

RESOLUTION NO. 2023-9242

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA ADOPTING AMENDED AND RESTATED PROCEDURES FOR THE SAN MARCOS MOBILEHOME RENT REVIEW COMMISSION

WHEREAS, the San Marcos Mobilehome Rent Review Commission (MHRRC) was created in 1978; and

WHEREAS, pursuant to a successful voter initiative which was formalized by Resolution MHP 88-7, the Mobilehome Rent Review Commission has operated pursuant to procedures authorized by Chapter 16.16 of the San Marcos Municipal Code; and

WHEREAS the regulations and procedures governing MHRRC proceedings were modified by Resolution 96-4673, further modified by Resolution 2002-5900, and Resolution 2009-7272, and the MHRRC has since performed its functions in accordance with such regulations and procedures; and

WHEREAS, from and after 2009, numerous petitions for MHRRC review have been filed and the MHRRC has conducted several rent review proceedings to conclusion for those petitions that were not otherwise resolved, and during that time period City staff and MHRRC consultants have determined that additional revisions are necessary and/or desirable to enable the MHRRC to efficiently and fairly conduct its rent review proceedings for the protection of the rights of all concerned parties.

NOW, THEREFORE, the City Council of the City of San Marcos, California, does hereby resolve and order as follows:

Section 1. The foregoing recitals are true and correct and are hereby incorporated by reference into this Resolution.

Section 2. The City Council finds that the revisions and clarifications offered by the Amended and Restated MHRRC Procedures, attached hereto as Exhibit 1 and incorporated herein by reference, will result in more efficient proceedings, as they, *inter alia*, specify the Consumer Price Index information and additional background documentation to be provided by park owners, provide for service of documents in a more efficient manner, and modify the hearing and briefing schedule to address timing issues that have been experienced in prior MHRRC proceedings.

Section 3. Based on the information set forth herein and that adduced during the City Council proceedings for this item, the City Council hereby approves and adopts the amended and restated MHRRC Procedures and related documents attached hereto as Exhibit A and

incorporated herein by this reference as though set forth in full at this point, and all previously adopted procedures and schedules are superseded and replaced with attached Exhibit A.

Section 4. The revisions to the MHRRC requirements for written submissions and pre-hearing procedures are hereby approved for immediate implementation and use by the San Marcos Mobilehome Rent Review Commission, and the amended and restated rules and regulations are effective and applicable to any MHRRC proceeding occurring subsequent to the effective date of this Resolution.

Section 5. This Resolution is not intended to, and shall not operate as, an amendment to the provisions of Chapter 16.16 of the San Marcos Municipal Code, but rather as the procedural regulations followed in conjunction with processing applications for space rent increase. In the event of any conflict between the amended and restated regulations adopted by this Resolution and the provisions of Chapter 16.16 of the San Marcos Municipal Code, the provisions of Chapter 16.16 shall prevail.

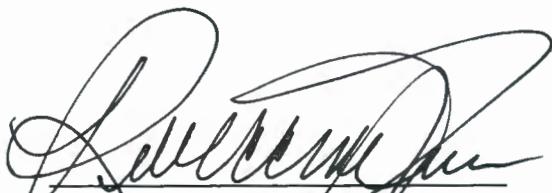
Section 6. If any term, provision or condition of this Resolution is, to any extent determined by a court of competent jurisdiction to be invalid or unenforceable for any reason, the remaining terms, provisions or conditions of this Resolution shall be valid and enforceable to the fullest extent permitted by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of San Marcos, California, at a regular meeting held on this 14th day of November 2023, by the following roll call vote:

AYES: COUNCILMEMBERS: JENKINS, MUSGROVE, NUÑEZ, SANNELLA, JONES

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE



Rebecca D. Jones, ~~Mayor~~
City of San Marcos

ATTEST:



Phillip Scamick, City Clerk

ATTACHMENTS:

Exhibit A: Amended and Restated Procedures for the San Marcos Mobilehome Rent Review Commission, Form Petition

