

**ORDINANCE NO. 644**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA AMENDING PROVISIONS OF CHAPTER 2.22 MOBILE HOME PARK RENT STABILIZATION OF THE CALISTOGA MUNICIPAL CODE TO BETTER SERVE THE AFFECTED PARTIES**

The City Council of the City of Calistoga does hereby ordain as follows:

**WHEREAS**, on July 19, 2005, the City Council adopted Resolution No. 2005-64, establishing an eight (8) member ad-hoc committee to review the history of the Mobile Home Park Rent Stabilization Ordinance and to recommend improvements, modifications and clarifications to better serve the affected parties;

**WHEREAS**, on March 21, 2006, the City Council adopted Resolution No. 2006-22 adding two alternate positions to the Advisory Committee;

**WHEREAS**, the Advisory Committee met numerous times between September 2005 and June 2007 to conduct a comprehensive review and discuss each section of the existing Mobile Home Park Rent Stabilization Ordinance, as well as identification of issues in order to move forward and develop recommendations to the City Council on improvements, modifications and clarifications to better serve the affected parties;

**WHEREAS**, the Advisory Committee presented their results of work to the City Council at a City Council Study Session held on July 23, 2007;

**WHEREAS**, the City Council finds the proposed amendments of the Mobile Home Park Rent Stabilization Ordinance is consistent with the following purposes to stabilize mobile home park space rents as set forth in Section 2.22.010 Purpose and Findings:

1. Prevent exploitation of the shortage of vacant mobile home park spaces;
2. Prevent excessive and unreasonable mobile home park space rent increases;
3. Rectify the disparity of bargaining power that exists between mobile home park homeowners and mobile home park owners;
4. Provide mobile home park owners with a rate of annual space rent increase that reflects the impact of inflation and/or increases in their expenses;
5. Provide a process for insuring mobile home park owners a fair, just, and reasonable rate of return on their parks in cases where the annual space rent increase provided by this chapter proves insufficient;
6. Provide continued rent stabilization on the sale or transfer of a mobile home on-site to prevent unnecessary and unreasonable rent increases to new mobile home homeowners.

**WHEREAS**, this action has been determined to not be subject to the California Environmental Quality Act (CEQA) under Section 15061.b.3 of the CEQA Guidelines; and

**WHEREAS**, the City Council of the City of Calistoga, at its regular meeting of September 18, 2007 and October 2, 2007, considered as one of its items of business, noticed in accordance with Government Code Section 65090, this Ordinance to be adopted in accordance with Code Section 65850, to include the written and oral staff report, proposed findings and comments received from the general public and interested agencies and parties.

**NOW, THEREFORE,** the City Council of the City of Calistoga adopts this Ordinance amending provisions of Chapter 2.22 Mobile Home Park Rent Stabilization of the Calistoga Municipal Code, to better serve the affected parties.

**SECTION ONE:**

Chapter 2.22 Mobile Home Park Rent Stabilization of the Calistoga Municipal Code is hereby amended and readopted to read in its entirety as follows:

**Chapter 2.22  
MOBILE HOME PARK RENT STABILIZATION**

**Sections:**

- 2.22.010 Purpose and findings.**
- 2.22.020 Definitions.**
- 2.22.030 Applicability.**
- 2.22.040 Base rent.**
- 2.22.050 Vacancy control – Establishment of new base rent.**
- 2.22.060 Anniversary date.**
- 2.22.070 Rent increase limitations.**
- 2.22.080 Information to be supplied by park owner.**
- 2.22.090 The rent dispute resolution process.**
- 2.22.100 Subpoena power.**
- 2.22.110 Standards of review.**
- 2.22.120 Net operating income.**
- 2.22.130 Gross income.**
- 2.22.140 Operating expenses.**
- 2.22.150 Special base year NOI/base rent adjustments.**
- 2.22.160 Obligations of the parties.**
- 2.22.170 Homeowner's right of refusal.**
- 2.22.180 Retaliatory acts – Homeowner's right to organize.**
- 2.22.190 Fees.**
- 2.22.200 Exemption from fees.**
- 2.22.210 Nonwaivable obligations.**
- 2.22.220 Violations; penalty; waiver of rights.**
- 2.22.230 Rights of affected parties reserved.**
- 2.22.240 Extension of time limits.**
- 2.22.250 Review by the City Council.**

**2.22.010 Purpose and findings.**

- A. The City desires to harmonize relations and to resolve disputes which may, from time to time, exist between residents and owners of mobile home parks or which may arise in the future from the failure of any party to recognize the property rights of another or from engaging in acts or practices which might jeopardize the public health, safety, or welfare.
- B. The Council conducted public hearings during which residents of the mobile home parks and owners of mobile home parks and their representatives expressed, and the Council considered, all of the expressed points of view, both oral and written, concerning property rights and the protection of the public health, safety, and welfare. The minutes of the February 2, 1993, March 23, 1993, April 6, 1993, April 20, 1993, May 4, 1993, and May 18, 1993, Council meetings or study sessions are hereby incorporated by reference. Based on the information presented, the Council made the following findings:

1. Residents of mobile home parks, unlike apartment tenants or residents of other rental properties, are in a unique position in that they have made a substantial investment in a residence for which space is rented or leased. The removal or relocation of a mobile home from a park space is generally accomplished at substantial cost. Such removal or relocation may cause extensive damage to the mobile home.
  2. Mobile homes provide an important alternative form of housing.
  3. The potential for rents to increase within mobile home parks within the City could cause a hardship to a substantial number of mobile home homeowners and residents of the parks, most of whom are elderly, on fixed incomes, or persons of low income.
  4. It is necessary to protect mobile home homeowners and residents of mobile home parks from unreasonable rent increases and at the same time recognize the rights of mobile home park owners to maintain their property and to receive just and reasonable return on their investments.
  5. The enactment of this chapter will not have a significant impact upon the physical environment of the community in that there will be no deviation from the General Plan and there will be no change in the present use of property within the City on account of enactment hereof.
- C. Based on the aforementioned findings, the City enacted Ordinance 493. On April 13, 1995, May 16, 1995, and June 6, 1995, the Council reviewed amendments to Ordinance 493. The minutes of these Council meetings and study sessions are hereby incorporated by reference. The Council makes the following additional findings:
1. The mobile home park space vacancy rate in the City is under one percent. There are no new parks being built nor is it foreseeable that existing parks will expand. The cost of moving a mobile home today is exorbitant and averages over \$6,000. Mobile homes provide true affordable housing that needs to be preserved. There continues to be a need to prevent excessive space rent increases which could result in threats to health and safety and possible economic eviction.
- D. The purpose of this chapter is to stabilize mobile home park space rents to:
1. Prevent exploitation of the shortage of vacant mobile home park spaces;
  2. Prevent excessive and unreasonable mobile home park space rent increases;
  3. Rectify the disparity of bargaining power that exists between mobile home park homeowners and mobile home park owners;
  4. Provide mobile home park owners with a rate of annual space rent increase that reflects the impact of inflation and/or increases in their expenses;
  5. Provide a process for insuring mobile home park owners a fair, just, and reasonable rate of return on their parks in cases where the annual space rent increase provided by this chapter proves insufficient;
  6. Provide continued rent stabilization on the sale or transfer of a mobile home on-

site to prevent unnecessary and unreasonable rent increases to new mobile home homeowners.

