

ORDINANCE NO. 6450

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 2, ARTICLE XIX OF THE SONOMA COUNTY CODE – MOBILEHOME PARK SPACE RENT STABILIZATION.

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section 1. This ordinance is enacted pursuant to California Constitution, Article XI, section 7. The purpose of this ordinance is to adjust the rate of annual mobilehome space rent increases in the unincorporated area of the County.

The Sonoma County Board of Supervisors has received a recommendation from the Director of the Community Development Commission to approve amendments to Chapter 2, Article XIX of the Sonoma County Code, Mobilehome Park Space Rent Stabilization, to reduce the amount of annual mobilehome space rent increases to four percent, or seventy percent of the previous year's Consumer Price Index adjustment, whichever is lower; authorize a five percent rent increase upon the in-place sale of a mobilehome to a resident-to-be or current resident; replace all instances of the term "tenant" with "resident" and remove gendered language from the ordinance; and require that park owners provide all written notices to residents in both English and Spanish.

The Board of Supervisors concurs with these recommendations and approves the amendments set forth in this ordinance.

Section II. Pursuant to the authority of the Board of Supervisors, Chapter 2, Article XIX of the Sonoma County, Mobilehome Space Rent Stabilization, is amended to read as follows:

"Sec. 2-190. - Findings and purpose.

(a) In 1985, the board of supervisors recognized that a serious problem of rapidly increasing mobilehome park space rents existed in the unincorporated areas of Sonoma County. In 1986, the board retained an experienced consultant, Connerly and Associates, Inc., to conduct a market survey of mobilehome parks and mobilehome park residents in the county.

(b) In January, 1987, Connerly and Associates, Inc., submitted to the board a written report detailing their findings, which were as follows:

- (1) The majority of mobilehomes in the county are located in rented spaces in mobilehome parks.
- (2) In the unincorporated area of the county, there are seventy-five (75) mobilehome parks containing three thousand six hundred fifty-nine (3,659) spaces (in 1986).
- (3) Mobilehomes in mobilehome parks provide an important alternative form of housing for a substantial number of county residents.
- (4) The majority of mobilehome park residents are age sixty-five (65) or older.
- (5) The median income of mobilehome park residents in unincorporated county areas is fourteen thousand dollars (\$14,000.00)/year, which is defined by the U.S. Department of Housing and Urban Development as "lower" income (in 1986).
- (6) In the unincorporated county areas, about forty-three percent (43%) of mobilehome park residents are defined as "very low" income recipients according to the HUD definition of that term (in 1986).
- (7) Seventy percent (70%) of mobilehome park resident households have at least one retired member whose primary source of income is social security payments.
- (8) During the past three (3) years, median mobilehome park space rents have increased by eighteen and one-tenth percent (18.1%).
- (9) A majority of mobilehome park residents in the county pay more than twenty-five percent (25%) of their income for housing.
- (10) A large majority of mobilehome park residents own the mobilehomes which they occupy and many of these residents have substantial loan payments to meet in addition to rent payments.
- (11) The median estimated sales value of a mobilehome in a mobilehome park exceeds thirty thousand dollars (\$30,000.00).
- (12) Many mobilehome park residents were born in Sonoma County or have lived in the county for ten (10) years or more.
- (13) The vacancy rate among mobilehome park spaces is 0.3 percent (in 1986).
- (14) The cost of moving a mobilehome is in the range of two thousand nine hundred dollars (\$2,900.00) to four thousand dollars (\$4,000.00) or more (in 1986).

(c) The board of supervisors reviewed the above conclusions on March 16, 1987 and found them to be true and correct. In reviewing a new rent control survey prepared by Connerly and Associates in early 1992, the board of supervisors continues to find a profound need for continued mobilehome space, and, in special circumstances, recreational vehicle space rent control. The board of supervisors finds the 1992 survey, its data and its conclusions to be true and correct, and takes particular note of the following:

- (1) Mobilehomes and manufactured housing have represented an affordable form of shelter to millions of Californians with modest incomes. This has been especially true for elderly persons living on fixed social security or retirement incomes.
- (2) A vacancy rate of 1.2 percent in 1991 and vacancy rates of typically one percent or less over the past five (5) years have given mobilehome parkowners a virtual oligopoly where market forces do not influence space rental pricing.
- (3) Typical moving costs for mobilehomes from one mobilehome park to another (if vacant spaces could be located) range from approximately five thousand dollars (\$5,000.00) to nine thousand four hundred dollars (\$9,400.00) depending upon the size of the mobilehome.
- (4) The average annual rent increase proposed by park owners between 1987 and 1991 was 13.2 percent per annum. Pursuant to the rent stabilization ordinance, on average less than half the proposed percentage rent increase was authorized during those years.
- (5) Persons over sixty-five (65) comprised over half of the mobilehome park population.
- (6) Of those survey respondents reporting their level of income, forty-three percent (43%) were very low-income (fifty (50) percent or less of the median county income), and twenty-seven percent (27%) were lower-income (fifty percent (50%) to eighty percent (80%) of the median county income).
- (7) Few residents reported substantial assets which they could draw upon to meet future housing expenses. Fewer than half of the respondents had thirty thousand dollars (\$30,000.00) or more in assets (excluding the value of their mobilehomes).
- (8) Under the county's voluntary mediation program between 1985 and 1987, park owners proposed annual rent increases averaging 9.6 percent, nearly four times the rate of general price increases according to the CPI for Sonoma County. After mandatory arbitration was established, and the current rent control ordinance adopted, requested rent increases were generally twice or more of the approved rent increases. Approved rent increases, on the average, began to mirror the CPI.

(9) The mobilehome space rent stabilization program has succeeded in its broad objectives and should be expanded to address additional problem areas.

