

CHAPTER 6.50
MOBILEHOME PARK SPACE RENT STABILIZATION
PROGRAM

6.50.010 Findings and purpose.

- A. For several years, mobilehome tenants have requested that the city of Petaluma enact a mobilehome park space rent stabilization ordinance. Various meetings have been held with mobilehome park owners and mobilehome park tenants to address concerns raised by both groups regarding rental increases, vacancy control, and other issues.
- B. In March 1993, the city council was presented with a request for consideration of a fair mobilehome rent ordinance. In April 1993, the city council appointed to the existing mobilehome rent review committee which consisted of councilmembers, three mobilehome park owner representatives, and three mobilehome park tenants. After several meetings, it was reported to the city council in July 1993 that it did not appear that an agreement could be reached and that further discussions would not be fruitful.
- C. Subsequent city council meetings were held in which various issues were discussed and from which input was received from both mobilehome park owners and mobilehome park tenants and their representatives.
- D. Because of the inability of the park owners and park tenants to reach a resolution of their differences, the city council retained the services of Connerly Associates, Inc., an experienced consultant, to conduct a mobilehome park survey. The purpose of the survey was to collect relevant information on mobilehome park resident characteristics, space rents, and the mobilehome parks in Petaluma.
- E. On November 15, 1993, Connerly & Associates, Inc. submitted to the city council a written report detailing their findings, which included the following:
 - 1. Nearly sixty percent of the survey respondents were single adults, while virtually all the remaining respondents comprised two-person households. There were only four respondents who reported having three household members.
 - 2. Most of the respondents, nearly eighty percent, reported being age sixty-two or more.
 - 3. The majority of respondents at all the mobilehome parks reported being "low income," meaning they earned less than twenty-three thousand eight hundred fifty dollars per year for a single person, or twenty-nine thousand five hundred dollars per year for a two-person household. For

all the parks, nearly ninety percent of the survey respondents are low income.

4. Over fifty percent of the residents in all but one mobilehome park reported their income as being within the "very low income" range, sixteen thousand one hundred fifty dollars for a single person or eighteen thousand seven hundred dollars for a two-person household. About sixty percent of the survey respondents in all the parks reported their income as being at the "very low income" level or less.
 5. Just over half the respondents in all the mobilehome parks reported they pay more than thirty percent of their income for housing expenses (space rents; mortgage, if any; utilities; property taxes or registration fees; and homeowner's insurance). About forty percent of the residents reported paying more than thirty-five percent of their income for housing expenses.
 6. The average rents in the parks, as reported by residents responding to the surveys, range from a low of one hundred ninety-eight dollars per month to three hundred seventy-five dollars per month. The average monthly rental reported by respondents for all the parks was two hundred eight-four dollars per month. By comparison, the average space rent reported by respondents for all the parks was two hundred two dollars in 1986. The average space rent reported by residents were within five dollars to ten dollars per month of those reported by the park owners.
 7. The average rental space rent increase was five percent per year between 1986 and 1993.
 8. None of the park owners responding to the survey reported vacant mobilehome spaces.
- F. The city council has discussed and reviewed the above findings and conclusions, and has received information through public hearings and concludes, based on said information and the findings herein, that it is necessary and in the public interest to establish a mechanism to assist in the resolution of disputes that may arise from time to time between residents and park owners regarding the rates charged for rental or lease of space as well as instances where there is a sale or transfer of the mobilehomes by the mobilehome residents. In addition, the city recognizes the right of the park owners to obtain a fair and reasonable rate of return and for their property to generate income to cover costs of operation and servicing of reasonable financing and to have under the auspices of the city an administrative procedure which will operate effectively and

expeditiously to approve rent increases as are reasonable to meet said ends. At the same time there is a need to establish a means which if followed can provide protection to tenants from unreasonable rent increases resulting in loss of value to their property.

- G. A significant majority of the residents of mobilehome parks in the city of Petaluma are older individuals or couples living on fixed incomes. These residents qualify as "low" and "very low" income households and typically expend more than thirty percent of their income on housing related expenses.
- H. Nearly all mobilehome park residents own and occupy their mobilehome and have made a substantial monetary investment to live in a mobilehome park.
- I. Residents of a mobilehome park have very limited mobility due to the difficulty and expense of relocating a mobilehome.
- J. There is a limited amount of alternative housing affordable to and suitable for the typical mobilehome park resident and mobilehome parks are a valuable resource of affordable housing for low and very low income individuals and families.
- K. The city of Petaluma is committed to assisting in the preservation of decent, safe and sanitary housing affordable to all economic segments of the community, especially mobilehome lots affordable to low and very low income individuals and families.
- L. The city council finds there is a shortage of spaces for the location of mobilehomes in the city, a condition which results in low vacancy rates and tends to prevent normal competition between the owners and tenants of mobilehome parks. Rents have been for several years and are presently rising at rates in some instances greater than increases in the CPI, which has caused concern to a substantial number of mobilehome owners. The city council finds that a substantial number of mobilehome owners in the city have for a long time asserted a need for rent control and that efforts of the city council in the past to mediate differences between park owners and their tenants have been notably unsuccessful.
- M. Due to their limited incomes, the large investment in their mobilehomes, the immobility of mobilehomes, and the shortage of spaces for mobilehomes, mobilehome owners generally have very limited economic bargaining power concerning rents charged for mobilehome lots.
- N. The city council intends that this chapter be interpreted and enforced fairly and equitably, in a nondiscriminatory manner, and in accordance with constitutional requirements. For these reasons it is intended that the respective provisions of the ordinance be liberally construed and be considered severable,

and that if any portion of it is declared unconstitutional or unenforceable, the remaining portions shall remain valid and in effect.

