Chapter XX - RENT CONTROL—MOBILEHOMES*

Sections:

For the purpose of this chapter, the following terms and phrases shall be defined as follows:

a. *"Capital improvements"* shall have the same meaning as is ascribed to that term in the United States Internal Revenue Code. Ordinary maintenance and/or repairs which are deductible pursuant to 26 U.S.C. Section 167 of the Internal Revenue Code are not capital improvements.

b. *"Consumer Price Index"* or "CPI" shall mean the Consumer Price Index for all urban consumers in the San Francisco/Oakland area published by the Bureau of Labor Statistics.

c. [Intentionally left blank.]

d. *"Housing service"* shall mean a service provided by the owner related to the use or occupancy of a mobilehome space, which is not a capital improvement as that term is 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.

e. *"Maximum allowable rent"* shall mean the maximum amount of rent permitted to be charged a tenant for a mobilehome space under this chapter.

f. *"Mobilehome"* shall mean a structure, designed for human habitation and for being moved on a street or highway under permit pursuant to California Vehicle Code Section 35790, as defined in California Civil Code Section 798.3 as it may be amended from time to time.

g. *"Mobilehome park"* or *"park"* shall mean any area of land within the City of Novato where two or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes used for human habitation.

h. *"Mobilehome space"* shall mean the site within a mobilehome park 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.

i. *"Owner"* shall mean the owner or operator of a mobilehome park or an agent or representative authorized to act on said owner's or operator's behalf in connection with the maintenance or operation of such park.

j. *"Rent"* shall mean the consideration paid for the right of use, possession and occupancy of property, including the right to the use of a space within a mobilehome park on which to locate, maintain, and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the park.

k. *"Rent increase"* shall mean any increase in rent charged by an owner to a tenant including any reduction in housing services without a corresponding reduction in the amount demanded or paid for rent.

l. *"Rent stabilization administration fee"* shall mean the fee established from time to time by resolution of the city council in accordance with the provisions of the chapter.

m. *"Tenancy"* shall have the same meaning as is ascribed to that term in California Civil Code Section 798.12.

n. *"Tenant"* shall mean "homeowner" as the latter term is defined in Civil Code Section 798.9.

o. *"Tenant-to-be"* shall mean a person who is not currently a mobilehome space 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 owner as such.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-2 - Applicability/Exceptions.

a. Except as otherwise provided hereinafter, the provisions of this chapter apply only to mobilehome parks which contain mobilehome spaces as defined in this chapter and to the mobilehomes within such parks.

b. No rent increases shall be permitted with respect to any mobilehome space after the adoption of this chapter, except as authorized by this chapter or applicable law.

c. The right to institute rent increases permitted hereunder is subject to compliance with the notice provisions of the California Civil Code. In the case of rent increases authorized pursuant to section 20-9(a), (b), said notice shall contain that information required by the hearing officer.

d. No owner may increase rents in accordance with section 20-5 at any time when a park is delinquent in payments of the rent stabilization administration fee required pursuant to this chapter and/or is not in substantial compliance with other registration requirements and/or is not in compliance with any court order or the California Health and Safety Code.

e. Mobilehome spaces covered by a rental agreement meeting the requirements of Civil Code Section 798.17 are exempt from those provisions of this chapter pertaining to maximum allowable rents.

f. New construction (newly constructed spaces initially held out for rent after January 1, 1990) is exempt from this chapter pursuant to Civil Code Section 798.45.

g. After securing budgetary authorization from the city council and conducting the studies and investigations it deems appropriate and necessary, the city council may promulgate rules and regulations under which parks may be exempted from this chapter XX; provided, however, that said rules and regulations shall not exempt parks or owners from this chapter XX unless the mobilehome space rents charged by the owner are less than that which would otherwise be allowed under this chapter.

h. Rent charged for the subletting of a mobilehome shall not be subject to this chapter.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-3 - Purpose and Intent.

There is presently within the city a shortage of spaces for the location of mobilehomes. Because of this shortage, there is and has been a low vacancy rate in mobilehome parks in the city, and prior to the adoption of rent control in the City of Novato, rents were increasing at rates which were causing hardships on the tenants of the parks, many of whom were and are on fixed incomes. Because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation, the lack of alternative home sites for mobilehomes and the substantial investment of tenants in such mobilehomes, the park owners enjoy unequal economic power vis-a-vis the mobilehome owners, creating a situation where, without rent control, park owners possess unbridled discretion and ability to exploit park tenants. For these reasons, among others, the city council finds and declares it necessary to protect tenants'

investments in their mobilehomes by preventing park owners from unreasonably raising rents, not only during the tenant's tenancy in the park, but upon the sale or transfer of the tenant's mobilehome to a tenant-to-be, and to provide new tenants with protections from excessive rents, while at the same time recognizing the right of a park owner to receive a fair return on his/her investment.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-4 - Base Rent.

a. Except as provided in this chapter, an owner shall not demand, accept or retain rent for a mobilehome space exceeding the base rent which was the rent in effect for that space on January 1, 1996. If a previously rented mobilehome space was not rented on January 1, 1996, the base rent shall not exceed the rent in effect during the last month the space was rented prior to January 1, 1996, except as provided in this chapter.

b. On the date the ordinance which enacts this chapter becomes effective, each owner may demand, accept and retain rent for mobilehome spaces whose rents are controlled by this chapter in an amount equal to the base rent.

c. Within 90 days after the adoption of this chapter, each owner shall provide notice to each tenant, as required under law, of the rent that may be charged and collected pursuant to this chapter.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-5 - General Rent Adjustments.

a. Each January 1, commencing with January 1, 1997, and ending with January 1, 2003, an owner may increase the rent charged for a mobilehome space by 75 percent of the percentage increase in the CPI occurring over the 12-month period immediately preceding the September 1 which immediately precedes January 1 of the year in which the increase is permitted under this subsection 20-5(a). Each January 1, commencing with January 1, 2004, an owner may increase the rent charged for a mobilehome space by 100 percent of the percentage increase in the CPI occurring over the 12-month period immediately preceding the September 1 which immediately precedes January 1 of the year in which the increase is permitted under this subsection 20-5(a).

