

ORDINANCE NO. __

**ORDINANCE AMENDING SECTIONS 13.32.020, 13.32.030,
13.32.040 AND 13.32.060, AND ADDING SECTIONS 13.32.075
AND 13.32.102 TO THE SANTA CRUZ COUNTY CODE
RELATING TO RENTAL ADJUSTMENT
PROCEDURES FOR MOBILEHOME PARKS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section 13.32.020 of the Santa Cruz County Code is hereby amended to read as follows:

13.32.020 GENERAL DEFINITIONS. For the purposes of the chapter, the following words are defined as follows:

Anniversary Date. The one day per year designated for the park when each resident's rent may be adjusted by the owner. The resident shall be informed by owner at the time of signing the rental agreement of the anniversary date. Each park shall have no more than one anniversary date. For a park that does not currently have a uniform anniversary date for the entire park, there can be no more than one anniversary date in any year, including the year in which such uniform anniversary date is designated for the entire park.

Base Rent. The monthly rent charge for an existing mobilehome space after adjustment on its anniversary date in 1982; or, for a mobilehome space constructed on or after January 1, 1983, the initial rent charged; provided, however, that the base rent for a park space within a recreational vehicle/trailer park subject to Section 13.32.102 shall be that amount of rent charged when the park owner initially received written notice from the County that the space was subject to the provisions of this Chapter, and provided further, that if the level or kind of services provided to residents is reduced or eliminated, then the base rent shall be the net amount of such rent after deduction of an amount equal to the cost savings resulting from such reduction or elimination of services, all as set forth at Section 13.32.050.

Capital Improvement. A capital improvement is the construction of a new improvement or replacement of an old improvement in the mobilehome park, other

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than routine maintenance and repair. To be eligible for a pass-through, a capital improvement shall be subject to the limitations pursuant to 13.32.030(d)5.A through NL.

Commission. The Mobilehome Commission established by the Board of Supervisors under Chapter 2.64 of the Santa Cruz County Code.

Consumer Price Index (CPI). The San Francisco-Oakland Consumer Price Index-All Urban Consumer Category as provided by the United States Department of Labor Statistics or its successor.

County Staff. County staff means the staff for the County of Santa Cruz Mobilehome Commission and the staff for the administration of the Hearing Officer Program established by resolution by the Board of Supervisors.

Hearing Officer. A Hearing Officer is a person appointed pursuant to this chapter who makes rental adjustment decisions after hearing of disputes thereon.

Mobilehome. A mobilehome is a structure designed for human habitation and for being moved on a street or highway, whether commonly referred to as a "mobilehome"; or, where occupied by residents who have continually resided in a recreational vehicle park or mobilehome park for nine months or more after January 1, 1980 a residence commonly known as a "travel trailer", "recreational vehicle", "camping trailer", "motor home", or "slide-in camper" and a "park trailer".

Mobilehome Park (also referred to as "park"). A mobilehome park is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate a mobilehome used for human habitation.

Mobilehome Space (also referred to as "space"). A mobilehome space is an area bounded, numbered and designated as required by 25 California Administrative Code Section 1104 and occupied by one (and only one) residence deemed to be a mobilehome; or a trailer, or a recreational vehicle, pursuant to the California Civil Code; or any area commonly known to be used as a space for a mobilehome in a park.

Owner. The owner, lessor or sublessor or any other person entitled to receive rent for the use and occupancy of a mobilehome and/or a mobilehome space in any mobilehome park subject to this chapter, or successor in interest to the foregoing; or representative authorized to act on the owner's behalf in connection with

matters relating to a tenancy in the park.

~~Rent~~ periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods or services rendered to or for the benefit of the owner under an agreement concerning the use or occupancy of a mobilehome and/or a mobilehome space, including all payment and consideration demanded or paid for parking, pets, furniture, or subletting. Rent includes charges made by the Park Owner for utility services in excess of the actual net costs of the Park Owner of providing such utility services as provided by Section 13.32.030(d)(9). 779

Resident. Any person or persons entitled to occupy a mobilehome dwelling unit and/or a mobilehome space pursuant to ownership thereof or by a rent or lease agreement. (Ord. 2843, 1/15/80; 2912, 5/6/80; 3027, 12/23/80; 3224, 4/27/82; 3854, 9/11/87; 3975, 2/14/89; 4059, 5/1/90; 4404, 2/27/96)

SECTION II

Section 13.32.030 of the Santa Cruz County Code is hereby amended to read as follows:

13.32.030 GENERAL RENT ADJUSTMENTS.

- (a) General Rent Adjustments may be made once each calendar year by the owner without notice to the County. A General Rent Adjustment notice, in the form specified in Section 13.32.030(f), shall be mailed to the residents prior to the making of such a General Rent Adjustment.
- (b) This annual General Rent Adjustment may only be made on or after the anniversary date of the resident.
- (c) The maximum allowable monthly rent increase under this section shall be limited to the amount by which the base rent together with the adjustments hereafter provided varies from the current monthly rent.
- (d) The following criteria shall determine the maximum increases allowed the owner in connection with general rent adjustments permitted by this chapter:
 - 1. Reduction or Elimination of Services. An owner shall not reduce or eliminate the level or kind of services provided to residents unless such reduction or elimination of services is otherwise lawful and is accompanied

by a reduction of rent equal to the cost savings resulting from such reduction or elimination of services. The amount determined to be the cost savings shall be subtracted from the base rent.

2. Changes in Property Taxes. The difference between the amount of property taxes payable for the 198 1 calendar year and the amount of property taxes payable for the calendar year preceding the current anniversary date may be pro-rated to each resident on a per space basis.

3. Changes to the Consumer Price Index. An amount equal to or less than fifty percent of the percentage change in the price index level for the San Francisco-Oakland Consumer Price Index-All Urban Consumer Category CPI between July 1, 198 1 and the July 1 prior to the year in which the rental increase is to go into effect multiplied by the base rent, may be added to the rent of each unit.

4. Return on Capital Improvements. A reasonable return on capital improvements not financed by pass&roughs to residents or by insurance coverage at a rate determined annually as of July 1, by resolution of the Board of Supervisors may be allowed on capital improvements made at the park prior to the anniversary date and pro-rated to residents on a per-space basis. Entitlement to a reasonable rate of return commences at the time when the capital improvement is operational and available for use by the park residents and terminates at the conclusion of the amortization period set forth in 13.32.030(d)(5)(G). (Ord. 4404, 2/27/96)

5. Costs of Capital Improvements. Fifty percent of capital improvement costs to the park owner for construction of capital improvements to the park may be passed-through to the residents prorated on a per-space basis. Such costs shall be charged to a capital account to be depreciated over the useful life of the asset in a manner similar to an item charged to an expense account under Internal Revenue Service Rules and Regulations; provided, however, that at the end of the amortization period for the capital improvement, the maximum allowable monthly rent shall be decreased by such amount as it was increased pursuant to this provision. Pass-throughs of capital improvement costs shall be subject to the following limitations:

A. The improvement shall primarily benefit the majority of park residents rather than the park owner(s) and be a functional improvement serving primarily the park residents.

