing Officer to implement its decision. No decision shall be deemed final by the Hearing Officer until issuance and service of its written decision or determination by the City in accordance with Subsection (G) of this Rule.

- G. **Service of Hearing Officer's Decision.** Upon issuance of the Hearing Officer's written decision pursuant to Subsection (F) of this Rule, the Rent Administrator shall serve, by first-class mail, postage prepaid, a copy of the Hearing Officer's decision, along with an affidavit of mailing, on: the petitioner, the petitioner's designated representative, the designated park resident representative, and all affected residents, along with an affidavit of mailing. Service shall be completed upon deposit of the written decision in the U.S. Mail.

CHAPTER 9 – APPEALS TO THE CITY COUNCIL

9.1 Appeals

Either party may appeal any final decision of the Hearing Officer granting or denying a Capital Improvement Rent Increase, Special Rent Increase, and/or Temporary Rent Increase, to the City Council pursuant to CMC Section 9.05.120 and this chapter.

9.2 General Requirements

- A. **Deadline to Appeal.** The deadline to file an appeal is not later than the fifteenth (15th) day after the resolution of the Hearing Officer's decision has been deposited in the mail by the Rent Administrator, in accordance with Rule 8.6(G). The written appeal, and appeal fee, shall be filed with the Rent Administrator.

- B. **Form of Appeal.** The City has prepared forms for use in filing an appeal, including an appeal form, affidavits, declarations and notices. Appellants are encouraged to use the City-approved forms. Although use of the City-approved forms is not mandatory, any person filing an appeal shall provide all information and documentation required by the City-approved forms.

- C. **Number and Format.** The appellant shall submit at least eight (8) typed or printed copies of the Appeal to the City, including all supporting documentation, and proofs of service, posting and affidavit, along with the appeal filing fee and an electronic copy of the appeal (including all supporting documentation, proofs of service, postings and affidavits). All pages of the appeal form and supporting documentation must be paginated; and all supporting documentation must be marked to indicate what section and page of the appeal form to which they pertain.
- D. **Service on Opposing Party.** Prior to or concurrently with filing the appeal with the City, the appellant shall serve a complete copy of the appeal on the designated representative of each opposing party and shall concurrently serve a notice of filing of the appeal on each opposing party.
- E. **Maintenance of Appeal At Park by Park Owner.** Prior to or concurrently with the filing of the appeal by the park owner with the City, the park owner shall place a complete copy of the appeal in the park clubhouse and park office, for inspection and review by the opposing party(is) and designated representative(s) during business hours. A copy of the appeal shall be maintained at each location until the City Council issues a final decision on the appeal. If the appellant is a park resident or park resident representative, the park owner shall designate at least one location where a copy of the appeal may be maintained for inspection by the park owner and park residents until the City Council issues its final decision on the appeal.
- F. **Posting Requirements.** The notices posted by the appellant pursuant to CMC Section 9.05.120(C) shall inform the opposing party(is) that an appeal has been filed with the City;. The notice shall comply with the City-approved form.
1. If the appellant is the park owner, the notice shall further informing the opposing party(ies) that a complete copy of the appeal will be maintained in the clubhouse and park office (or other location if the appeal is filed by a park resident) and shall be accessible to the opposing party(is) and designated representatives during business hours of the park, for review and inspection.
 2. If the appellant is a park resident (or park resident representative), the notice shall further inform the opposing party(ies) and other residents of the name, address and location where a copy of the appeal may be inspected at the park, and that a copy of the appeal may also be reviewed at City Hall. Management shall permit the posting of notice by park residents (or park resident representatives) pursuant to this section in the park office and clubhouse in areas normally made available for posting of resident notices, until issuance of a final decision by the city on the appeal.
- G. **Affidavit or Declaration under Penalty of Perjury.** The appeal shall include an affidavit of or declaration, signed by the appellant under penalty of perjury under the laws of the State of California, in accordance with the City-approved

form, certifying that:

1. The appellant complied with all notice and posting requirements of Sections (D) through (F) of this Rule 9.2.
2. All representations and information set forth in the appeal are true and correct.

H. **Proof of Service.** The City will provide a proof of service form for use by appellants in pursuing an appeal, or opposition to any appeal. No appeal shall be deemed filed until the appeal, the proof of service of the appeal, notice and supporting documentation, and appeal fee, have been deposited with the Rent Administrator.

9.3 Exclusion of New Evidence at Appeal Hearing

No appellant, or any person opposing or responding to any appeal, shall submit any verbal or documentary evidence of any kind whatsoever that is not part of the record of proceedings that was considered by the Hearing Officer. As used herein, the term "record of proceedings" means the written staff reports, exhibits, reports, protests and oral testimony which were admitted into evidence and considered by the Hearing Officer during the public hearing on the petition, minutes, and the verbatim transcripts of the proceedings before the Hearing Officer, and the Hearing Officer's written decision containing his/her findings of fact and legal conclusions.