O. The purpose of this chapter is to:

1. Prevent the imposition of exploitive, excessive and unreasonable mobilehome space rent increases;
2. Assist in alleviating the unequal bargaining power which exists between mobilehome park residents and mobilehome park owners;
3. Provide mobilehome park owners with a guaranteed rate of annual space rent increase which accurately reflects the rate of inflation;
4. Provide an efficient and speedy process to ensure mobilehome park owners receive a fair, just and reasonable rate of return in cases where the guaranteed annual space rent increases provided by this chapter prove insufficient;
5. In the absence of a lawful vacancy, prevent excessive or exploitive rent increases upon the transfer of a mobilehome-on-site (i.e., on the mobilehome pad) to a new mobile-home owner while at the same time providing a process whereby mobile-home park owners are assured of receiving a fair and reasonable return.

(Ord. 1949 NCS §1 (part), 1994.)

6.50.020 Definitions.

For purposes of this chapter, the following terms shall be defined as follows:

- A. "Affected tenants" means those tenants whose space is not covered by a valid lease meeting the requirements as outlined in Section 798.17(b) of the California Civil Code or otherwise legally exempt from local rent control regulation. Such tenants are to be notified that a space rent increase is to become effective. For purposes of providing notice of the increase, providing copies of the rent stabilization ordinance, and support of a rent arbitration petition, each space subject to a rental increase shall be deemed to have only one "affected tenant" for administrative convenience to the park owners. The reference to "all affected tenants" will refer to one representative tenant from each space subject to the proposed rental increase.
- B. "Arbitrator" shall mean a person (1) who is neither a tenant as that term is defined in this chapter nor who has an interest in a mobilehome 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) a person whom the clerk

of the Petaluma mobilehome space rent stabilization program (see subsection E below) determines meets one of the following criteria:

1. 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 clerk, or designee, of the Petaluma mobilehome space rent stabilization program, provides that person with the knowledge and skills to conduct a space rent dispute arbitration in a professional and successful manner; or
 2. Completion of at least three arbitration proceedings for a Superior Court or other public entity that involved issues the clerk, or designee, of the Petaluma mobile-home space rent stabilization program finds similar to those raised in space rent dispute arbitrations.
 3. Served as a California Superior or municipal court pro tempore judge.
- C. "Base rent" means the authorized rent, calculated pursuant to the provisions of Section [6.50.030](#), plus any rent increase allowed under this chapter or any rent adjustment attributable to vacancy decontrol as provided in Section [6.50.240](#).
- D. Reserved.
- E. "Clerk" means the clerk of the Petaluma mobilehome space rent stabilization program, who shall be the city manager or his or her designee.
- F. "Capital improvements" are those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses, and which may be amortized over the useful remaining life of the improvement to the property.
- G. "Consumer Price Index" means 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. "Housing service" means a service provided by the owner related to the use or occupancy of a mobilehome space, which is neither a capital improvement nor substantial rehabilitation as those terms are defined herein, including but not limited to, repairs, replacement maintenance, painting, lighting, heat, water, laundry facilities, refuse removal, recreational facilities, parking, security service, and employee services.
- I. "Mobilehome" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the California Vehicle Code. "Mobilehome" includes a manufactured home, as defined in Section 18007 of the California Health and Safety Code, and a mobilehome, as defined in Section 18008 of the California

Health and Safety Code, but does not include a recreational vehicle, as defined in Section 799.24 of the California Civil Code and Section 18010 of the California Health and Safety Code, or a commercial coach, as defined in Section 18001.8 of the California Health and Safety Code except when such a vehicle has continuously remained within a mobilehome park for a period in excess of nine months.

- J. "Mobilehome park" means any area of land within the incorporated areas of the city of Petaluma where two or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes used for human habitation.
- K. "Mobilehome park owner" means any owner, lessor, or sublessor of a mobilehome park in the incorporated areas of the city of Petaluma who receives or is entitled to receive rent for the use or occupancy of any mobilehome space thereof, and the representative, agent or successor of such owner, lessor, or sublessor, 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.
- L. "Mobilehome space" means any site within a mobilehome park located in the incorporated areas of the city of Petaluma intended, designed, or used for the location or accommodation of a mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith except (1) sites rented together and concurrently with a mobilehome provided by the mobilehome park owner and (2) "new construction" as defined by California Civil Code Section 798.45. The term "mobilehome space" shall also include, for purposes of this rent stabilization chapter and accompanying fee ordinance, rentable spaces within mobilehome parks which have been occupied by a "recreational vehicle" as defined by California Civil Code Section 799.24 for a period of nine months or more.
- M. "Mobilehome tenant" means a tenant, subtenant, lessee, or sublessee, or any other person entitled to the use or occupancy of any mobilehome space not otherwise a party to a rental agreement exempt from regulation under this ordinance pursuant to Civil Code Section 798.17.
- N. "Net operating income" means net operating income as defined in Section [6.50.110\(A\)](#) of this chapter.
- O. "Owner" means a mobilehome park owner.
- P. "Party" as used in this chapter refers to any affected mobilehome tenant and/or owner involved in proceedings under this ordinance.