MOBILEHOME RENT REVIEW COMMISSION PROCEDURES

[Rev. November 2023]

These Mobilehome Park Rent Review Procedures were adopted by Resolution 2023-9242 to implement the provisions of San Marcos Municipal Code (“SMMC”) Chapter 16.16 (the “Procedures”).¹ These Procedures supersede and replace in their entirety the procedures that were adopted by Resolution No. 2009-7274. These Procedures are not intended to and do not supersede, replace, or amend, ordinances or resolutions other than 2009-7274 adopted by the City Council or the City’s Mobilehome Rent Review Commission (the “Commission”). Those ordinances and resolutions shall govern, to the extent there may be any conflict, and should be consulted if clarification is needed. Capitalized terms used in these Procedures shall have the meanings assigned to them in SMMC Chapter 16.16.

SECTION 1. APPLICABILITY

These Procedures apply to mobilehome parks in the City containing ten or more spaces. These Procedures do not apply to rent increases on tenancies created by rental agreements with terms in excess of 12 months to the extent that such leases are exempt from local rent regulation pursuant to California Civil Code section 798.17, or to El Dorado Mobilehome Park during the effective term of its Long-Term Space Lease and any Amendment thereto that extends the term of the same. (See, SMMC section 16.16.030.)

SECTION 2. MOBILEHOME PARK OWNER RENT INCREASE PROPOSAL

- a) **Notice of Increase.** A Mobilehome Park Owner intending to increase Space Rent shall give written notice of the proposed increase to affected Mobilehome Tenants at least 90 days prior to the effective date of the increase, in accordance with Civil Code section 798.30 (the “Notice”). The Notice shall include all information required by SMMC section 16.16.055(a).
- b) **Consumer Price Index.** With respect to the calculation of changes in the Consumer Price Index (CPI), a Mobilehome Park Owner intending to increase Space Rent shall specify the date and the index figure used for the prior rent increase notice if the increase was not contested by the Residents or was settled with the Residents, or shall specify the date and the index used by the Commission in its findings if the prior rent increase was set by the Commission. The calculation of the proposed increased Space Rent shall use the most recent CPI figure published by the U.S. Bureau of Labor Statistics prior to the date of the issuance of the Space Rent increase Notice.

¹ A copy of SMMC Chapter 16.16 is included as Attachment A to these Procedures for reference.

- c) **Filing of Notice with City.** The Owner shall file a copy of the Notice with the City Clerk² on the same day that the Notice is given to the Tenants, or the next business day, if the Notice is given to the Tenants on a holiday or weekend. Whenever a document is required to be “filed” with the City Clerk under these Procedures, the original document must be delivered to the City Clerk in person, during City business hours. The document may be filed by scanning the original and sending it to the City Clerk via e-mail using the address listed for the City Clerk on the City’s website at www.san-marcos.net/departments/city-clerk, provided that the actual original documents are delivered to the City Clerk within three days. The filing date will be the date on which the City Clerk acknowledges receipt, either by stamping the documents received, or confirming receipt by e-mail.
- d) **Verification.** Pursuant to SMMC section 16.16.055(b), the Owner shall also file with the City Clerk a written verification of the spaces subject to the proposed increase (the “Verification”) with said list of spaces to be in Excel format. The Verification shall be in substantially the following form:³

“[List of Space Numbers, the Names of all Individuals on the Lease for Each Space, and the Corresponding Proposed Rent Increase Amount or Percentage for Each Space]

This Excel file shall be accompanied by the following declaration:

I verify that the proposed space rent increase will apply to the space numbers listed above, in the corresponding amounts. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[Signature and Printed Name of Mobilehome Park Owner, manager, or other delegatee]”

- e) **No Action by City.** When the City receives a Notice and Verification from an Owner proposing a rent increase, the City will keep them on file. The City will not be required to take any further action unless and until a Tenant Petition is filed.
- f) **Stay of Proposed Increase if Petition Filed.** If a rent review petition is filed pursuant to section 3., the proposed rents shall be held in abeyance until such time as a hearing is scheduled and a decision rendered by the Commission. No hearing will be scheduled until the City Clerk receives the required Notice and Verification.