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B. The improvement shall have a life expectancy of five years or more and must be treated as a capital improvement for Federal and State income tax purposes and may not be deducted for such tax purposes as expenses.

C. Normal routine maintenance and repair do not constitute a capital improvement.

D. The owner has the responsibility to provide and maintain physical improvements in the common facilities in good working order and condition pursuant to California Civil Code Section 798.15. Costs of maintenance and repair (as opposed to replacement) of such improvements shall not be passed-through to residents, nor shall costs of replacement be passed-through if the replacement was necessary because of owners failure to carry out said maintenance responsibility.

E. Insured repairs and replacements do not constitute a capital improvement.

F. The improvement shall be permanently fixed in place or relatively immobile.

G. Subject to the vote requirements and the capital improvement limitations herein described, fifty percent (50%) of the actual net costs of a capital improvement may be passed-through to the park residents upon sixty (60) days written notice upon the following formula: fifty percent (50%) of the principal amount actually paid by the park owner for the capital improvement, divided by the total number of mobilehome spaces in the park affected by the improvement divided by one hundred twenty (120) months (the amortization period for the capital improvement), equals the monthly sum for the capital improvement to be passed-through to the park residents at their first anniversary date after the capital improvement becomes operational and available for use by the park residents. The one hundred twenty (120) month period represents the amount of time required for fully amortizing the cost of capital improvements. If so agreed in writing between the park owner and all current park residents an alternative amortization period may be used.

H. At no time shall the aggregate capital improvement pass-

through of costs exceed ten percent (10%) of the monthly rent (excluding any portion of the rent attributable to capital improvement pass-throughs) unless approved by the residents of fifty percent (50%) plus one of the mobilehome spaces of the park. Pass-through of the cost of any single capital improvement which would exceed five percent of the current monthly rent (excluding capital improvement pass-throughs), shall only be allowed if approved by residents of fifty percent (50%) plus one of the mobilehome spaces of the park. No more than one capital improvement which would result in a pass-through exceeding five percent of the monthly rent may have its costs passed-through in any twelve month period. Fifty percent (50%) of the cost of capital improvement projects mandated by governmental authority shall be included in the calculation of the ten percent of monthly rent limitation described in this section.

I. For the purpose of obtaining the approvals required by subsection 13.32.030(d)(5)(H), elections shall be conducted by the park owner on whether to approve or reject a proposed capital improvement cost pass-through prior to the time the capital improvement becomes operational and available for use by the park residents. Residents shall be entitled to one (1) written ballot vote per affected mobilehome space in said park. Each ballot shall specify the proposed capital improvement to be voted upon and the amount and dates of commencement and expiration of the monthly pass-through resulting from said capital improvement. Each ballot shall be delivered by first class mail to the park residents and the deadline and park location for casting such ballot shall be set forth clearly thereon. Such deadline shall be no less than twenty days (20) from the postmark date of ballot mailing to the resident.

J. Capital improvements include shall meet all of the eligibility criteria contained in subsection 5. of subdivision (d) of Section 13.32.030, and may include (without limitation) construction, installation, or replacement of a clubhouse, laundry facility or other common area facility, swimming pools, sauna or hot tub, or other recreational amenity, street and driveway, security gate, outdoor or common area lighting, retaining wall, sewer, electrical, plumbing unless associated with a non-eligible capital improvement, water, or television reception system, sprinkler system, or any similar improvement which represents an addition to or an upgrading of existing improvements which primarily benefits the park residents.

Routine maintenance or repair, including, but not limited to routine maintenance or repair of a street or driveway by means of patching, a seal coat or slurry seal, shall not qualify as a capital improvement.

K. An owner shall separately bill the cost pass-through for each capital improvement only during the period the park owner amortizes such capital improvement.

L. Capital improvement costs otherwise eligible for pass-through are not eligible to the extent that the park owner recovers such costs through charges of a use fee such as where the park resident must deposit coins to use a park-owned washer and dryer.

M. Where a park owner receives a discount or rate differential (including, but not limited to, a "Readiness to Serve Charge") that is intended to subsidize or offset the cost of owning, operating, maintaining and replacing the park's utility distribution system, the repair, maintenance, or replacement of such utility distribution system shall not qualify as a capital improvement.

N. The park owner's responsibility for the cost of owning, operating, maintaining or replacing a utility distribution system as established by subsection 13.32.030(d)5., M., shall transfer to and become the responsibility of any subsequent purchaser of the park, or successor in interest to the park owner.

6. Government Required Service Charges. Government required service charges are those charges which are legally levied and actually billed to a park owner by a governmental agency, such as fees, bonds, and assessments, ~~and other charges legally levied by an agency of Federal, State or local government upon the park owner~~ Such charges shall be passed-through to residents. The difference between the amount of government required service charges payable for the 198 1 calendar year, if any, and the amount payable for the calendar year preceding the current anniversary date may be prorated to each resident on a per space basis. Such fees do not include predictable expenses for operation of said park such as common area utility expenses, ~~or expenses which maintain the safe and healthful use of park facilities.~~ The park owner shall pass-through to the residents only those costs for government required service charges which are not reimbursed by insurance or other sources. (Ord. 4404, 2/27/96)

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7. Space Fee. The owner may pass-through to the residents of each mobilehome space the space fee established pursuant to this chapter.

8. No debt service costs or interest expenses as a result of the park owner's borrowing or refinancing for any purpose shall be passed-through to the residents.

9. Utility Readiness-To-Serve Charge. No utility readiness-to-serve charge shall be charged by a Park Owner nor in any manner be passed-through to the residents of a mobilehome park except where the charge is set at the same rate established by the utility provider for a similar class of customer, and park residents receive any lifeline rate discount for which they would be eligible if they were direct customers of the utility provider. (Ord. 3916, 6/21/88; 3975, 2/14/89; 4059, 5/1/90)

(e) The following examples illustrate how the maximum allowable General Rent Adjustment shall be calculated. The Notice of General Rent Adjustment shall include dollar figures and calculations used to arrive at the final computation of rent. The sample computation of rent provided below shall serve as an example of the proper form.

