

URGENCY ORDINANCE NO. XXXX

AN URGENCY ORDINANCE OF THE CITY OF FULLERTON, CALIFORNIA, ESTABLISHING A MORATORIUM ON THE CONVERSION/CHANGE OF ANY MOBILE HOME PARK CURRENTLY EXISTING IN THE CITY OCCUPIED PRIMARILY OR EXCLUSIVELY BY RESIDENTS OVER THE AGE OF 55 YEARS (SENIOR RESIDENTS) TO A MOBILEHOME PARK ALLOWING RESIDENTS OF ALL AGES AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY.

WHEREAS, the City of Fullerton, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, there are two age-restricted mobile home parks located with the City and the City has been informed that one of these age-restricted mobile home parks is seeking to convert to all-age; and

WHEREAS, mobile home parks are an important source of affordable housing; and

WHEREAS, adults aged 65 or older make up 13.8% of the City's households; and

WHEREAS, the conversion of age-restricted mobilehome parks to all-age presents a current and immediate threat to the public health, safety and welfare by reducing the available affordable housing with the City for residents aged 55 and older.

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

SECTION 1. The City Council of the City of Fullerton finds and determines that all of the above Recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council hereby finds, determines, and declares that this Urgency Ordinance, adopted pursuant to California Government Code 65858, is necessary because:

- A. The City's General Plan Housing Element includes policies and goals for the provision of senior housing including General Plan, Chapter 2, Policy Action 3.7 – Encourage Senior Housing, 3.13 – Affordable Housing Acquisition and Rehabilitation and 3.16 – Owner-Occupied Housing Rehabilitation.
- B. In 2009, the City of Yucaipa adopted an ordinance which amended its land-use plan by creating a Senior Mobilehome Park Overlay District. The ordinance prohibited any of the 22 mobilehome parks in Yucaipa that operated as senior housing (defined as a park in which either 80 percent of the spaces are occupied by or intended for occupancy by at least one person who is age 55 or older or 100 percent of the spaces are occupied by or intended for occupancy by people who are age 62 or older), from converting to all-age housing. Mobilehome park owners sued, alleging that the ordinance violated the Fair Housing Amendments Act (FHAA) by forcing them to discriminate on the basis of familial status, and by interfering with their ability to "aid or encourage" families with children in the enjoyment of fair housing rights.
- C. In 2012, the Ninth Circuit Court of Appeals issued a ruling in Putnam Family Partnership v. City of Yucaipa ("Putnam") (2012) 673 F.3d 920, in which it determined that the ordinance was not preempted and that the overlay district did not discriminate in housing on the basis of familial status in violation of FHAA under the federal senior housing exemption, since the FHAA's ban on familial status discrimination does not apply to "housing for older persons."
- D. The Putnam case confirmed previous California Attorney General opinion that such seniors-only zoning does not conflict with the general prohibition against discrimination based upon age contained in California Government Code section 65008. (87 Ops.Cal.Atty.Gen. 148 (Oct. 20, 2004).)
- E. Further, California Government Code section 65008 expressly states that the non-discrimination provision "shall not be construed to apply to housing for older persons . . . [or] housing for senior citizens."
- F. In light of the judicial decision in Putnam, the City of Fullerton will consider developing new zoning regulations relating to the preservation of senior mobilehome parks, which zoning regulations include provisions relating to the location and age restrictions of such parks.
- G. Based upon the current state of the law, if a temporary moratorium is not established, existing senior mobilehome parks in the City could be eliminated.
- H. There is a current and immediate threat to the public health, safety and welfare arising from the lack of senior housing options for citizens aged 55 and older in and around the City. At least one age-restricted mobilehome park owner has indicated that it intends to convert its age-restricted mobilehome

park to a non-age restricted park. The change from a "seniors-only" mobilehome park to an "all ages" mobilehome park will reduce the number of housing units available to those persons 55 years of age and older. Further, the announcement that the City is studying this issue and may develop a zoning ordinance restricting the change of seniors-only mobilehome parks may result in the owner(s) of mobilehome park(s) pursuing conversions to all age mobilehome parks prior to any such ordinance taking effect.

- I. Article XI, Section 7 of the California Constitution authorizes cities to adopt local police, sanitary, and other ordinances not in conflict with general laws.
- J. The California Legislature has authorized cities to provide zoning for "seniors-only" mobilehome parks pursuant to Health and Safety Code section 18300.
- K. The City currently does not have a "seniors-only" mobilehome park zoning ordinance in place, but such a zoning ordinance may be needed in the immediate future to preserve affordable housing options left to the City's senior citizens.
- L. Moreover, the City requires time to study and decide:
  - a. If an ordinance is necessary to protect the public health, safety and welfare and provide adequate local senior housing for the community's aging population.
  - b. If such an ordinance would have any adverse effects upon the general housing market and particularly the senior and low-income housing market in the City. Further, whether any potential effects from the removal of a senior housing resource in the City constitute a current and immediate threat to the public safety, health and welfare.
  - c. If a permit process to convert senior-only mobilehome parks to all age would be beneficial to the public health, safety and welfare.
  - d. The extent the City may regulate internal operations of mobilehome parks.
  - e. Given the harm to the community by the removal of seniors-only mobilehome parks, this moratorium is being established to preserve the status quo to provide time to seek clarification of the law, and permit City staff to develop appropriate regulations consistent with the requirements of the law.