³ The Verification is submitted for City staff review and use in evaluation of the adequacy of any rent review petition that may be filed by Tenants affected by a space rent increase notice pursuant to Chapter 16.16. Information provided in or with the Verification that is exempt, privileged, personally identifiable, or otherwise protected from public disclosure will be redacted before the Verification is made publicly available.

g) **Effective Date of Commission Decision.** If the Commission approves the Owner's proposed rent increase or approves a rent increase which is less than the amount of the noticed rent increase, the rent increase shall become effective as soon as the Resolution approving the increase is fully executed, as long as 90 days have elapsed since the rent increase was noticed. If 90 days have not yet elapsed since the Notice, the rent increase shall become effective as soon as 90 days have elapsed. If the Commission's approved rent increase is an amount greater than the amount noticed by the Owner, the amount by which the Commission's approved rent increase exceeds the amount noticed will not become effective until after the Tenants have received 90 days' notice of the additional rent increase amount.

SECTION 3. TENANT PETITION FOR COMMISSION REVIEW OF PROPOSED RENT INCREASE

- a) **Initiation of Commission Review.** Tenants receiving Notice of a proposed Space Rent increase may seek Commission review of the proposed increase by filing a petition in accordance with SMMC section 16.16.060(a).
- b) **Petition Procedures and Requirements.** Tenants of a mobilehome park subject to a Notice may petition for review of the proposed rent increase as follows:
 - i. The Tenant obtains a blank petition from the City Clerk. The petition shall be in substantially the same form as Attachment B to these Procedures, and shall specify the name of the park, and the amount and effective date of the proposed rent increase (the "Petition").
 - ii. The Petition must be signed by Tenants of more than 50% of the spaces in the park subject to the proposed rent increase. Only person(s) living in a space may sign the Petition. Spaces exempt from the provisions of SMMC Chapter 16.16 are not to be included. [See, SMMC section 16.16.060(a)(3).]
 - iii. Multiple Petition sheets may be circulated simultaneously, but only one person may circulate each sheet. Prior to circulating the Petition, the circulators should list the space numbers numerically on each Petition sheet. The Petition must meet the attestation requirements set forth in Section 16.16.060. Each Tenant signing a Petition sheet must do so in the circulator's presence and must be known by the circulator to be a Tenant of the park. If multiple sheets are circulated, all sheets must be filed with the City at the same time. For a signature to be counted, the City must be able to confirm that the signature is that of a Tenant. Only one Tenant signature per space will be counted. [See, SMMC section 16.16.060(a)(2).]

- iv. The Petition must be filed with the City Clerk no later than 30 days following the Tenants' receipt of the Notice. [SMMC section 16.16.060 (a) (4)].

Example

Date Tenants Received Rent Increase Notice:	April 1, Any Year
Date to File Petition With City Clerk:	May 1, Any Year
Effective Date of Proposed Rent Increase:	July 1, Any Year

- v. Once a Petition has been filed with the City Clerk, names and signatures appearing on the Petition cannot be withdrawn. [See, SMMC section 16.16.060(e).]
- vi. No more than one Petition may be filed for a proposed rent increase. The first Petition filed with the City Clerk, and accepted by the City Clerk pursuant to SMMC section 16.16.060(b)(3), shall be the governing Petition.