**2.22.020 Definitions.**

A. "Administrator" shall mean the Administrator of the City's Mobile Home Space Rent Stabilization Program. The "Administrator" shall be the Planning & Building Director, subject to the approval of the City Manager, or such other City employee as the City Manager may, in the Manager's discretion, appoint to serve as Administrator.

B. "Affected homeowners" shall mean those mobile home homeowners (as defined in subsection (L) of this section) who are subject to a rent increase (as defined in subsection (W) of this section). For purposes of providing notice of rent increases and copies of this chapter, and calculating the number of affected homeowners in support of a rent arbitration petition, each mobile home space subject to a rent increase shall be deemed to have only one affected homeowner.

Reference to "all affected homeowners" shall mean one representative homeowner from each space subject to the proposed rent increase.

C. "Arbitrator" shall mean a person who:

1. Is neither a homeowner (as defined in subsection (I) of this section) nor has an interest in a mobile home park of a nature that would require disqualification under the provisions of the Political Reform Act if the person were an elected State official; and

2. The Administrator (as defined in subsection (A) of this section) determines the arbitrator meets one of the following criteria:

a. Completion of a Juris Doctor or equivalent degree from a school of law and completion of a formal course of training in arbitration which, in the sole judgment of the Administrator, provides that person with the knowledge and skills to conduct a space rent dispute arbitration in a professional and successful manner; or

b. Completion of at least three arbitration proceedings for a Superior Court or other public entity that involved issues the Administrator finds similar to those raised in space rent dispute arbitrations; or

c. Prior service as a California Municipal or Superior Court pro tempore judge.

D. "Arms length transaction" shall mean a transaction negotiated by unrelated parties, each acting in his or her own self interest; the basis for a fair market value determination.

E. "Base rent" shall mean the authorized rent calculated pursuant to the provisions of CMC 2.22.040, plus any rent increase allowed under this chapter, unless it is expressly excluded from base rent, plus any rent adjustment attributable to vacancy decontrol as provided in CMC 2.22.050.

F. "Capital improvements" shall mean those new improvements or replacements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses, consist of more than ordinary maintenance and/or repairs, and which may be amortized over the useful remaining life of the improvement to the property. Capital improvements costs shall include all costs reasonably and necessarily related to the

planning, engineering and construction of the improvement or replacement and shall include debt service costs, if any, incurred as a direct result of the capital improvement or replacement.

- G. "Consumer Price Index" shall mean the Consumer Price Index for all Urban Consumers San Francisco-Oakland Area, published by the U.S. Department of Labor, Bureau of Labor Statistics.
- H. "Gross income" shall have the meaning set forth in CMC 2.22.130.
- I. "Homeowner" shall mean an existing mobile home homeowner.
- J. "Homeowner representative" shall mean a designated Homeowner Association (HOA) or its designee who shall have the authority to represent the interest of, negotiate on behalf of, and bind the Homeowner(s).
- K. "Housing service" shall mean a service or facility provided by the park owner related to the use or occupancy of a mobile home space, which is neither a capital improvement nor substantial rehabilitation as those terms are defined herein. "Housing service" includes but is not limited to repairs (including street repairs), replacement, maintenance, landscaping, painting, lighting, heat, water, utilities, laundry facilities, refuse removal, recreational and meeting facilities, parking, security service, and employee services.
- L. "Mediator" shall mean a person who:
1. Is neither a homeowner (as defined in subsection (I) of this section) nor has an interest in a mobile home park of a nature that would require disqualification under the provisions of the Political Reform Act if the person were an elected State official; and
  2. The Administrator (as defined in subsection (A) of this section) determines the mediator meets one of the following criteria:
    - a. Member of the American Arbitration Association that has specific experience in mediating real estate matters; or
    - b. Completion of a Juris Doctor or equivalent degree from a school of law and completion of a formal course of training in mediation or arbitration which, in the sole judgment of the Administrator, provides that person with the knowledge and skills to conduct a space rent dispute mediation in a professional and successful manner; or
    - c. Completion of at least three mediation proceedings for a Superior Court or other public entity that involved issues the Administrator finds similar to those raised in space rent dispute mediations; or
    - d. Prior service as a California Municipal or Superior Court pro tempore judge.
- M. "Mobile home" shall mean a structure designed for human habitation and for being moved on a street under permit pursuant to California Vehicle Code Section 35790. "Mobile home" includes a manufactured home, as defined in California Health and Safety Code Section 18007, and a mobile home, as defined in California Health and Safety Code Section 18008.

- N. "Mobile home homeowner" shall mean a person who has a tenancy in a mobile home park under a rental agreement that is not otherwise exempt from regulation under this chapter pursuant to California Civil Code Sections 798.17 or 798.45.
- O. "Mobile home park" shall mean any area of land within the City where two or more mobile home spaces are rented, or held out for rent, to accommodate mobile homes used for human habitation or any area of land designated on the City of Calistoga's Official Zoning Map as "Mobile Home Park (MHP)" District.
- P. "Mobile home park owner" shall mean any park owner, lessor, or sublessor of a mobile home park in the City who receives or is entitled to receive rent for the use or occupancy of any mobile home space thereof and who reports to the Internal Revenue Service any income received or loss of income resulting from such ownership or claims any expenses, credits, or deductions because of such ownership, and the representative, agent, or successor of such park owner, lessor, or sublessor.
- Q. "Mobile home space" shall mean any site within a mobile home park located in the City intended, designed, or used for the location or accommodation of a mobile home. "Mobile home space" includes any accessory structures or appurtenances attached to the mobile home or used in conjunction therewith. "Mobile home space" does not include:
1. Sites rented together and concurrently with a mobile home provided by the mobile home park owner; and
  2. "New construction" as defined by California Civil Code Section 798.45.
- R. "Net operating income" shall have the meaning set forth in CMC 2.22.120.
- S. "Operating expenses" shall have the meaning set forth in CMC 2.22.140.
- T. "Park owner representative" shall mean a mobile home park owner or designated representative who shall have the authority to represent the interest of, negotiate on behalf of, and bind the Park owner parties.
- U. "Party" shall refer to any affected homeowner and/or park owner involved in proceedings under this chapter.
- V. "Percent change in Consumer Price Index" shall mean the annual percent change in the Consumer Price Index ("CPI"), calculated to the nearest tenth, published for the month of April, issued in the month of May. In the event that an index is not published for the month of April, the closest preceding month for which an index is published shall be used.
- W. "Prospective homeowner" shall mean:
1. A person who is not currently a homeowner in a mobile home park but is a prospective mobile home homeowner who desires the use of a mobile home space as defined in this chapter and has approached the mobile home park owner as such.
- X. "Rent" shall mean mobile home space rent.
- Y. "Rent increase" shall mean any additional space rent demanded of or paid by a

homeowner for a mobile home space. "Rent increase" includes any reduction in housing services without a corresponding reduction in the amount demanded or paid for rent.