(10) The board of supervisors finds that it would be desirable to include long-term recreational vehicle space residents in mobilehome parks under the rent stabilization program. Such residents in mobilehome parks appear to be similarly situated to mobilehome residents except for the vehicular character of their dwellings. Although mobile, recreational vehicles in mobilehome parks are "trapped" by the low vacancy rate within mobilehome parks. Transient recreational vehicle parks are not amenable to the type of permanent residency needs of permanent recreational vehicle space residents.

(11) The board of supervisors finds that it would be desirable to provide prospective mobilehome park residents with an option to choose between a long-term lease and a periodic tenancy of less than one year in duration. The terms offered under typical long-term leases by some parkowners are excessively long, oppressive, one-sided adhesion agreements. Such an option furthers a legitimate governmental objective and is not in conflict with or preempted by state law.

(12) The board of supervisors finds that, on average, several dozen mobilehomes are sold or offered for sale each year in Sonoma County. The sale of these mobilehomes on site subjects mobilehome coach owners to unreasonably suppressed resale rates due to oppressively high rental adjustments upon rent decontrol. The board of supervisors finds that it would be desirable to provide vacancy control in its rent stabilization program as hereunder provided.

(13) The need for effective and fair mobilehome park space rent stabilization persists in Sonoma County in 2023, as it did in 1992 and 1986.

(d) The purpose of this article is to stabilize the rate of mobilehome park space rental in order to:

- (1) Prevent exploitation of the shortage of vacant mobilehome park spaces;
- (2) Prevent excessive and unreasonable mobilehome park space rent increases;
- (3) Rectify the disparity of bargaining power which exists between mobilehome park residents and mobilehome park owners;
- (4) Provide mobilehome park owners with a guaranteed rate of annual space rent increase which accurately reflects the rate of inflation and increases in their expenses; and
- (5) Provide a process for ensuring mobilehome park owners a fair, just and reasonable rate of return on their parks in cases where the guaranteed annual space rent increase provided by this article proves insufficient.

(e) Based upon additional insights, it also seeks to:

- (1) Provide continued rent control through the transfer of a mobilehome-on-site (i.e. on the mobilehome pad) to a new mobilehome owner to prevent exploitative rental increases that took place when vacancy decontrol was tried in earlier versions of this article;
- (2) Provide space rent stabilization protection to residents of recreational vehicles occupying spaces in mobilehome parks for more than nine (9) months in recognition of the special status conferred by the Recreational Vehicle Park Occupancy Laws to such long-term residencies under Civil Code Section 799.45(b) and their similarity to mobilehome tenancies.
- (3) Provide options in the duration of tenancies to prospective mobilehome residents to prevent oppressive adhesion contracts from being imposed upon new park residents.

Sec. 2-191. - Definitions.

(a) "Affected residents" means those residents whose space is not covered by a valid lease meeting the requirements as outlined in Section 798.17(b) of the California Civil Code or otherwise legally exempt from local rent control regulation. Such residents are to be notified that a space rent increase is to become effective. For purposes of providing notice of the increase, providing copies of the rent stabilization ordinance, and support of a rent arbitration petition, each space subject to a rental increase shall be deemed to have only one "affected resident" for administrative convenience to the parkowners. The reference to "all affected residents" will refer to one representative residents from each space subject to the proposed rental increase.

(b) "Arbitrator" means a person (1) who is neither a resident as that term is defined in this article nor who has an interest in a mobilehome park of a nature that would require disqualification under the provisions of the Political Reform Act if the person were an elected state official and (2) a person whom the clerk of the Sonoma County Mobilehome Space Rent Stabilization Program (see subsection (e) below) determines meets one the following criteria:

- (i) Completion of a Juris Doctor or equivalent degree from a school of law and completion of a formal course of training in arbitration which, in the sole judgment of the clerk of the Sonoma County Mobilehome Space Rent Stabilization Program, provides that person with the knowledge and skills to conduct a space rent dispute arbitration in a professional and successful manner; or
- (ii) Completion of at least three (3) arbitration proceedings for a Superior Court or other public entity that involved issues the clerk of the Sonoma County Mobilehome Space Rent Stabilization Program finds similar to those raised in space rent dispute arbitrations;

- (iii) Served as a California Superior or Municipal Court pro tempore judge.
- (c) "Base rent" means the authorized rent, calculated pursuant to the provisions of Section 2-192, plus any rent increase allowed under this chapter or any rent adjustment attributable to vacancy decontrol as provided in Section 2-211.
- (d) Reserved.
- (e) "Clerk" means the clerk of the Sonoma County Mobilehome Space Rent Stabilization Program, who shall be the Director of the Sonoma County community development commission or their designee.
- (f) "Capital improvements" means those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses, and which may be amortized over the useful remaining life of the improvement to the property. The term "capital improvements" does not include those costs associated with the normal maintenance and upkeep of facilities and premises which were reasonably intended to be part of consideration provided by the mobilehome park as rent. Substantial rehabilitation of the park that is necessitated as a result of the parkowner's neglect, permissive waste, deferred maintenance or acts of God shall not be regarded to be capital improvements to the extent that they restore facilities and premises to the conditions reasonably bargained for by the mobilehome park residents. Proposed capital improvements claims must set forth an amortization table spreading the cost of the improvement over its proven useful life. Such costs must be separately itemized, if approved, on the monthly rent invoice. Monthly rent shall be decreased for such amortized capital improvement expenses at the end of the amortization period. Failure to do so shall be regarded to be an unauthorized increase in rent. Capital improvements must be for the primary benefit, use and enjoyment of the residents of the entire park, and costs must be allocated over all beneficiaries of the improvement.
- (g) "Consumer price index" or "CPI" means Consumer Price Index for all urban consumers San Francisco-Oakland Area, published by the U.S. Department of Labor, Bureau of Labor Statistics.
- (h) "Housing service" means a service provided by the owner related to the use or occupancy of a mobilehome space, which is neither a capital improvement nor substantial rehabilitation as those terms are defined herein, including but not limited to, repairs, replacement, maintenance, painting, lighting, heat, water, laundry facilities, refuse removal, recreational facilities, parking, security service and employee services.
- (i) "Mobilehome" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the California Vehicle Code. "Mobilehome" includes a manufactured home, as defined in Section 18007 of the California Health and Safety Code, and a mobile home, as defined in Section 18008 of the California Health and Safety Code, but does not include a recreational vehicle, as defined in Section 799.24 of the California Civil Code and Section 18010 of the California Health and Safety Code, or a commercial coach, as