- Q. "Percent change in Consumer Price Index" means the annual percent change in the Consumer Price Index (hereinafter "CPI"), calculated to the nearest tenth. For the first percent change in Consumer Price Index, it shall be calculated using the CPI published for the month of March, issued in the month of April. In the event an index is not published for the month of March, the closest preceding month for which an index is published shall be used. Subsequent yearly percent changes in CPI shall be calculated to the nearest tenth, published for the month of July, issued in the month of August. In the event that an index is not published for the month of July, the closest preceding month for which an index is published shall be used. It is the intent of this ordinance to fix the CPI in the beginning of the fiscal year, for the rest of the fiscal year barring an unforeseen failure to publish a CPI for the month of July.
- R. "Rent" means mobilehome space rent.
- S. "Rent increase" means any additional space rent demanded of or paid by a tenant for a mobilehome space including any reduction in housing services without a corresponding reduction in the amount demanded or paid for rent. Said increase shall be (1) uniform in percentage rate relative to current base rent; or (2) uniform in dollar amount relative to base rent.
- T. "Rent stabilization administration fee" means the fee established from time to time by resolution or ordinance of the Petaluma city council in accordance with the provisions of Section [6.50.160](#) herein.
- U. "Space rent" means the total consideration, including any bonus, benefit, or gratuity, demanded or received by a mobilehome park owner for or in connection with the use or occupancy of a mobilehome space or any housing services provided with the mobilehome space. Space rent shall not include any amount paid for the use or occupancy of a mobilehome dwelling unit, unless the amount paid for the use or occupancy of a mobilehome is or includes consideration paid to a mobilehome park owner under a rental agreement or other document evidencing tenancy of the mobilehome.
- V. "Substantial rehabilitation" means that work done by an owner to a mobilehome space or to the common areas of the mobilehome park, exclusive of a capital improvement as that term is defined herein, the value of which exceeds two hundred dollars and which is performed whether 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.
- W. "Tenant" means mobilehome space tenant.

- X. "Tenant-to-be" means a person who is not currently a tenant in a mobilehome park but is a prospective mobilehome space tenant who desires the use of a mobilehome space as defined in this chapter and has presented himself/herself to the park owner as such.
- Y. "Initial rent increase" means the first rent increase imposed by a mobilehome park owner after the effective date of this chapter. (Ord. 1949 NCS §1 (part), 1994.)

6.50.030 Base rent — Initial calculation.

- A. Except as hereinafter provided, an owner shall not demand, accept, or retain rent for a mobilehome space exceeding the rent in effect for said space on the effective date of this chapter. If a previously rented mobilehome space was not rented on the effective date of this chapter, the owner shall not, except as hereinafter provided, demand, accept or retain rent for said space exceeding the rent in effect during the last month the space was rented prior to the effective date of this chapter.
- B. Any mobilehome park owner who disputes that the initial base rent established by subsection A is sufficient to cover operation and maintenance costs, rehabilitation costs, and capital improvement costs, and still provide the owner a fair and reasonable return, may seek adjustment to said initial base rent by submitting a written request to the clerk requesting an opportunity to adjust said initial base rent and shall supply both the clerk and each affected tenant with the notice of request along with the grounds for any such request. The matter shall be submitted to arbitration as prescribed in Section 6.50.060E and F. (Ord. 1949 NCS §1 (part), 1994.)

6.50.040 Residential rent increase limitations.

- A. Except as provided in subsections B or C, or otherwise expressly authorized in this chapter, the space rent payable for use or occupancy of any mobilehome space shall not be increased within twelve months of the effective date of the preceding rent increase. Except as provided in subsection E or otherwise expressly authorized in this chapter, no initial rent increase shall be imposed sooner than twelve months after the last preceding rent increase regardless of whether the preceding rent increase was effective prior to the effective date of this ordinance. Said increase shall be the lesser of:
 - 1. One hundred percent of the percent change in the CPI; or
 - 2. Six percent.

- B. If a park owner wishes to apportion to each space on a pro rata basis the allowable percentage of any current rent stabilization administration fee, in addition to any increase of space rent in accordance with preceding subsection A the following provision shall apply:
1. The owner shall provide to all affected tenants documentation supporting the allowable amount to be collected in order to recover a portion of rent stabilization administration fees. At a minimum such documentation shall include: billing notices or other equivalent documents from the city imposing the rent stabilization administration fee; a copy of Section [6.50.160](#) of the chapter which authorizes the apportionment of rent stabilization administration fees; the calculations used by the owner to apportion the cost of the allowable percentage among the affected tenants. In addition, the owner shall provide all affected tenants with the address and telephone number of the clerk and the fact that the affected tenant is encouraged to contact the clerk for an explanation of the provisions of this chapter.
 2. A rent increase approved pursuant to the provisions of this subsection and in accordance with the procedure set forth in Section [6.50.060](#) of this chapter shall not be considered part of the rent base upon which future rent increases can be made.
- C. In the event an owner wishes to increase the rent payable for any mobilehome space within the twelve month period more than the amount permitted in subsection A for any reason other than that stated in subsection B herein, the procedures set forth in Sections [6.50.050](#) and [6.50.060](#) shall be followed. In the event an owner wishes to increase the rent payable for any mobilehome space within the twelve month period more than three hundred percent of the percent change in the CPI, arbitration shall automatically be required to show good cause why such an increase is necessary. The arbitrator may reduce this proposed increase to a figure determined upon the evidence submitted by the park owner or his/her representative to be a fair return upon investment.
- D. A notice of rent increase given by an owner pursuant to Section 6.50.040A, B or C of this chapter shall be given in writing at least ninety days before any rent increase is to take effect.
- E. The initial rent increase as defined by Section 6.50.020Y may be allowed within twelve months of the effective date of the preceding rent increase where the mobilehome park owner can clearly establish that extraordinary circumstances exist which require an increase to assure the mobilehome park owner is