- Z. "Rent stabilization administration fee" shall mean the fee established from time to time by resolution of the Council in accordance with the provisions of CMC 2.22.190.
- AA. "Section," unless otherwise indicated, shall mean a section of this chapter.
- BB. "Space rent" shall mean the total consideration, including any bonus, benefit, or gratuity, demanded or received by a mobile home park owner for or in connection with the use or occupancy of a mobile home space or any housing services provided with the mobile home space. "Space rent" shall not include any amount paid for the acquisition, use or occupancy of a mobile home dwelling unit.
- CC. "Substantial rehabilitation" shall mean that work done by a park owner to a mobile home space or to the common areas of the mobile home park, exclusive of a capital improvement (as defined in subsection (E) of this section), which has a value in excess of \$200.00, and is performed either to secure compliance with any State or local law or to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent such work is not reimbursed by insurance or other benefits. Costs of "substantial rehabilitation" include all costs reasonably and necessarily related to the planning, engineering and construction of the work. Such costs shall also include debt service costs, if any, incurred as a direct result of the substantial rehabilitation work.

**2.22.030 Applicability.**

- A. The provisions of this chapter shall apply to every mobile home park within the City, except that the provisions of this chapter shall not apply to mobile home spaces which are subject to a written rental agreement that is for more than a 12-month duration. Such spaces are exempt from regulation under this chapter pursuant to Civil Code Section 798.17. The provisions of this chapter shall also not apply to a newly constructed space initially held out for rent after January 1, 1990, in accordance with Civil Code Section 798.45.
- B. The exceptions provided in subsection (A) of this section shall be effective only until the expiration or other termination of the rental agreement whereupon all provisions of this chapter shall immediately be applicable to the mobile home space, unless such rental agreement meets the exemption criteria of Civil Code Section 798.17.
- C. Forty-eight (48) hours prior to any rental agreement or lease in excess of 12 months is executed by a homeowner or prospective homeowner, the park owner must:
  - 1. Offer any homeowner or prospective homeowner the option of a rental agreement or lease for a term of 12 months or less which will permit such person to receive the benefits of the Mobile Home Space Rent Stabilization Program;
  - 2. Provide the homeowner or prospective homeowner a copy of the City Information Sheet, which introduces the Mobile Home Park Rent Stabilization Ordinance, its benefits, and contact information of the Administrator. Inform the homeowner or prospective homeowner in writing that consultation by the Park's homeowner association's designated representative is available upon request.
  - 3. Inform the homeowner or prospective homeowner orally and in writing that if the homeowner or prospective homeowner signs a lease or rental agreement with a term in excess of 12 months, that complies with Civil Code Section 798.17, then

the lease or rental agreement is not subject to the terms and protections of this chapter. Such written notification shall contain the following recitation:

UNDER CALISTOGA MUNICIPAL CODE SECTION 2.22.030, YOU ARE LEGALLY ENTITLED TO ELECT A MONTH-TO-MONTH TENANCY OVER ANY OTHER LONGER PERIODIC TENANCY. YOU MAY NOT BE ENTITLED TO RENT STABILIZATION (RENT CONTROL) PROGRAM BENEFITS IF YOU ELECT A LEASE OF MORE THAN 12 MONTHS IN DURATION IF THAT LEASE MEETS THE REQUIREMENTS OF CIVIL CODE SECTION 798.17(a) & (b) WHICH HAS BEEN ATTACHED HERETO.

4. At the time of the rental agreement is first offered to the homeowner or prospective homeowner, the park owner shall provide written notice to the homeowner or prospective homeowner of the homeowner's or prospective homeowner's right to (1) have at least 30 days to inspect the rental agreement, and (2) void the rental agreement by notifying the park owner in writing within 72 hours of the acceptance of a rental agreement. The failure of the park owner to provide the written notice shall make the rental agreement voidable at the homeowner's or prospective homeowner's option upon the homeowner's or prospective homeowner's discovery of the failure. The receipt of any written notice provided pursuant to this subsection shall be acknowledged in writing by the homeowner or prospective homeowner.

Any effort to circumvent the requirements of this section shall be unlawful, as well as an unfair business practice subject to enforcement under California Business and Professions Code Section 17200 and following. A lease or rental agreement in excess of 12 months, executed by a homeowner or prospective homeowner shall not be exempt from this chapter unless it complies with each and every requirement of Civil Code Section 798.17(a) through (c) for such exemptions.

**2.22.040 Base rent.**

**A. Initial Calculation.**

1. Except as provided herein, a park owner shall not demand, accept, or retain rent for a mobile home space exceeding the rent in effect for that space on July 1, 1993. If a previously rented mobile home space was not rented on July 1, 1993, the park owner shall not, except as provided herein, demand, accept or retain rent for that space exceeding the rent in effect during the last month the space was rented prior to July 1, 1993.
2. If a mobile home space is exempted from the provisions of this chapter because it is the subject of a rental agreement pursuant to California Civil Code Section 798.17(a) and (b), and that agreement expires and is not renewed, then the base rent, until the next annual adjustment pursuant to this chapter, shall be the space rent in effect for that space prior to the expiration of the rental agreement, excluding separately billed pass-throughs for capital improvements.
3. It shall be presumed that the base date rent yields a fair return.

**B. Adjustment.** A park owner may seek an adjustment to the initial base rent where the park owner can clearly establish that circumstances exist which requires an adjustment to assure that the park owner is receiving a fair and reasonable return.

1. In seeking an adjustment to the initial base rent under this section, the procedures set forth in CMC 2.22.080 and 2.22.090 shall be followed.