NOTICE OF GENERAL RENT ADJUSTMENT:

"In accordance with the provisions of the County of Santa Cruz Mobilehome Rent Adjustment Ordinance, we are providing you with the following information. The General Rent Adjustment allowed is itemized as follows:"

Assume the following facts:

- (1) The park has 150 mobilehome spaces.
- (2) The 1982 base rent is \$175.00 per month. (See Section 13.32.020 for definition of base rent.)
- (3) The park owner eliminates the recreation room of the park (upon agreement by written consent by 50 percent plus one of the residents) bringing cost savings to the owner of \$9,000. The cost savings resulting from such elimination amounts to \$5.00 per space which is subtracted from the base rent.

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- (4) Property taxes of the park payable for the calendar year preceding the current anniversary date have increased by \$3,600 over the taxes payable for the 1981 calendar year.
- (5) The Consumer Price Index has increased 29 percent between the level in existence on July 1, 1981 and the level in existence on July 1 preceding the current anniversary date. (50 percent of CPI increase = 14.5 percent).
- (6) The park owner has installed additional recreational facilities at a cost to park owner of \$30,000 for 150 spaces with the reasonable rate of return assumed to be established at 12 percent by resolution of the Board of Supervisors and such addition meets all pass-through criteria for a capital improvement under this chapter.
- (7) Government required service charges payable for the calendar year preceding the current anniversary date have increased by \$180 over the fees payable for the 1981 calendar year.
- (8) The newly enacted space fee is \$.84 per space per month.
- (9) Current rent is \$190.00 per month prior to adjustment.

The maximum allowable monthly rental adjustment would be computed as shown below and would amount to \$9.42 for each mobilehome space:

Sample Computation:

(1)	THE 1982 BASE MONTHLY RENT	\$175.00
(2)	ADJUSTMENTS TO BASE MONTHLY RENT	
(a)	Elimination of Recreation Room resulting in a cost savings per space to the owner subtracted from the base monthly rent \$9,000 in savings divided by 150 spaces divided by 12 months = \$5 (\$175.00 - \$5.00 = \$170.00)	
	ADJUSTED BASE MONTHLY RENT	170.00
(b)	Property tax adjustment	
	1987/88 taxes \$4,800	
	Minus 1981/82 taxes <u>\$1,200</u>	

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	equals \$3,600	
	(\$3,600 ÷ 150 spaces ÷ 12 months)	2.00
(c)	Consumer Price Index adjustment	
	7/1/87 CPI for use in 1988 353.5	
	Minus 7/1/81 CPI for use in 1982 274.0	
	equals 79.5	
	79.5 is an increase of 29% over the 1981 CPI	
	50% of this percentage CPI increase = 14.5%	
	14.5% times \$170 = \$24.65	
(d)	Capital Improvements	
	Return:	
	(\$30,000 X 50% X 12 % ÷ 150 units ÷ 12 months)	1.00
	Cost Pass-Through:	
	(\$30,000 X 50% ÷ 150 units ÷ 120 months)	0.83
(e)	Government Required Service Charge Adjustment (\$180 ÷ 150 ÷ 12)	0.10
(f)	Space Fee	.84

(3)	NEW TOTAL MONTHLY RENT	199.42
(4)	CURRENT MONTHLY RENT PRIOR TO ADJUSTMENT	- 190.00

(5)	AMOUNT OF MAXIMUM ALLOWABLE GENERAL MONTHLY RENT ADJUSTMENT	\$ 9.42
	OTHER EXAMPLES	

EXAMPLES OF CAPITAL IMPROVEMENT INCLUDE,
BUT ARE NOT LIMITED TO THE FOLLOWING:
Constructing a new swimming pool where none existed

before; installing air conditioning in the clubhouse where none existed before; replacing the old roof on the existing clubhouse; replacing pump and filter for the swimming pool.

EXAMPLES OF NORMAL ROUTINE MAINTENANCE AND REPAIR WHICH ARE EXCLUDED FROM PASS-THROUGH: patch repair of the clubhouse roof; repairing the pool pump and filter; maintaining landscaping; maintenance of septic systems. routine maintenance or repair of a street or driveway by means of patching, a seal coat or slurry seal; and other activities which may be deducted in accordance with IRS Rules and Regulations. These examples are not included by way of limitation. (Ord. 3950, 10/4/88; 4059, 5/1/90)

(f) The owner shall give residents of each mobilehome space a written notice ninety (90) days before the General Rent Adjustment is due to go into effect. Such notice, at a minimum, shall contain the following itemized information:

1. The amount of the base rent;
2. The amount of adjustments to the base rent itemized as follows:
 - A. Adjustment of Base Rent. Owner's cost savings due to the Reduction or Elimination of Services subtracted from the base rent;
 - B. Property tax adjustment;
 - C. Consumer Price Index Adjustment;
 - D. Capital Improvements. An itemized list of capital improvements for which rent adjustments continue to be made, the cost of the improvements, the date of installation, and the end of the amortization period;
 - (i) Return on capital improvement;
 - (ii) Cost pass-through on capital improvements;
 - (iii) Date capital improvement is operational; and
 - (iv) Date of the end of the amortization period.

- E. Itemized list of government required service charges; and
- F. ~~Change in~~ Space fee.
3. Total monthly rent after adjustments;
4. Current monthly rent; and
5. The maximum allowable monthly rent adjustment obtained by subtracting current monthly rent from total monthly rent after adjustments.
- (g) The owner shall not adjust rents in excess of the amount permitted pursuant to this General Rent Adjustment procedure, except as expressly provided elsewhere in this chapter.
- (h) ~~For purposes of this section, the~~ The owner shall make available for examination ~~to within 5 business days of the written request, of~~ any resident, ~~upon request~~ copies of bills for property taxes, government required service charges, copies of insurance policies and records of insurance payments, the books and records of the owner which relate to the original and depreciated cost of capital improvements, and all relevant portions of Federal and State Income Tax Returns relating to capital improvements to verify any increases or decreases sought by the owner under this section, shall also be made available to residents. The owner has the option of providing income tax information either in a declaration filled out under penalty of perjury, or by producing copies of the relevant portions of the actual Federal and State Income Tax Return themselves. (Ord. 2843, 1/15/80; 2912, 5/6/80; 3027, 12/23/80; 3224, 4/27/82; 3854, 8/11/87; 3916, 6/21/88; 4059, 5/1/90; 4404 2/27/96)

SECTION III

Section 13.32.040 of the Santa Cruz County Code is hereby amended to read as follows:

13.32.040 SPECIAL RENT ADJUSTMENTS.

- (a) Purpose. The purpose of this section is to allow an owner to petition a Hearing Officer to allow the owner to increase the rents for all residents on their respective anniversary dates in excess of that amount provided for under the General Rent Adjustment provisions, when the owner believes that the General Rent Adjustment provisions do not allow a just and reasonable return on the

owner's property.