b. Each January 1, commencing with January 1, 1997, and ending with January 1, 2003, each owner shall decrease the rent charged for a mobilehome space by 75 percent of the percentage decrease in the CPI occurring over the 12-month period immediately preceding the September 1 which immediately precedes January 1 of the year in which the decrease is required under this subsection. Each January 1, commencing with January 1, 2004, each owner shall decrease the rent charged for a mobilehome space by 100 percent of the percentage decrease in the CPI occurring over the 12-month period immediately preceding the September 1 which immediately precedes January 1 of the year in which the decrease is required under this subsection.

c. Annually the city shall calculate, as soon as CPI information is available which reflects the change for the periods described in subsections (a) and (b) above, the increase or decrease permitted or required hereunder, as the case may be, and provide notice to the tenants and owners in a fashion determined by the city to be reasonable.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-6 - Limitations on Rent Increases.

a. The increases allowed by the terms of this chapter shall be applied equally to all mobilehome spaces subject to an increase as provided herein.

b.

The owner, in calculating the amount of increase allowed or decrease mandated under section 20-5, shall apply the percentage increase as allowed or decrease as mandated in section 20-5 ("General Rent Adjustment") to the maximum allowable rent permitted to be charged on the December 31 immediately preceding the January 1 on which the increase is allowed or the decrease is required to determine the actual dollar increase.

c. The calculations showing the amount of anticipated increase or decrease and how the increase or decrease was determined shall both be posted for public viewing in the office of the park manager or an area where it can easily be seen by the tenants and a copy forwarded to the city. The accuracy of representations memorialized in said calculations shall be executed under penalty of perjury.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-7 - Pass Throughs.

a. Charges authorized by Civil Code Sections 798.41 and 798.49 to be separately charged to a tenant shall not be considered part of the rent controlled hereunder and shall be governed by the provisions of those code sections.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-8 - Vacancy Control.

a. No increase in rent shall be authorized by virtue of a change in occupancy of a mobilehome. For purposes of this subsection, "change in occupancy" shall include (i) any sale, transfer (by foreclosure, operation of law or otherwise), or other change in ownership of the mobilehome, any termination of the tenancy of the persons who are tenants of the mobilehome space by lawful eviction or voluntary vacancy or voluntary removal of the mobilehome (a removal of the mobilehome from the mobilehome space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of repairing or upgrading the mobilehome shall constitute a voluntary removal or vacancy), or any sublease by the tenant to a third party of the mobilehome or mobilehome space, and/or (ii) a change in the number or identity of the occupants of a mobilehome.

b. Notwithstanding subsection (a) to the contrary, an owner shall be permitted to charge a new base rent for a mobilehome space whenever a lawful space vacancy occurs. For purposes of this section, a lawful space vacancy is defined to mean as follows:

    1. A vacancy of the mobilehome space 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 mobilehome from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the mobilehome or purchasing a new, substitute mobilehome for occupancy by the same tenant shall not constitute a voluntary removal of the mobilehome. A removal of the mobilehome from the space for the purpose of performing repair and/or improvement to the space and/or for the purpose of repairing, maintaining or replacing the mobilehome due to the damage thereof shall not constitute a voluntary removal of the mobilehome.

c. When a new base rent is established following the vacancy of a mobilehome space pursuant to subsection (b), the owner shall give written notice to the new affected mobilehome tenant that the space rent may be subject to stabilized rent increases pursuant to the provisions of this chapter.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-9 - Individual Adjustments.

a. *Application for Individual Adjustment.*

1. In the event a park owner contends that the General Rent Adjustment as provided in section 20-5, and the pass throughs provided in section 20-7 do not result in a just and reasonable return to the park owner, the park owner may file a petition for a hearing to determine the maximum allowable rent that will provide the owner a fair and reasonable return. Only one individual adjustment petition can be filed within a calendar year, unless the owner can establish "exceptional circumstances". For purposes of this subsection, "exceptional circumstances" shall mean that the inability of an owner to file more than one individual rent adjustment petition within said calendar year will immediately result in that owner being denied a fair and reasonable return without possibility that the adjustment which would otherwise have been sought could be sought and granted by way of a future rent adjustment petition otherwise permitted hereunder.
2. The park owner shall complete and file with the city a petition containing the following information and supported by the following documentation, or otherwise permitted by law for that purpose. All financial data shall be shown in spreadsheet format (in Lotus 1, 2 or 3 or Excel, or comparable computer generated format) and hard copy format. The petition must be signed under penalty of perjury attesting that the petition and its attachments accurately and completely reflect and show all (i) the individual items of costs and expenses incurred and (ii) the sources of all income received during the relevant period of time. The petition must be accompanied by payment of the fee set for this purpose by council resolution. Within 30 days of the city receiving the petition, the city shall determine if the petition is complete such that it provides the necessary information and otherwise complies with this subsection and within that 30-day period, the city shall mail to the owner the city's determination of completeness.

Said petition shall contain the following information and be supported by the following documentation:

(a) The name and address of the owner and the park.

(b) The number of mobilehome spaces in the owner's park.

(c) The number of mobilehome spaces occupied by a mobilehome, recreational vehicle or other vehicle or structure and the nature of the vehicle or structure which occupies each said space.

(d) The number and space identification of mobilehome spaces which the owner considers exempt from this chapter and the reasons why said exemption applies to each said space.

(e) The number and space identification of the mobilehome spaces for which the owner seeks an individual rent adjustment.

(f) The amount of desired rent adjustment for each said space.

(g) The amount of monthly rent charged for each mobilehome space in the park for each month in 1995 and for each of the 12 months immediately preceding the date upon which the petition is filed.

(h) The park's NOI (as defined below) for the base year, and the 12 months upon which the petition is based (the "petition year"). A "petition year" shall be from January 1 through December 31 of the relevant calendar year upon which a petition for an individual rent adjustment may be based.

(i)

A detailed itemization of all operating expenses and gross income upon which the base year NOI and the petition year NOI are based, including but not limited to: (1) an itemization of each amount billed or refunded to each tenant by space by month (e.g., the amounts billed for base rent, any NOI adjustments, the amount charged for the general adjustment under section 20-5, capital pass throughs, refunds and rebates); and (2) a description of the amount of income derived from the adjustments made to the rent by the owner pursuant to section 20-5 (general adjustment) and section 20-9 (individual petition) and how those amounts affect the petitioned-for adjustment.

