

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY OF ANAHEIM
IMPOSING A RESTRICTION ON MOBILEHOME SITE
RENTAL RATE INCREASES IN EXCESS OF THOSE
PERMITTED UNDER ASSEMBLY BILL 1482
(CALIFORNIA CIVIL CODE SECTION 1947.12)

WHEREAS, the City of Anaheim, along with other Southern California cities, is experiencing a humanitarian crisis of homelessness and displacement of renters; and

WHEREAS, there are approximately 27 mobilehome parks in Anaheim, a significant number of which serve as the primary residences of senior citizens on fixed incomes and/or low and moderate income households; and

WHEREAS, housing costs in Orange County have significantly increased in recent years, and mobilehomes are a much-needed affordable housing option for Anaheim's lower income residents; and

WHEREAS, because a mobilehome is affixed to the property on which it resides, it is generally not cost effective to move it, resulting in the owner losing the mobilehome if he or she cannot pay the rent imposed by the landlord; and

WHEREAS, the economic conditions and recognized housing shortage in Southern California detrimentally impact a substantial number of mobilehome residents in Anaheim and constitute a threat to public health, safety and welfare, and a particular hardship for senior citizens, persons living on fixed incomes, and other vulnerable persons living in mobilehome parks in Anaheim; and

WHEREAS, Anaheim is working diligently to care for and assist its homeless population, and has opened and funded three homeless shelters in the past several months to meet the needs of its homeless residents; and

WHEREAS, increasing the number of homeless residents in Anaheim, particularly elderly residents who may be in need of medical or other care, creates a public health and safety risk; and

WHEREAS, on October 8, 2019, California Governor Gavin Newsom approved the Tenant Protection Act of 2019, Assembly Bill 1482 ("AB 1482"), an act adding and repealing Sections 1946.2, 1947.12, and 1947.13 of the California Civil Code, effective beginning January 1, 2020, which prohibits evictions without "just cause" and prevents owners of residential rental property from increasing rents each year more than 5 percent plus the percentage change in the cost of living or 10 percent, whichever is lower; and

WHEREAS, as codified, AB 1482 does not apply to mobilehome tenancies; and

WHEREAS, mobilehome tenants are equally, if not more vulnerable to rent increases as are tenants to which AB 1482 applies; and

WHEREAS, the State of California recognized the unique relationship among the owners and residents of mobilehome parks when it adopted the Mobilehome Residency Law, which is codified in California Civil Code Section 798 et seq., which expressly authorizes the City of Anaheim to regulate the setting and/or increasing of rents for the use and occupancy of a mobilehome space subject to certain exceptions; and

WHEREAS, the City of Anaheim wishes to protect mobilehome space renters from rent increases in excess of those allowed under AB 1482, to prevent further homelessness and displacement of residents; and

WHEREAS, increasing the number of homeless residents in Anaheim, particularly elderly residents who may be in need of medical or other care, could create a public health and safety risk; and

WHEREAS, Anaheim provides for and promotes the orderly growth and development of Mobilehome Parks in the City's Zoning Code, which includes the establishment of a Mobilehome Park (MHP) Overlay Zone, consistent with the City's goal of accommodating alternative housing types as stated in the Housing Element of the City's General Plan; and

WHEREAS, pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution and Section 400 and 511 of the Charter of the City of Anaheim, the City Council of the City of Anaheim has the authority to enact and enforce ordinances and regulations for the public peace, health and welfare of the City and its residents; and

WHEREAS, based on the foregoing facts and the facts presented to the City Council at the meeting at which this ordinance was introduced and adopted, the City Council wishes to protect mobilehome space renters against actual or constructive eviction as a result of the high cost of moving and installing mobilehomes, and finds that allowing owners of mobilehome parks to impose unrestricted rent increases in excess of those allowed under AB 1482 could displace a large numbers of elderly, fixed-income, or low and moderate-income Anaheim residents.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANAHEIM DOES ORDAIN AS FOLLOWS:

SECTION 1.

Chapter 15.80 is hereby added to Title 15 (Building and Housing) of the Anaheim Municipal Code to read in full as follows:

CHAPTER 15.80 RESTRICTION ON RENT INCREASES FOR MOBILEHOME TENANCIES

15.80.010

The purpose and intent of this Chapter is to restrict the amount of rental rate increases that may be on Mobilehome Tenancies in a manner consistent with the Tenant Protection Act of 2019, Assembly Bill 1482 ("AB 1482"), which, as codified, does not apply to Mobilehome Tenancies.

