

**Mountain View Rental Housing Committee
Initial Draft Definitions for Further Discussion**

"Capital Improvements" means additions to or modifications of a physical feature of a Covered Rental Unit or of a building or property containing a Covered Rental Unit.

To qualify as a Capital Improvement, the addition or modification must:

- Be necessary to bring the property or Covered Rental Unit into compliance, or to maintain compliance, with applicable building or housing codes, including without limitation, additions or modifications made to prevent the occurrence of conditions listed in Mountain View Municipal Code Section 25.58, as it may be amended; and
- Primarily benefit the tenant, rather than the landlord; and
- Be permanently fixed in place or relatively immobile (for example, flooring, sinks, bathtubs, stoves, refrigerators, and cabinets may qualify in whole or in part as Capital Improvements).

The following are not eligible as Capital Improvements:

- Costs of additions or modifications of a physical feature, or portions of additions or modifications, that could have been avoided by the landlord's exercise of reasonable diligence in maintaining and making timely repairs after the landlord knew or should reasonably have known of the problem that caused the damage leading to the addition or modification; or
- Use or installation of a landlord's personal appliances, furniture, etc., or those items inherited or borrowed; or
- Ordinary or routine repair, replacement, or maintenance to a Covered Rental Unit or property containing a Covered Rental Unit; or
- Over-improvements (for example, replacing a standard bathtub with a Jacuzzi bathtub), unless the tenant approved the improvement in writing, the improvement brought the Covered Rental Unit up to current building or housing codes, or the improvement did not cost more than a substantially equivalent replacement.

"Net Operating Income" is the Gross Income from a property containing one or more Covered Rental Units, less Operating Expenses.

Gross Income shall equal the sum of the following:

- Gross rents lawfully collectible from each Rental Unit located on the property, calculated on the basis of one hundred percent rental occupancy; and
- The imputed rental value of any owner-occupied Rental Unit or Rental Units; and

- Income from coin operated laundry facilities, vending machines and similar income (but excluding rents and other income from any commercial space located on the property, if applicable); and
- Interest from security and cleaning deposits (except to the extent paid to tenants); and
- All other income or consideration received or receivable in connection with the use or occupancy of the Rental Units.

Operating Expenses shall include the following expenses to the extent they are incurred in connection with the operation of a property containing one or more Covered Rental Units:

- Annual fees assessed under Section 1709(j)(1) of the Community Stabilization and Fair Rent Act; and [ALTERNATIVE: The portion of annual fees assessed under Section 1709(j)(1) of the Community Stabilization and Fair Rent Act that is not allowed to be directly passed through to Tenants; and]
- Business license fees; and
- Real property taxes; and
- Utility costs paid by the Landlord, to the extent that such costs are not passed through to Tenants; and
- Insurance; and
- Reasonable costs for ordinary or routine repair, replacement, and maintenance of one or more Covered Rental Units and the property containing Covered Rental Units. Repair, replacement, and maintenance costs shall include, but not be limited to, building maintenance including carpentry, painting, plumbing and electrical work, supplies, equipment, refuse removal, and security services or systems, cleaning, fumigation, landscaping, and repair or replacement of furnished appliances, drapes, and carpets; and
- Reasonable management expenses (contracted or owner performed), including necessary and reasonable advertising, accounting, or other managerial expenses. Management expenses are presumed to be six percent (6%) of Gross Income, unless established otherwise. Management expenses in excess of eight percent (8%) of Gross Income are presumed to be unreasonable and shall not be allowed unless it is established that such expenses do not exceed those ordinarily charged by commercial management firms for similar residential rental properties; and
- Attorneys' fees and costs that are:
 - Incurred in connection with successful, good faith attempts to recover rents owed or with successful, good faith unlawful detainer actions not in violation of applicable law, to the extent the same are not recovered from tenants;

- Legal expenses that are necessarily incurred in dealings with respect to the normal operation of the Covered Rental Units or property containing Covered Rental Units, to the extent such expenses are not recovered from adverse or other parties;
- Reasonable costs incurred in obtaining an upward adjustment of rent pursuant to the Community Stabilization and Fair Rent Act, including administrative or judicial proceedings in connection with the Community Stabilization and Fair Rent Act, except where the pass-through of such expenses is prohibited by the Rental Housing Committee or would constitute a violation of public policy;
- Any attorneys' fees and costs included in Operating Expenses pursuant to this Section shall be amortized over a period of five (5) years, unless it is demonstrated that an alternate amortization period would be more reasonable.

Operating Expenses shall not include:

- Costs for additions or modifications or portion of an addition or modification that could have been avoided by the landlord's exercise of reasonable diligence in making timely repairs after the landlord knew or should reasonably have known of the problem that caused the damage leading to the repair; or
- Income taxes; or
- Costs arising from circumstances that arose before the current tenancy began;
- Any costs or expenses for which the landlord has been or was eligible for reimbursement by another party, whether or not reimbursement was actually received, including reimbursements, rebates, or discounts offered by a government or utility (for example incentives for alternative energy generation and energy efficient appliances), security deposits, insurance proceeds, judgments for damages, settlements, or any other method or device; or
- Debt service, including mortgage interest and principal payments for the acquisition, improvement, or maintenance of Covered Rental Units and property containing Covered Rental Units; or [ALTERNATIVE: Debt service, including mortgage interest and principal payments for the acquisition, improvement, or maintenance of Covered Rental Units and property containing Covered Rental Units, if the debt was incurred, originated, or refinanced after October 19, 2015; or]
- Any costs or expense incurred in conjunction with the purchase, sale, lease (excluding individual Rental Housing Agreements), financing or re-financing of a Covered Rental Unit or property containing one or more Covered Rental Units, including, but not limited to, origination fees, credit enhancements, payments to real estate agents or brokers, appraisals, legal fees, accounting fees, etc.; or
- Fees, other than fees expressly authorized by the Community Stabilization and Fair Rent Act or by the Regulations; or

- Penalties, fees or interest imposed for violation of the Community Stabilization and Fair Rent Act, the Regulations, or any other law; or
- Legal expenses, other than those expressly authorized by the Community Stabilization and Fair Rent Act, or by the Regulations; or
- Contributions to lobbying efforts or organizations which advocate on behalf of apartment owners on local, state or federal legislative issues; or
- Depreciation; or
- Any other expense that does not benefit the Covered Rental Units or the property containing the Covered Rental Units, including, but not limited to, the cost of forming or maintaining a corporation, partnership or other entity or buying out a stockholder or partner of the landlord.