9.4 Appeal Fee

The fee for the appeal shall be determined as follows:

- A. The appeal fee to the City Council shall be in accordance with the fee established from time to time by resolution of the City Council and shall include the actual costs of the staff and expert time, plus the actual costs of preparation of the transcripts of the Hearing Officer's proceedings from which the appeal is made.
- B. Within five (5) days of receipt of the appeal from the appellant, the Rent Administrator shall estimate the cost of preparation of the transcripts from the public hearing and shall notify the appellant that a deposit in the amount of the estimated transcript costs shall be required in order to deem the appeal complete.
- C. The appellant shall be required to deposit the appeal fee and the estimated cost of the public hearing transcripts to the Rent Administrator within five (5) days of notification of the costs by the Rent Administrator. Failure to timely deposit the costs of the appeal with the Rent Administrator shall result in dismissal of the appeal. If there is more than one appellant, each party shall pay the full appeal fee, but the costs of the public hearing transcript shall be split equally between the parties and paid by the parties in order for the appeal

to be scheduled for hearing.

9.5 City Council Authority

In reviewing an appeal from the Hearing Officer's decision on a Petition for Special Rent Increase, Capital Improvement Rent Increase and/or Temporary Rent Increase under Section 9.05.110 of the Ordinance and the provisions of this Chapter 9, the City Council shall:

- A. Limit the City Council's review to the record of the public hearing proceedings, including the Hearing Officer's Decision (including his/her findings of fact and legal conclusions), , the verbatim transcripts of proceedings before the Hearing Officer, and the staff reports, exhibits, reports, and other materials which were admitted into evidence by the Hearing Officer during the hearing. No new verbal or documentary evidence of any kind that was not included in the record of proceedings may be admitted or considered by the City Council during the appeal. The City Council may (but is not required to) provide guidelines for submission of written briefs, and shall permit limited oral argument on certain issues or all issues decided by the Hearing Officer for consideration by the City Council;
- B. Determine whether, in light of the record, "substantial evidence" exists in the Record to support the Hearing Officer's decision;
- C. Determine whether the findings set forth in the Resolution, which is the subject of the appeal, are supported by the evidence;
- D. Determine, based upon the City Council's independent judgment, whether the Hearing Officer's actions and decision were undertaken in accordance with CMC Chapter 9.05, and these Rules, and whether the Hearing Officer's interpretation of any pertinent section of the Ordinance or Rules was reasonable and consistent with the purposes and intent of the Ordinance;
- E. Uphold the decision of the Hearing Officer if the City Council determines that all of the findings required by Sections (B), (C) and (D) this Rule 9.5 may be made. If the City Council is unable to make all of the findings required by Sections (B), (C) and (D) of this Rule 9.5, the City Council may either decide the matter differently or refer it back to the Hearing Officer with directions for further consideration by the Hearing Officer;
- F. Make any further findings and determinations, which the City Council determines to be reasonable and necessary in deciding the appeal.

At all times, the City Council shall be guided by, and subject to, the provisions of CMC Chapter 9.05 in considering and determining any appeal.

9.6 City Council Decision

Within forty-five (45) days of commencement of the appeal hearing, the City Council

shall memorialize its decision in a written resolution, and submit its decision to the City Clerk, who shall thereafter serve a copy of the decision in accordance with CMC Section 9.05.120(H). Service shall be completed upon deposit of the City Council's written decision in the U.S. Mail.

9.7 Statute of Limitations

As provided in CMC Section 9.05.170, any legal challenge to a final determination issued by the City Council pursuant to CMC Chapter 9.05 and Rule 9.6, granting or denying an appeal regarding the Hearing Officer's decision on a Petition for Capital Improvement Rent Increase, Special Rent Increase, and/or Temporary Rent Increase, must be filed within ninety (90) days of the service of the City Council's decision under CMC Section 9.05.120(H), or such other time deadline established by California Code of Civil Procedure Section 1094.6 as it presently exists or may be amended from time to time.

CHAPTER 10 – PETITION FOR RENT INCREASE BASED ON CAPITAL IMPROVEMENTS

10.1 Purpose

The purpose of this Chapter is to provide procedures for submittal of petitions for approval of a Capital Improvement Rent Increase pursuant to Section 9.05.090 of the Ordinance.

10.2 Scope of Capital Improvements; Amortization

- A. **Definition.** "Capital improvements" means the installation of new improvements and facilities and/or the replacement or reconstruction of existing improvements and facilities which:
 - 1. Consist of more than ordinary maintenance or repairs, .
 - 2. Have a useful life of at least five (5) years or are necessary for the health and safety of the park, its residents or its neighbors, and
 - 3. either:
 - a. Have a total cost of less than \$100.00 per year per benefitted unit, or
 - b. Have a total cost of more than \$100.00 per year per benefitted space, provided such costs are amortized on a straight-line basis over the life of the improvement.

- B. **Interest.** When the useful life of the improvement is at least five years, an interest cost of the lesser of (i) the current prime rate plus 1% per annum, or (ii) the actual interest cost incurred by the park owner, may be added.

C. Non-exclusivity. 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 increase under the provisions of the Ordinance and this chapter.

D. Examples

1. Normal routine maintenance and repair of a park is not a capital improvement. For example, patching of potholes and slurring of asphalt streets and roadways constitute ordinary repairs and are not capital improvements within the meaning of the Ordinance..
2. Major replacement or major reconstruction of an existing facility or improvement constitute capital improvement. For example, the major replacement and/or reconstruction of streets or roadways, sewer lines, water lines and gas lines constitute capital improvements.
3. Addition of new facilities in a park, such as a new office or utility room, cable television service, a sauna, a Jacuzzi or an addition to a recreation room, are also examples of capital improvements.
4. Capital improvements which would otherwise form the basis for a capital improvement rent increase cannot be the basis of such an increase if the park owner charges a fee for the use of the improvement. For example, additional washer and dryers installed for the use of residents cannot be the basis for the capital improvement rent increase if residents must pay to use them.
5. Portable items, such as pool furniture and landscaping or gardening equipment, do not constitute capital improvements.