15.80.020 DEFINITIONS

.010 "Mobilehome Park" means an area of land in the City of Anaheim where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation.

.020 "Mobilehome Residency Law" means the Mobilehome Residency Law codified in California Civil Code Section 798 et seq., as the same may be amended from time to time.

.030 "Mobilehome Tenancy" means the right of a homeowner to the use of a site within a mobilehome park on which to locate, maintain, and lawfully occupy a mobilehome, including improvements and accessory structures, for human habitation, and also including the use of the services and facilities of the park.

.040 "Percentage change in the cost of living" means the percentage change from April 1 of the prior year to April 1 of the current year in the United States Consumer Price Index for all Urban Consumers in the Los Angeles-Anaheim-Long Beach Metropolitan Area as published by the Bureau of Labor Statistics.

15.80.030 RESERVED.

Subject to the exemptions set forth in section 15.80.070, this Chapter shall apply to all rent increases applicable to Mobilehome Tenancies that take effect after October 29, 2019 or the effective date of this Chapter, whichever is later.

15.80.040 ADMINISTRATION.

This Chapter is administered and enforced as deemed necessary by the City Manager.

15.80.050 RESTRICTION ON RENT INCREASES

.010 The owner of a Mobilehome Park may not, over the course of any 12-month period, increase the gross rental rate for a mobilehome site in the City of Anaheim in excess of five percent (5%) plus the percentage change in cost of living, or ten percent, whichever is lower, of the lowest gross rental rate charged for that site at any time during the 12 months prior to the effective date of the increase. In determining the lowest gross rental amount pursuant to this section, any rent discounts, incentives, concessions, or credits offered by the owner of such Mobilehome Park and accepted by the tenant shall be excluded. The gross per-month rental rate

and any Mobilehome Park owner-offered discounts, incentives, concessions, or credits shall be separately listed and identified in the lease or rental agreement or any amendments to an existing lease or rental agreement. If the same Mobilehome Tenant remains in occupancy of a mobilehome site over any 12-month period, the gross rental rate for the mobilehome site shall not be increased in more than two increments over that 12-month period, subject to other restrictions of this ordinance governing gross rental rate increases.

.020 For a new Mobilehome Tenancy in which no tenant from the prior tenancy remains in lawful occupation of the mobilehome site, the Mobilehome Park owner may establish the initial rental rate not subject to Section 15.80.050.010. Section 15.80.050.010 is only applicable to subsequent increases after that initial rental rate has been established.

.030 No tenant of a mobilehome site subject to this ordinance shall enter into a sublease that results in a total rent for the premises that exceeds the allowable rental rate authorized by Section 15.80.050.

.040 This ordinance allows for an annual adjustment of the rent for a Mobilehome Tenancy of five percent (5%) plus the percentage change in the cost of living or ten percent (10%), whichever is lower. A cost of living-based increase is found and determined to provide a just and reasonable return on a Mobilehome Park owner's property, and has been adopted to encourage good management, reward efficiency and discourage the flight of capital, as well as to be commensurate with returns on comparable investments, but not so high as to defeat the purpose of curtailing excessive rents on mobilehome sites and rental increases. Notwithstanding the foregoing, however, any owner of a Mobilehome Park who contends that the limit on mobilehome site rental increases set forth in this Chapter above will prevent the owner from receiving a fair and reasonable return on his/her/its property, may petition for relief from the cap set forth set forth in this Chapter pursuant to the procedures set forth in Section 15.80.050.040.0401.

.0401 A Mobilehome Park owner may petition for a rent increase in excess of that provided in Section 15.80.050 in order to obtain a fair and reasonable return on his/her/its property. Such petition shall be on an application form prescribed by the City Manager and shall be decided by the City Manager or his or her designee ("City Manager"). The applicant shall bear the burden of establishing that a rate increase in excess of that provided by this Chapter is necessary to provide the applicant with a fair and reasonable return on his/her/its property, including by providing an independent financial report and verified financial data demonstrating that without such an increase, he/she/it will not realize a fair and reasonable return on his/her/its property.

Upon receipt of a fair return petition/application, the City Manager shall determine if the employment of expert(s) will be necessary or appropriate for a proper analysis of the applicant's request. If the City Manager so determines, he or she shall also determine the anticipated costs of employing such expert(s). The resulting figure shall be communicated to the applicant, and the application shall not be processed until the applicant has paid to the City the estimated cost of the expert analysis. Any unused portion of the advance payment for expert analysis shall be refunded to the applicant.