SECTION 4. CITY CLERK INITIAL REVIEW OF PETITION, DETERMINATION OF ADEQUACY

- a. **Initial Review.** Upon receipt of a Petition, the City Clerk shall review the Petition to determine if it complies with the requirements of SMMC section 16.16.060(a)(1), (2), and (4). Within five business days of receiving the Petition, the City Clerk shall either:
 - i. **Accept** the Petition if it complies with the requirements, and mail a written notice to the Owner that a petition has been filed and that the proposed rent increase is to be held in abeyance until a hearing has been held and a decision rendered by the Commission; or
 - ii. **Reject** the Petition if it does not comply and mail a written notice to the Tenant who submitted the Petition, and the Tenant Representative if one has been selected, notifying of the Petition's rejection and the basis for the rejection.

[See, SMMC section 16.16.060 (b).]
- b) **Determination of Adequacy.** If the Petition is accepted after the initial review, the City Clerk shall have ten days to determine if the Petition is adequate. If the required number of Tenants have signed the petition (Tenants of more than 50% of affected the affected spaces), the City Clerk shall forward the Petition to the Commission in accordance with SMMC sections 16.16.030(c)(3) and 16.16.070. If the Petition does not contain the requisite number of signatures, the City Clerk shall reject the Petition and provide written notice to the submitting Tenant and Owner, pursuant to SMMC section 16.16.060(c)(3).

c) **Commission Notices.** For purposes of this Section 4., only, whenever mailing of a written notice on behalf of the Commission is required, it may be accomplished by first-class U.S. mail or, if a valid e-mail address has been provided by the submitting Tenant or Owner and the submitting Tenant or Owner has requested notice be provided to that e-mail address, then by e-mail to that address, with the scanned written notice attached. The Commission finds that allowing written notice to be accomplished by mail or e-mail satisfies the requirement for written notice under SMMC section 16.16.060 and further finds that such e-mail transmission facilitates prompt, reliable, and efficient delivery of the notices and is more convenient for the parties. If the submitting Tenant Representative and/or the Owner Representative does not have or does not provide an e-mail address to the City Clerk, the City Clerk will provide Commission notices by regular mail for the affected party/parties for the rent review process in question.

SECTION 5. HEARING DATE; DESIGNATION OF REPRESENTATIVES; CONTINUANCES

a) **Commission Sets Hearing Date.** Upon its receipt of a Petition, the Commission shall set a public hearing no sooner than forty-nine (49) days and no later than sixty (60) days from the date of the regular City Council meeting at which the petition is presented to the Commission by the City Clerk (the "Hearing"). The Tenant Representative and the Owner Representative may agree in writing to hold the Hearing at a later date pursuant to subsection (c)(i), below. The City Clerk shall notify the Owner, submitting Tenant, and Tenant Representative, if one has been selected pursuant to (b)(ii), below by that date, of the scheduled Hearing date, and time requirements for written submissions. (See, SMMC section 16.16.070.) In the event the Tenant Representative and the Owner Representative subsequently collectively request a change to the date of the public hearing, the modified hearing date(s) may be set administratively by the City Clerk following a review of the calendars of affected parties.

b) **Designation of Representatives.**
A representative to act as a liaison with the City Staff shall be appointed by both parties to the Hearing.

- i. **Designation of Owner Representative.** The Owner shall designate an Owner's representative at least 42 days before the scheduled public hearing, but may be designated at an earlier date. This designation shall be filed, in writing, with the City Clerk, and signed by the Owner.
- ii. **Designation of Tenant Representative.** The Tenant Representative must be designated at least 28 days before the scheduled Hearing, but may be designated at an earlier date. The designation shall be in writing and filed with the City Clerk. The written designation shall include a certification, signed under penalty of perjury, by the Tenant Representative that he or she was chosen by a majority of the Tenants affected by the proposed space rent

increase. In the event the designation is made on a petition filed with the City Clerk which is not subsequently rejected for insufficiency pursuant to SMMC 16.16.060(b)(2), this designation requirement will be deemed to have been satisfied.

- c) **Continuances.** Once the hearing date is set, it may only be continued by:
 - i. Written stipulation of the parties, filed with the City Clerk at least twenty-four (24) hours in advance of the Hearing date; or
 - ii. At the discretion of the Commission.