(j) A detailed explanation of how each of the NOI's described in subsection (a)(2)(h) was calculated and determined.

(k) If the owner seeks an adjustment in the base year NOI pursuant to section 20-12(a)(2), a detailed explanation supporting said adjustment, supported by written or other reliable evidence.

(l) A statement stating whether the owner's rent adjustment is based on the presumption specified in section 20-12(a)(4), and, if not, a detailed statement describing the fair return standard, formula or criteria under which the owner believes its petition should be considered and why, based on that standard, formula or criteria, the rent adjustment which the owner seeks is justified.

(m) All petitions and the relief which they seek shall be supported by credible, complete and authenticated documents and writings, necessary to discharge the owner's burden of proof, where available and helpful to the hearing officer's decision-making.

(n) In the event the owner has also sought tenants' consent pursuant to subsection (c), the owner shall state the amount of the rent increases for which said consent was sought and attach a copy of the notice, form of consent and documentation which was submitted to the tenants pursuant to subsection (c).

(o) In the event that the owner desires that the rent increase petitioned for become effective at the same time that a rent increase previously granted pursuant to this section is in effect, the owner shall state the approximate date or event upon which the owner desires the petitioned-for rent increase to become effective and the reasons therefor. The owner shall provide all the documentation necessary to support such a request. Unless such a request is made, it will be conclusively presumed that the rent increase sought by the petition shall take effect no earlier than after the date upon which any and all rent increases previously granted pursuant to this section have expired.

At the time that an owner files an individual rent adjustment petition with the city, the owner shall also deliver to each tenant of a mobilehome space affected by the petition a copy of the petition. However, the documents and writings which support said petition need not be copied to each said tenant but 10 copies thereof must be made available for inspection and copying by the tenants (at the tenants' expense) during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, at some convenient place in the park, which said place must be noticed to the affected tenants at the time the copy of the petition is delivered to them.

3. An application for an individual rent adjustment must be filed within six months after the end of the petition year upon which the application is based. Failure to make a timely application for an individual rent adjustment within six months after the end of any given petition year shall preclude the owner from seeking or obtaining any rent adjustment based on the income earned

and/or expenses incurred by the owner during that petition year. Upon petition and for good cause shown, the hearing officer may grant extensions of said six-month period not to exceed an additional four months. Notwithstanding the foregoing, an individual rent adjustment application based upon the 1998 petition year may be filed no later than October 1, 1999.

4. The owner may apply for an individual rent adjustment based solely on beneficial capital improvements, as defined herein below. Said application may seek approval of such an adjustment prior to or after the improvement is completed and paid for. However, if the application is submitted and approved prior to the completion of the improvement, any rent adjustment based on said improvement may not exceed the amount of adjustment approved by the hearing officer, and, if the actual costs of the improvement are less than that accepted and found by the hearing officer and upon which the hearing officer's decision adjusting rents was based, the rent adjustment shall be reduced by the owner accordingly.

   (a) An owner who seeks an individual adjustment in rent for beneficial capital improvements shall submit a separate petition therefor. In the event that an owner petitions for an individual rent adjustment pursuant to subsection (a)(1) based on income and expenses earned and incurred, respectively, for a given calendar year, then any petition filed under subsection (a)(4) based upon beneficial capital improvements substantially completed during the same calendar year must be filed along with said subsection (a)(1) petition. If said petitions are filed together, they shall be heard and resolved together; provided, however, that the capital improvement cost petition shall be heard first; and, provided further, that if any proposed capital improvement cost is determined by the hearing officer to be an item of maintenance or repair or other operating expense, it shall be included in the subsection (a)(1) petition and should any cost item included in the subsection (a)(1) petition be determined by the hearing officer to be a capital improvement cost, it shall be included in the capital improvement cost petition filed pursuant to subsection (a)(4). If an owner applies for an individual rent adjustment pursuant to this subsection (4) unaccompanied by an application pursuant to subsection (a)(1), then the application submitted pursuant to this subsection (4) shall be the only application the owner may be permitted to file under this section within the calendar year described in subsection (a)(1), unless the owner can establish "exceptional circumstances" as defined in subsection (a)(1). If an owner applies for an individual rent adjustment pursuant to this subsection (4) unaccompanied by an application pursuant to subsection (a)(1) and the hearing officer determines that some or all of the capital improvements upon which said subsection (4) petition was based do not constitute capital improvements as defined herein, but instead, are items of expense and income which could have been the basis of an individual rent adjustment petition pursuant to subsection (a)(1), the owner shall have 60 days from the date the hearing officer renders said decision within which to file a petition under subsection (a)(1) based upon said items of income and expense. The owner shall pay the appropriate fee for the filing and processing of said petition(s).

   (b) Except in emergencies, and notwithstanding anything to the contrary stated above, in the event that an owner wishes to petition for an individual rent adjustment based upon beneficial capital improvement costs, prior to filing said petition the owner must take the following steps:

      (1) At least 30 days prior to: (i) the commencement of the construction or installation of the improvement (in those cases where the owner intends to petition for the adjustment after completion of the improvement); or (ii) filing the petition (in those cases where the

owner intends to petition for the adjustment prior to the commencement of constructing or installing the improvement), as the case may be, provide written notice to each tenant that the owner intends to petition for a rent adjustment based on said capital improvement.

(2) The notice shall include a description of the capital improvement, any reserves being used for same, the estimated cost of the improvement, an explanation as to how and why the improvement qualifies under this chapter for adjusting rents, when the improvement is likely to be completed, how much the tenant's rent will be adjusted by virtue of the improvement's cost, how long the adjustment will be in effect and the other matters specified in subsection (a)(4)(e), below.