2. The guidelines for determining an adjustment to the initial base rent are set forth in CMC 2.22.150.

**2.22.050 Vacancy control – Establishment of new base rent.**

- A. A park owner is prohibited from raising rent upon the sale of a mobile home on site to a prospective homeowner or current homeowner.
- B. A park owner shall be permitted to charge a new base rent for a mobile home space whenever a lawful vacancy occurs. For purposes of this chapter, "lawful space vacancy" shall mean:
  1. A vacancy occurring because of the termination of the tenancy by the park owner in accordance with California Civil Code sections 798.56 through 798.58; or
  2. A vacancy of the mobile home space arising from the voluntary removal of a mobile home from the mobile home space by the affected mobile home homeowner. A removal of the mobile home from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the mobile home shall not constitute a voluntary removal of the mobile home.
- C. Any alleged violation of this section shall be subject to automatic arbitration pursuant to CMC 2.22.090(F).

**2.22.060 Anniversary date.**

The anniversary date for all rent increases in the park owner's park shall be established by City Council Resolution at a public hearing. All affected parties shall be notified in writing 30 days prior to said hearing. Such rent increases, if any, except as specified below, shall be enacted only on the anniversary date of that park. The park owner shall post the anniversary date in the park office or office areas where it can easily be seen by the homeowners.

**2.22.070 Rent increase limitations.**

- A. From and after the effective date of this chapter, space rent shall not be increased within 12 months of the effective date of the preceding rent increase unless otherwise determined by an arbitrator as provided elsewhere in this chapter. The permissible annual increase shall be the lesser of:
  1. One hundred (100) percent of the percent change in the CPI; or
  2. Six percent of the base rent.
- B. A park owner may not increase the space rent within a 12-month period, unless the park owner can clearly establish that the rental increase is necessary to cover costs of operation, maintenance, capital improvements or substantial rehabilitation not reasonably foreseeable at the time notice of the preceding rent increase was given. If a park owner seeks a rent increase pursuant to this subsection, the procedures set forth in CMC 2.22.080 and 2.22.090 shall be followed.
- C. If a park owner wishes to increase the space rent on the anniversary date or within a 12-month period more than the amount permitted in subsection (A) of this section and less than 300 percent of the percent change in the CPI, the procedures set forth in CMC

2.22.080 and 2.22.090 shall be followed.

- D. If a park owner wishes to increase the rent payable for any mobile home space on the anniversary date or within a 12-month period in an amount equal to or more than 300 percent of the percent change in the CPI, the procedures set forth in CMC 2.22.080 and 2.22.090 shall be followed except that the petition requirements of CMC 2.22.090(C) and (D) shall not apply because an arbitration shall automatically be required to show good cause why such an increase is necessary.
- E. The arbitrator may reduce the proposed rent increases pursuant to subsections (B), (C) or (D) of this section to a figure determined upon the evidence submitted by the park owner or the park owner's representative to be a fair return.
- F. Any notice of space rent increase given by a park owner pursuant to this section shall be given in writing at least 90 days before any rent increase is to take effect.

2.22.080 Information to be supplied by park owner.

- A. Within 30 days after the effective date of this chapter and upon re-renting of each mobile home space thereafter, the park owner shall supply each affected homeowner or prospective homeowner with a copy of the City Information Sheet, which introduces the Mobile Home Park Rent Stabilization Ordinance, its benefits, and contact information of the Administrator.
- B. Whenever the park owner serves a notice of rent increase, except a notice of rent increase provided pursuant to CMC 2.22.070(A), the park owner shall at the same time and in the same manner serve the affected homeowner with a notice that sets forth all of the following information:
  - 1. The amount of the rent increase both in dollars and as a percentage of existing rent and documentation supporting the level of increase desired, including at a minimum if relevant to the issue: a summary of the unavoidable increases in maintenance and operating expenses; a statement of the cost, nature, amortization, and allocation among mobile home spaces of any substantial rehabilitation or capital improvement; a summary of the increased cost of the park owner's debt service and the date and nature of the sale or refinancing transaction; a summary of the park owner's net operating income of the preceding 24 months and other relevant information that supports the level of rent increase desired;
  - 2. A current listing of all other affected homeowners and the spaces which they rent may be requested through a designated Homeowner Association (HOA);
  - 3. The address and telephone number of the Administrator and statement that the homeowner is encouraged to contact the Administrator for an explanation of the provisions of this chapter;
  - 4. A copy of the petition form prepared and provided by the Administrator which initiates the process of rent review established by this chapter;
  - 5. If applicable, notification that the proposed rent increase exceeds 300 percent of the change in the CPI, and that arbitration is automatically required by the provisions of CMC 2.22.070(D) without any need to file an arbitration petition. Such notices shall bear the following language in capital letters: "ARBITRATION OF THE PROPOSED INCREASE IS AUTOMATICALLY REQUIRED IN THIS

MATTER BY OPERATION OF LAW." Erroneous use of this notice shall be regarded as an irrevocable stipulation to submit to arbitration.

6. Time and place for a mandatory informational meeting with the homeowners to be held on the mobile home park premises. The informational meeting shall be held within 10 days from the service of the notice of rent increase.
- C. The park owner shall, at the same time, file with the Administrator two copies of the notice and a summary of expenses required above, along with two copies of all relevant financial records, bills or documents which substantiate the level of increase proposed. This financial information shall be verified in writing by an auditor or certified public accountant or certified in writing as true and correct under penalty of perjury by the owner. This information will be made available at City Hall for inspection and copying by the affected homeowners.
- D. A park owner failing to provide any information, documents, or notices required by this section shall not be entitled to collect any rent increase that might otherwise be awarded by an arbitrator. Such failure by the park owner shall be a defense in any action brought by the park owner to recover possession of a mobile home space or to collect any rent increase from the homeowner.
- E. An affected homeowner who is given notice of a rent increase is entitled to file a petition for space rent review as provided in CMC 2.22.090 regardless of whether the park owner has failed to provide the affected homeowner(s) with all the information, documents and notices required by this chapter.

**2.22.090 The rent dispute resolution process.**

- A. The homeowner may contact the Administrator for an explanation of the provisions of this chapter.
- B. Mediation. If a rent increase is pursuant to CMC 2.22.070(B), (C), or (D), then after service of the rent increase notice and the production of the accompanying information required by CMC 2.22.080, the park owner shall set a time and place for a mandatory informational meeting with the homeowners and a mediation meeting to be held on the mobile home park premises. The informational meeting shall be held within 10 days from the service of the notice of rent increase. The mediation meeting shall be held within 20 days from the service of the notice of rent increase or notice from the Administrator that mediation is required pursuant to this section. The park owner shall give affected homeowners and the Administrator at least 10 days' advance notice of this meeting. The park owner and the affected homeowners shall serve any additional documents to be presented at the mediation on the other party and the Administrator at least five days before the meeting.