defined in section 18001.8 of the California Health and Safety Code except when such a vehicle has continuously remained within a mobilehome park for a period in excess of nine (9) months.

(j) "Mobilehome park" means any area of land within the unincorporated areas of the County of Sonoma where two (2) or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes used for human habitation.

(k) "Mobilehome park owner" means any owner, lessor, or sublessor of a mobilehome park in the unincorporated areas of the County of Sonoma who receives or is entitled to receive rent for the use or occupancy of any mobilehome space thereof, and the representative, agent or successor of such owner, lessor or sublessor, and who reports to the Internal Revenue Service any income received or loss of income resulting from such ownership or claims any expenses, credits or deductions because of such ownership.

(l) "Mobilehome space" means any site within a mobilehome park located in the unincorporated areas of the county of Sonoma intended, designed or used for the location or accommodation of a mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith except (1) sites rented together and concurrently with a mobilehome provided by the Mobilehome park owner and (2) "new construction" as defined by Civil Code Section 798.45. The term "mobilehome space" shall also include, for purposes of this article and accompanying fee ordinance, rentable spaces within mobilehome parks which have been occupied by a "recreational vehicle" as defined by Civil Code Section 799.24 for a period of nine (9) months or more.

(m) "Mobilehome space resident" means a resident, tenant, subtenant, lessee, or sublessee, or any other person entitled to the use or occupancy of any mobilehome space not otherwise a party to a rental agreement exempt from regulation under this article pursuant to Civil Code Section 798.17.

(n) "Net operating income" means net operating income as defined in Section 2-200(a) of this article.

(o) "Owner" means a mobilehome park owner.

(p) "Party," as used in this article, refers to any affected mobilehome resident and/or owner involved in proceedings under this article.

(q) "Percent change in consumer price index" means the annual percent change in the Consumer Price Index ("CPI"), calculated to the nearest tenth, published for the month of July, issued in the month of August. In the event that an index is not published for the month of July, the closest preceding month for which an index is published shall be used. It is the intent of this article to fix the CPI in the beginning of the fiscal year, for the rest of that fiscal year barring an unforeseen failure to publish a CPI for the month of July.

(r) "Rent" means mobilehome space rent.

(s) "Rent increase" means any additional space rent demanded of or paid by a resident for a mobilehome space including any reduction in housing services without a corresponding reduction in the amount demanded or paid for rent. Such increase shall be (1) uniform in percentage rate relative to current base rent or (2) uniform in dollar amount relative to base rent. Failure to reduce rent at the end of an amortization period for a capital improvement or for separately billed utilities will also be regarded to constitute an unauthorized rent increase for the purposes of this article.

(t) "Rent stabilization administration fee" means the fee established from time to time by resolution of the board of supervisors in accordance with the provisions of Section 2-204 herein.

(u) "Space rent" means the total consideration, including any bonus, benefit or gratuity, demanded or received by a mobilehome park owner for or in connection with the use or occupancy of a mobilehome space or any housing services provided with the mobilehome space. Space rent shall not include any amount paid for the use or occupancy of a mobilehome dwelling unit, unless the amount paid for the use or occupancy of a mobilehome is or includes consideration paid to a mobilehome park owner under a rental agreement or other document evidencing tenancy of the mobilehome.

(v) "Substantial rehabilitation" means that work done by an owner to a mobilehome space or to the common areas of the mobilehome park, exclusive of a capital improvement as that term is defined herein, the value of which exceeds two hundred dollars (\$200.00) and which is performed whether to secure compliance with any state or local law or to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent such work is not reimbursed by insurance.

(w) "Resident" means mobilehome space resident.

(x) " Resident-to-be" means a person who is not currently a resident in a mobilehome park but is a prospective mobilehome space resident who desires the use of a mobilehome space as defined in this chapter and has presented themselves to the parkowner as such.

Sec. 2-192. - Base rent—Initial calculation.

Except as hereinafter provided, an owner shall not demand, accept or retain rent for a mobilehome space exceeding the rent in effect for such space on the effective date of the ordinance codified in this chapter. If a previously rented mobilehome space was not rented on the effective date of the ordinance codified in this chapter, the owner shall not, except as hereinafter provided, demand, accept or retain rent for such space exceeding the rent in effect during the last month the space was rented prior to the effective date of the ordinance codified in this chapter.

Sec. 2-193. - Residential rent increase limitations.

(a) Except as provided in subsections (b) and (c) of this section, from and after August 22, 1992 or the effective date of the ordinance codified in this chapter, which ever should be earlier, the space rent payable for use or occupancy of any mobilehome space shall not be increased, in any twelve (12) month period, more than once. Such increase shall not exceed:

- (i) Seventy percent (70%) of the percent change in the Consumer Price Index; or
- (ii) Four (4) percent, whichever may be less.