(b) Special Rent Adjustment Definitions. For the purposes of Special Rent Adjustment proceedings, the following definitions shall be used:

1. Net Operating Income equals Gross Income less Operational Expenses.
2. Gross Income equals the following:
 - A. Gross rents computed as gross rental income at 100 percent paid occupancy; plus
 - B. Interest from rental deposits, unless directly paid by the owner to residents (interest shall be computed at the actual interest rate earned but in no event less than five percent); plus
 - C. Income from laundry facilities, cleaning fees or services, garage and parking fees; plus
 - D. All other income or consideration received or receivable for or in connection with use or occupancy of mobilehomes and/or mobilehome spaces and related services; minus
 - E. Uncollected rents due to vacancy and bad debts to the extent that same are beyond the owner's control. Uncollected rents in excess of three percent of gross rents shall be presumed to be unreasonable unless proven otherwise. Where uncollected rents must be estimated, the average of the preceding three years experience shall be used or some other comparable method.
3. Operating Expenses shall include the following:
 - A. Real property taxes and Government Required Service Charges.
 - B. Utility costs,
 - C. Management expenses (contracted or owner performed), including necessary and reasonable advertising, accounting, insurance and other managerial expenses, and allowable legal

expenses. Management expenses are presumed to be five percent of Gross Income, unless proven otherwise.

D. Normal repair and maintenance expenses, including painting, normal cleaning, fumigation, landscaping, and repair of all standard services, including electrical, plumbing, carpentry, furnished appliances, drapes, carpets, and furniture.

E. Owner-performed labor which shall be compensated at the following hourly rates upon documentation being provided showing the date, time and nature of the work performed multiplied by the index level reported in the San Francisco-Oakland-San Jose Consumer Price Index-Urban Wage Earners And Clerical Workers Category for the first reported month of the year in which the labor was completed:

General Maintenance	\$7/hour
Skilled Labor:	\$13/hour

Notwithstanding the above, an owner may receive greater or lesser compensation for owner performed labor if it can be shown that the amounts set forth above are substantially unfair in a given case. There shall be a maximum allowable operating expense under this subsection of five percent of Gross Income unless the owner shows greater services for the benefit of residents. An outside management company will be compensated at the same rate, and governed by the same requirements as owner performed labor (Subsection E) if the park owner has any ownership interest in or otherwise controls an outside management company which provides services in the park.

F. License and registration fees required by law to the extent same are not otherwise paid by residents; and

G. Reasonable rate of return and cost pass-through for capital improvements as allowed under 13.32.030(d).

H. Filing fees for petitions and appeals pursuant to this chapter shall be included as operating expenses if the Hearing Officer determines that the owner has prevailed in such proceedings.

I. Operating Expenses shall not include:

- (i) Avoidable and unnecessary expense increases since the Base Year.
- (ii) Mortgage principal and interest payments.
- (iii) Any penalties, fees or interest assessed or awarded for violation of this or any other law.
- (iv) Legal fees except as follows. Allowable legal expenses shall include: attorneys' fees and costs incurred in connection with successful good faith attempts to recover rents owing and successful good faith unlawful detainer actions not in derogation of applicable law, to the extent such expenses are not recovered from residents. Attorneys' fees and costs incurred related to proceedings under this chapter are not allowable as Operating Expenses.
- (v) Depreciation of park property or improvements, fixtures, or personal property thereon.
- (vi) Any expense for which the owner has been reimbursed by any security deposit, insurance settlement, judgment for damages, settlement or any other method.
- ~~(vii) Any portion of capital improvements which are financed by pass-throughs to residents or by insurance reimbursements.~~

4. Base Year for purposes of the special rent adjustment provisions shall mean the 1979 calendar year.

(c) Presumption of Fair Base Year Net Operating Income. It shall be rebuttably presumed that the Net Operating Income produced by a park during the Base Year provided a just and reasonable return on the owner's property.

(d) Rebutting the Presumption. It may be determined that the Base Year Net Operating Income yielded other than a just and reasonable return on property, in which case, the Base Year Net Operating Income may be adjusted accordingly. In order to make such determination, the Hearing

Officer shall make at least one of the following findings:

1. The owner's operating and maintenance expenses in the Base Year were unusually high or low in comparison to other years.

In such instances, adjustments may be made in calculating such expenses so the Base Year of Operating Expenses reflects average expenses for the property over a reasonable period of time. The Hearing Officer shall consider the following factors in making this decision:

- A. Whether the owner made substantial capital improvements during 1979 which were not reflected in the rent levels;
 - B. Whether substantial repairs not covered by insurance or other disaster reimbursement were made due to damage caused by natural disaster or vandalism;
 - C. Whether maintenance and repair was below accepted standards so as to cause significant deterioration in the quality of park services;
 - D. Whether other expenses were unreasonably high or low notwithstanding the following of prudent business practice. In making this determination, the fact that property taxes prior to 1979 may have been higher than in the Base Year shall not be considered.
2. The Gross Income during the Base Year was disproportionate due to one of the enumerated factors below. In such instances, adjustments may be made in calculating Gross Income consistent with the purposes of this chapter.
 - A. The Gross Income during the Base Year was lowered because some residents were charged reduced rent because of sentimental, personal or emotional relationships with the owner.
 - B. The Gross Income during the Base Year was significantly lower than normal because of destruction of the

premises and/or temporary eviction for construction or repairs.

(e) Determination of Base Year Net Operating Income.

1. To determine the Net Operating Income during the Base Year, there shall be deducted from the Gross Income realized during calendar year 1979, a sum equal to the actual Operating Expenses for 1979, unless the owner demonstrates to the satisfaction of the Hearing Officer that some other twelve consecutive month period is justified. In all cases, April, 1979 shall fall within the twelve month period utilized herein except as provided in Subsection 2. below.

2. In the event that the owner did not own the subject property on January 1, 1979, the Operating Expenses for 1979 shall be determined in one of the following manners, whichever the Hearing Officer determines to be more reliable in the particular case:

(i) The previous owner's actual Operating Expenses as defined in Section 13.32.040(b)3.; or

(ii) Actual Operating Expenses for the first calendar year of ownership discounted to 1979 by the schedule in Section 13.32.040(f).