10.3 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 proposed 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, accountants) remain functional with only ordinary maintenance and/or repairs. The Rent Administrator 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 Rent Administrator 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:

\$10,000.00

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

$$\frac{\$1,000.00}{\text{-----}} = \$ 83.33 \text{ monthly amortization cost.}$$

12 months

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

30 spaces

10.4 Amortization

Capital improvements shall be amortized in accordance with Schedule 10.4, attached as Appendix "A" to these Rules, or in accordance with any useful life table utilized by the Internal Revenue Service. However, 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:

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

\$ 130.00 (existing base rent)

10.5 Cost of the Capital Improvement

The petitioner shall provide documentary evidence of the actual cost incurred for the capital improvement. The cost thereof shall include the interest expense incurred on money borrowed to pay for the capital improvement. In those cases where the owner finances the capital improvement or a part thereof with his/her own funds, interest at the current prime rate plus 1% per annum computed over a reasonable amount of time shall be included as a part of the capital improvement cost for the portion of such cost financed with the owner's own funds. In determining the reasonable amount of time over which interest shall be allowed the Rent Administrator shall be guided by the current practices of state and federally chartered banks and/or savings and loan associations as to the length of time for repayment of improvement loans, provided, however, that the time shall not exceed the amortization period determined by the Rent Administrator and used in calculating the allowable capital improvement rent increase.

10.6 Improvements Necessary for Health and Safety

Examples of such improvements include, but are not limited to:

- A. Replacement of plumbing, electrical, gas 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.

10.7 Petition Requirements.

A Petition for Capital Improvement Rent Increase shall be submitted in accordance with the following requirements.

- A. **Form.** The City has prepared forms for use in seeking or opposing a Capital Improvement Rent Increase, including a Petition form, affidavits, declarations and notices. Park owners are encouraged to use the City-approved documents. Although use of the City-approved forms is not mandatory, a petitioner shall provide all information and documentation required by the City-approved forms. Failure to provide all information and documentation required by the City forms may result in a determination by the Rent Administrator that the Petition is not complete.
- B. **Format.** All pages of the Petition form and supporting documentation must be paginated; and all supporting documentation must be marked to correspond to the related section and page of the Petition form. All copies shall be identical. Documentation submitted shall be correlated by the petitioner to the order set forth in the Petition instructions, so that the Rent Administrator, the Hearing Officer and the residents may ascertain the portion of the Petition to which any set of documentation pertains. Failure to do so may result in a determination by the Rent Administrator that the Petition is not complete.
- C. **Service on Opposing Party.** Prior to or concurrently with filing the Petition with the City, the petitioner shall:
 - 1. Serve a copy of the Petition on the designated park resident representative, along with proof of service.
 - 2. Serve notice of filing of the Petition on each affected resident in the park, along with proof of service, in accordance with the City-approved notice form by personally delivering the notice to the residents, or by mailing the notice to each resident by first-class mail, postage prepaid.
- D. **Maintenance of Copies of Complete Petition at Park.** Management shall

maintain complete copies of the Petition, and any additional information or documentation submitted to the City during review of the Petition, at the park for inspection and copying by the park residents until issuance of a final decision by the City, in accordance with CMC Section 9.05.110(E) and Rule 8.1(E).

- E. **Posting Requirements.** Prior to or concurrently with filing the Petition with the City, the petitioner shall also post a notice of the Petition in the park office and clubhouse, in publicly accessible areas, in accordance with CMC Section 9.05.110(E) and Rule 8.1(E).
- F. **Affidavit or Declaration Under Penalty of Perjury.** The Petition shall include an affidavit of or declaration in accordance with the City-approved form, signed by the petitioner under penalty of perjury under the laws of the State of California, certifying that:
 - 1. The petitioner complied with each of the service and posting requirements of Sections (A) through (E) of this Rule; and
 - 2. All representations and information set forth in the Petition are true and correct.

10.8 Filing Fee.

- A. **Payment of Filing Fee.** The Petition for Capital Improvement Rent Increase shall be accompanied by the filing fee established by resolution of the City Council, by check or money order made payable to the City of Calimesa, or by cash.
- B. **Amount of Fee.** The initial filing fee deposit for a Petition for a Capital Improvement Rent Increase shall be set by the City Council by resolution from time to time. If the City determines that Staff will incur additional time and expert costs to evaluate the petition, the petitioner shall be required to submit any additional deposit(s) deemed necessary to cover the additional costs. The City Council may modify the filing fee by resolution from time to time, and any such modification shall be incorporated herein by this reference on the date of adoption of the City Council Resolution.
- C. **Failure to Pay Filing Fee.** The petitioner must pay the initial filing fee with his/her Petition in order for the Petition to be deemed complete, in addition to any other requirements of this chapter. Any additional fee required by the City must be paid at least sixty days prior to the public hearing before the Hearing Officer, or the hearing shall be cancelled.

10.9 Requirement for Complete Petition.

A park owner who seeks a Capital Improvement Rent Increase shall submit a complete Petition in accordance with Chapter 7 and the following requirements.