receiving a fair and reasonable return. In the event an owner wishes to increase rent payable for any mobilehome space under this subsection E, the procedures set forth in Sections [6.50.050](#) and [6.50.060](#) shall be followed.

(Ord. 1949 NCS §1 (part), 1994.)

6.50.050 Information to be supplied to tenants and tenants-to-be.

- A. Within thirty days after the operative date of this chapter and upon rerenting of each mobilehome space thereafter, the owner shall supply each affected tenant or tenant-to-be with a current copy of this chapter.
- B. Whenever the owner serves a notice of rent increase, except a notice of rent increase provided pursuant to Section 6.50.0040A of this chapter, the owner shall at the same time and in the same manner serve the affected tenant or tenant-to-be 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: a summary of the unavoidable increases in maintenance and operating expenses; a statement of the cost, nature, amortization, and allocation among mobilehome spaces of any substantial rehabilitation or capital improvement; a summary of the increased cost of the owner's debt service and the date and nature of the sale or refinancing transaction; a summary of the owner's net operating income of the preceding twenty-four months and other relevant information that supports the level of rent increase desired;
 - 2. The identity of all other affected tenants and the spaces which they rent and a roster of tenants in the park occupying recreational vehicles in place for more than nine months; and
 - 3. The address and telephone number of the clerk and (a) the fact that the tenant is encouraged to contact the clerk for an explanation of the provisions of this chapter; (b) documentation supporting the level of increase is on file with the clerk;
 - 4. A copy of the official petition form as prepared and provided by the clerk which initiates the process established by this ordinance.
 - 5. In addition, park owner shall place on file with the clerk two copies of: documentation supporting the level of increase desired, including at a minimum: a summary of the unavoidable increases in maintenance and operating

expenses; a statement of the cost, nature, amortization, and allocation among mobilehome spaces of any substantial rehabilitation or capital improvement; a summary of the increased cost of the owner's debt service and the date and nature of the sale or refinancing transaction; a summary of the owner's net operating income of the preceding twenty-four months and other relevant information that supports the level of rent increase desired. These documents will be available for inspection at the offices of the clerk.

6. If applicable, notification that the proposed rent increase exceeds three hundred percent of the change in the CPI, and that arbitration is deemed automatically required by the provisions of Section 6.50.040B without any need to file an arbitration petition. Such notices shall bear the following language: "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 the jurisdiction of the arbitrator.
- C. The park owner shall also serve any tenant-to-be as defined in Section 6.50.020X with a separate "RENTAL OPTION" notice which sets forth the recitation in capital letters set forth in Section [6.50.070](#), Rights of "tenant-to-be."
 - D. Any owner failing to provide an affected tenant or tenant-to-be and the clerk with the information, documents, and notices required by this section shall not be entitled to collect any rent increase otherwise authorized by this chapter from that tenant nor to any rent increase that might otherwise be awarded by an arbitrator. Such failure by the owner shall be a defense in any action brought by the owner to recover possession of a mobilehome space or to collect any rent increase from the tenant. Any owner may cure the failure to service any notice or meet the obligation to provide information to tenant or tenant-to-be which is required under this chapter by giving such notice or information before initiating an action for possession of the space or collecting any rent increase or binding a tenant to be to a month-to-month rental/long-term lease election otherwise authorized hereunder.
 - E. An affected tenant who is given notice of a rent increase is entitled to file a petition for space rent review as provided in Section [6.50.060](#) of this chapter in spite of the fact that the owner has failed to provide the affected tenant(s) with all the information, documents and notices required by this chapter.

(Ord. 1949 NCS §1 (part), 1994.)