(See, SMMC section 16.16.070.)

SECTION 6. NEGOTIATIONS, SETTLEMENT, AND VACATION OF HEARING DATE

- a) **Negotiations.** Prior to the date of the Hearing, the parties shall attempt to negotiate in good faith a rent increase acceptable to both parties. Negotiations may occur during a noticed meeting between interested Tenants and the Owner and/or directly between the Tenant Representative and the Owner. "Interested Tenants" shall include residents of all spaces subject to the proposed increase pursuant to the Notice.
- b) **Settlement.** If the parties reach an agreement to resolve a Petition, the Owner and the Tenant Representative shall notify the City of the settlement and shall file a written statement of the settlement terms with the City Clerk or designee as soon as feasible after the settlement is reached, and in any event no later than two (2) business days thereafter. The written statement shall be signed by both the Owner and the Tenant Representative, and shall include a statement by the Tenant Representatives that a majority of affected Tenants agreed to the settlement pursuant to the terms contained therein. These written statements may be filed either jointly or separately with the City by each party, but must contain the same settlement terms, and a request that the hearing be vacated.
- c) **Vacation of Hearing Date.** If the City receives a notice pursuant to section b), above, that a settlement has been reached and that both parties agree that the hearing on the Petition is no longer required, Commission staff are authorized to administratively vacate the Commission hearing date.

SECTION 7. HEARING PROCEDURES; WRITTEN SUBMISSIONS BY THE OWNER, TENANT REPRESENTATIVE, AND COMMISSION STAFF

- a) **Conduct of Hearing.** All Hearings will be open to the public. Parties to a Hearing may have assistance of an attorney or any other person designated by the parties in presenting evidence or arguing their position. The Commission may conduct the

Hearing, even if a party fails to appear at it. [See, SMMC section 16.16.070(b)-(c).]

- b) **Witnesses.** All witnesses called upon to give testimony at the Hearing shall be sworn in, under penalty of perjury, at the beginning of the Hearing by either the City Attorney or the City Clerk.
- c) **Procedures.** These Procedures outline the current process for conducting rent review hearings, including requirements for written submissions and time limits for presentations of evidence and testimony. The Commission may, in its discretion, and with the consent of the Owner and the Tenant Representative, waive the procedures and utilize alternative procedures.
- d) **Written Submissions.**
 - i. **General.** All issues that a party intends to raise at the Hearing must be contained in written submissions. The schedule for making written submissions is structured so that the Owner makes an initial written submission. The Tenant Representative responds in writing, after having had an opportunity to review the Owner's submission. The Owner then has one opportunity to rebut the issues and evidence submitted. The Tenant Representative then has one opportunity to respond in writing to any issues and evidence submitted.
 - ii. **City Consultants.** In the event the Commission staff has retained the services of consultant(s) to assist the Commission with the review, written evaluation and/or analysis by such consultant(s) will be included and provided to the Owner and the Tenant Representative as set forth in Section 9, below. Any additional evaluation or analysis by said consultant(s) shall be provided to all parties as soon as feasible, but in no event later than the posting date of the agenda for the Hearing.
 - iii. **Form of Written Submissions.** For each written submission required under these Procedures, the submitting party shall file an original (on single sided, 8-1/2" x 11" paper) of the written submission with the City Clerk, and shall also serve the other party with a copy of the submission, in accordance with service and time requirements outlined in these Procedures. In addition, the parties are encouraged to submit electronic versions of submissions required by this Section 7 in addition to those required by Section 2 to be provided in Excel format. To the extent that a party wishes to submit any of the following to the Commission for consideration during the Hearing, they must be included in the party's written submissions:
 - 1) Any written declarations submitted from witnesses setting forth facts and evidence as to which said witness has personal knowledge, must include a signed verification.
 - 2) Copies of all exhibits, including charts, diagrams, photographs, appraisals, mathematic calculations, etc., which the parties wish the Commission to consider.
 - 3) A written statement of all arguments which the party wishes the

Commission to consider.