The purpose of this mediation meeting shall be to allow and encourage the parties to mediate any differences they may have concerning the proposed rent increase. At the meeting, the park owner or Park owner representative shall be available to meet with affected homeowners or homeowner representative to explain the reasons for the proposed rent increase. If the parties agree to a specific rent increase, the mediator shall prepare a mediation agreement setting forth the terms of the agreement between the park owner and the affected homeowners. The mediation agreement shall be executed by the parties and a copy of the agreement shall be filed with the Administrator.

- C. Petition.
  1. If discussions between the park owner and affected homeowners, either

informally or pursuant to subsection (B) of this section, do not resolve the dispute, the homeowners or their representative(s) may file with the Administrator a petition for space rent review with a copy of the notice of rent increase within 30 days after receipt of the rent increase notice.

2. The Administrator shall not accept a petition for review of a rent increase unless it has been signed by at least 51 percent of all affected homeowners.
3. As soon as possible after a petition has been filed with respect to mobile home spaces which are within a single park, the Administrator shall, to the extent possible, consistent with the time limitations provided herein, consolidate petitions involving similarly situated affected homeowners.
4. Upon the filing of a petition, the rent increase is not effective and may not be collected until and to the extent it is awarded by an arbitrator or until the petition is abandoned by the affected homeowners or their representative(s). "Abandoned" as used herein shall mean a failure to actively pursue the necessary steps to prepare the homeowners' case for the arbitration. An automatic arbitration based upon a 300 percent CPI increase shall not require active homeowner participation and shall not be considered abandoned due to lack of homeowner participation.

D. Contents of Petition.

1. The petition for space rent review shall set forth the total number of affected rented spaces in the mobile home park, shall identify the name of the homeowner who occupies each such space, and shall state the date upon which the notice of the rent increase was received by the homeowner(s).
2. After obtaining the required signature(s) of affected homeowner(s), the homeowner(s) shall deliver the petition or mail it by certified mail to the Administrator at the following address: Calistoga City Hall, 1232 Washington Street, Calistoga, California 94515 (or successor address or agency). No petition shall be accepted unless it is accompanied by the requisite number of signatures and is received in the office of the Administrator within the 30-day period set forth in subsection (C) of this section. The Administrator shall provide a copy of the completed petition to the park owner and the arbitrator.

E. Information Questionnaire. After the Administrator has accepted a petition for space rent review, the Administrator shall remit to the park owner and petitioning homeowners or the homeowner representative an information questionnaire in such form as the Administrator may prescribe. The completed information questionnaire must be returned to the Administrator at least five business days prior to the date scheduled for hearing of the petition by the arbitrator. The Administrator shall provide copies of the completed information questionnaire to the arbitrator, the mobile home park owner, and the affected homeowners or the homeowner representative.

F. Assignment of Arbitrator and Hearing Date/Service of Documents. Upon receipt of a petition, or in the event of an automatic arbitration pursuant to CMC 2.22.070(D), or upon an affected homeowner's claim of a vacancy control rent increase violation pursuant to CMC 2.22.050, the Administrator shall, within 15 business days, assign an arbitrator. The Administrator shall set a date for the arbitration hearing no sooner than 10 nor later than 30 working days after the arbitrator is assigned. The park owner and all affected homeowner(s) shall be notified immediately in writing by the Administrator of the date, time, and place of the hearing either in person or by ordinary mail.

Any additional documents to be presented at the hearing by either the park owner or the affected homeowner(s), other than those previously submitted pursuant to CMC 2.22.080(C) or 2.22.090(B), shall be served on the other party, the Administrator, and the arbitrator at least 10 working days before the hearing by mail or in-person delivery. All financial documents submitted shall be verified in writing by an auditor or certified public accountant, or certified in writing as true and correct under penalty of perjury by the park owner.

**G. Arbitration Hearing.**

1. The park owner and any affected homeowner(s) may appear at the hearing and offer oral and documentary evidence. Both the park owner and homeowner(s) may designate a representative or representatives to appear for them at the hearing. The arbitrator may grant or order one continuance to each party not to exceed 10 business days from the date of the hearing. A further continuance may be granted if stipulated to by all the parties. The burden of proving that the amount of rent increase is reasonable shall be on the park owner by a preponderance of the evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The rules of evidence and manner of producing evidence shall be those rules set forth in California Government Code Section 11513 for the conduct of hearings under the Administrative Procedure Act. These rules may be relaxed at the discretion of the arbitrator in the interests of justice.
2. Any party may have electronic recording equipment or a court reporter present to record and prepare a transcript of the hearing before the arbitrator. Such equipment or reporter shall be provided at that party's own expense.
3. Any jurisdictional or procedural dispute regarding the process set forth herein may be decided by the arbitrator.
4. The arbitrator shall, within 14 days of the conclusion of the hearing, submit by mail a written statement of decision and the reasons for the decision to the Administrator. The Administrator shall forthwith mail copies of the decision to the park owner and affected homeowner(s).
5. The decision of the arbitrator, rendered in accordance with this section, shall be final and binding upon the park owner and all affected homeowners. The decision of the arbitrator will be subject to the provisions of California Code of Civil Procedure Section 1094.5.

**H.** It is the intent of the Council to have a final decision rendered within 90 days of the initial notice of the rent increase. The Administrator or the arbitrator may, however, modify the time periods set forth herein at his or her discretion to promote the purposes of this chapter.

**2.22.100 Subpoena power.**

Subpoenas, including subpoenas duces tecum, requiring a person to attend at a particular time and place to testify as a witness, may be issued in connection with any dispute pending before an arbitrator. Subpoenas shall be issued at the request of the Administrator, an arbitrator, the homeowner(s) or a park owner. Subpoenas shall be issued and attested by the City Attorney. A subpoena duces tecum shall be issued only upon the filing with the City Attorney of an affidavit showing good cause for the production of the matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the proceedings, and stating

that the witness has the desired matters or things in his or her possession or under his or her control. A copy of such affidavit shall be served with the subpoena. Any subpoena or subpoena duces tecum issued pursuant to the provisions of this chapter may be served in person or by certified mail, before the hearing for which attendance is sought. Any subpoena or subpoena duces tecum issued pursuant to the provisions of this chapter shall be deemed issued by and in the name of the Council.