(3) The notice shall also include a date, time and place where the owner shall meet with the tenants to discuss the notice and the proposed capital improvement and rent adjustment based thereon. The date and time of the meeting shall be convenient to the tenants and shall occur within said 30-day period, but no earlier than 14 days after the notice is delivered to the tenants. The notice may also solicit the consent of each affected tenant to the adjustment, and if so the notice shall contain the information and the owner shall comply with the provisions of subsection (c). If the owner invokes the procedures specified in subsection (c), the meeting specified herein shall be set before the tenants are required to submit their consents described in subsection (c)(5). The meeting place shall be located on the mobilehome park. The owner shall bring to the meeting any and all documents and other tangible evidence supporting the rationale for the capital improvement and its cost.

The sole purpose of said notice and meeting shall be to inform the tenants of the matters described above and for the owner to receive comments from the tenants respecting same.

(c) Amortized costs of beneficial capital improvements exceeding existing reserves for replacement, plus a reasonable return thereon, shall be considered part of the rent, and at the option of the owner, may form the basis of an individual rent adjustment pursuant to subsection (a)(1) or pursuant to subsection (a)(4), on a pro-rata basis based on the number of mobilehome spaces in the park. Such capital improvement costs and return, if the basis for a rent adjustment pursuant to subsection (a)(4), shall not constitute a factor to be considered in determining fair return under subsection 20-9(a)(1) and 20-12, below (the individual rent adjustment), nor shall they be considered part of the rent base upon which future rent increases can be made in accordance with section 20-5 (the "General Rent Adjustment"). That portion of the rent which is charged to cover said amortized capital improvement costs and return thereon, shall be separately stated on the monthly rental statement, along with the date when said charge shall be omitted from the statement.

(d) For purposes of this chapter, "beneficial capital improvements" shall generally mean a capital improvement required to assure that the common facilities and areas of the park are decent, safe, and sanitary or to assure the continuation of the existing level of park amenities and services:

(1) Distinguished from ordinary repair or maintenance;

(2) For the primary benefit, use, and enjoyment of the tenants;

(3)

Not coin-operated nor one for which a "use fee" or other charge is imposed on tenants for its use;

(4) Amortized on a straight-line basis and charged to the tenant over the remaining useful life of the improvement (the remaining useful life of the improvement shall be determined in accordance with applicable or the most applicable IRS rules and regulations); and

(5) Not maintenance of the infrastructure of gas or electrical lines or facilities within the mobilehome park for which the public utility has permitted the owner a special premium with the intent that it be used to replace or otherwise maintain the system within the mobilehome park.

(e) An application for an individual rent adjustment based on beneficial capital improvement costs shall include the following:

(1) A description of the nature of the improvement;

(2) An explanation as to why it falls within the category of a beneficial capital improvement;

(3) An explanation showing why the improvement meets all of the criteria set forth in subsection (a)(4)(d);

(4) Why the improvement was necessary at the time it was effected or is proposed to be effected;

(5) Whether there are any capital reserves and/or insurance proceeds which are being used to pay for the improvement, and, if so, what amount is being so used;

(6) A statement of the depreciation schedule upon which the owner is basing his/her monthly rental increase and the longevity of that increase; and the rationale for selecting that schedule;

(7) An explanation as to why the improvement was not implemented previously and whether the costs of the improvement have been affected by the owner's delay in implementing the improvement at an earlier time; and

(8) A detailed itemization of all the costs incurred or estimated to be incurred in completing the improvement and copies of all invoices and canceled checks, or other evidence, if any, showing payment thereof.

(f) In the event that the capital improvement cost 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 part of the permitted rent adjustment.

(g) Any petition or application for a rent adjustment brought pursuant to subsection (4) and applicable to a completed beneficial capital improvement must be filed no later than six months after the end of the calendar year in which the improvement was substantially completed. Failure to timely apply under subsection (4) for a rent adjustment based upon a beneficial capital improvement shall prevent the owner from applying for a rent adjustment under subsection (4) based on that improvement. Upon petition and for good cause shown, the hearing officer may grant extensions of said six month period not to exceed an additional four months. Notwithstanding anything stated to the contrary in this subsection (4)(g), an owner may petition for an individual rent adjustment based on capital improvement costs incurred during two, consecutive calendar years as long as: (a) the aggregate costs of said improvements do not exceed fifty thousand ($50,000) dollars; (b) the petition is filed within

six months after the end of the second calendar year; and (c) if a section 20-9(a)(1) petition is filed during said six months period, then the capital improvement petition described in this sentence must accompany said section 20-9(a)(1) petition.

5. At least annually, and preferably at the same time that the owner notifies the tenants of the annual adjustment in rents permitted pursuant to section 20-5, the owner shall deliver to each tenant a written description of the owner's estimate of the nature and cost of proposed and/or anticipated beneficial capital improvements to be completed over the next, succeeding five calendar years. The description shall be prepared in good faith. The purpose of this section is to provide information to tenants. The capital improvements specified in the plan described herein shall not be binding upon the owner.

b. *Hearing Officer.*

1. The city shall appoint an administrative hearing officer to hear any individual adjustment petition. The following procedure shall be used in making said appointment:

(a) The city shall solicit applications for the position of hearing officer. From those who submit applications, the city manager or his/her designee shall appoint the persons to the hearing officer position. There shall be no limit to the number of appointments, and as appointees resign or as additional persons make application for the position, the city staff may supplement the eligible list of hearing officers.

(b) From the list of eligible and appointed hearing officers, the city staff shall select, on a rotating basis to the extent practicable, the one hearing officer to hear and decide each individual adjustment petition or complaint, as the case may be.

(c) The city may consider the following criteria in selecting the hearing officer.

(1) Expertise in rental disputes and issues.

(2) Legal experience.

(3) Business and professional experience.

(4) Education and training in dispute resolution.

(5) The fee requested by the nominee.

2. The hearing officer shall have no conflict of interest.

3. Petitioner shall bear the cost of the hearing officer. The city shall notify the petitioner of its selection, the estimated costs of the hearing officer and request payment. Within 10 business days of mailing notice of the selected hearing officer, the petitioner shall deliver payment of the hearing officer's estimated fee to the city. After notice to the owner, failure to timely pay the hearing officer's estimated fee shall be deemed a withdrawal of the petition. If the petitioner is an owner, failure to pay the hearing officer's final fee bill shall preclude the owner from implementing any and all future general adjustment rent increases provided under section 20-5 until said bill is fully paid.

(a) The petitioner or complainant shall bear the entire cost of the hearing officer and the hearing.