ALL WRITTEN SUBMISSIONS BY THE PARK OWNER AND TENANT REPRESENTATIVES MUST INCLUDE A SIGNED VERIFICATION (MADE UNDER PENALTY OF PERJURY TO THE EFFECT THAT THE CONTENTS ARE TRUE AND CORRECT) AND BE IN SUBSTANTIALLY THE FOLLOWING FORM:

"I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and if called upon to testify as a witness I can and will do so competently to the same effect."

Printed Name and Signature of Declarant

Date

iv. Required Copies. For written submissions required by this section 7, the Owner's Representative, the Tenant Representative, and City Staff and/or Staff Consultant(s), if any, shall file all written submissions with the City Clerk, and concurrently deliver a copy to each other party's designated representative by Certified United States Mail, Return Receipt Requested, or by Personal Service. The parties may agree to a reasonable alternative method of delivery, such as internet email, which will be allowed, if such agreement is in writing, signed by both parties, and the original signatures submitted to the City Clerk prior to the filing of the Owner's initial written submission. Each submission must be served so that the designated recipients receive it by or before the dates set forth in this section.

v. Parties' Briefing Schedule.

1) Owner's Initial Written Submission. The Owner's Representative shall file its original, initial written submission with the City Clerk forty-two (42) days before the scheduled Hearing. The Owner's initial submission shall include all of the following:

- a) A profit and loss statement for each of the four calendar or fiscal years preceding the date of the rent increase notice, accompanied by Excel spreadsheets of said profit and loss statements;
- b) A maintenance and capital improvement budget for the current year, with projections of the useful life of each amortized expense;
- c) A projected maintenance and capital improvement budget for the next (succeeding) year, with projections of the useful life of each amortized expense;
- d) The Grant Deed or other written instrument transferring ownership of the property to the Owner, as well as all other

documentation necessary to establish the purchase price of the Park;

- e) A cash flow analysis, excising any pass-through amounts (pass-through amounts shall be provided on a separate schedule), such submission to be accompanied by an Excel spreadsheet of such analysis; and
- f) A depreciation schedule for all capital items (e.g., equipment purchases, etc.) to be considered as a basis for the increase.

2) **Tenant Representative's Response to Owner's Initial Submission.** The Tenant Representative shall file its original written response with the City Clerk twenty-eight (28) days before the Hearing.

3) **Owner's Rebuttal.** The Owner shall file its original rebuttal with the City Clerk no less than fourteen (14) days before the scheduled Hearing.

4) **Tenant Representative Rebuttal.** The Tenant Representative shall file its original rebuttal with the City Clerk no less than seven (7) days before the scheduled Hearing.

5) **Consequence of Failure to Timely Submit.**

- a) **Owner.** The consequence of any failure to submit required documentation or failure to abide by Mobilehome Rent Review procedural requirements by the Owner is that the application will be deemed incomplete, and the Commission may either make its determination on the basis of the information received or, if such information is not sufficiently complete to enable the Commission to conduct the Hearing, it may continue the Hearing and order the submission of the required documentation.
- b) **Tenant Representative.** The consequence of any failure to submit required documentation or failure to abide by Mobilehome Rent Review procedural requirements by the Tenant Representative is that the petition will be deemed incomplete, and the Commission may either make its determination on the basis of the information received or, if such information is not sufficiently complete to enable the Commission to conduct the hearing, it may continue the hearing and order the submission of the required documentation.

vi. **City Consultant Reports.** In the event that City or Commission staff has retained the services of consultant(s) to assist the Commission with the review, evaluation, and analysis of written submissions, the completed written analysis by such consultant(s), if any, will be included and provided to the Owner and the Tenant Representative, pursuant to Section 11, below. Any additional written evaluation and/or analysis shall be provided to each party as soon as feasible, but in no event later than the posting date of the agenda for the hearing, unless specifically authorized by the Commission at the hearing. In the event of a vacated hearing, consultant work product not served to that date will not be provided to the parties and will not constitute a public record.