6.50.060 The rent dispute resolution process.

- A. Tenant's Right to Contact Clerk. The tenant may contact the clerk of the city of Petaluma mobilehome space rent stabilization program for an explanation of the provisions of this chapter.
- B. Petition. If the tenants dispute any rent increases, the tenants or their representative shall file with the clerk a petition for space rent review and a copy of the notice of rent increase, if available, within twenty-one days after the date upon which the rent increase notice is received. The clerk shall not accept a petition for filing unless it has been signed by at least fifty-one percent of all affected tenants. 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 except for that portion of the rent increase that equals the increase allowable in Section 6.50.040A shall be collectable as noticed. As used herein, the term "abandoned" refers to lack of prosecution of the arbitration by the mobilehome tenants' representative(s). An automatic arbitration based upon a three hundred percent CPI increase will not require active tenant prosecution, although such prosecution will not be prohibited. The term "prosecution" refers to actively pursuing necessary steps toward preparing the tenants' case for the arbitration hearing.
- C. 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 space occupied by each tenant and shall state the date upon which the notice of the rent increase was received by the tenant(s).
 - 2. After obtaining the required signatures, the tenant(s) shall deliver the petition or mail it by registered or certified mail to the clerk at the following address: Petaluma City Hall, 11 English Street, Petaluma, California 94952 (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 clerk within the twenty-one day period set forth in subsection B above. The clerk shall provide a copy of the completed petition form to both parties and the arbitrator forthwith or within five working days.
- D. Information Questionnaire. After the clerk has accepted a petition for space rent review, the clerk shall remit to the owner and tenants an information questionnaire in such form as the clerk may prescribe. The completed information questionnaire must be returned to the clerk at least five working days prior to

the date scheduled for hearing of the petition by the arbitrator. Copies of the completed information questionnaire shall be provided to the arbitrator and the opposing party.

E. Assignment of Arbitrator and Hearing Date. Upon receipt of the petition, or in the event of an automatic arbitration, or upon an affected tenant's claim of a vacancy control violation where an unauthorized rent increase has been sought, or upon an owner's request to adjust the initial base rent pursuant to Section 6.50.030B, the clerk shall, within five working days, assign an arbitrator. The clerk shall set a date for the arbitration hearing no sooner than five nor later than ten working days after the arbitrator is assigned. The owner and affected tenant(s) shall be notified immediately in writing by the clerk of the date, time, and place of the hearing and this notice shall be served either in person or by ordinary mail.

F. Arbitration Hearing.

1. The owner and tenant(s) may appear at the hearing and offer oral and documentary evidence. Both the owner and tenant(s) may designate a representative or representatives to appear for them at the hearing. The arbitrator may grant or order one continuance not to exceed five days to each party 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 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 Section 11513 of the California Government Code for the conduct of hearing under the Administrative Procedure Act. These rules may be relaxed at the discretion of the arbitrator in the interest of justice.
2. The arbitrator shall, within fourteen days of the hearing, submit by mail a written statement of decision and the reasons for the decision to the clerk who shall forthwith distribute by mail copies of the decision to the owner and tenant(s). The arbitrator shall determine the amount of rent increase, if any, which is reasonable based upon all the provisions of this chapter.
3. The arbitrator shall not allow more than one rent increase per park per twelve month period unless 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.

4. The decision of the arbitrator, rendered in accordance with this section, shall be final and binding upon the owner and all affected tenants. The decision of the arbitrator will be subject to the provision of California Code of Civil Procedure Section 1094.5.
5. Any party may have electronic recording equipment or a court reporter present to record and prepare a transcript of the hearing before the arbitrator, however, such equipment or reporter shall be provided at that party's own expense, however, no electronic equipment or court reporter is required to conduct the arbitration.
6. The arbitrator is authorized to modify the basic time periods set forth herein at his or her discretion to promote the purposes of this program provided a final decision is rendered within ninety days of the notice of rent increase.
7. Any procedural or jurisdictional dispute regarding the processes set forth herein may be decided by the arbitrator.

(Ord. 1949 NCS §1 (part), 1994.)

6.50.070 Rights of "tenant-to-be."

Any person who is a "tenant-to-be" as defined in Section 6.50.020X must be offered the option of renting a mobilehome space in a manner which will permit the "tenant-to-be" to receive the benefits of the mobilehome space rent stabilization program which includes, but is not limited to, rental of a mobilehome space on a month-to-month basis, and a new base rent as set forth in Section 6.50.240B. Such person cannot be denied the option of a tenancy twelve months or less in duration. The park owner shall provide each "tenant-to-be" with a written notification of the option which shall make the following recitation: "UNDER PETALUMA MUNICIPAL CODE SECTION [6.50.070](#), YOU ARE LEGALLY ENTITLED TO ELECT A MONTH-TOMONTH TENANCY OVER ANY OTHER LONGER PERIODIC TENANCY. YOU ARE ADVISED THAT YOU MAY NOT BE ENTITLED TO RENT STABILIZATION (RENT CONTROL) PROGRAM BENEFITS IF YOU ELECT A LEASE OF MORE THAN TWELVE MONTHS IN DURATION IF THAT LEASE MEETS THE REQUIREMENTS OF CIVIL CODE SECTION 798.17 WHICH HAS BEEN ATTACHED HERETO." Any effort to circumvent the requirements of this section shall be unlawful, as well as an unfair business practice subject to enforcement under Business and Professions Code Section 17200 et seq. (Ord. 1949 NCS §1 (part), 1994.)

6.50.080 Subpoena power.

Subpoenas, including subpoenas duces tecum, requiring a person to attend a particular time and place to testify as a witness, may be issued in connection with any dispute pending before an arbitrator, and shall be issued at the request of the clerk, an arbitrator, the tenant(s) or the owner. Subpoenas shall be issued and attested by the city clerk. A subpoena duces tecum shall be issued only upon the filing with the city clerk 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, and 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, return receipt requested, and must be served at least five days before the hearing for which the attendance is sought. Service by certified mail shall be complete on the date of receipt. Any subpoena or subpoena duces tecum issued pursuant to the provisions of this ordinance shall be deemed issued by and in the name of the city council of the city of Petaluma. (Ord. 1949 NCS §1 (part), 1994.)