(b) After receipt of a petition or complaint, the city shall notify the petitioner or complainant (collectively referred to herein as "petitioner") of the city's selection of the hearing officer, the estimated costs of the hearing officer and the hearing and, if applicable, request payment for said costs. Within 10 business days of the city's mailing notice of the selected hearing officer and requesting payment of the estimated costs, the petitioner shall deliver payment of the

hearing officer's and hearing's estimated costs to the city. After notice to the petitioner, failure to timely pay the hearing's estimated costs shall be deemed a withdrawal of the petition or complaint. In the event that the actual costs of the hearing exceed the estimated costs, the petitioner shall, within 10 days after receipt of notice to do so, shall pay the difference to the city. If the petitioner is an owner, failure to pay the total, actual costs of the hearing within the time prescribed herein shall preclude the owner from implementing any and all future general adjustment rent increases provided under section 20-5 until said costs are fully paid.

c. *Tenant Approval of Rent Increase Avoids Hearing Process.*

1. This subsection shall only apply to proposed rent increases other than those authorized under section 20-5 (General Rent Adjustments) or section 20-7 (Pass Throughs).
2. In the event that an owner wishes to increase rents the owner may follow the procedures set forth in this subsection instead of or in addition to those specified in the balance of this section; provided, however, that no rent increase sought to be imposed pursuant to this subsection (c) shall be effective unless and until subsection (c)(4), below, has been timely complied with.
3. Any owner desiring to increase rents pursuant to this subsection (c) shall deliver to each tenant whose rent the owner proposes to increase a notice containing the following information: (i) the amount of the monthly rent increase; (ii) a detailed statement explaining the justification for the increase; (iii) whether the rent increase will be permanent or temporary, and if the latter, the date upon which the increase will cease; and (iv) the date the owner proposes to make the increase effective. The owner shall also provide to each affected tenant copies of all unprivileged writings which support the proposed increase in rent. The notice shall also disclose to the tenants that the owner is seeking a rent increase pursuant to this subsection (c), attach a copy of this subsection (c) to the notice and include with the notice the consent form described in subsection (c)(5), below.
4. If, within 21 days after said notice of the proposed rent increase is last served on the tenants, the park owner files with the city a writing or writings (the "consent"), signed by at least a majority of the tenants in the park who are subject to rent control and affected by the proposed rent increase consenting to the rent increase, the rent increase may take place after the owner has given notice pursuant to state law.
5. For purposes of subsection (c), each mobilehome space shall be counted as one vote for determining whether the percentage specified in subsection (c)(4), above, has been met. Notwithstanding anything to the contrary stated above, in the event that a mobilehome space is vacant, that space shall not be counted for purposes of this subsection (c); and provided further, that in the event that a mobilehome space is occupied with a mobilehome but the mobilehome is unoccupied at the time that the notice described in subsection (c)(3), above, is distributed to the tenants, the park owner shall be obligated to exercise good faith and due diligence in locating the occupant of the mobilehome and providing him/her the required written notice within the said 21-day period. If the owner has timely exercised good faith and due diligence in notifying said absent occupant and securing said absent occupant's consent but said absent occupant cannot be located or is not notified as required hereunder, then said occupant's mobilehome space shall not be counted for purposes of this subsection (c). The consent shall contain the following: (i) a statement that the signing tenant agrees to the rent increase described in the consent; (ii) the amount of the increase; (iii) the reason for the increase; (iv) when the increase is proposed to take effect; and (v) when the increase will be discontinued, if at all.

6. In the event a majority of the tenants do not, in writing, timely consent to said proposed rent increase, the owner shall be required to apply for an individual rent adjustment pursuant to this section 20-9 before any rent increase covered by the notice described in subsection (c)(3) is permitted or becomes effective.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-10 - Hearing Procedures.

a. *Hearing Officer's Authority.*

At rent adjustment hearings or complaint hearings, the hearing officer(s) shall have the right to:

1. Administer oaths and affirmations.
2. With the written concurrence of the owner and affected tenants, cause inspections to be made of the mobilehome park for which a rent adjustment is sought.
3. Rule on offers of proof and receive relevant evidence.
4. Control the course of the hearing.
5. Rule on procedural requests.
6. Render decisions on applications for individual rent adjustments and complaints.
7. Take other action authorized by this chapter and/or the rules and regulations adopted by the city.

b. *Notice of Hearing.*

At least 14 days prior to the hearing, notice shall be delivered in person or by mail to the parties advising the parties of the date of the hearing. The hearing officer, at the request of any party, may schedule a pre-hearing conference with the parties and/or their representatives in order to discuss the issues to be resolved at the hearing, require the submission of documents before the hearing, encourage stipulations by the parties on uncontested facts, discuss proposed witnesses and, if the parties so request, attempt to arrive at a mutually acceptable, voluntary agreement resolving all issues raised in the petition or complaint. The hearing officer may ratify the parties' voluntary agreement and adopt it and make it a final decision of the hearing officer. The city shall not subsequently accept a petition or complaint involving the same parties (or similarly situated parties who were sent notice of the petition or complaint and the hearing and/or conference, as the case may be) and based upon substantially the same facts which form the basis of the petition or complaint which resulted in the voluntary agreement. In the event that such an agreement is not reached, among other things, the pre-hearing conference will have as its purposes the determination of a hearing date and the nature of the evidence, if any, required to be submitted and provided by any party to the proceedings. The costs of the pre-hearing conference, including the hearing officer's fee, shall be paid by the party required to pay for the hearing officer and other hearing costs pursuant to section 20-9(b)(3).

c. *Conduct of Hearing.*

The hearing on a petition for individual rent adjustment or complaint shall be conducted in a manner deemed most suitable to insure fundamental fairness to all parties concerned, and with a view toward securing all relevant information and material necessary to render a decision without unnecessary delay.

d. *Evidence Rules.*

The hearing need not be conducted according to technical rules of evidence. Any relevant evidence shall be considered 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. Unduly repetitious or irrelevant evidence shall be excluded upon order by the hearing officer. Oral evidence shall be taken only on oath.

e. *Order of Proceedings.*

The hearing on an application for individual rent adjustment shall ordinarily proceed in the following order:

1. Presentation by or on behalf of petitioner, including calling any witnesses on behalf of the petitioner.
2. Presentation by or on behalf of opponents to the petition, including calling any witnesses on behalf of the opponents.
3. Rebuttal by petitioner.
4. Sur-rebuttal.

f. *Speaker's Presentation.*

Each speaker's presentation shall be to the point and shall be as brief as possible; visual and other materials may be used as appropriate. The hearing officer may establish reasonable time limits for presentations, which time limits will be made known prior to any hearing.

g. *Right of Assistance.*

All parties to a hearing may have assistance in presenting evidence and developing their positions from attorneys, legal workers, tenant organization representatives, owner association representatives, or any other persons designated by said parties.

h. *Hearing Record.*

The hearing officer(s) shall keep on file an official record, which shall constitute the exclusive record for decision. Hearings shall be audiotaped. Said tapes shall be preserved by the city as part of the record of proceedings.

i. *Decision.*

1. No individual rent adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing. The hearing officer shall have the authority to deny a petition for an individual rent adjustment consistent with this chapter and applicable law.
2. After reviewing the record and any additional evidence requested of the parties which has been provided, the hearing officer shall determine the amount of allowable rental increase, if any, in accordance with the standards of section 20-12, and the increase, if any, shall be effective after the owner gives the tenants notice as is required under law. Except for adjustments granted pursuant to section 20-9(a)(4) and adjustments which, based on specific findings (supported by a preponderance of the evidence) made by the hearing officer that expenses have a strong likelihood of remaining the same or increasing for the indefinite future, the hearing officer determines to be permanent, any individual rent adjustment granted hereunder shall be in effect for only one year after the increase (after due noticing) becomes effective. Notwithstanding anything to the contrary stated herein above, unless expressly permitted by the decision of the hearing officer and only to the extent permitted by the hearing officer, any rent increase granted by the hearing officer pursuant to section 20-9 (the "subsequent rent increase") shall, at the time

that it becomes effective (after due notice to the tenants) be reduced by the amount of any rent increase previously granted pursuant to section 20-9 ("first rent increase") which is still in effect at the time the subsequent rent increase becomes effective. Said reduction shall remain in effect only for so long as the first rent increase is in effect. The decision shall specify the earliest date or event upon which any rent increase granted by the decision may become effective and the reductions, rebates or offsets which apply to such rent increase.

3. Unless otherwise agreed to by the petitioner or for good cause shown, the hearing officer shall render a written decision within 120 days after the date the petition is determined complete by the city, supported by findings of fact and conclusions of law.
4. The hearing officer's decision shall notify the parties to the hearing of their rights under California Code of Civil Procedure section 1094.6. The decision of the hearing officer shall be mailed to the owner and all affected tenants, certified, return receipt requested.

j. *Challenge to Decision.*

The decision of the hearing officer rendered in accordance with this section shall be final and binding upon the owner and all affected tenants; provided, however, that within 30 days after the hearing officer's decision is mailed pursuant to subsection (i)(4), the owner and/or the affected tenants may, in writing, request that the hearing officer rehear the matter. The request shall contain all of the reasons and evidence supporting the request and be accompanied by a fee equal to two times the daily fee established by council resolution for hearing officers. Within 10 days of receiving said request, the hearing officer shall render a written decision granting or denying the request. If the rehearing request is denied, the original decision of the hearing officer, modified by the hearing officer's decision denying the rehearing request, shall be final and binding upon the parties and shall be deemed decided upon the date of the hearing officer's mailing of the denial of the rehearing request. If the request for rehearing is granted, the hearing officer shall schedule a new hearing on the matter, and the party seeking the rehearing shall bear and pay for all costs of the rehearing in the same manner and under the same rules applicable to the initiation of a hearing under this section 20-10. No further requests for rehearing shall be entertained after one such request has been granted or denied with respect to the matter in controversy. The party seeking rehearing shall bear and pay for all of the hearing officer's and rehearing costs. The final decision of the hearing officer shall be subject to the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-11 - (Intentionally Left Blank)
(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-12 - Fair Return Standard.

a. Owners may obtain rent adjustments for individual mobilehome parks pursuant to the standards established in this section in order for rents to be set at a level which will avoid a confiscatory taking of the owner's property and satisfy federal and state constitutional requirements. Rents established hereunder must be fair to the owner and to tenants.

1. *Presumption of Fair Base Year Net Operating Income (NOI).*

Except as provided in subsection (a)(2), it shall be presumed that the net operating income ("NOI") produced by the park in the base year provided a fair return on the property.

2. *Adjustments of Fair Base Year Net Operating Income.*

If the hearing officer determines that the base year NOI yielded other than a fair return, she/he shall adjust the base year NOI in accordance with this section. The hearing officer shall not make such a determination unless she/he has made at least one of the following findings:

(a) The owner's operating expenses in the base period were unusually high or low. In such instances, the operating expenses shall be adjusted to reflect normal operating expenses for the park for the period in question, assuming full occupancy levels in the park.

In determining whether the owner's operating expenses were unusually high or low, the hearing officer shall consider, among other things, whether:

(1) The owner made substantial capital improvements during the base period which were not reflected in the rent levels on the base date.

(2) Expenses were unusually high or low, relative to other years.

(b) The rent was disproportionately low or high due to the fact, established by a preponderance of the evidence, that it was not established in an arms-length transaction or there were other peculiar circumstances that demonstrate that the rent was not set under general market conditions. In such instances, the rent shall be adjusted to reflect general market conditions for the base period in question, assuming full occupancy levels in the park.

3. *Calculation of Net Operating Income.*

For the purposes of an individual rent adjustment proceeding pursuant to this chapter, the following definitions shall apply:

(a) Net Operating Income equals Gross Income minus operating expenses.

(b) Gross Income equals the sum of:

(1) Gross rents, including but not limited to any rent derived by virtue of the owner's adjustment of rents pursuant to section 20-5 (general, annual adjustment),

(2) Interest from collected security deposits which the owner has agreed to pay to the tenant, but which is retained by the owner, and

(3) All other income or consideration received or receivable in connection with the use and occupancy of the park spaces, as allowed by this chapter, but not including income or consideration received for the provision of gas and electricity.