(b) If a park owner wishes to apportion to each space on a pro rata basis the allowable percentage of any current rent stabilization administration fee, in addition to any increase of space rent in accordance with subsection (a) of this section, the following provision shall apply:

(i) The owner shall provide to all affected residents documentation supporting the allowable amount to be collected in order to recover a portion of rent stabilization administration fees. At a minimum such documentation shall include: billing notices or other equivalent documents from the county imposing the rent stabilization administration fee; a copy of Section 2-204 of this article which authorizes the apportionment of rent stabilization administration fees; the calculations used by the owner to apportion the cost of the allowable percentage among the affected residents. In addition, the owner shall provide all affected residents with the address and telephone number of the clerk and the fact that the affected resident is encouraged to contact the clerk for an explanation of the provisions of this article. All notices and information provided to residents pursuant to this section shall be provided in English and Spanish by the mobilehome park owner.

(ii) A rent increase approved pursuant to the provisions of this subsection and in accordance with the procedure set forth in Section 2-195 of this article shall not be considered part of the rent base upon which future rent increases can be made.

(c) In the event an owner wishes to increase the rent payable for any mobilehome space within a twelve (12) month period more than the amount permitted in subsection (a) of this section for any reason other than that stated in subsection (b) of this section, the procedures set forth in Sections 2-194 and 2-195 shall be followed. In the event an owner wishes to increase the rent payable for any mobilehome space within a twelve (12) month period more than three hundred percent (300%) of the percent change in the Consumer Price Index, a mandatory meet-and-confer meeting and arbitration shall automatically be required to show good cause why such an increase is necessary. The arbitrator may reduce this proposed increase to a figure determined upon the evidence submitted by the parkowner or his their-representative to be a fair return upon investment.

(d) A notice of rent increase given by an owner pursuant to subsections (a), (b) or (c) of this section shall be given in writing at least ninety (90) days before any rent increase is to take effect. Any notice of rent increase provided to residents pursuant to this section shall be provided in English and Spanish by the mobilehome park owner.

(e) A notice of rent increase incorporating within it a proposed capital improvement which is not otherwise authorized as a pass-through pursuant to Civil Code Section 798.49 must be claimed within twelve months of the completion of the project, construction or final billing.

Sec. 2-194. - Information to be supplied to residents and residents-to-be.

(a) Within thirty (30) days after the operative date of the ordinance codified in this section and upon rerenting of each mobilehome space thereafter, the owner shall supply each affected resident or resident-to-be with a current copy of this article.

(b) Whenever the owner serves a notice of rent increase, except a notice of rent increase provided pursuant to Section 2-193(a) of this article, the owner shall at the same time and in the same manner serve the affected resident or resident-to-be with a notice that sets forth all of the following information:

(1) The amount of the rent increase both in dollars and as a percentage of existing rent and documentation supporting the level of increase desired, including at a minimum: a summary of the unavoidable increases in maintenance and operating expenses; a statement of the cost, nature, amortization, and allocation among mobilehome spaces of any substantial rehabilitation or capital improvement; a summary of the increased cost of the owner's debt service and the date and nature of the sale or refinancing transaction; a summary of the owner's net operating income of the preceding twenty-four (24) months and other relevant information that supports the level of rent increase desired;

(2) The identity of all other affected residents and the spaces which they rent and a roster of residents in the park occupying recreational vehicles in place for more than nine (9) months;

(3) The address and telephone number of the clerk and: (a) the fact that the resident is encouraged to contact the clerk for an explanation of the provisions of this article; (b) documentation supporting the level of increase is on file with the clerk;

(4) A copy of the official petition form as prepared and provided by the clerk which initiates the process established by this article;

(5) In addition, parkowner shall place on file with the clerk two (2) copies of: documentation supporting the level of increase desired, including at a minimum: a summary of the unavoidable increases in maintenance and operating expenses;

a statement of the cost, nature, amortization, and allocation among mobilehome spaces of any substantial rehabilitation or capital improvement; a summary of the increased cost of the owner's debt service and the date and nature of the sale or refinancing transaction; a summary of the owner's net operating income of the preceding twenty-four (24) months and other relevant information that supports the level of rent increase desired. These documents will be available for inspection at the offices of the Sonoma County community development commission;

(6) If applicable, notification that the proposed rent increase exceeds three hundred percent (300%) of the change in the Consumer Price Index, and that arbitration is deemed automatically required by the provisions of Section 2-193(c) without any need to file an arbitration petition. Such notices shall bear the following language: "ARBITRATION OF THE PROPOSED INCREASE IS AUTOMATICALLY REQUIRED IN THIS MATTER BY OPERATION OF LAW." Erroneous use of this notice shall be regarded as an irrevocable stipulation to the jurisdiction of the arbitrator.

(c) The park owner shall also serve any resident-to-be as defined in Section 2-191(x) with a separate "rental option" notice which sets forth the recitations in capital letters set forth in Section 2-196, rights of a "resident-to-be".

(d) An owner failing to provide an affected resident or resident-to-be and the clerk with the information, documents, and notices required by this section shall not be entitled to collect any rent increase otherwise authorized by this article from that resident nor to any rent increase that might otherwise be awarded by an arbitrator. Such failure by the owner shall be a defense in any action brought by the owner to recover possession of a mobilehome space or to collect any rent increase from the resident.

(e) Any information, documents, and notices required by this section shall be provided to residents in English and Spanish by the mobilehome park owner. The clerk shall make available to all mobilehome park owners and residents translated versions in English and Spanish of the official petition form and the provisions of this article.

Sec. 2-195. - The rent dispute resolution process.