6.50.090 Consolidation of petitions.

As soon as possible after a petition has been filed with respect to mobilehome spaces which are within a single park, the clerk shall, to the extent possible, consistent with the time limitations provided herein, consolidate petitions involving ten or fewer affected tenants. (Ord. 1949 NCS §1 (part), 1994.)

6.50.100 Standards of review.

In evaluating the space increase proposed or imposed by the owner, the following factors or any other factors deemed relevant to the arbitrator may be considered:

- A. Beneficial increases in maintenance and operating expenses, including but not limited to the reasonable value of the owner's labor and any increased costs for services provided by a public agency, public utility, or quasi-public agency or utility, provided, however, that any increased costs in rent stabilization administration fees shall be subject to the provisions of Sections 6.50.040B and 6.50.160 herein.
- B. The substantial rehabilitation or the addition of capital improvements, including the reasonable value of the owner's labor, as long as such rehabilitation or improvement has been completed and is:
 - 1. Distinguished from ordinary repair or maintenance;
 - 2. For the primary benefit, use, and enjoyment of the tenants;

3. Permanently fixed in place or relatively immobile and dedicated to the use of the property;
 4. Not coin-operated nor one for which a "use fee" or other charge is imposed on tenants for its use;
 5. Cost-factored and amortized over the good faith estimate of the remaining useful life of the rehabilitation or improvement;
 6. Does not constitute maintenance of the infrastructure of gas or electrical lines within the mobilehome park for which the public utility has permitted the park owner a special premium with the intent that it be used to replace or otherwise maintain the system within the mobilehome park.
- C. Increased costs of debt service due to a sale or involuntary refinancing of the park within twelve months of the increases provided that:
1. The sale or refinancing is found to have been an arm's length transaction;
 2. The proceeds of such refinancing is found to have been used for park improvements or similar park-related uses;
 3. The aggregate amount from which total debt service costs arise constitutes no more than seventy percent of the value of the property as established by a lender's appraisal.
- D. The rental history of the space or the park of which it is a part, including:
1. The presence or absence of past increases;
 2. The frequency of past rent increases;
 3. The occupancy rate of the park in comparison to comparable parks in the same general area.
- E. The physical condition of the mobilehome space or park of which it is a part, including the quantity and quality of maintenance and repairs performed during the preceding twelve months.
- F. Any increase or reduction of housing services since the last rent increase.
- G. Existing space rents for comparable spaces in comparable parks.
- H. A decrease in "net operating income" as defined in Section 6.50.110A.
- I. A fair return on the property prorated among the spaces of the park.
- J. Other financial information which the owner is willing to provide.
- K. Any costs incurred as a result of a natural disaster and only to the extent such costs have not been reimbursed to the owner by insurance or other sources.

- L. Notwithstanding any other provision to the contrary, no provision of this section or this chapter shall be applied to prohibit the granting of a rent increase that is demonstrated to be necessary to provide owner with a fair and reasonable return. (Ord. 1949 NCS §1 (part), 1994.)

6.50.110 Net operating income.

In evaluating a space rent increase imposed by an owner to maintain the owner's net operating income from the park, the following definitions and provisions shall apply:

- A. "Net operating income" of a mobilehome park means the gross income of the park less the operating expenses of the park.
- B. "Gross income" means the sum of the following:
 - 1. Gross space rents, computed as gross space rental income at 100% occupancy; plus
 - 2. Other income generated as a result of the operation of the park, including, but not limited to, fees for services actually rendered; plus
 - 3. Revenue received by the park owner from the sale of gas and electricity to park residents where such utilities are billed individually to the park residents by the park owner. This revenue shall equal the total cost of the utilities to the residents minus the amount paid by the park owner for such utilities to the utility provider; minus
 - 4. Uncollected space rents due to vacancy and bad debts to the extent that the same are beyond the 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. Where uncollected space rents must be estimated, the average of the preceding three years experience shall be used.
- C. "Operating expenses" means:
 - 1. Real property taxes and assessments.
 - 2. Utility costs to the extent that they are included in space rent.
 - 3. Management expenses including the compensation of administrative personnel, including the value of any mobilehome space offered as part of compensation for such services, reasonable and necessary advertising to ensure occupancy only, 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. Normal repair and maintenance expenses for the grounds and common facilities including but not limited to landscaping, cleaning and repair of equipment and facilities.
5. Owner-performed labor in operating or maintaining the park. In addition to the management expenses listed above, where the owner performs managerial or maintenance services which are uncompensated, the owner may include the reasonable value of such services. 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 park owner must devote substantially all of his or her time, that is, at least forty hours per week, to performing such managerial or maintenance services in order to warrant the full five percent credit of his or her labor 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.
6. Operating supplies such as janitorial supplies, gardening supplies, stationery, and so forth.
7. Insurance premiums prorated over the life of the policy.
8. Other taxes, fees, and permits, except as provided in Section [6.50.160](#) herein.
9. Reserves for replacement of long-term improvements or facilities, provided that accumulated reserves shall not exceed five percent of gross income.
10. Necessary capital improvement costs exceeding existing reserves for replacement. A park owner may include the cost of necessary capital improvement 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 park in a decent, safe, and sanitary condition or to maintain the existing level of park amenities and services.