The factors the City Manager may consider in deciding a fair return petition/application include:

- (1) Changes in the Consumer Price Index for All Urban Consumers in the Los Angeles-Anaheim-Long Beach Metropolitan Area published by the Bureau of Labor Statistics.
- (2) The rent lawfully charged for comparable mobilehome sites in the City of Anaheim.
- (3) The length of time since the last determination by the City Manager on a rent increase application, or the last rent increase if no previous rent increase application has been made.
- (4) The completion of any capital improvements or rehabilitation work related to the mobilehome site or sites specified in the rent increase application, and the cost thereof, including materials, labor, construction interest, permit fees and other items the City Manager deems appropriate.
- (5) Changes in property taxes or other taxes related to the subject Mobilehome Park.
- (6) Changes in the rent paid by the applicant for the lease of the land on which the subject Mobilehome Park is located.
- (7) Changes in the utility charges for the subject Mobilehome Park paid by the applicant and the extent, if any, of reimbursement from the tenants.
- (8) Changes in reasonable operating and maintenance expenses.
- (9) The need for repairs caused by circumstances other than ordinary wear and tear.
- (10) The amount and quality of services provided by the applicant to the affected tenant.
- (11) Any existing written lease lawfully entered into between the applicant and the affected tenant.

An application for a fair return adjustment shall be decided by the City Manager within sixty (60) calendar days of the date that the application has been deemed complete. The decision shall be emailed and sent by mail, with proof of mailing to the Mobilehome Park owner, the park owner's designated representative(s) for the petition, and a designated representative of the residents.

15.80.060 EXEMPTIONS.

This Chapter shall not apply to Mobilehome Tenancies exempt from this Chapter pursuant to the Mobilehome Residency Law or to Mobilehome Tenancies for mobilehome sites initially held out for rent after January 1, 1990. The Chapter shall further not apply to any Mobilehome Tenancy created by a rental agreement which is in excess of twelve (12) months in duration provided that the rental agreement meets the criteria of California Civil Code Section 798.17(b). A rental agreement of more than twelve (12) months that meets the criteria of Civil Code Section 798.17(b) is referred to as a "qualifying rental agreement." This exemption shall

apply only during the term of the qualifying rental agreement or during one or more uninterrupted continuous extensions for such qualifying rental agreement. If a qualifying rental agreement expires or is terminated, and no new qualifying rental agreement is entered into for that particular site, then the last rent charged under the provisions of the previous rental agreement shall be the base rent upon which any adjustment shall be calculated. For the purposes of this provision, upon the assumption of an existing qualifying rental agreement, a purchaser of a mobilehome shall be deemed to have entered into a qualifying rental agreement. If a site becomes subject to this interim ordinance by reason of the expiration or termination of a qualifying rental agreement, the rent may be adjusted only in accordance with the provisions of this interim ordinance.

15.80.070 ENFORCEMENT.

The Community Preservation Manager and Community Preservation Officers shall have the duty and authority to enforce this ordinance in accordance with Chapter 1.01 in the Anaheim Municipal Code. In addition, any person violating the provisions of this ordinance shall be subject to prosecution pursuant to, and in the manner set forth in, Chapter 1.01 in the Anaheim Municipal Code.

SECTION 2.

The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility it will have a significant effect on the environment, and it is not a "project", as defined in Section 15378 of the State CEQA Guidelines.

SECTION 3.

The recitals and statements of fact set forth in the preamble to this ordinance are true and correct, constitute a substantive part of this ordinance, and are incorporated herein by this reference. Based on those facts, the City Council finds, determines and declares that this ordinance is a matter of city-wide importance and necessary for the immediate preservation of the public peace, health, safety and/or welfare of the community and is a valid exercise of the local police power and in accord with the public purposes and provisions of applicable State and local laws and requirements.

SECTION 4.

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have

passed this ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION 5.

The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: the City of Anaheim would suffer potentially irreversible displacement of tenants resulting from unrestricted rent increases and constructive evictions of mobilehome tenants. The Council, therefore, adopts this ordinance to become effective upon publication pursuant to Anaheim City Charter Section 511.

SECTION 6.

The City Clerk shall certify to the passage of this ordinance and shall cause this ordinance or a summary thereof to be printed once within fifteen (15) days after its adoption in the *Anaheim Bulletin*, a newspaper of general circulation, published and circulated in the City of Anaheim.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the 29th day of October, 2019, and thereafter passed and adopted as an urgency measure on that date, by the following roll call vote, and shall be and become effective immediately.

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By: _____
MAYOR OF THE CITY OF ANAHEIM

ATTEST:

CITY CLERK OF THE CITY OF ANAHEIM

135201