- A. **Definition.** As used in this Rule 8.3, “documentation” or “document” includes, but shall not be limited to, invoices, cancelled checks, spreadsheets, profit and loss statements, general ledgers, balance sheets, account books, bank statements, deeds, title reports, appraisals, audits, rent statements, bills, receipts, insurance policies and certificates, journals, logs, contracts, bank statements, notes, memoranda and any other instrument of any kind, in written, recorded or electronic form, that supports or documents the claimed capital improvement, including but expressly not limited to, the need and reasons for the work; the factual basis for the Petitioner’s contention that the work constitutes a capital improvement under the Ordinance and this Chapter; the cost of construction and/or installation of the claimed capital improvement, the method and amount of financing incurred by Petitioner in carrying out the claimed capital improvement; and any and all other information and documentation supporting any contentions or allegations of the Petition.
- B. **Required Information and Documentation.** A Petition for a Capital Improvement Rent Increase under Section 9.05.090 of the Ordinance and this Chapter shall be required to contain all information and documentation establishing the following in order to be deemed complete:
1. The specific need or reasons for the capital improvement, and all supporting documentation;
 2. The specific facts and reasons why the work, construction or improvement satisfies the definition of a capital improvement as set forth in CMC Section 9.05.030 and this Chapter and all supporting documentation;
 3. If the petitioner contends that the work, construction or improvement was necessary for health and safety reasons, the specific health and safety reasons for the capital improvement, and all supporting documentation;
 4. All documentation demonstrating that the resident meeting and resident vote took place, including but not limited to, the notice of resident meeting, proof of service of the notice of resident meeting on all residents, the ballot submitted to the residents, and the election results;
 5. All documentation establishing that all necessary governmental approvals, permits and approvals were obtained to carry out and complete the capital improvement;
 6. The cost of the capital improvement, and each element thereof, and all supporting documentation;
 7. The type and cost of any interest or other financing of the capital improvement, the method for determining the financing cost, and all supporting documentation (whether financed by a third party or self-financed by the owner), and all supporting documentation;

8. The proposed amortization period, the basis or method for determining the amortization period, any interest included as a result of the amortization period, and all supporting documentation;
9. An updated Registration Statement reflecting any changes in the park since the filing of the prior Registration Statement, as follows:
 - a. Changes in Status of Spaces. Any change in status of a space as month-to-month, exempt, or vacant space;
 - b. Changes in Space Rents. Any change in space rents for any month-to-month space, including increases or decreases in rent; changes in the utilities, housing services and amenities included in the space rent for each space; and changes in the utilities, housing services and amenities charged separately from the space rent for each space;
 - c. Park-Owned and/or Management-Owned Mobile Homes. Changes in the status of mobile homes from homes owned by tenants to homes owned, rented, leased or used by management; and the current space rent; the utilities, housing services and amenities included in the space rent; the utilities, housing services and amenities charged separately from the space rent; and
 - d. Park Ownership and Management Changes. Any change in park ownership or management.
10. Annual Increases. To the extent not reflected in the Registration Statements and/or rent schedules on file with the City, all of the following information and supporting documentation:
 - a. Any Annual Increases imposed by the park owner under Section 9.05.080 of the Ordinance during the 12 months immediately preceding the submittal of the Petition, including the amount of the Annual Increase(s); the space(s) subject to each Annual Increase; and the date(s) that such Annual Increase(s) was imposed by the owner; and
 - b. Any Annual Increases for which the owner has issued a notice of rent increase under State law but which has not yet become due and payable by the affected residents as of the filing of the Petition, including the amount of the Annual Increase, the spaces subject to the Annual Increase; and the dates that such Annual Increase was imposed by the owner.
11. All information and documentation required by Rule 10.7(E) and 10.7(F); and.

12. Such other information and documentation as determined by the Rent Administrator as necessary and relevant for the City and its experts to complete their analysis and for the Hearing Officer to properly determine whether the owner is entitled to a Capital Improvement rent increase under Section 9.05.090 of the Ordinance and this Chapter.

10.10 Rent Administrator Authority.

Upon receipt of the Petition for Capital Improvement Rent Increase, the Rent Administrator shall review the Petition and determine whether the Petition is complete in accordance with the following provisions.

A. **Notification to Park Owner.** The Rent Administrator shall determine whether the Petition contains all information and documentation required by CMC Sections 9.05.090 and 9.05.110 and these Rules. Not later than thirty (30) days after the Petition was filed with the City, the Rent Administrator shall send written notice to the petitioner, informing him/her whether the Petition is complete.

B. **Procedures Upon Determination that Petition is Incomplete.**

1. If the Rent Administrator determines that the Petition is incomplete, the notice sent by the Rent Administrator shall include a list of the information and documentation required under CMC Sections 9.05.090 and 9.05.110 and these Rules in order for the Petition to be deemed complete.
2. The petitioner shall have thirty (30) days to submit the additional information or documentation set forth in the notice. The Rent Administrator may extend this 30-day period for up to an additional 30 days upon a request by the petitioner prior to the expiration of the initial 30-day period that such additional time is needed for the petitioner to obtain and submit the additional documentation.
3. Upon expiration of the thirty-day period (or the additional period of time as extended by the Rent Administrator), the petition shall thereafter be set for hearing before the Hearing Officer. If the petitioner failed to submit the additional information or documentation requested by the Rent Administrator to deem the petition complete, the Rent Administrator shall serve written notice on the park residents and designated park resident representative that the Petition has been filed with the City but that it is incomplete, and that the failure of the petitioner to submit a complete petition may be considered by the Hearing Officer in determining whether the petitioner met its burden of proof for a Capital Improvement Rent Increase. The notice shall be issued in accordance with CMC Section 9.05.110 of the Ordinance and these Rules. The Rent Administrator shall thereafter schedule the public hearing on the merits of the Petition before the Hearing Officer in accordance with CMC

Sections 9.05.090 and 9.05.100 and this Rule 10.10.