(a) Mandatory Meet-and-Confer Meeting. Except when a parkowner elects rent increases permitted under Section 2-193(a), the residents and parkowners must, within seven (7) working days of the notice of rent increase, meet and confer with each other's representatives at the offices of the Sonoma County community development commission. Written notice of the time, place and date of the meeting should be arranged within forty-eight (48) working hours of the notice of rent increase. If the parkowners or residents fail to agree on the time, place and date of the hearing within that forty-eight (48) hour span and provide due notice to the clerk, the meeting shall be set at the convenience of the clerk. At the meeting, representatives of the parties should exchange documentary evidence that the parties in good faith then know will be used to support their respective positions in an arbitration and discuss the issues in dispute. In

the case of a parkowner, all financial data upon which any proposed increase is claimed shall be supplied to resident representatives at the time of the meet-and-confer meeting.

(1) Sanctions. A parkowner's failure to provide the minimum information required by this article set forth under subsection (a)(2) of this section or attend the hearing shall require the clerk to suspend further proceedings under this article. The parkowner's application for a rent increase under such circumstances shall be deemed defective, without force or effect, and deemed withdrawn. Renoticing of the increase shall be required to reinitiate an application for rent increase.

(2) Minimum Meet-and-Confer Information. The parkowner has a duty to provide adequate information to the residents regarding the park's net operating income sufficient for a reasonably sophisticated inquiry into the financial status of the parkowner's business. This will consist of true and accurate book entries or other competent evidence of gross income including, but not limited to, gross rents, interest upon security and cleaning deposits, income from ancillary services (submetering of utilities, laundry facilities, etc.) and true and accurate book entries or other competent evidence of operating expenses including, but not limited to, license fees, property taxes, utilities, insurance, management expenses, landlord performed labor, building and grounds maintenance, legal fees, auto and truck expenses, employee benefits, permits, refuse removal, ground lease payments, and similar additional expenses.

(b) Petition. If discussions between owner and residents do not resolve the dispute between them, the residents or their representative shall file with the clerk a petition for space rent review and a copy of the notice of rent increase, if available, within twenty-one (21) days after the date upon which the rent increase notice is received. The clerk shall not accept a petition for filing unless it has been signed by at least fifty-one percent (51%) of all affected residents. Upon the filing of a petition, the rent increase is not effective and may not be collected until and to the extent it is awarded by an arbitrator or until the petition is abandoned. As used herein, the term "abandoned" refers to lack of prosecution of the arbitration by the mobilehome residents' representative(s). An automatic arbitration based upon a three hundred percent (300%) CPI increase will not require active resident prosecution, although such prosecution will not be prohibited. The term "prosecution" refers to actively pursuing necessary steps toward preparing the residents' case for the arbitration hearing.

(c) Contents of Petition.

(1) The petition for space rent review shall set forth the total number of affected rented spaces in the mobilehome park, shall identify the space occupied by each resident and shall state the date upon which the notice of the rent increase was received by the resident(s).

(2) After obtaining the required signatures, the resident(s) shall deliver the petition or mail it by registered or certified mail to the clerk at the following

address: Community Development Commission, 1440 Guerneville Road, Santa Rosa., California 95403 (or successor address or agency). No petition shall be accepted unless it is accompanied by the requisite number of signatures and is received in the office of the clerk within the twenty-one (21) day period set forth in paragraph (b) above. The clerk shall provide a copy of the completed petition form to both parties and the arbitrator forthwith or within five (5) working days.

(d) Information Questionnaire. After the clerk has accepted a petition for space rent review, the clerk shall remit to the owner and residents an information questionnaire in such form as the clerk may prescribe. The completed information questionnaire must be returned to the clerk at least five (5) working days prior to the date scheduled for hearing of the petition by the arbitrator. Copies of the completed information questionnaire shall be provided to the arbitrator and the opposing party.

(e) Assignment of Arbitrator and Hearing Date. Upon receipt of the petition, or in the event of an automatic arbitration, or upon an affected resident's claim of a vacancy control violation where an unauthorized rent increase has been sought, the clerk shall, within five (5) working days, assign an arbitrator. The clerk shall set a date for the arbitration hearing no sooner than five (5) nor later than ten (10) working days after the arbitrator is assigned. The owner and affected resident(s) shall be notified immediately in writing by the clerk of the date, time and place of the hearing and this notice shall be served either in person or by ordinary mail.

(f) Arbitration Hearing.

(1) The owner and resident(s) may appear at the hearing and offer oral and documentary evidence. Both the owner and resident(s) may designate a representative or representatives to appear for them at the hearing. The arbitrator may grant or order one (1) continuance not to exceed five (5) days to each party from the date of the hearing. The burden of proving that the amount of rent increase is reasonable shall be on the owner by a preponderance of the evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The rules of evidence and manner of producing evidence shall be those rules set forth in Section 11513 of the California Government Code for the conduct of hearings under the Administrative Procedure Act. These rules may be relaxed at the discretion of the arbitrator in the interests of justice.

(2) The arbitrator shall, within fourteen (14) days of the hearing, submit by mail a written statement of decision and the reasons for the decision to the clerk who shall forthwith distribute by mail copies of the decision to the owner and resident(s). The arbitrator shall determine the amount of rent increase, if any, which is reasonable based upon all the provisions of this article.

(3) The arbitrator shall not allow more than one (1) rent increase per park per twelve (12) month period.

(4) The decision of the arbitrator, rendered in accordance with this section, shall be final and binding upon the owner and all affected residents. The decision of the arbitrator will be subject to the provision of Code of Civil Procedure Section 1094.5.

(5) Any party may have electronic recording equipment or a court reporter present to record and prepare a transcript of the hearing before the arbitrator, however, such equipment or reporter shall be provided at that party's own expense.