(c) Operating expenses shall include the following:

(1) Real property taxes,

(2) Utility costs incurred by the owner in providing gas and electric service only to the park's common areas or common facilities but only to the extent said costs are permitted to be charged to the tenants pursuant to rules adopted by the California Public Utilities Commission,

(3) Management fee for operating the park, not to exceed four percent of gross income, unless it is demonstrated that fees in excess of this amount are reasonable,

(4) Reasonable accounting fees,

(5) Insurance,

(6) Owner-performed labor, at reasonable rates for the trade or profession for the community,

(7) License and registration fees,

(8) Maintenance expenses,

(9) Fees paid to the city for petitions made pursuant to this chapter,

(10) Attorney's fees and costs incurred and not collectible: (i) in connection with good faith attempts to recover rents owing, (ii) in connection with good faith unlawful detainer actions (not in violation of applicable law to the extent that such expenses are not recovered from the residents), (iii) in complying with the State Mobilehome Residency Law, and/or (iv) which are directly related to the operation, maintenance, and improvement of the park and do not constitute those fees and costs described in subsection (d)(5), below. Fees which are clearly excessive in relation to the customary and reasonable rates shall be disallowed.

(11) Reserves for replacement of long-term improvements or facilities, provided that accumulated reserves shall not exceed five percent of annual gross income.

(d) Operating expenses shall not include the following:

(1) Unnecessary and unreasonable expenses. To the extent that any expense upon which a rent adjustment is sought by the owner has increased at a rate greater than the percentage change in the applicable CPI, then the amount by which said expense has increased above the CPI shall be presumed unreasonable unless the owner can show, by a preponderance of the evidence, otherwise,

(2) Mortgage principal and interest payments,

(3) Ground lease payments,

(4) Any penalties, fees or interest assessed or awarded for violations of this or any other law,

(5) Legal and professional costs and fees except as provided in subsection (3)(c)(10). Notwithstanding subsections (3)(c)(10) or (3)(d)(5) to the contrary, under no circumstances shall operating expenses include legal and professional costs and fees incurred in connection with (i) providing advice or assistance to an owner concerning the application or interpretation of this chapter, (ii) representation at or concerning meetings or hearings of any governmental agency under, pertaining to or connected with this chapter, (iii) preparing for, advising with respect to or attending any hearing officer proceeding or other proceeding, conference, meeting or hearing conducted pursuant to this chapter, (iv) challenging hearing officer or other decisions made pursuant to or in connection with this chapter, and/or (v) actions brought challenging the validity or applicability of this chapter,

(6) Depreciation of real and personal property,

(7) Any expense for which the owner has been reimbursed from a source other than rental income (such as insurance),

(8) Except for those costs permitted to be passed on to tenants by the California Public Utilities Commission and specified in subsection (3)(c)(2), above, expenses incurred in connection with the provision of electric and gas utilities,

(9) The owner's 50 percent share of the costs of the general administration of this chapter as set forth in section 20-14, below,

(10) Costs incurred by the owner in lobbying against rent control.

4. *Calculation of Fair Return.*

   (a) It shall be presumed that the base period net operating income ("NOI") adjusted by 100 percent of the increase or decrease in the Consumer Price Index since the end of the base year derived by an owner yields a fair return ("maintenance of NOI formula"). If any party to a hearing held to adjudicate an individual rent adjustment petition contends that the maintenance of NOI formula governs the petition and sufficient evidence has been adduced upon which the hearing officer can determine whether the park's relevant current NOI conforms to the maintenance of NOI formula, then the hearing officer shall make a determination, with findings, of whether or not the owner's net operating income yields a (i) fair return to the owner under this formula and (ii) fair rents to the tenants.

   (b) The base period Consumer Price Index shall be the Consumer Price Index level for January 1996 if the base period is calendar year 1995. The base period Consumer Price Index shall be the Consumer Price Index level for January 1995 if the base period is the averaged base period, as defined below. Current period Consumer Price Index shall be the Consumer Price Index as of the date of the petition for an individual rent adjustment.

   (c) The park owner and/or tenant may establish that the maintenance of NOI formula will not provide a fair and reasonable return and that an alternate formula should be used by the hearing officer in evaluating the petition.

   (d) Notwithstanding any other provision of this chapter, the hearing officer may consider any factors cognizable under the law in order to ensure that the rent permitted yields a fair return.

5. *Base Year Defined.*

   (a) Effective as to any petition based on petition year 2000 or thereafter, "base year" or "base period" shall be determined by applying the following calculation: the NOI for calendar year 1995 shall be compared to the average NOI for calendar years 1992, 1993 and 1994. As between the two NOI's, whichever is less shall determine the "base year" or "base period". The period for which the NOI is less shall be the "base year" or "base period". If, based on this calculation, the 1992 through 1994 period is the "base period", then, in this chapter, that period shall be referred to as the "averaged base period", "base period" or "base year". If, based on this calculation, the 1995 calendar year is the "base period" or "base year", then, in this chapter, that period shall be referred to as the "base period" or "base year". The application of this subsection to any petition governed by its provisions shall not result in the retroactive reduction of the permitted rent level established by reason of an individual rent adjustment petition based on petition year 1999 or earlier.

   (b) Notwithstanding any provision of section 20-9 to the contrary, in instances in which the exact information regarding base year income and expenses is not available for the mobilehome park which is the subject of the hearing, the hearing officer shall have the discretion to consider all other information available to estimate the relevant base year net operating income for the mobilehome park.

      (1) Such information may include, but shall not be limited to the following:

         (i) Information from tax returns, bank statements, annual reports or other financial data.

         (ii) Such other information which may be available.

      (2)

In making an estimation under this section, the hearing officer may make reasonable inference and assumptions about the existing data as are necessary to project what the actual amount was.

(3) The hearing officer shall consider the comments from all parties to the hearing regarding the accuracy of the data used and the methodology in arriving at the estimated data.

(4) In determining the burden of proving the reasonableness of the rent increase under section 20-9, the hearing officer may consider the circumstances under which missing data became unavailable as well as the credibility of testimony from all parties.