4. The scheduling of an incomplete petition for consideration by the Hearing Officer shall not constitute any finding by the Rent Administrator or the Hearing Officer that the petition is complete. In reviewing an incomplete Petition, the Hearing Officer may consider the failure of the petitioner to submit a complete petition in evaluating whether the petitioner met its burden of proof that petitioner is entitled to a Capital Improvement Rent Increase.

C. Procedures Upon Determination that Petition is Complete.

1. Upon the City's determination that a Petition is complete in accordance with these Rules, the Rent Administrator shall serve written notice on the park residents and designated park resident representative that the Petition has been filed with the City, in accordance with Section 9.05.090 of the Ordinance and these Rules. The Rent Administrator shall thereafter schedule the public hearing on the merits of the Petition before the Hearing Officer
2. Any determination by the Rent Administrator that a Petition is complete pursuant to this Rule 10.10 shall not constitute any finding by the Rent Administrator that the petitioner has met his/her/its burden of proof that the petitioner is entitled to a Capital Improvement Rent Increase.
3. Any determination by the Rent Administrator that a Petition is complete pursuant to this Rule 10.10 shall not preclude the Hearing Officer from requesting or directing that the petitioner provide any additional information or documentation at or during the public hearing on the Petition itself, in order for the Hearing Officer to reach a decision on the merits of the Petition for a Capital Improvement Rent Increase.

10.11 Protest in Response or Opposition to Petition for Capital Improvement Rent Increase.

Any person wishing to submit any written opposition or response to a Petition for a Capital Improvement Rent Increase shall submit a written protest that complies with all the following requirements.

- A. **Form.** The City has prepared forms for use in opposing or responding to a petition for Capital Improvement Rent Increase, including a Protest form, affidavits, declarations and notices. Persons responding to or opposing a petition are encouraged to use the City-approved documents. Although use of the City-approved forms is not mandatory, any person filing a Protest with the city shall provide all information and documentation required by the City-approved forms, relevant to the basis for the Protest to the petition, as required by the Protest form and as further provided in these Rules.
- B. **Number/Filing.** Any person submitting a Protest shall submit at least seven (7) copies of the written opposition or response to the Rent Administrator, along

with an electronic copy, not later than the thirtieth (30th) day following the date of the notice served upon the park residents that the petition was filed and has been declared complete by the City. All pages of the Protest form and supporting documentation must be paginated; and all supporting documentation must be marked to correspond to the related section and page of the Protest form. Documentation submitted shall be correlated to the order set forth in the Protest form instructions, so that the Rent Administrator, the Hearing Officer and the residents may ascertain the portion of the Protest to which any set of documentation pertains.

- C. **Service on Park Owner.** Upon receipt of Protest by the City, the Rent Administrator shall serve a copy of the Protest upon the park owner.
- D. **Affidavit or Declaration Under Penalty of Perjury.** The Protest shall also include an affidavit of or declaration in accordance with the City-approved form, signed by the person submitting the Protest, under penalty of perjury under the laws of the State of California, certifying that:
 - 1. The person filing the protest served a copy of the Protest on the petitioner and the petitioner's representative as required by this Rule; and.
 - 2. All representations, information and documentation contained in the Protest are true and correct.

10.12 Hearings and Appeals on Capital Improvement Rent Increase Petitions.

- A. **Mobile Home Rent Stabilization Hearing Officer.** Except as otherwise provided in CMC Section 9.05.090 and this Chapter 10, public hearings before the Hearing Officer on Capital Improvement Rent Increase petitions shall be heard in accordance with CMC Section 9.05.110 and Rule 8.6 of these Rules.
- B. **City Council Appeals.** Appeals from decisions of the Hearing Officer on Capital Improvement Rent Increase petitions shall be submitted, processed and heard in accordance with CMC Section 9.05.120 and Chapter 9 of these Rules.

10.13 Applicability of Chapter

This Chapter shall apply to all Capital Improvements performed. The improvement shall meet the definition of capital improvements set forth in Section 9.05.030 of the Ordinance and Rule 10.2 of these Administrative Rules.

CHAPTER 11 – PREVAILING PARK OWNER PETITION FOR RECOVERY OF SPECIAL RENT INCREASE PETITION AND HEARING COSTS INCURRED BEFORE THE HEARING OFFICER

11.1 Scope.

Pursuant to CMC Section 9.05.140, this Chapter provides a mechanism for a park owner who successfully obtains approval of a Special Rent Increase or Capital Improvement Rent Increase from the City, to also request a Temporary Rent Increase for recovery of certain costs incurred in preparing and presenting his/her Special Rent Increase Petition or Capital Improvement Rent Increase Petition to the City.