(f) Schedule of Adjustments in Operating Expenses. Where scheduling of rent adjustments, or other calculations, require projections of income and expenses, it shall be presumed that Operating Expenses (exclusive of Property Taxes and Management Expenses) increased at ten percent per year; that Property Taxes increased at two percent per year; and that Management Expenses are five percent of Gross Income.

(g) Allowable Rent Adjustment. A Special Rent Adjustment petition for a rent adjustment over and above the adjustment provided for by the General Rent Adjustment provisions shall only be approved if necessary to provide the owner with net operating income, after adjustment for inflation, comparable to the net operating income realized from the park during the Base Year. There shall be a rebuttable presumption that an adjustment of the owner's Net Operating Income at the rate of fifty percent (50%) of the percentage change in the CPI from the Base Year will provide a comparable Net Operating Income. The burden shall be on any party seeking to demonstrate that a different percentage of the CPI change is

appropriate. The change in the CPI shall be calculated by dividing the difference between the most recently reported monthly figure at the time of filing of the petition and the monthly figure in effect on January 1, 1979, by the monthly figure in effect on January 1, 1979. In determining comparability of Net Operating Income, the following factors may be considered by the Hearing Officer:

1. The rental history of the park;
2. The level of services and amenities of the park during the Base Year and during the current year; and
3. Any extraordinary capital expenditures necessary to repair or reconstruct a park damaged by natural disaster or required by health, building or fire protection officials not covered by insurance or other disaster insurance; and
4. Other unusual factors affecting comparability of Net Operating Income.

(h) Relationship to General Rent Adjustment. Any Special Rent Adjustment permitted pursuant to this chapter shall take into account the extent of any General Rent Adjustment the owner may be implementing or otherwise entitled to, and during the time the special adjustment is to be implemented, and the special adjustment may be limited or conditioned accordingly.

(i) Retroactive Effect. In no event shall rent adjustments be authorized retroactive of the date of decision by the Hearing Officer by application of the Special Rent Adjustment provisions. (Ord. 2843, 1/15/80; 2912, 5/6/80; 3027, 12/23/80; 3224, 4/27/82; 3854, 8/11/87; 4059, 5/1/90)

SECTION IV

Section 13.32.060 of the Santa Cruz County Code is hereby amended to read as follows:

13.32.060 HEARING OF DISPUTES. A hearing shall be provided as to disputes regarding General Rent Adjustment, Special Rent Adjustment, and reduction or elimination of services, and for no other purposes.

- (a) Types of Hearings:

1. General Rent Adjustment Hearing. A General Rent Adjustment hearing shall be limited to determining whether the owner conformed to the provisions of Section 13.32.030 in adjusting rents.
 2. Special Rent Adjustment Hearing. A Special Rent Adjustment hearing shall be held to determine whether the owner shall be allowed to make rent adjustments in excess of those provided under the General Rent Adjustment provisions set forth at Section 13.32.030. In making this decision, the Hearing Officer shall apply the provisions of Section 13.32.040.
 3. Reduction or Elimination of Services Hearing. Hearings on the reduction or elimination of services shall determine whether the owner conformed to the provisions of Section 13.32.050.
- (b) Hearing Procedure. The Office of the County Counsel of the County of Santa Cruz shall provide Independent Contractor Hearing Officers to carry out the provisions of this section. The Hearing Officer presiding at any hearing pursuant to this section shall require compliance with the following hearing procedure and shall provide adequate clerical support for such purpose.
1. Meet and Confer. The park owner and residents shall make a good faith effort to meet and confer prior to the filing of a petition by either. Within 15 days of the postmark on a notice of a General Rent Adjustment, residents either individually, collectively, or with representatives of a group of residents who have signed a request to be so represented, shall by written request require the park owner, or his or her representative, to meet and confer about the proposed rent adjustment. Hearing Officers are not required to attend the meeting. The required meeting shall be held within 20 days of the postmark on the written request. Failure to request the meeting in writing will not affect the residents' right to a hearing. (Ord. 4044, 2/27/96)
 2. Petitions.
 - A. General Rent Adjustment Hearing. Within 45 calendar days of the postmark on a notice of a General Rent Adjustment, residents representing at least 25 percent of the spaces within the park affected by the General Rent Adjustment, must file a petition if they wish to dispute compliance by the owner with the General Rent Adjustment provisions of Section 13.32.030. If the 45th day falls on a Saturday,

Sunday or holiday, the time to file a petition is extended to the next working day: January **1**; the third Monday in January (Martin Luther King Jr.'s Birthday), the third Monday in February (President's Day), the last Monday in May (Memorial Day), July 4 (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), November **11** (Veterans' Day), Thanksgiving, and the following Friday, Christmas Eve and Christmas. The petition shall clearly state the residents' basis for disputing compliance by the owner with the provisions of this chapter. A copy of the postmarked envelope shall be attached to the petition.

- (i) Any notice of General Rent Adjustment which does not have a postmark shall be considered invalid. (Ord. 4044, 2/27/96)

B. Special Rent Adjustment Hearing. Any owner may file a petition for a Special Rent Adjustment under the provisions of Section 13.32.040. A petition for a Special Rent Adjustment shall be on the form provided for by County staff, and a list of the names and addresses of all residents of the park shall be attached to the petition. The Hearing Officer shall set a hearing on such petition only after determining that the petitioner has provided all of the information requested in that form. The owner shall file a completed petition at least **90** days in advance of the next anniversary date so that any rent adjustment ultimately approved by the Hearing Officer can be combined with any General Rent Adjustment for all the park residents for that year. No Special Rent Adjustment may be implemented prior to final granting of a petition. A Hearing Fee shall be charged only to a petition in a Special Rent Adjustment Proceeding. Such fee shall not be passed through or otherwise collected from residents. The Space Fee hereinafter established shall be set at a rate sufficient to pay the cost of all other Hearings.

- (i) The amount of the Hearing Fee shall be set by resolution by the Board of Supervisors.
- (ii) The Hearing Fee shall be paid at the time of filing the Special Rent Adjustment Petition in the form of a personal check, bank check, or money order payable to "County of Santa Cruz".

(iii) Fifty percent (50%) of the Hearing Fee shall be refunded provided that County staff is notified no less than seventy-two (72) hours prior to the hearing that a settlement has been reached.

C. Reduction or Elimination of Services Hearing. Residents representing at least 25 percent of the park affected by a reduction or elimination of services may file a petition disputing compliance by the owner with the provisions of Section 13.32.050. The petition shall clearly state the basis for disputing compliance by the owner with the provisions of said Section and shall be filed within one year of the date the service or services are reduced or eliminated.