Expenditures for necessary capital improvements to upgrade existing facilities shall be an allowable operating expense only if the park owner has:

- a. Established upon written verification or by other competent evidence to the satisfaction of the arbitrator that the cost of the capital improvements provided to the park tenants, for their general use, is factually correct as claimed.
- b. Said capital improvements are wholly compensable to the park owner upon appropriate amortization of their

cost, together with a reasonable return upon the capital improvement investment made by the park owner.

- c. Any capital improvement expenses shall be amortized over the reasonable life of the improvement or such other period as may be deemed reasonable by the arbitrator under the circumstances. In the event that the capital improvement expenditure is necessitated as a result of an accident, disaster, or other event for which the park owner received insurance benefits, only those capital improvement costs otherwise allowable exceeding the insurance benefits may be calculated as operating expenses.

11. Involuntary refinancing of mortgage or debt principal. A park owner may, under the provisions of this subsection, be able to include certain debt service costs as an operating expense. Such costs are limited to increases in interest payments from those interest payments made during the period from May 1, 1993 through April 30, 1994 or the first year such payments were made if the owner acquired the park after July 1, 1992 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 April 30, 1994, 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 April 30, 1994.

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.

- D. Operating expenses shall not include the following:

1. Debt service expenses, except as provided in subsection C,11 above.
2. Depreciation.
3. Any expense for which the park owner is reimbursed.
4. Attorneys' fees and costs, except printing costs and documentation as required by Section [6.50.050](#) only, incurred in proceedings before an arbitrator or in connection with the legal proceedings challenging the

decision of an arbitrator or the validity or applicability of this chapter.

- E. 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 an arbitrator finds any such expense to be unreasonable, the arbitrator shall adjust the expense to reflect the normal industry or other comparable standard.

(Ord. 1949 NCS §1 (part), 1994.)

6.50.120 Obligations of the parties.

- A. If a final decision by an arbitrator finds that a proposed increase or any portion thereof that was previously inoperative is justified, the tenant shall pay the amount found justified to the owner within thirty days after the decision is made.
- B. If a final decision by an arbitrator finds that an increase or any portion thereof is not justified, the owner shall refund any amount found to be unjustified, but that had been paid, to the tenant within thirty days after the decision is made. If such refund is not made within the said thirty days, the tenant 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 tenant is terminated for any reason prior to full credit against rent, the balance of the credit due the tenant shall be paid by the owner within thirty days from the date of the terminations of the tenancy.
- C. Any sum of money that under the provisions of this section is the obligation of the owner or tenant, 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.

(Ord. 1949 NCS §1 (part), 1994.)

6.50.130 Tenant's right of refusal.

A tenant 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 refusal to pay shall be a defense in any action brought to recover possession of a mobilehome space or to collect the rent increase. (Ord. 1949 NCS §1 (part), 1994.)

6.50.140 Retaliatory acts; tenants' right to organize.

No owner may retaliate against a tenant or tenant-to-be for the tenant's or tenant-to-be's assertion or exercise of rights under this

chapter in any manner, including but not limited to, threatening to bring or bringing an action to recover possession of a mobilehome space; engaging in any form of harassment that causes a tenant to quit the premises; dissuades a tenant-to-be from freely exercising his or her legal options 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 tenant. The tenants have a right to organize a tenants association without hindrance from the park owner to exercise the rights provided under the provisions of this ordinance. This association may be referred to as "the Park Tenants Association at (Park Name)." (Ord. 1949 NCS §1 (part), 1994.)

6.50.150 Solicitation of any petitions by the park owners are without force or legal effect within city's program.

The distribution of a petition or other documents seeking to have mobilehome tenants waive rights, abandon a filed petition or in any way affect the entitlement of the tenants to participate in the rent stabilization process authorized under the Petaluma Municipal Code shall be without force or legal effect within the city's rent stabilization program. Such documents shall not affect the rights of any tenant to participate in the rights, remedies, procedures and processes set forth in this code. Efforts to utilize such documents to discourage participation in the city's rent stabilization program may be deemed retaliatory. (Ord. 1949 NCS §1 (part), 1994.)

6.50.160 Fees/payment.

The costs of administration of this chapter shall be borne by the city of Petaluma; subject to reimbursement of the General Fund by imposition of a rent stabilization administration fee chargeable against each mobilehome space in the city. The park owner who pays these fees may pass through fifty percent of the fees assessed against a mobilehome space to the tenant only as set forth herein. This fee pass through must take place no later than twelve months after the park owner is billed for the program administration fees. Failure to timely pass through fifty percent of the fees assessed against a mobilehome space will result in the loss of the park owner's right to do so. The remaining fifty percent of the fees assessed against a mobilehome space shall not be passed on in any way to tenants. Fees passed through to tenants as herein authorized shall not be considered a part of the rent base upon which future rent increases can be made.