11.2 Eligibility.

- A. A Park Owner may obtain approval of a Temporary Rent Increase for the amortized cost of specified professional services actually incurred in preparing and presenting his/her petition for a Special Rent Increase or for a Capital Improvement Rent Increase to the Hearing Officer only if the park owner successfully obtains approval of a Special Rent Increase or Capital Improvement Rent Increase pursuant to a final decision of the City.
- B. Eligible costs shall include those fees, costs and other expenses incurred by the Park Owner in the proceedings before the Hearing Officer, or upon any appeal filed with the City Council, pursuant to a final decision, as further provided in this Chapter.

11.3 Burden of Proof.

The park owner shall bear the burden of proof to demonstrate, by substantial evidence, that the park owner is entitled to a Temporary Rent Increase under this Chapter, including (i) that the park owner is the prevailing party on the Special Rent Increase petition, (ii) that the park owner actually incurred the professional services costs, (iii) the reasonableness of the costs, and (iv) the amount of the proposed Temporary Rent Increase.

11.4 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" excludes the following: costs to recover documents from storage, costs to compile documents from computer records or other electronic records, costs incurred to develop software programs, and printing costs from computers or other electronic devices.
- B. "Final Decision" means either (i) a final decision issued by the Hearing Officer on a Special Rent Increase Petition or Capital Improvement Rent Increase Petition pursuant to Rule 8.6(F) and (G) when no timely appeal is filed, or (ii) a final decision issued by the City Council pursuant to Rule 9.6 on a Special Rent Increase Petition or Capital Improvement Rent Increase Petition when a timely appeal from the City Council's decision on the Petition is filed.
- C. "Prevailing Park Owner" means a park owner who obtains approval of a

Special Rent Increase or Capital Improvement Rent Increase pursuant to a final decision of the City.

- D. "Professional Services" means legal, accounting, financial, appraisal, bookkeeping, property management, or engineering services actually incurred by the Park Owner in preparing and presenting his/her successful Special Rent Increase Petition or Capital Improvement Rent Increase Petition to the Hearing Officer, subject to the following requirements and limitations:
1. Legal expenses must be performed by an attorney duly licensed to practice before the courts of the State of California, any certified paralegal working under the supervision of any such attorney and shall not include secretarial or other clerical time or expenses.
 2. Accounting services must be performed by a Certified Public Accountant, or an accountant working directly under the supervision of a CPA.
 3. The following fees, costs and other expenses shall be excluded from the determination of any Temporary Rent Increase under this Chapter 11:
 - a. All fees, costs and other expenses for professional services incurred in preparing or presenting any opposition to any protest filed by any park residents to an Annual Increase to the City under CMC Section 9.05.080 and Chapter 6 of these Rules; and
 - b. When a Temporary Rent Increase is sought by a prevailing park owner based on the City's final decision with regard to a Special Rent Increase Petition, the Temporary Rent Increase determination shall also exclude the following:
 - (i) All fees, costs and other expenses for professional services that fall within the category of operating expenses as "allowable legal expenses" under CMC Section 9.05.100(B)(9), whether or not included in the Special Rent Increase Petition;
 - (ii) All fees, costs and other expenses for professional services that are expressly excluded from the definition of "allowable legal expenses" under CMC Section 9.05.100(B)(9)(a); and
 - (iii) All fees, costs and other expenses for professional services incurred in connection with any Petition for Capital Improvement Rent Increase, filed with the City pursuant to CMC Section 9.05.090, or appeal in connection therewith pursuant to CMC Section 9.05.120, whether or not such petition was granted by the City.

- c. When a Temporary Rent Increase is sought by a prevailing park owner based on the City's final decision with regard to a Capital Improvement Rent Increase Petition, the Temporary Rent Increase determination shall also exclude the following:
 - (i) All fees, costs and other expenses for professional services that are expressly excluded from the definition of "allowable legal expenses" under CMC Section 9.05.100(B)(9)(a); and
 - (ii) All fees, costs and other expenses for professional services incurred in connection with any Petition for Special Rent Increase, filed with the City pursuant to CMC Section 9.05.100, or appeal in connection therewith pursuant to CMC Section 9.05.120, whether or not such petition was granted by the City.

E. "Relevant geographical area" means the City of Calimesa, the County of San Riverside and the County of San Bernardino.

F. "Substantial evidence" means evidence as defined in Section 8.6(E) of these Rules.

11.5 Procedures.

A. **Petition Form and Timing.**

1. The Park Owner must file the request for approval of a Temporary Rent Increase as part of the Petition for a Special Rent Increase pursuant to Chapter 7 of these Rules, or the Petition for a Capital Improvement Rent Increase pursuant to Chapter 10 of these Rules, in accordance with the City-approved form. The request for a Temporary Rent Increase must include all supporting information and documentation in accordance with these Rules and the City-approved forms.
2. If, at the time of filing the request for a Temporary Rent Increase, the park owner is unable to determine the total fees, costs and other expenses that will be incurred by him/her for professional services in connection with the actual public hearing on the Petition for Special Rent Increase or Capital Improvement Rent Increase, the following procedures shall be followed:
 - a. The park owner shall include all costs incurred for professional services as of the date of filing the request for Temporary Rent Increase in the Petition for Special Rent Increase or Capital Improvement Rent Increase; and an estimate of any additional fees, costs and other expenses for professional services to be incurred in actually presenting the Petition to the Hearing Officer during the public hearing before the Hearing Officer.