3. Filing of Petition. Any petition regarding a General Rent Adjustment or a Special Rent Adjustment, or the Reduction or Elimination of Services shall be filed with County staff and shall set forth the name, address, and telephone number of petitioner's counsel or designated representative.

4. Scheduling of Hearings. County staff shall file stamp the petition. Once a hearing officer has been selected, County staff and shall transmit such petition to the Hearing Officer who shall schedule a hearing no sooner than 30 days and no later than 60 days after filing of receiving the petition.

5. Pre-hearing Settlement Conferences. Parties are required to attend a pre-hearing settlement conference with the hearing officer at least seven (7) calendar days in advance of the hearing. Unless expressly excused by the Hearing Officer in advance of the settlement conference, the designated representative of each party authorized to effect a binding settlement shall be present at the settlement conference. Each party shall submit to the Hearing Officer at least five (5) calendar days prior to the pre-hearing conference, a statement containing the following information:

- A. The names of the party(ies) involved with the matter and on whose behalf the statements are filed. Both party's shall designate one person who shall represent the interests of, and be authorized to act on all matters considered at the settlement conference.
- B. A plain and concise statement of the facts. A listing of all relevant facts that are not in dispute, and a listing of all

relevant facts that are in dispute .

- C. A statement of the legal issues (claims or disputes) and any defenses (explanations or justifications), to be considered by the Hearing Officer at the hearing.
- D. A list of witnesses to be called by the party at the hearing, along with an estimate of the time required for each witness's testimony. The witness list may be revised at any time up until two (2) calendar days prior to the hearing.
- E. A statement of the remedy the party is seeking from the Hearing Officer.
- F. A copy of each witness statement signed under penalty of perjury, to be presented at the hearing. The witness statement shall include an explanation of why the witness is unavailable to testify at the hearing. No witness statement shall be admitted into evidence at the hearing unless it is included with the pre-hearing statement or is offered by a witness whose name appears on a witness list provided to the opposing party at least two (2) days prior to the hearing, unless admission is justified by good cause shown.
- G. A copy of each item of documentary evidence to be presented at the hearing.
- H. An estimate of the time required for presentation of each party's case.

56. Consolidation. All petitions pertaining to a General Rent Adjustment and, where possible, to a Special Rent Adjustment in one park for the same year, shall be consolidated for hearing, unless there is a showing of good cause not to consolidate such petitions.

67. Continuances. Reasonable continuances of the hearing may be granted at the discretion of the Hearing Officer if exceptional circumstances are shown.

78. Notice to h-ties. County Counsel will notify the respondent that a petition has been filed and provide the parties with a list of potential

hearing officers.

A. General Rent Adjustment Hearing. After scheduling a hearing, the Hearing Officer shall notify the park owner, the counsel or designated representative of the petitioning residents of the park, and County staff, of the time, date and place of the hearing by letter. Such letters shall be mailed first class at least fourteen days prior to the hearing date scheduled. County staff shall assist in securing a room for the hearing and shall have the necessary recording devices available to the Hearing Officer.

B. Special Rent Adjustment Hearing. After scheduling a hearing, the Hearing Officer shall notify the park owner and all park residents (or their counsel or representative if one has been designated in writing) of the time, date and place of the hearing by letter. Such letters shall be mailed first class at least fourteen days prior to the hearing date scheduled.

C. Reduction or Elimination of Services Hearing. After scheduling a hearing, the Hearing Officer shall notify the park owner and the counsel or the designated representative of the petitioning residents of the park of the time, date and place of the hearing by letter. Such letters shall be mailed first class at least fourteen days prior to the hearing date scheduled.

D. The notice to the parties shall be in substantially the following form, but may include other information:

“You are hereby notified that a hearing on the petition for _____ will be held on the _____ day of _____, 19____, at the hour of _____. The Hearing Officer will be _____ whose address is _____ and telephone number is _____ You may be present at the hearing; may (but need not be) represented by counsel; may present any relevant evidence (subject to provisions requiring the advance production of testimonial and documentary evidence); and will be given full opportunity to cross-examine all witnesses. You are entitled to request the Hearing

Officer to issue subpoenas to compel the attendance of witnesses and the production of books, documents, or other sources of evidence by applying to the Hearing Officer. The Hearing Officer has the authority to issue subpoenas. You will be responsible for paying any mileage or attendance fees in connection with subpoenas so issued.”

The Hearing Officer shall also give any public notice required by law.

E. A statement of facts contained in the petition or summary thereof shall be sent with such notice to the respondent(s).

9. Disqualification of Hearing Officer. Within 5 business days of receiving a Notice of Hearing each party may in writing reject one of the hearing officers named on the list.

810. Respondent's Objections and Response to Defective Petition.

A. ~~Objections to Defective Petition.~~ Any owner or resident desiring to object to a petition may file objections with the Hearing Officer (and if filed, shall concurrently serve by first class mail on petitioner(s) or the counsel or designated representative thereof). Objections to the petition may be made on the following grounds: that the petition was not timely filed; that the petition does not contain material information required by the applicable rules and ordinance(s); and/or that the petition is procedurally defective. The objections shall set forth the name, address, and telephone number of respondent's counsel or designated representative. If such objections are not made within 14 days of the mailing of the notice of hearing, they shall be deemed waived. In the event that the petition is objected to as procedurally defective other than as to time of filing, the petitioner shall have 10 days from the date of mailing of such objections to cure same.

B. ~~Responses to Petitions.~~ Respondent(s) shall file with the Hearing Officer and serve on petitioner(s) (or the counsel or designated representative thereof) a response to the petition at least ten working days prior to the hearing. This response shall consist of relevant facts, argument and law in support of the proposed adjustment or the reduction or elimination of services. Where the

~~owner is the respondent, such response shall contain as an exhibit a detailed list of expenses and income for the prior four years including (without limitation) utility costs and charges. The response shall set forth the name, address and telephone number of respondent's counsel or designated representative.~~

~~9. Petitioners' Counter Response. Petitioners may file with the Hearing Officer and serve on respondent(s) (or the counsel or designated representative thereof) a counter response no later than two working days before the scheduled hearing date.~~

~~1011. Subpoenas.~~

A. Before and during a hearing, the Hearing Officer may issue subpoenas and subpoenas duces tecum at the request of either party or on his/her own motion in accordance with the provisions of Section 1985, et seq. of the Code of Civil Procedure, subject to the Hearing Officer's discretion.