(6) The arbitrator is authorized to modify the basic time periods set forth herein at their discretion to promote the purposes of this program provided a final decision is rendered within ninety (90) days of the notice of rent increase.

(7) Any procedural or jurisdictional dispute regarding the processes set forth herein may be decided by the arbitrator.

(g) Resident's Right to Contact Clerk. The resident may contact the clerk of the Sonoma County Mobilehome Space Rent Stabilization Program for an explanation of the provisions of this article.

Sec. 2-196. - Rights of a "resident-to-be".

Any person who is a "resident-to-be" as defined in Section 2-191(x) must be offered the option of renting a mobilehome space in a manner which will permit the "resident-to-be" to receive the benefits of the Mobilehome Space Rent Stabilization Program which includes, but is not limited to, rental of a mobilehome space on a month-to-month basis, and a new base rent as set forth in Section 2-211(b). Such a person cannot be denied the option of a tenancy twelve (12) months or less in duration. The parkowner shall provide each "resident-to-be" with a written notification of the option which shall make the following recitation: "UNDER SONOMA COUNTY CODE SECTION 2-196 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 TWELVE MONTHS IN DURATION IF THAT LEASE MEETS THE REQUIREMENTS OF CIVIL CODE SECTION 798.17 WHICH HAS BEEN ATTACHED HERETO." Any effort to circumvent the requirements of this section shall be unlawful, as well as an unfair business practice subject to enforcement under Business and Professions Code Section 17200 et seq. The rights set forth above have no application to mobilehome spaces subject to a more-than-twelve-month lease. By definition, residents-to-be are prospective "mobilehome space residents," and such residents are defined by Section 2-191(m) as excluding "a party to a rental agreement exempt from regulation under this article pursuant to Civil Code Section 798.17." Any notification required by this section shall be provided to residents-to-be in English and Spanish by the mobilehome park owner.

Sec. 2-197. - Subpoena power.

Subpoenas, including subpoenas duces tecum, requiring a person to attend a particular time and place to testify as a witness, may be issued in connection with any dispute pending before an arbitrator, and shall be issued at the request of the clerk, an arbitrator, the resident(s) or the owner. Subpoenas shall be issued and attested by the clerk of the board of supervisors. A subpoena duces tecum shall be issued only upon the filing with the clerk of the board of supervisors of an affidavit showing good cause for the production of the matters of things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the proceedings, and stating that the witness has the desired matters or things in their possession or under their control, and a copy of such affidavit shall be served with the subpoena. Any subpoena or subpoena duces tecum issued pursuant to the provisions of this article may be served in person or by certified mail, return receipt requested, and must be served at least five (5) days before the hearing for which the attendance is sought. Service by certified mail shall be complete on the date of receipt. Any subpoena or subpoena duces tecum issued pursuant to the provisions of this article shall be deemed issued by and in the name of the board of supervisors of Sonoma County.

Sec. 2-198. - Consolidation of petitions.

As soon as possible after a petition has been filed with respect to mobilehome spaces which are within a single park, the clerk shall, to the extent possible, consistent with the time limitations provided herein, consolidate petitions involving ten (10) or fewer affected residents.

Sec. 2-199. - Standards of review.

In evaluating the space increase proposed or imposed by the owner, the following factors may be considered:

(a) Beneficial increases in maintenance and operating expenses, including but not limited to the reasonable value of the owner's labor and any increased costs for services provided by a public agency, public utility, or quasi-public agency or utility, provided, however, that any increased costs in rent stabilization administration fees shall be subject to the provisions of Section 2-193(b) and 2-204;

(b) The substantial rehabilitation or the addition of capital improvements, including the reasonable value of the owner's labor, as long as such rehabilitation or improvement has been completed and is:

- (1) Distinguished from ordinary repair or maintenance,
- (2) For the primary benefit, use and enjoyment of the residents,

- (3) Permanently fixed in place or relatively immobile and dedicated to the use of the property,
 - (4) Not coin-operated nor one for which a "use fee" or other charge is imposed on residents for its use, and
 - (5) Cost-factored and amortized over the good faith estimate of the remaining useful life of the rehabilitation or improvement,
 - (6) Does not constitute maintenance of the infrastructure of gas or electrical lines within the mobilehome park for which the public utility has permitted the parkowner a special premium with the intent that it be used to replace or otherwise maintain the system within the mobilehome park;
- (c) Increased costs of debt service due to a sale or involuntary refinancing of the park within twelve (12) months of the increase provided that:
- (1) The sale or refinancing is found to have been an arm's length transaction,
 - (2) The proceeds of such refinancing are found to have been used for park improvements or similar park-related uses,
 - (3) The aggregate amount from which total debt service costs arise constitutes no more than seventy percent (70%) of the value of the property as established by a lender's appraisal;
- (d) The rental history of the space or the park of which it is a part, including:
- (1) The presence, or absence of past increases,
 - (2) The frequency of past rent increases, and
 - (3) The occupancy rate of the park in comparison to comparable parks in the same general area;
- (e) The physical condition of the mobilehome space or park of which it is a part, including the quantity and quality of maintenance and repairs performed during the preceding twelve (12) months;
- (f) Any increase or reduction of housing services since the last rent increase;
- (g) Existing space rents for comparable spaces in comparable parks;
- (h) A decrease in "net operating income" as defined in Section 2-200(a);
- (i) A fair return on the property prorated among the spaces of the park;

- (j) Other financial information which the owner is willing to provide;
- (k) Any costs incurred as a result of a natural disaster and only to the extent such costs have not been reimbursed to the owner by insurance or other sources.

Sec. 2-200. - Net operating income.