### SECTION 3. Urgency Findings.

Based on the foregoing recitals and findings, all of which are deemed true

and correct, this interim ordinance is urgently needed for the immediate preservation of the public health, safety, and welfare. This interim ordinance shall take effect immediately upon adoption and shall be of no further force and effect forty-five (45) days following the date of its adoption unless extended in accordance with the provisions set forth in Government Code section 65858.

#### SECTION 4. Definitions.

For the purposes of this Urgency Ordinance, the following definitions shall apply:

- A. "Convert" or "Conversion" means a changing from a seniors-only mobilehome park to a mobilehome park that could not qualify as a seniors-only mobilehome park.
- B. "Mobilehome" is a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Vehicle Code section 35790. Mobilehome does not include a recreational vehicle, as defined in Civil Code section 799.4, or a commercial coach, as defined in Health and Safety Code section 18128. For purposes of this section, the term "Mobilehome" includes "Manufactured Home."
- C. "Mobilehome Park" is an area of land where two or more mobilehomes or manufactured sites are located to accommodate mobilehomes used for human habitation. This definition shall include rental mobilehome parks where mobilehome spaces are rented or held out for rent. Mobilehome Park shall also include a mobilehome subdivision, condominium, or stock corporation in which the specific ownership rights are acquired by the space occupants within the mobilehome park.
- D. "Senior" means any individual over the age of fifty-five (55).
- E. "Seniors-Only Mobilehome Park" means a mobilehome park in which at least 80 percent of the spaces are occupied by or intended for occupancy by at least one person who is age 55 or older, or 100 percent of the spaces are occupied by, or intended for occupancy by, people who are age 62 or older.

**SECTION 5. Prohibition Against Conversion of Seniors-Only Mobilehome Parks.** In order to protect the public health, safety, and welfare, and pursuant to the provisions of Government Code section 65858, the City hereby adopts a moratorium prohibiting the conversion of any mobilehome park currently in existence in the City from a Seniors-Only Mobilehome Park to a mobilehome park accepting residents of all ages.

#### SECTION 6. Effective Date.

This ordinance is declared to be an Urgency Ordinance measure adopted

pursuant to the provisions of California Government Code section 65858. As set forth in the findings above, this ordinance is necessary for preserving the public safety, health, and welfare of this community. Accordingly, upon adoption by a four-fifths vote of the City Council, this ordinance shall take effect immediately.

#### **SECTION 7. Report.**

During the period of this Urgency Ordinance, and any extension thereof, the City Council hereby directs City Staff to: (1) review and consider options for the regulation of imposing a moratorium on the conversion/change of any mobilehome park currently existing in the City from a park primarily or exclusively by residents over the age of 55 years to a mobilehome park allowing residents of all ages; and (2) to issue a written report describing the measures which the City has taken to address the conditions which led to the adoption of this Urgency Ordinance with the City Council ten (10) days prior to the expiration of this Urgency Ordinance, or any extension thereof, and such report shall be made available to the public.

#### **SECTION 8. Severability.**

If any section, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will 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 and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

#### **SECTION 9. CEQA.**

The City Council finds that this Urgency Ordinance is not subject to the California Environmental Quality Act ("CEQA"), pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378), and 15061(b)(3) (the activity will not have a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. These findings are premised on the fact that the adoption of this ordinance will maintain existing environmental conditions arising from the City's current land use regulations without significant change or alteration.

#### **SECTION 10. Publication.**

The City Clerk is directed to certify this ordinance and cause it to be published in the manner required by law.

APPROVED AND ADOPTED this 19<sup>th</sup> day of December, 2023.

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**NICK DUNLAP, Mayor**

**ATTEST:**

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**LUCINDA WILLIAMS**  
**City Clerk**

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CITY OF FULLERTON )  
STATE OF CALIFORNIA ) SS

I, Lucinda Williams, City Clerk in and for the City of Fullerton, California, hereby certify that the foregoing urgency ordinance was duly introduced, and adopted at a regular meeting of the City Council of the City of Fullerton on the 19th day of December 2023 by the following roll call vote:

AYES:

NOES:

ABSENT:

WITNESS my hand and the official seal of the City of Fullerton, California, this

\_\_\_\_\_ day of \_\_\_\_\_ 2023.

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LUCINDA WILLIAMS  
City Clerk

Published as required by law: December \_\_, 2023