B. Such process shall extend to all parts of the state and be served in accordance with the provisions of Sections 1987 and 1988 of the Code of Civil Procedure. No witness shall be obliged to attend at a place out of the county in which he resides unless the distance is less than 150 miles from his place of residence, except that, upon affidavit of either party showing that the testimony of such witness is material and necessary, the Hearing Officer may endorse on the subpoena an order requiring the attendance of such witness from such distance or beyond.

C. All witnesses appearing pursuant to subpoena, other than the parties (or officers thereof), shall be paid fees and mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in Superior Court. Witnesses appearing pursuant to subpoena, except the parties, who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day shall be entitled (in addition to fees and mileage) to a reasonable per diem compensation for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearing. Fees, mileage and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

412. Appointment, Selection, and Payment of Hearing Officers. A Hearing Officer shall preside at all hearings regarding rent adjustments scheduled under the Mobilehome Rent Adjustment Ordinance and shall make findings and decisions in accordance with the provisions of such Ordinance.

A. Qualifications. Hearing Officers shall have no financial interest in mobilehomes, mobilehome spaces, or mobilehome parks.

B. Establishment of Panel. The Office of the County Counsel of the County of Santa Cruz shall select ~~no less than two (2) and no more than (5)~~ and make all reasonable efforts to ensure that there are at least five (5) qualified candidates to form a panel of prospective Hearing Officers.

C. Selection of a Hearing Officer for a Hearing. ~~After each party has had the opportunity to exercise their right to disqualify a hearing officer, staff will appoint the hearing officer from those remaining on the list. After the petition has been filed County staff shall select and notify the Hearing Officer next in order from available panelists on the list that he/she shall act as Hearing Officer as to the matter which is the subject of the petition.~~ A Hearing Officer shall disqualify himself or herself from serving as Hearing Officer in a particular matter where he/she has a conflict of interest.

D. Payment. Hearing Officers shall be paid for hearings at an hourly rate as determined by resolution of the Board of Supervisors of the County of Santa Cruz.

4213. Failure of Parties to Appear. In the event that either the residents or the park owner or their counsel or designated representatives should fail to appear at the hearing at the specified time and place, the Hearing Officer may hear and review such evidence as may be presented and make such decision as if both parties had been present.

4314. Official Record. The official record of a hearing, which shall constitute the exclusive record for decision of the issues and any judicial review, shall include: all written notices; all petitions, responses, motions and objections filed or made prior to or during the proceedings; all exhibits admitted and rejected as evidence during the proceedings; a list of participants present; the hearing transcript; a statement of all materials

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officially noticed; the ruling on each exception or objection, if any; and all findings, decisions and orders. The Hearing Officer shall provide a copy of the Official Record, or portion thereof, including a transcript of the hearing, to any party or member of the public upon written request and payment of actual cost (advance deposit of the estimated cost of which may be required). The official record shall be retained by County staff for three (3) years.

1415. Conduct of Hearings.

A. All hearings held before a Hearing Officer shall be open to the public, except as provided herein, and notice thereof given as required by law.

(i) All participation by the parties shall be channeled through the respective counsel or designated representative for residents and park owners. The respective counsel or designated representative for each party shall determine the manner and extent of participation in the hearing by residents and owners subject to the ruling of the Hearing Officer.

(ii) Public Hearing Exception. A party may request the Hearing Officer to close to the public a portion of the hearing by filing a declaration under penalty of perjury that evidence is to be presented which relates to confidential financial data the disclosure of which will be detrimental to the business interests of the owner. If the Hearing Officer grants the request, only evidence relating to the confidential financial data may be presented during the time the hearing is closed.

(iii) The Hearing Officer may exclude persons present for conduct which is unruly or disorderly and which disrupts or threatens to disrupt the proceedings.

B. Each party to a hearing may be represented by counsel or other representative of the party's choice.

C. ~~E~~ Subject to the provisions requiring the advance production of testimonial and documentary evidence, each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any matter relevant to the issues even though

that matter was not covered in the direct examination; to impeach any witness, regardless of which party first called him to testify; and to rebut the evidence presented.

D. Hearings shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence is admissible if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing.

E. Irrelevant and unduly repetitious evidence may be excluded by the Hearing Officer. The Hearing Officer shall refuse to admit any documentary evidence not filed in a timely fashion as required by this chapter, unless the Hearing Officer finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced.

F. Evidence Required by the Hearing Officer. The Hearing Officer may request either party to provide relevant books, records and papers. However, either party may respond by providing an affidavit by a certified public accountant, as long as the affidavit contains the information sought from such books, records and papers, and as long as such certified public accountant is available for cross-examination at the hearing concerning such statement. Failure or refusal of a party to produce material requested may be considered by the Hearing Officer as evidence that such material, if produced, would be adverse to such party.

G. Relevant Evidence.

(i) In determining petitions, the Hearing Officer shall consider all relevant factors to the extent evidence thereof is introduced by either party or produced by either party on request of the Hearing Officer.

(ii) Such relevant factors include all matters set forth in this Ordinance relating to the type of hearing being conducted.

(iii) The Hearing Officer shall dismiss any petition upon a finding that the petitioner has failed to provide information required by this Chapter, or has either intentionally or recklessly provided false and misleading information.

H. Official Notice. In reaching a decision the Hearing Officer may take official notice of any fact which may be judicially noticed by the courts of this State. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Either party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of legal authority, the manner of such refutation to be determined by the Hearing Officer.

I. Oaths proceeding before a Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Hearing Officer, his/her Clerk, or other designee have the power to administer oaths and affirmations and to certify to official acts. Oaths of witnesses may be given individually or en masse. Witnesses shall be asked to raise their right hands and to swear or affirm that the testimony they shall give will be the truth, the whole truth, and nothing but the truth.

J. Motions. All motions by the parties shall be in writing, unless made on the record during hearing, and shall clearly state the action requested and the grounds relied on.

K. Quantum and Burden of Proof. If resolution of the petition could require the rent to be raised, the owner shall have the burden of proof. If resolution of the petition could require the rent to be decreased, the residents shall have the burden of proof. The required quantum of proof shall be by a preponderance of the evidence.

L. Communications with Hearing Officer. All substantive oral communications with the hearing officer shall be held in the presence of all parties. The Hearing Officer shall maintain a written

log of any oral communications with any party, and shall disclose the contents of the log during the hearing as set forth in paragraph 0. (vi) below. All written communications shall be served on all parties.

M. Disclosure & Disqualification. A hearing officer shall disclose to both parties any circumstances likely to affect impartiality, including bias or any financial or personal interest in the results of the hearing or any past or present relationship with the parties or their counsel. Either party may raise objections for the record and request that the Hearing Officer disqualify him or herself. The Hearing Officer shall make the decision whether to grant or deny the request for disqualification.