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

- (a) "Net operating income" of a mobilehome park means the gross income of the park less the operating expenses of the park.
- (b) "Gross income" means the sum of the following:
 - (1) Gross space rents, computed as gross space rental income at one hundred percent (100%) occupancy; plus
 - (2) Other income generated as a result of the operation of the park, including, but not limited to, fees for services actually rendered; plus
 - (3) Revenue received by the park owner from the sale of gas and electricity to park residents where such utilities are billed individually to the park residents by the park owner. This revenue shall equal the total cost of the utilities to the residents minus the amount paid by the park owner for such utilities to the utility provider; minus
 - (4) Uncollected space rents due to vacancy and bad debts to the extent that the same are beyond the park owner's control. Uncollected space rents in excess of three percent (3%) of gross space rent shall be presumed to be unreasonable unless established otherwise and shall not be included in computing gross income. Where uncollected space rents must be estimated, the average of the preceding three (3) years experience shall be used.
- (c) "Operating expenses" means:
 - (1) Real property taxes and assessments;
 - (2) Utility costs to the extent that they are included in space rent;
 - (3) Management expenses including the compensation of administrative personnel, including the value of any mobilehome space offered as part of compensation for such services, reasonable and necessary advertising to ensure occupancy only, legal and accounting services as permitted herein, and other managerial expenses. Management expenses are presumed to be not more than five percent (5%) of gross income, unless established otherwise;

- (4) Normal repair and maintenance expenses for the grounds and common facilities including but not limited to landscaping, cleaning and repair of equipment and facilities;
- (5) Owner-performed labor in operating or maintaining the park. In addition to the management expenses listed above, where the owner performs managerial or maintenance services which are uncompensated, the owner may include the reasonable value of such services. Owner-performed labor shall be limited to five percent (5%) of gross income unless the arbitrator finds that such a limitation would be substantially unfair in a given case. A park owner must devote substantially all of their time, that is, at least forty (40) hours per week, to performing such managerial or maintenance services in order to warrant the full five percent (5%) credit of their labor as an operating expense. No credit for such services shall be authorized unless a park owner documents the hours utilized in performing such services and the nature of the services provided;
- (6) Operating supplies such as janitorial supplies, gardening supplies, stationery, and so forth;
- (7) Insurance premiums prorated over the life of the policy;
- (8) Other taxes, fees and permits, except as provided in Section 2-204.
- (9) Capital Improvement Costs. Expenditures for capital improvements to upgrade existing facilities shall be an allowable operating expense only if the parkowner has:
- (i) Established upon written verification, or by other competent evidence to the satisfaction of the arbitrator, that the cost of the capital improvements provided to the park residents, for their general use, are factually correct as claimed,
 - (ii) Such capital improvements are wholly compensable to the parkowner upon appropriate amortization of their cost, together with a reasonable return upon the capital improvement investment made by the parkowner,
 - (iii) Any capital improvement expenses shall be amortized over the reasonable life of the improvement or such other period as may be deemed reasonable by the arbitrator under the circumstances. In the event that the capital improvement expenditure is necessitated as a result of an accident, disaster or other event for which the park owner received insurance benefits, only those capital improvement costs otherwise allowable exceeding the insurance benefits may be calculated as operating expenses.
- (10) Involuntary Refinancing of Mortgage or Debt Principal. A park owner may, under the provisions of this subsection, be able to include certain debt service

costs as an operating expense. Such costs are limited to increases in interest payments from those interest payments made during 1986 or the first year such payments were made if the owner acquired the park after 1986 which result from one or the following situations or the equivalent thereof:

(i) Refinancing of the outstanding principal owed for the acquisition of a park where such refinancing is mandated by the terms of a financing transaction entered into prior to January 1, 1987, for instance, termination of a loan with a balloon payment; or

(ii) Increased interest costs incurred as a result of a variable interest rate loan used to finance the acquisition of the park and entered into prior to January 1, 1987.

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

(d) Operating expenses shall not include the following:

(1) Debt service expenses, except as provided in subsection (c)(11);

(2) Depreciation;

(3) Any expense for which the park owner is reimbursed;

(4) Attorneys' fees and costs, except printing costs and documentation as required by Section 2-194 only, incurred in proceedings before an arbitrator or in connection with legal proceedings challenging the decision of an arbitrator or the validity or applicability of this article.

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

Sec. 2-201. - Obligations of the parties.

(a) If a final decision by an arbitrator finds that a proposed increase or any portion thereof that was previously inoperative is justified, the resident shall pay the amount found justified to the owner within thirty (30) days after the decision is made.

(b) If a final decision by an arbitrator finds that an increased, or any, portion thereof is not justified, the owner shall refund any amount found to be unjustified, but that had been paid, to the resident within thirty (30) days after the decision is made. If such

refund is not made within thirty (30) days, the resident may withhold the amount from the next space rent(s) due until the full amount of the refund has been made.

Notwithstanding the foregoing, in the event that the tenancy of resident is terminated for any reason prior to full credit against rent, the balance of the credit due the resident shall be paid by the owner within thirty (30) days from the date of the terminations of the tenancy.

(c) Any sum of money that under the provisions of this section is the obligation of the owner or resident, as the case may be, shall constitute a debt and, subject to the foregoing provisions of this section, may be collected in any manner provided by law for the collection of debts.

Sec. 2-202. - Resident's right of refusal.

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

Sec. 2-203. - Retaliatory acts—Resident's right to organize.

No owner may retaliate against a resident or resident-to-be for the resident's or resident-to-be's assertion or exercise of rights under this article in any manner, including but not limited to, threatening to bring or bringing an action to recover possession of a mobilehome space; engaging in any form of harassment that causes a resident to quit the premises; dissuades a resident-to-be from freely exercising their legal options to choose a month-to-month rental; decreasing housing services; increasing the space rent; or imposing or increasing a security deposit or any other charge payable by a resident. The residents have a right to organize a resident's association without hindrance from the parkowner to exercise the rights provided under the provisions of the Sonoma County Code. This association may be referred to as "the parkresident's association at (Park Name)."