Rent Increase Petition form and supporting documents may be combined with the petition for special rent increase but shall be clearly marked to distinguish the petition for Temporary Rent Increase and supporting documents from the special rent increase petition.

- D. **Service on Opposing Party.** In accordance with CMC Section 9.05.110(F), prior to or concurrently with filing the Petition with the city, the petitioner shall:
1. Serve a copy of the Petition on the designated park resident representative, along with proof of service.
 2. Serve notice of filing of the Petition on each affected resident in the park, along with proof of service, in accordance with the City-approved notice form by personally delivering the notice to the residents, or by mailing the notice to each resident by first-class mail, postage prepaid.

The petitioner shall also include a copy of the proofs of service with the petition filed with the City.

- E. **Maintenance of Copies of Complete Petition at Park.** Four complete copies of the Petition, and any additional information or documentation filed by the petitioner during the review and processing of the Petition, shall be maintained at the park until issuance of a final decision by the City on the Petition, in accordance with CMC Section 9.05.110(E).
- F. **Posting Requirements.** Notice of filing of the Petition, and any information or documentation filed by the petitioner during the review and processing of the Petition by the City, shall be posted by the petitioner in the park in accordance with CMC Section 9.05.110(E).
- G. **Affidavit or Declaration Under Penalty of Perjury.** The Petition shall include an affidavit of or declaration in accordance with the City-approved form, signed by the petitioner under penalty of perjury under the laws of the State of California, certifying that:
1. The petitioner complied with each of the service and posting requirements of Sections (A) through (F) of this Rule; and
 2. All representations and information set forth in the Petition are true and correct.

11.6 Filing Fee

- A. **City Council Action.** The Petition for Temporary Rent Increase shall be accompanied by the filing fee established by resolution of the City Council. The filing fee shall be used to offset the costs incurred for staff time, time incurred by experts retained by the City to evaluate the petition, and postage and duplication.
- B. **Additional Fee.** If the City determines that Staff will incur additional time and expert costs to evaluate the petition, the petitioner shall be required to submit

any additional deposit(s) deemed necessary to cover the additional costs. The City Council may modify the filing fee by resolution from time to time, and any such modification shall be incorporated herein by this reference on the date of adoption of the City Council Resolution.

- C. **Failure to Pay Filing Fee.** The petitioner must pay the initial filing fee with his/her Petition in order for the Petition to be deemed complete, in addition to any other requirements of this chapter. Any additional fee required by the City must be paid at least sixty days prior to the public hearing before the Hearing Officer.
- D. **Factors to Determine Reasonableness of Fees, Costs and Other Expenses.** A Temporary Rent Increase under this Chapter shall be awarded only if the Park Owner demonstrates by substantial evidence that he/she is the Prevailing Park Owner, and that such fees, costs and other expenses were reasonably incurred and reasonable in amount and that such fees, costs and other expenses resulted from eligible professional services. In considering a request for a Temporary Rent Increase, the Hearing Officer 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 petition.
 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 Increase sought under the Ordinance and these Rules.

E. Documentation Required. A Park Owner who seeks a Temporary Rent Increase pursuant to this Chapter shall be required to submit the following information and documentation to the City:

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 Hearing Officer or City Council to determine whether the factors set forth in the Ordinance and these Rule have been met by the party 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 petition or appeal at issue, and the reasonableness of the claimed costs.
4. A declaration or affidavit signed under penalty of perjury by the park owner or park resident 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.
5. Any additional information or documentation required by the Rent Administrator, Hearing Officer and/or City Council to assist the City in determining whether a Temporary Rent Increase should be granted.

F. Procedures. A request for a Temporary Rent Increase, and any appeal in connection therewith, shall be processed in accordance with and subject to the petition and hearing procedures set forth in Chapters 8 and 9 of these Rules.

G. Hearing Officer Award to Successful Park Owner; Hearing Officer Final Decision.

1. At the conclusion of the hearing on a Special Rent Increase Petition or Capital Improvement Rent Increase Petition, if the Hearing Officer

grants the Special Rent Increase or Capital Improvement Rent Increase to the Park Owner, the Hearing Officer shall also have the authority to approve as submitted, approve as modified by the Hearing Officer, or deny a Temporary Rent Increase for the prevailing park owner. Any Temporary Rent Increase awarded shall be limited to the amortized portion of the fees, cost and other expenses incurred by the Park Owner in connection with preparing and presenting the Special Rent Increase Petition or Capital Improvement Rent Increase Petition to the Hearing Officer, as determined by the Hearing Officer. The Hearing Officer shall not deny a Temporary Rent Increase either as proposed, or as modified by the Hearing Officer, unless the prevailing park owner fails to submit any documentation or other competent evidence in support of the claimed Temporary Rent Increase, or the Hearing Officer is otherwise unable to make any of the findings set forth in Section (C) of this Rule based upon objective evidence submitted in accordance with Section 9.05.140 of the Ordinance and this Chapter.