N. Continuances. Each party may request, and, if exceptional circumstances are shown, the hearing officer may approve on continuance. No additional continuances shall be approved unless agreed upon by both parties, or unless the hearing officer finds that a continuance is required to ensure that both parties receive a full and equal opportunity for a fair hearing.

O. Order of Proceeding. The following order of proceeding shall be applied at all hearings. The officer shall:

- (i) Review all petitions and responses submitted prior to the hearing.
- (ii) Begin tape recording of the hearing.
- (iii) Assemble hearing participants.
- (iv) Identify the hearing.
- (v) Request that the parties introduce themselves.
- (vi) Disclose the content of the written log of any oral communications with any party.
- (vii) Explain how the hearing will proceed including specific notification of the provisions contained in subparagraphs vii through xvii.

- (viii) Hear any preliminary motions or objections.
- (ix) Review any request for witnesses.
- (x) Exclude potential witnesses until testimony is required, except that one person acting as the representative for a party may remain even though they may also be a witness.
- (xi) Allow parties to make opening statements. (i.e. petitioner followed by respondent.)
- (xii) Allow Petitioning party to present evidence and witnesses who shall submit to questions and other examination.
- (xiii) Allow responding party to present evidence and witnesses who shall submit to questions and other examination.
- (xiv) Allow both parties to confront adverse testimony.
- (xv) Allow both parties to make closing statements. (i.e. petitioner followed by respondent closing with rebuttal by petitioner.)
- (xvi) Explain appeals procedure.
- (xvii) Close hearing. Terminate tape recording.
- (xviii) The hearing officer shall follow the above procedure unless the officer determines and explains that there are special circumstances which justify a variance or modification in the order of proceeding. The hearing officer shall also have the discretion to grant a brief recess during the hearing if good cause is shown. (Ord. 4252, 5/11/93)

~~1516~~ Decision. The Hearing Officer shall consider the evidence and arguments of the parties and shall prepare a written decision, which shall include a statement of the issues, the findings of facts on which the decision is based, and an identification of the approved adjustment, if any, resulting from the decision to the particular item

on the Rental Notice. If the decision concerns an adjustment which is limited in duration or otherwise conditioned in any respect, the Hearing Officer shall also set forth in decision the duration or condition approved. The decision shall be subject to judicial review under Code of Civil Procedure Section 1094.5 and shall state the time for seeking judicial review as provided Section 1094.6 of the Code of Civil Procedure. The decision shall be signed by the Hearing Officer and filed as a public record with the County staff no later than thirty (30) days following the conclusion of the hearing.

The Hearing Officer shall serve a copy of the decision on each party or such party's counsel or designated representative. The decision shall include notice of the right of the judicial review and the time limits therefor set forth above. The decision of the Hearing Officer shall be final and binding upon the parties.

A. A final decision of a Hearing Officer issued after January 1, 1999, shall be binding on all future hearing decisions between the same parties subject to the Hearing Officers determination that the issues of law and/or fact are substantially the same.

B. Legal conclusions reached in previous hearings involving other parks, may be given substantial weight to the extent that the legal and factual issues are the same.

(Ord. 2843, 1/15/80; 3224, 4/27/82; 3356, 1/4/83; 3854, 8/11/87; 4059, 5/1/90; 4252, 5/11/93; 4044, 2/27/96)

17. Reconsideration. The Hearing Officer may order reconsideration of all or part of the case on his or her own motion or on petition of any party. The County shall have standing to request reconsideration of any matter concerning a Hearing Officer finding related to a question of law. The power to order a reconsideration shall expire after forty-five (45) days after the delivery or mailing of a decision. The Hearing Officer shall act on a petition within the forty-five (45) day period, provided that if additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of the 45 days, the Hearing Officer may grant a stay of the expiration period for no more than 10 days, solely for the purpose of considering the petition. If the Hearing Officer is incapacitated to

act on the petition within the time allowed for ordering reconsideration, the petition shall be deemed denied. The Hearing Officer's decision becomes final and binding upon the parties on the date that reconsideration is denied. If the Hearing Officer orders that reconsideration be granted or denied, he or she shall give reasons for this order but need not make findings. The original decision is automatically vacated at the time of the order granting reconsideration. The Hearing Officer may readopt the original decision upon reconsideration.

The right to petition for judicial review under Code of Civil Procedure Section 1094.5 shall not be affected by the failure to seek reconsideration. If reconsideration is denied, only the Hearing Officer's original decision and not his or her decision to deny a reconsideration, is reviewable under Code of Civil Procedure Section 1094.5. (Ord. 4044, 2/27/95)

18. Frivolous Petitions. The Hearing Officer shall have the power to order a party to pay the reasonable attorney's fees, incurred by another party as a result of the filing of a frivolous petition.

A. For the purposes of this section, a "frivolous petition" is one that is (i) totally and completely without merit or (ii) for the sole purpose of harassing an opposing party.

B. Expenses pursuant to this section shall not be imposed until after the Hearing Officer has provided notice to, and an opportunity to be heard from, the party filing the petition. An order imposing expenses shall be in writing and shall recite in detail the circumstances justifying the order. The Hearing Officer shall fashion the order to ensure that the appropriate party receives reimbursement within a reasonable time after the order is issued.

SECTION V

Section 13.32.075 of the Santa Cruz County Code is hereby added to read as follows:

13.32.075 ADVISORY OPINIONS. County Counsel may issue non-binding opinions on legal issues when asked to do so, by either party, before the hearing process begins.

SECTION VI

Section 13.32.102 of the Santa Cruz County Code is hereby added to read as follows:

13.32.102 Recreational Vehicle/Trailer Park Spaces. Any park space, including, but not limited to those located within a recreational vehicle or trailer park, shall be subject to the provisions of this Chapter if the space has been occupied by a mobilehome as herein defined, in which the mobilehome's residents have continually resided for nine months or more after January 1, 1980. The Base Rent for the space shall be that amount of rent charged when the park owner initially received written notice from the County that the space was subject to the provisions of this Chapter.

SECTION VII

This ordinance shall take effect on the 3 1st day after the date of final passage.

PASSED AND ADOPTED this ____ day of _____, 1999, by the Board of Supervisors of the County of Santa Cruz by the following vote:

- AYES: SUPERVISORS
- NOES: SUPERVISORS
- ABSENT: SUPERVISORS
- ABSTAIN: SUPERVISORS

Chairperson of the
Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:



DWIGHT L. HERR, County Counsel