**2.22.110 Standards of review.**

- A. The arbitrator shall determine whether space rent increases proposed or imposed by the park owner are reasonable based upon the circumstances and all the provisions of this chapter. The arbitrator shall take into consideration that the purpose of this chapter is to permit park owners a just and reasonable return, while protecting homeowners from unnecessary or unreasonable rent increases.
- B. The arbitrator shall not allow more than one rent increase per mobile home space per 12-month period, unless a park owner can clearly establish that the rental increase is necessary to cover costs of operation, maintenance, capital improvements or substantial rehabilitation not reasonably foreseeable at the time notice of the preceding rent increase was given.
- C. Maintenance of Net Operating Income.
1. It shall be presumed that the base year net operating income adjusted by 75 percent of the increase or decrease in the CPI since the base year yields a fair return. Park owners shall be entitled to maintain and increase their net operating income in accordance with this section. The arbitrator shall make a determination of whether the park owner's net operating income yields a fair return under this standard.
  2. The formula for calculating the fair NOI return shall be as follows:  
$$\text{Fair NOI} = \text{Base Year NOI} \times (1 + .75) \% \text{ change in CPI}$$
  3. Except as provided in CMC 2.22.150, it shall be presumed that the net operating income produced by the park during the base year provided a fair return.
  4. Calendar year 1992 shall be established as the base year for purposes of determining whether a park owner's net operating income provides a fair return. If a satisfactory base year is, in the arbitrator's opinion, not otherwise available, such as where a park owner did not own the subject property in the base year and/or the 1992 operating expenses are not available, the arbitrator may take evidence of historical factors to construct a base year.
  5. The base year CPI shall be the CPI level in June 1992.
  6. The percentage change in the CPI shall be calculated by using the CPI as of the month prior to the noticed increase.
  7. The comparison NOI year shall be the most recent calendar or fiscal year, unless another period is found by the arbitrator to be more appropriate.
- D. New Capital Improvements. A park owner may seek a rent increase based on the cost of a completed new capital improvement (as defined in CMC 2.22.020(E)), together with a reasonable return upon the capital improvement investment, only if the park owner has:

1. Obtained the written consent of 51 percent of the spaces in the park (one vote per space); and
  2. Established by written verification or other competent evidence to the satisfaction of the arbitrator that the costs of the new capital improvement are factually correct as claimed; and
  3. Cost factored and amortized the costs of the capital improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than 60 months; and
  4. Allocated the increase among affected homeowners on a per space basis and separately itemized such increase on the rent bill. Such increases shall not be considered included in the base rent for purposes of the annual permissible rent increases pursuant to CMC 2.22.070(A).
- E. Mitigating Factors. In evaluating a space rent increase, the arbitrator shall also consider the following factors in addition to any other factors the arbitrator deems relevant in order to determine whether there are any circumstances that may justify a reduction in a proposed rent increase:
1. In the event the park owner reduces or eliminates any housing services, a proportionate share of the cost savings due to such reduction or elimination shall be passed on in the form of a decrease in existing rent or a decrease in the amount of a rent increase otherwise proposed or permitted by this chapter.
  2. The physical condition of the mobile home space or park of which it is a part, including the quantity and quality of maintenance and repairs performed during the preceding 12 months.
- F. Notwithstanding any other provision to the contrary, no provision of this chapter shall be applied to prohibit the granting of a rent increase that is demonstrated to be necessary to provide a park owner with a fair and reasonable return.

**2.22.120 Net operating income.**

In evaluating a space rent increase imposed by a park owner to maintain the park owner's net operating income from a mobile home park, "net operating income" (NOI) shall mean the "gross income" (as defined in CMC 2.22.130) of the mobile home park less the "operating expenses" (as defined in CMC 2.22.140) of the mobile home park.

**2.22.130 Gross income.**

For purposes of calculating net operating income pursuant to CMC 2.22.120, "gross income" shall mean the sum of the following:

- A. Gross space rents, computed as gross space rental income at 100 percent occupancy; plus
- B. Other income generated as a result of the operation of the mobile home park, including, but not limited to, fees for services actually rendered; plus
- C. Revenue received by a park owner from the sale of gas and electricity to homeowners where such utilities are billed individually to the homeowners by the mobile home park owner. Such revenue shall equal the total cost of the utilities to the homeowners minus the amount paid by the park owner for such utilities to the utility provider; minus

- D. Uncollected space rents due to vacancy and bad debts to the extent that the same are beyond a park owner's control. Uncollected space rents in excess of three percent of gross space rent shall be presumed to be unreasonable unless established otherwise and shall not be included in computing gross income. If uncollected space rents must be estimated, then the average of the preceding three years experience shall be used.

**2.22.140 Operating expenses.**

- A. For purposes of calculating "net operating income" pursuant to CMC 2.22.120, "operating expenses" may include:
1. Real property taxes and assessments.
  2. Utility costs to the extent that they represent costs to the park owner which are not passed through to homeowners of the mobile home park.
  3. Management expenses (including the compensation of administrative personnel, including the value of any mobile home space offered as part of compensation for such services), reasonable and necessary advertising to ensure occupancy, legal and accounting services as permitted herein, and other managerial expenses. Management expenses are presumed to be not more than five percent of gross income, unless established otherwise.
  4. In addition to the management expenses listed above, if the park owner performs managerial or maintenance services which are uncompensated, the park owner may include the reasonable value of such services or operating expenses. Park owner performed labor shall be limited to five percent of gross income unless the arbitrator finds that such a limitation would be substantially unfair in a given case. A mobile home park owner must devote substantially all of the park owner's time, that is, at least 40 hours per week, to performing such managerial or maintenance services in order to warrant the full five percent credit as an operating expense. No credit for such services shall be authorized unless a park owner documents the hours utilized in performing such services and the nature of the services provided.
  5. Normal repair and maintenance expenses for the grounds and common facilities including but not limited to landscaping, cleaning, and repair of equipment and facilities.
  6. Operating supplies such as janitorial supplies, gardening supplies, and stationery.
  7. Insurance premiums prorated over the life of the policy.
  8. Other taxes, fees, and permits, except as provided in CMC 2.22.190.
  9. Reserves for replacement of long-term improvements or facilities; provided, that accumulated reserves shall not exceed five percent of gross income.
  10. A park owner may include the cost of necessary capital improvement or substantial rehabilitation expenditures which would exceed existing reserves for replacement. A necessary capital improvement shall be an improvement required to maintain the common facilities and areas of the mobile home park in a decent, safe, and sanitary condition or to maintain the existing level of mobile home park amenities and services. In the event that the capital improvement or substantial



rehabilitation expenditure is necessitated as the result of an accident, disaster, or other event for which the park owner received insurance or other benefits, only those costs otherwise allowable and exceeding such benefits may be calculated as operating expenses.