Sec. 2-203.5. - Solicitation of any petitions by the parkowners are without force or legal effect within county's program.

The distribution of a petition or other documents seeking to have mobilehome residents waive rights, abandon a filed petition or in any way affect the entitlement of the residents to participate in the rent stabilization process authorized under the Sonoma County Code shall be without force or legal effect within the county's rent stabilization program. Such documents shall not affect the right of any resident to participate in the rights, remedies, procedures and processes set forth in this code. Efforts to utilize such documents to discourage participation in the county's rent stabilization program may be deemed retaliatory.

Sec. 2-204. - Fees.

The costs of administration of this article shall be borne by the County of Sonoma; subject to reimbursement of the County general fund by imposition of a rent stabilization administration fee chargeable against each mobilehome space in the eCounty. The park owner who pays these fees may pass through fifty percent (50%) of the fees assessed against a mobilehome space to the resident only as set forth herein. This fee pass through must take place no later than twelve (12) months after the park owner is billed for the program administration fees. Failure to timely pass through fifty percent (50%) of the fees assessed against a mobilehome space will result in the loss of the park owner's right to do so. The remaining fifty percent (50%) of the fees assessed against a mobilehome space shall not be passed on in any way to residents. Fees passed through to residents as herein authorized shall not be considered a part of the rent base upon which future rent increases can be made.

The fees imposed by this section shall be paid annually. 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 ordinance of the board of supervisors. The clerk shall recommend to the County of Sonoma from time to time the amount of such fee and the board of supervisors shall adopt such fee by ordinance or resolution.

Sec. 2-204.5. - Exemption from fees.

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

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

Sec. 2-205. - Nonwaiverability.

Any provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of this article is waived or modified, is against public policy and void, except with respect to any rental agreement complying with all of the terms and conditions set forth in Section 798.17 of the California Civil Code (as amended 1986).

Sec. 2-206. - Penalties and remedies.

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

Any owner who demands, accepts, receives or retains any money as rent from a resident to which the owner is not entitled under the provisions of this article shall be liable to the resident for any actual damages, attorney's fees and costs incurred by the resident as a consequence thereof plus a penalty in the sum of three (3) times the amount of money the owner accepted, received or retained in violation of the provisions of this article or five hundred dollars (\$500.00), whichever is greater.

Sec. 2-207. - Rights of affected resident reserved.

This article shall not be construed to limit or curtail any other action or proceeding which may be pursued by an affected resident against an owner before any court or other body having jurisdiction thereof.

Sec. 2-208. - Repealed by Ordinance No. 4919, February, 1996.

Sec. 2-209. - Review by the board of supervisors.

The board of supervisors shall review the effectiveness of this article in addressing the problems giving rise to its enactment at least one (1) year from its enactment. Notice of the time and place of the board of supervisors' review shall be published at least ten (10) days prior to said date in a newspaper of general circulation in the county of Sonoma.

Sec. 2-210. - Severability.

This article shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this article or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable and are intended to have independent validity.

Sec. 2-211. - Vacancy control—Establishment of new base rent.

(a) A mobilehome parkowner shall be permitted to charge a new base rent for a mobilehome space whenever a lawful space vacancy occurs. For purposes of this chapter, a lawful space vacancy is defined as follows:

- (1) A vacancy occurring because of the termination of the tenancy of the affected mobilehome resident in accordance with the mobilehome residency law, California Civil Code Sections 798.55 through 798.62, 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 resident. 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 shall not constitute a voluntary removal of the mobilehome.
- (b) When a new base rent is established following the vacancy of a mobilehome space pursuant to this subsection, the park owner shall give written notice to the new affected mobilehome resident of the twelve (12) month anniversary date for rent increases allowed under Section 2-193 and shall give written notice to such affected resident that the space rent may be subject to stabilized rent increases pursuant to the provisions of this chapter.
- (c) Upon an in-place sale of a mobilehome on site to a resident-to-be or current resident, the park owner may increase the rent by an amount that does not exceed 5% of the then current base rent.

Sec. 2-212. - When recreational vehicle space residents are to be treated as "affected residents."

Any recreational vehicle space that is occupied by a recreational vehicle as defined in Civil Code Section 799.24 for a period in excess of nine (9) months on or after October 1, 1991 shall be regarded to be a "mobilehome space" for purposes of this article, and a resident upon such a space shall be entitled to all the rights, protections and obligations of this chapter. Such a space resident shall be counted as an "affected resident" upon the effective date of this article, and such space shall be subject to the fees authorized by the board of supervisors for mobilehome spaces. The space resident and the recreational vehicle park owner shall apportion the fee in the manner authorized for mobilehome spaces subject to this article generally."

Section III. The Board of Supervisors finds and determines that this ordinance is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. The basis for this determination is that this ordinance amends annual rent increase limits within mobilehome parks, which will not result in any significant adverse direct or indirect physical changes to the environment. The Director of the Permit and Resource Management Department is directed to file a notice of determination that this ordinance is exempt from CEQA and the State CEQA Guidelines.

Section IV. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section V. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on the 24th day of October, 2023, and finally passed and adopted this 7th day of November, 2023, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Aye Rabbitt: No Gore: Aye Hopkins: Aye Coursey: Absent

Ayes: 4 Absent: 1

Noes: 1 Abstain: 0

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Vice Chair, Board of Supervisors
County of Sonoma

Attest:

M. Christina Rivera,
Clerk of the Board of Supervisors