2. The Hearing Officer's decision on a Temporary Rent Increase shall be included in the Hearing Officer's decision on the underlying Special Rent Increase Petition or Capital Improvement Rent Increase Petition, and shall include: (a) findings on the factors set forth in CMC Section 9.05.140 and Rule 11.4(C) of this Chapter; (b) if the request for a Temporary Rent Increase is granted, the amount of the Temporary Rent Increase; and (c) if the request is denied, the facts and circumstances supporting the denial.
3. If the Temporary Rent Increase is granted, the Hearing Officer's decision shall also include (a) a calculation of the amount owed if any resident chooses to pay the Temporary Rent Increase in one lump sum without the payment of any interest, rather than amortized over a five-year period; and (b) the amount owed as a Temporary Rent Increase over the five-year amortization period, including interest calculated per annum, compounded monthly, based on the lesser of (i) the current prime rate plus 1% or (ii) the actual interest cost incurred by the park owner. Any resident may pay the Temporary Rent Increase in one lump sum so long as such resident pays the full amount no later than thirty (30) days following the final decision of the City. Upon payment of the full lump sum, the resident shall be deemed to have fully paid the Temporary Rent Increase, and the Temporary Rent Increase shall not thereafter appear on the resident's monthly rent statement.
4. The Hearing Officer's decision on a Temporary Rent Increase shall be final unless the park owner or park resident representative files a timely appeal from the Hearing Officer's decision in accordance with CMC Section 9.05.120 and Section (G) of this Rule 11.4.

H. Appeal to City Council.

1. Right to Appeal. Either party may file an appeal from the Hearing

Officer's final decision on the Park Owner's request for a Temporary Rent Increase in accordance with the requirements of CMC Section 9.05.120 and Chapter 9 of these Rules.

2. Deadline to Appeal. The deadline to file an appeal from the Hearing Officer's decision on a Temporary Rent Increase is not later than the fifteenth (15th) day after the resolution of the Hearing Officer's decision has been deposited in the mail by the Rent Administrator, by first-class mail, postage prepaid in accordance with Rule 9.2. The appeal, appeal fee and all supporting documentation shall be filed with the Rent Administrator.

I. **City Council Review and Determination.**

1. City Council Review and Determination. If the park owner successfully appeals the decision of the Hearing Officer regarding his/her Petition for a Special Rent Increase or Capital Improvement Rent Increase and becomes the prevailing party on appeal, at the conclusion of the appeal hearing the City Council shall also have the authority to approve or approve a modified Temporary Rent Increase to the prevailing Park Owner in accordance with this Chapter 11.
2. City Council Scope of Authority. In considering any appeal with regard to a Temporary Rent Increase, the City Council's authority shall be subject to the following provisions:
 - a. If an appeal was filed from the Hearing Officer's decision granting a Temporary Rent Increase, the decision of the City Council on the appeal shall be subject to the provisions of Rule 9.5.
 - b. If the City Council reverses the Hearing Officer's decision denying the park owner a Special Rent Increase and the park owner also filed a petition for a Temporary Rent Increase that was denied by the Hearing Officer, the City Council may review de novo the record submitted to the Hearing Officer on the proposed Temporary Rent Increase in accordance with the provisions of Section (C) and (F)(1) of this Rule 11.4. Any decision of the City Council to award a Temporary Rent Increase either as approved by the Hearing Officer or as modified by the City Council following the grant or denial of any appeal, shall be limited to the amortized portion of the fees, cost and other expenses incurred by the Park Owner in connection with the Special Rent Increase Petition or Capital Improvement Rent Increase in proceedings before the Hearing Officer, as determined by the City Council, and any additional costs incurred by the park owner in his/her successful appeal to the City Council.
3. City Council Decision. The City Council's written decision shall include

any findings to support its decision granting or denying any appeal, or modify any decision of the Hearing Officer, with respect to the request for approval of a Temporary Rent Increase.

- J. **Final Decision.** The City Council's final decision on a park owner's request for a Temporary Rent Increase pursuant to this Chapter 11, shall be included in the final decision of the City Council on any appeal issued and served pursuant to Rules 9.6 through 9.9 of Chapter 9.
- K. **Statute of Limitations.** Any legal challenge to a final determination issued by the City Council granting or denying an appeal with respect to a request for a Temporary Rent Increase, must be filed in accordance with CMC Section 9.05.170.

APPENDIX "A"

**AMORTIZATION SCHEDULE FOR CAPITAL IMPROVEMENT RENT INCREASES AND
AMORTIZABLE CAPITAL EXPENSES**

(reference: CMC Sections 9.05.090 and 9.05.100(B)(7)(f) and (g); Chapters 9 and 10 of
Administrative Rules)

Capital Improvements shall be amortized in accordance with the following schedule; or with the approval of the Hearing Officer, in accordance with any useful life table utilized by the Internal Revenue Service or any other reasonable amortization period supported by competent evidence.

Improvement	Amortization Period In Years	Improvement	Amortization Period In Years
Air Conditioners	7	Heating	10
Appliances (other than those listed)	7	Insulation	10
Cabinets	7	Painting (exterior)	10
Carpentry	10	Painting (interior)	5
Carpeting	7	Paving (asphalt, cement)	15
Dishwasher	7	Plastering	10
Doors	10	Plumbing	
Dryer	7	Fixtures	10
Electrical Wiring	15	Pipes	15
Elevator	20	Pumps	7
Fan	7	Refrigerator	7
Fencing		Roofing	10
Block walls	15	Security Entry Telephone	
Wood		Intercom	7
Fire Alarm System	7	Smoke Detector	7
Fire Escape	15	Stove	7
Floor Covering (linoleum or vinyl)	7	Stucco	10
Flooring	7	Walls	10
Furniture	7	Washing Machine	7
Garbage Disposal	7	Water Heater	7
Gates	15	Window Coverings	7
Gutters	15	Windows	15