The fees imposed by this section shall be paid annually. On or before June 1, 1994 of the adoption year of this ordinance and thereafter on or before April 30th of each and every subsequent year, each mobilehome park owner shall pay to the city clerk of the

city of Petaluma a mobilehome park rent stabilization program administration fee for each mobile-home space as defined herein, including both occupied and unoccupied mobilehome spaces, in the owner's mobilehome park except for those spaces subject to a rental agreement in full compliance with the requirements of Civil Code Sections 798.17(a) and (b). The city clerk of the city of Petaluma shall forward these funds to the clerk to administer the mobilehome park rent stabilization ordinance, Further, the city clerk of the city of Petaluma shall issue to each mobilehome park owner a receipt for payment of the fees required to be paid herein. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. A service fee equal to one and one-half percent per month will be charged on all late payments of registration fees under this chapter. The city council shall adopt the amount of the fee and any changes thereto by ordinance or resolution. (Ord. 1949 NCS §1 (part), 1994.)

6.50.170 Exemption from fees.

Any park owner who believes that he/she may be entitled to a space fee exemption pursuant to Civil Code Section 798.17(b), having provided the park tenant with a legally recognized long-term lease which is not subject to rent stabilization administration fees, shall provide the clerk with the following documentation:

1. the executed lease for each exempt space claimed;
2. amendments to said exempt lease if any;
3. for a newly constructed space, proof that the space was constructed after January 1, 1990 (building permits, etc.).

(Ord. 1949 NCS §1 (part), 1994.)

6.50.180 Nonwaiverability.

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 Section 798.17 of the California Civil Code (as amended). (Ord. 1949 NCS §1 (part), 1994.)

6.50.190 Penalties and remedies.

In addition to those penalties and remedies set forth elsewhere in this chapter, the following remedies shall apply:

Any owner who demands, accepts, receives, or retains any money as rent from a tenant to which the owner is not entitled under the provisions of this chapter shall be liable to the tenant for any actual damages, attorney's fees, and costs incurred by the tenant as a consequence thereof plus a penalty in the sum of three

times the amount of money the owner accepted, received, or retained in violation of the provisions of this chapter or five hundred dollars, whichever is greater. (Ord. 1949 NCS §1 (part), 1994.)

6.50.200 Rights of affected tenants reserved.

This chapter shall not be construed to limit or curtail any other action or proceeding which may be pursued by an affected tenant against an owner before any court or other body having jurisdiction thereof. (Ord. 1949 NCS §1 (part), 1994.)

6.50.210 Reserved.¹

6.50.220 Review by the city council.

The city council shall review the effectiveness of this chapter in addressing the problems giving rise to its enactment at least one year from its enactment. Notice of the time and place of the city council's review shall be published at least ten days prior to said date in a newspaper of general circulation in the city of Petaluma. (Ord. 1949 NCS §1 (part), 1994.)

6.50.230 Severability.

This chapter shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable and are intended to have independent validity. (Ord. 1949 NCS §1 (part), 1994.)

6.50.240 Vacancy control -- Establishment of new base rent.

- A. A mobilehome park owner shall be permitted to charge a new base rent for a mobilehome space whenever a lawful space vacancy occurs. For purposes of this chapter, a lawful space vacancy is defined as follows:
1. A vacancy occurring because of the termination of the tenancy of the affected mobilehome tenant in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.60, as amended; or
 2. A vacancy of the mobilehome space arising from the voluntary removal of a mobilehome from the mobilehome space by the affected mobilehome tenant. 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 mobilehome.

- B. When a new base rent is established following the vacancy of a mobilehome space pursuant to this subsection, the park owner shall give written notice to the new affected mobilehome tenant of the twelve month anniversary date for rent increases allowed under Section [6.50.040](#) and shall give written notice to such affected tenant that the space rent may be subject to stabilized rent increases pursuant to the provisions of this chapter.
- C. In the absence of a lawful vacancy, a park owner is prohibited from raising rent upon a sale of a mobilehome on site to a tenant-to-be or current tenant.

(Ord. 1949 NCS §1 (part), 1994.)

6.50.250 Reserved.

6.50.260 Registration of Parks.

- A. On or before June 1, 1994, each mobilehome park owner must register the parks which they own or operate with the city clerk by filing with the city clerk a letter or other instrument in writing which identifies the park and which furnishes:
 - 1. The current mailing address of owners and operators;
 - 2. The number of spaces in the park;
 - 3. The number of spaces under construction, if any, or planned for construction;
 - 4. The identity of present tenants and lessees, and their mailing addresses;
 - 5. The rental, lease payments and other considerations charged for the use of the space; and
 - 6. A description of the park and the services, amenities and other considerations to the tenants and lessees which the owner or operator may consider as bearing on the question of fair rental amounts.
- B. On or before April 30th of each year subsequent to the adoption year, each mobilehome park owner in the city of Petaluma, as long as the city council for the city of Petaluma may so authorize and/or allow, shall register with the city clerk of the city of Petaluma by providing, in writing, the name and address of each such mobilehome owner, and a statement of the number of mobilehome spaces including both occupied and unoccupied spaces, contained in each such park, and a statement of the number of recreational vehicle spaces in the park. Reregistration and provision of this information must also be made upon change of ownership of the mobilehome park or an increase or a decrease in the number of spaces.

(Ord. 1949 NCS §1 (part), 1994.)

Footnotes

Editor's Note: Former Section [6.50.210](#), Termination, previously codified herein and containing portions of Ordinance No. 1949 NCS was repealed in its entirety 2-20-96 by Ord. No. 2005 NCS.