e) **Evidence at the Hearing.**

- i. **Evidence Submitted Prior to Hearing.** Written submissions and declarations previously submitted to the Commission in accordance with the provisions of this Section 6 shall be received into evidence by the Commission at the hearing. Evidence properly set forth in such written submissions shall be given the same weight by the Commission as evidence produced by oral testimony at the hearing.
- ii. **Evidence Submitted at Hearing.** Only testimony and evidence introduced by the designated Owner, Tenant Representative, and the City, or witnesses called upon by any of the parties, shall be heard and considered by the Commission at the Hearing. At the sole discretion of the Commission, however, any other individual who has a direct interest in the issue before the Commission, such as Tenants affected by the space rent increase, may be permitted to address the Commission, provided such testimony is directly related and relevant to the issue at hand.
- iii. **Evidence Rules at Hearing.** The Hearing need not be conducted according to technical rules of evidence. Any relevant evidence shall be considered if it has been referenced in the written materials submitted in accordance with this Section 7, and if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs. Oral testimony by persons executing the declarations shall not repeat the evidence contained in the declarations. Repetitious or irrelevant evidence may be excluded by the Commission. Each speaker's presentation shall be to the point and shall be restricted to the time limits for such testimony set forth in Section 11 below. Visual aids and other materials may be used, as and how permitted by the Commission.

SECTION 8. COMMISSION REVIEW AND DECISION

- a) **Factors Considered at Hearing.** In evaluating a proposed space rent increase, the Commission shall consider the nonexclusive factors set forth in 16.16.070(g)(1)-(7), in addition to such other factors as the Commission deems relevant. The Owner bears the burden of proving by a preponderance of the evidence that a proposed space rent increase is reasonable and necessary for the owner to receive a reasonable return on its investment.
- b) **Basis for Decision.** The Commission determination does not have to be made by the application of any particular method or formula, so long as the substantial evidence supports its determination that the rent level approved will provide the Owner with a "fair return." Accordingly, the Commission may base its decision on the basis of the Maintenance of Net Operating Income("MNOI") formula, historical cost, return on investment, or other formula accepted by the California courts for determination of rent review matters.
- c) **Issuance of Decision.** The Commission shall render its final decision by resolution not later than the date of the next regularly scheduled City Council meeting occurring at least seven days after the date of the close of the Hearing. Upon the final decision of the Commission, a Resolution stating its findings and decision shall be presented at the next available meeting for adoption by the Commission. In its decision the Commission shall either:
 - 1) Not allow an additional rent increase;
 - 2) Allow the Owner to Increase the rent to the amount authorized by the Commission, or
 - 3) Allow the Owner to increase the rent to amount requested by the Owner.

If the Commission approves a rent increase, as of the effective date, all spaces which received the Notice shall be subject to the Commission's decision, whether or not the tenants actually signed the Petition.

[See, SMMC section 16.16.070(e).]

- d) **Consideration of Owner's Failure to Comply with Duties and Obligations.** A Park Owner has a duty to comply with the terms and conditions of any conditional use permit, special use permit, or other land use approval, or zoning or building ordinance, relating to the amenities, facilities, maintenance, improvements, or services to be provided within the mobilehome park by the Owner. If the Commission finds that an Owner has failed to provide, or has substantially reduced the level of, the amenities, facilities, maintenance, improvements or services, as established by any conditional use permit, special use permit or other land use approval or zoning or building ordinance, or if the

Owner has failed to comply with the duties established by Section 798.87 of the California Civil Code, then the Commission may: (i) deny a proposed rent increase; (ii) decrease the rent; or (iii) conditionally approve the rent increase upon such terms and conditions as the Commission deems reasonably necessary to insure compliance with the mobilehome park owners duties and obligations. [SMMC section 16.16.070(h).]