Expenditures for necessary capital improvements to upgrade existing facilities, together with a reasonable return upon the capital improvement investment made by the park owner, shall be an allowable operating expense only if the park owner has:

- a. Consulted with the affected homeowners prior to initiating construction or implementation of the capital improvement regarding the nature, purpose and estimated cost of the improvement; and
  - b. Established by written verification or other competent evidence to the satisfaction of the arbitrator that the costs of capital improvement provided to the homeowners for their general use are factually correct as claimed; and
  - c. Cost factored and amortized the costs of the improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than 60 months; and
  - d. Allocated the increase among affected homeowners on a per space basis and separately itemized such increase on the rent bill. Such increases shall not be considered included in the base rent for purposes of the annual permissible rent increases pursuant to CMC 2.22.070(A).
11. Increases in interest payments which result from one of the following situations or the equivalent thereof:
- a. Refinancing of the outstanding principal owed for the acquisition of a park where such refinancing is mandated by the terms of a financing transaction entered into prior to July 1, 1993, for instance, termination of a loan with a balloon payment; or
  - b. Increased interest costs incurred as a result of a variable interest rate loan used to finance the acquisition of the park and entered into prior to July 1, 1993.

In refinancing, increased interest shall be permitted to be considered as an operating expense only where the park owner can show that the terms of the refinancing were reasonable and consistent with prudent business practices under the circumstances.

B. "Operating expenses" shall not include the following:

1. Debt service expenses, except as provided in subsection (A)(11) of this section;
2. Depreciation;
3. Any expense for which the park owner is reimbursed; or
4. Attorneys' fees and costs (except printing costs and documentation as required by CMC 2.22.080) incurred in proceedings before an arbitrator or in connection with legal proceedings challenging the decision of an arbitrator or the validity or applicability of this chapter.

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

**2.22.150 Special base year NOI/base rent adjustments.**

- A. Park owners may obtain a one-time special adjustment to the base year NOI and/or base date rent(s), if the park owner rebuts the presumption that the base year NOI and/or base date rent(s) yielded a fair return. The arbitrator shall not make such a determination unless the arbitrator has first made at least one of the following findings:

1. That the park owner's operating expenses in the base year were unusually high or low in comparison to the three years prior to the base year. The average expenses for this period shall be presumed to reflect reasonable average annual expenses and the average of such expenses shall be used to calculate and adjust the base year NOI.

In determining whether the park owner's operating expenses were unusually high or low, the arbitrator shall consider whether:

- a. The park owner made substantial capital improvements during the base year, which were not reflected in the rent levels on the base date.
  - b. Substantial repairs were made due to uninsured damage caused by fire, natural disaster or vandalism.
  - c. Maintenance and repair were below accepted standards so as to cause significant deterioration in the quality of housing services.
  - d. Other expenses were unreasonably high or low notwithstanding the following of prudent business practice.
2. That the rent was disproportionate due to one of the enumerated factors below:
    - a. The rent on the base date was exceptionally high or low due to the fact that the rent was not established in an arms-length transaction.
    - b. The rent on the base date was substantially higher or lower than at other times of the year by reason of premiums being charged or rebates given for reasons unique to particular spaces.

- B. If the circumstances specified in subsection (A)(2) of this section are demonstrated, the base date rent shall be adjusted to reflect the rent that would have been received if the base date rent had been set under general market conditions. In making this adjustment, the arbitrator shall utilize the median rent in effect on the base date, or a good faith estimate of such median rent, for comparable spaces within the park or, if necessary, other comparable parks. Comparability shall be judged based on the location of the park, services, amenities provided, and other relevant factors.

**2.22.160 Obligations of the parties.**

- A. If, after the park owner's proposed effective date of a noticed rent increase, the arbitrator finds that the proposed increase or any portion thereof that was previously inoperative is justified, all affected homeowners shall pay the amount found justified to the park owner within 30 days after the decision is made.

- B. If the arbitrator finds that an increase or any portion thereof is not justified, the park owner shall refund any amount found to be unjustified, but that had been paid, to all affected homeowners within 90 days of the arbitrator's decision. If such refund is not made within the 90-day period, the homeowner(s) may withhold the amount from the next space rent(s) due until the full amount of the refund has been made. Notwithstanding the foregoing, in the event that the tenancy of an affected homeowner is terminated for any reason prior to full credit against rent, the balance of the credit due the homeowner shall be paid by the park owner within 30 days from the date of the termination of the tenancy.
- C. Any sum of money that under the provisions of this section is the obligation of the park owner or homeowner to pay, as the case may be, shall constitute a debt and, subject to the foregoing provisions of this section, may be collected in any manner provided by law for the collection of debts.

**2.22.170 Homeowner's right of refusal.**

An affected homeowner may refuse to pay any increase in rent which is in violation of this chapter, provided a petition has been filed and either no final decision has been reached by an arbitrator or the increase has been determined to violate the provisions of this chapter. Such right of refusal to pay shall be a defense in any action brought to recover possession of a mobile home space or to collect the rent increase.

**2.22.180 Retaliatory acts – Homeowner's right to organize.**

No park owner may retaliate against a homeowner (or homeowner representative), or prospective homeowner for the homeowner's (or homeowner representative) or prospective homeowner's assertion or exercise of rights under this chapter in any manner. This includes, but is not limited to, threatening to bring or bringing an action to recover possession of a mobile home space; engaging in any form of harassment that causes a homeowner to quit the premises; dissuading a prospective homeowner from freely exercising the homeowner's legal option to choose a month-to-month rental; decreasing housing services; increasing the space rent; or imposing or increasing a security deposit or any other charge payable by a homeowner.

**2.22.190 Fees.**

- A. The costs of administration of this chapter, including the costs of mediation and arbitration, shall be borne by the City, subject to reimbursement by imposition of a rent stabilization administration fee chargeable against each mobile home space in the City.
- B. The Administrator shall recommend to the City from time to time the amount of such fee and the Council shall adopt such fee by resolution at a public hearing. All affected parties shall be notified in writing 30 days prior to said hearing. A reporting of expenditures and staff time spent on administration of this chapter shall be conducted during review of the City's budget.
- C. On or before September 30th of the fiscal year of the adoption of this chapter, and thereafter on or before July 31st of each subsequent fiscal year, each park owner of a mobile home park in the City shall register with the City's Administrative Services Director (or his or her designee). The park owner shall provide, in writing, the name and address of such park owner, a statement of the number of mobile home spaces, including both occupied and unoccupied spaces, contained in that park owner's mobile home park. Re-registration and provision of this information must also be made upon change of ownership of the mobile home park or an increase or a decrease in the number of spaces.
- D. On or before September 30th of the fiscal year of adoption, and thereafter on or before

July 31st of each and every subsequent fiscal year (July 1st through June 30th), each mobile home park owner shall pay to the City's Administrative Services Director (or his or her designee) the mobile home park rent stabilization program administration fee then in effect for each occupied mobile home space in the park owner's mobile home park, except for those spaces subject to a rental agreement in full compliance with the requirements of California Civil Code Section 798.17(a) and (b). The City's Administrative Services Director (or his or her designee) shall issue to each park owner a receipt for payment of the fees required by this section.