6. *Health Risks.*

In any determination of what constitutes a reasonable rent increase under the circumstances, the hearing officer shall consider and weigh evidence establishing the nature and extent of any violations by either the owner, the operator, or homeowners of the State Health and Safety codes or other laws applicable to the park. Any rent increase may be disallowed, reduced, or made subject to reasonable conditions, depending on the severity of such violations.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-13 - Disclosures.

a. An owner shall disclose to each tenant-to-be the rent paid by the previous tenant and provide each tenant-to-be with a copy of this chapter.

b. Any person who is a "tenant-to-be" 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 this chapter which includes, but is not limited to, rental of a mobilehome space on a month-to-month basis, and a maximum allowable rent as provided in this chapter. Such a person cannot be denied the option of a tenancy 12 months or less in duration. The owner shall provide each "tenant-to-be" with a written notification of the option which shall make the following recitation:

"UNDER NOVATO CITY CODE CHAPTER XX YOU ARE LEGALLY ENTITLED TO ELECT A MONTH-TO-MONTH 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 12 MONTHS IN DURATION IF THAT LEASE MEETS THE REQUIREMENTS OF CIVIL CODE SECTION 798.17 WHICH HAS BEEN ATTACHED HERETO."

The written notification will include a place for the tenant-to-be to acknowledge receipt of the notification and a copy thereof will be provided to that tenant-to-be. 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. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-14 - Fees.

a. The costs of general administration of this ordinance shall be borne by the city; subject to reimbursement of and/or payment to the city's general fund by imposition and collection of a rent stabilization administration fee chargeable against each mobilehome space subject to rent control in the city. Said fee is hereby established and so imposed. The park owner shall pay said fee to the city. The park owner who pays these fees may pass through 50 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 12 months after the park owner is billed for the program administration fees. Failure to timely pass through 50 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 50 percent of the fees assessed against a mobilehome space shall not be included as an expense under section 20-12(a)(3)(d), charged to the tenants in any way, or 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, and shall be amortized over a period of at least 12 months in length. The notice to increase rents to include any fee pass through authorized by this section shall notify the tenant, in writing, of the fee pass through. Any billing statement or other notice in which the fee pass through is contained shall identify the amount of the fee pass through.

b. The fees imposed by this section shall be paid by the park owner annually. The time and manner of payment, delinquency status, and assessment and collection of penalties for delinquent payment of the fees imposed by this section shall be as provided by separate resolution of the city council. The city manager shall recommend to the city council from time to time the amount of such fee and the city council shall adopt such fee by resolution.

c. Any park owner who believes that he/she may be entitled to a space fee exemption pursuant to section 20-2, shall provide the city manager with a detailed calculation and explanation justifying the claimed exemption(s). The accuracy of said representation and calculation(s) shall be executed under penalty of perjury and all costs to the city arising from any inaccuracy of the representation(s) will be borne by the park owner.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-15 - (Intentionally Left Blank)

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-16 - Solicitations of Any Petitions by the Park Owners are Without Force or Legal Effect Within City's Program.

Except as to the notice and consent described in section 20-9(c) 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 hereunder shall be without force or legal effect within the city's rent stabilization program. Such documents shall not affect the right of any tenant to participate in the rights, remedies, procedures and processes set forth in this chapter. Efforts to utilize such documents to discourage participation in the city's rent stabilization program may be deemed retaliation.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-17 - Tenant Complaints.

Tenants shall have the same rights as an owner to a hearing before a hearing officer in order to object to any rent increase or to enforce any provision of this chapter. Tenants shall file a complaint with the city (and contemporaneously deliver a copy to the owner) and pay any applicable fees. Tenants filing such complaints seeking hearings under this chapter shall be subject to the rules set forth in sections 20-9 and 20-10, and shall pay those costs and fees as set forth in and pursuant to subsection 20-9(b)(3). All such complaints shall describe in detail the basis therefor and shall attach, where available and necessary to a full understanding of the complaint, documents and writings which support the complaint.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-18 - When Recreational Vehicle Space Tenants are Governed by this Chapter.

Any recreational vehicle space that is occupied by a recreational vehicle as defined in Civil Code Section 799.29 for a period in excess of nine months on or after March 26, 1996, shall be regarded to be a "mobilehome space" for purposes of this chapter, and a tenant upon such a space shall be entitled to all the rights, protections and obligations of this chapter. Notwithstanding anything to the contrary stated hereinabove, upon the effective date of this chapter, said space shall be subject to the fees authorized by the city council for mobilehome spaces. The space tenant and the park owner shall apportion the fee in the manner authorized for mobilehome spaces subject to this chapter generally.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-19 - Disclosure Under PRA.

All information and documents submitted to the city and all written decisions made by the hearing officer under this chapter shall be deemed public records and disclosable as such under the California Public Records Act, unless nondisclosure is required under said act.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-20 - Enforcement.

If authorized by the city council and it becomes necessary for the city attorney to seek judicial enforcement of the orders of the hearing officer, or city council, the city shall be entitled to receive reasonable attorney's fees and costs, including expert witness fees, from the defendant or defendants in such action as set by the court if such judicial enforcement action is successful. Nothing in this section shall prevent a private party from commencing an action to enforce the orders of the hearing officer or council.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-21 - Penalties.

a. Any violation of this chapter shall be a misdemeanor punishable as is provided in the Novato Municipal Code.
b. If any party to any proceeding hereunder is found by the hearing officer to not be proceeding in good faith, in addition to whatever other penalties and provisions might otherwise be incurred or assessed, said party shall be assessed a penalty not less than twice, nor more than thrice, the amount at issue as to which good faith was lacking. One half of the penalty shall be paid to the other party; one half shall be paid to the city.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-22 - Fees.

The fees which are required to be paid under section 20-9(a) above shall be established by separate city council resolution.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)

20-23 - Sunset Clause.

This chapter shall cease to be effective on January 1, 2015, provided that prior thereto, the city council adopts an ordinance repealing same, but if the council does not adopt such a repealing ordinance, this chapter shall continue in effect for an additional three years and shall continue in effect for successive

three year periods unless prior to the end of each three year period, the council adopts a repealing ordinance.

(Ord. No. 1371, § 1; Ord. No. 1411, § 1; Ord. No. 1475, § 1)