SECTION 9. NOTICE OF DECISION

The City Clerk will mail a Notice of the Commission's Decision along with the Resolution adopted by the Commission to the designated TR and the designated Owner's Representative within ten days after the Resolution's adoption.

SECTION 10. RETENTION OF RECORDS

All documents and records obtained by and/or submitted to the Commission pursuant to these Procedures shall be converted into electronic format and retained by the City, as they may have application or relevancy in an analysis relating to a future proceeding involving the mobilehome park in question.

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PROCEDURES CONTINUE ON FOLLOWING PAGE]

SECTION 11. SUMMARY OF SCHEDULE FOR WRITTEN SUBMISSIONS

ACTIVITY	SUBMISSION SCHEDULE (Days before hearing)
Petition – within 30 days after tenants' receipt of notice of space rent increase	
Designation of Representative by Owner	42
Designation of Representative by Tenants	28
Initial written submission by Owner	42
Written response of Tenant Representative	28
Written evaluation of Commission Consultants	21
Final Submission by Owner	14
Final Submission by Tenant Representative	7

This proposed schedule is structured so that the Owner makes an initial submission as the party requesting the change. The Tenant Representative responds in writing, after having had an opportunity to review the Owner's submission. The Owner then has an opportunity to respond to the issues and evidence submitted by the Tenant Representative and the Commission Consultant. The Tenant Representative also has an opportunity to respond to the issues and evidence addressed by the Commission Consultant and/or the Owner's final submission.

All issues that each side intends to raise must be contained in the written submission(s).

All submissions must be verified (made under penalty of perjury) and must be true and correct as of the date of the rent increase notice was issued to residents.

Owner's initial submission must contain all of the items listed in Section 7(d)(1) above.

Any additional written evaluation or analysis by consultants retained by Commission staff will be provided to the parties as soon as feasible; other than for minor corrections, such documentation will be provided as soon as practicable but in no event later than the posting date of the agenda for the hearing.

SECTION 12. HEARING FORMAT

<u>HEARING SEGMENT²</u>	<u>(In Minutes)</u>
1. Owner Representative's Presentation of Evidence	30
2. Tenant Representative(s)' Cross-Examination of Owner Representative	15
3. Tenant Representative(s)' Presentation of Evidence	30
4. Owner Representative's Cross-Examination of Tenant Representative	15
5. Commission Staff/Consultants' Presentation of Analysis	30
6. Owner Representative's Cross-Examination of Commission Consultants	15
7. Tenant Representative(s)' Cross-Examination of Commission Consultants	15
8. Testimony At Large - Total Time (as necessary, including Owner Representative Cross-Examination of Tenant witnesses)	20
9. Commission's Examination of Witnesses at Large, including Commission Consultants (as desired)	30
10. Commission Staff/Consultant Closing Comments if any	10
11. Tenant Representative(s)' Closing Argument	10
12. Park Owner's Closing Argument	10
	<hr/>
TOTAL MINUTES:	230
TOTAL HOURS:	3.8 HOURS

² All issues that each side intends to raise must be contained in the written submissions. In addition, any written evaluation by consultants retained by the Commission staff will be provided to the other parties as set forth in Section 11, above. Any additional written evaluation or analysis by such consultants shall be provided to each party as soon as feasible but, other than for minor corrections, in no event later than the posting date of the agenda for the hearing. All submissions must be true and correct as of the date the rent increase notice was issued to residents and are to be verified (made under penalty of perjury), as is the case with verbal testimony during the hearing. All witnesses will be sworn in at the beginning of the hearing. Owner's initial submission must contain all of the items listed in Section 7(d)(v)(1) above. If these required elements are not submitted, the application will be deemed incomplete, and the Commission will either make its determination on the basis of the information received or, if such information is not sufficiently complete to enable the Commission to conduct the hearing it may continue the hearing and Order the submission of the required documentation. Time periods set forth above are strongly suggested; the Chair can extend any given time period for good cause.