E. Allocation of Fee.

1. A park owner who pays the fees may allocate 50 percent of the fees assessed against a mobile home space to the homeowner pursuant to the provisions set forth below. This allocation shall be passed on, if at all, no later than the next park anniversary date or within 12 months from the date of payment to the City, and shall be paid in full the month following demand for payment by the City. The remaining 50 percent of the fees assessed against a mobile home space shall not be passed on in any way to homeowners.
2. The park owner shall post in a public place or at the club house for a period of 90 days for all affected homeowners to read documentation supporting the allowable amount to be collected in order to recover a portion of rent stabilization administration fees. Notification on the availability of these materials shall be published in the monthly bulletin. At a minimum, such documentation shall include:
  - a. Billing notices or other equivalent documents from the City imposing the rent stabilization administration fee;
  - b. A copy of CMC 2.22.190;
  - c. The calculations used by the park owner to apportion the cost of the allowable percentage among the affected homeowners;
  - d. The address and telephone number of the Administrator; and
  - e. Notice to the affected homeowner that such homeowner is encouraged to contact the Administrator for an explanation of the provisions of this chapter.
3. The fee allocation shall not be considered part of the base rent upon which future rent increases can be made.
4. The fee allocation shall be separately listed on any monthly or other periodic billing statement to the homeowner.

F. A service fee equal to one and one-half percent per month will be charged on all late payments of administration fees under this chapter. The service fee may not be passed on to homeowners.

**2.22.200 Exemption from fees.**

A. Any park owner who believes that the park owner may be entitled to a space fee exemption pursuant to Civil Code Section 798.17 or any other provision of this chapter, shall provide the Administrator with the following documentation, as appropriate:

1. A listing of long-term executed lease space numbers and spaces used other than for residency;
2. For a newly constructed space, proof that the space was constructed and initially held out for rent after January 1, 1990; and
3. A statement of the basis for the exemption.

B. The Administrator's decision as to an exemption shall be final.

**2.22.210 Nonwaivable obligations.**

Any provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of this chapter is waived or modified, is against public policy and void, except with respect to any rental agreement complying with all of the terms and conditions set forth in California Civil Code Section 798.17.

**2.22.220 Violations; penalty; waiver of rights.**

- A. **Penalty.** In addition to those penalties and remedies set forth elsewhere in this chapter, no person shall demand, accept, receive or retain any rent in excess of the amounts allowed under this chapter. Any person may file a complaint regarding an alleged violation of this article with the City Clerk. The City Attorney is authorized to, in his or her discretion, investigate and prosecute those complaints that are determined to merit prosecution. Any person found to have willfully demanded, accepted, received or retained any rent in excess of the amounts allowed under this article is guilty of a misdemeanor. Any park owner who demands, accepts, receives, or retains any money as rent from a homeowner to which the park owner is not entitled under the provisions of this chapter shall be liable to the homeowner for any actual damages, attorney's fees, and costs incurred by the homeowner as a consequence thereof plus a penalty in the sum of three times the amount of money the park owner accepted, received, or retained in violation of the provisions of this chapter or \$500.00, whichever is greater.
- B. **Civil action.** Any person who willfully demands, accepts, or retains any payment of rent in violation of the provisions of this article shall be liable in a civil action to the person from whom payment is demanded, accepted or retained for damages in the sum of three times the amount by which payment or payments demanded, accepted or retained exceed the maximum rent which could lawfully be demanded, accepted or retained.
- C. **Waiver of rights.**
1. Any waiver or purported waiver by a mobile home owner of rights granted under this article prior to the time when said rights may be exercised shall be void as contrary to public policy, except as provided in this section.
  2. It shall be unlawful for a park owner to require or attempt to require, as a condition of tenancy in a mobile home park, a mobile home owner, or prospective mobile home owner, to waive, in a lease or rental agreement, the rights granted to a mobile home owner by this article.
  3. It shall be unlawful for a park owner to deny or threaten to deny a tenancy in a mobile home park to any person on account of such person's refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a tenant by this article.
  4. Nothing in this section shall preclude a mobile home owner or tenant, or prospective tenant, from entering into a lease or rental agreement provided that

such lease or rental agreement is not procured by a requirement that it be entered into as a condition of tenancy in the mobile home park, and is not procured under a threat of denial of tenancy in the mobile home park.

**2.22.230 Rights of affected parties reserved.**

This chapter shall not be construed to limit or curtail any other action or proceeding which may be pursued by an affected homeowner or parkowner before any court or other body having jurisdiction thereof. A homeowner may refuse to pay any rent in excess of the maximum rent established pursuant to this chapter. The fact that the unpaid rent is in excess of the maximum rent shall be a defense in any action brought to recover possession of a mobile home space for nonpayment of rent or to collect the illegal rent.

**2.22.240 Extension of time limits.**

By written agreement of the parties, upon application to the Administrator, or for good cause shown to the mediator or arbitrator, the timeframes provided for under this chapter may be extended.

**2.22.250 Review by the City Council.**

The Council shall review the effectiveness of this chapter within 5 years from the date of adoption of this Amendment to the Mobile Home Park Rent Stabilization Ordinance, to determine whether a full-scale review is necessary. Notice of the time and place of the Council's review shall be published at least 10 days prior to the review date in a newspaper of general circulation in the City. Park owners and residents shall be notified by mail.

**SECTION TWO:**

If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**SECTION THREE:**

**THIS ORDINANCE** shall take effect thirty (30) days after its passage and before expiration of fifteen (15) days after its passage, shall be published in accordance with law in a newspaper of general circulation published and circulated in the City of Calistoga.

**THIS ORDINANCE** was introduced with the first reading waived at the City of Calistoga City Council meeting of **September 18, 2007** and was passed and adopted at a regular meeting of the Calistoga City Council on the **October 2, 2007**, by the following vote:

**AYES: Mayor Gingles, Councilmembers Garcia, Kraus, Slusser,  
and Vice Mayor Dunsford**

**NOES: None**

**ABSTAIN: None**

**ABSENT: None**

  
\_\_\_\_\_  
**JACK GINGLES, Mayor**

**ATTEST:**  
  
\_\_\_\_\_  
**SUSAN SNEDDON, City Clerk**