

ORDINANCE NO.

AN UNCODIFIED INTERIM ORDINANCE OF THE CITY  
OF ANAHEIM IMPOSING A TEMPORARY RESTRICTION  
ON MOBILEHOME SPACE RENTAL RATE INCREASES  
THAT EXCEED THREE PERCENT (3%) ANNUALLY, OR  
THE CHANGE IN THE CONSUMER PRICE INDEX,  
WHICHEVER IS GREATER

WHEREAS, in March of 2019, the City Anaheim (“Anaheim” or “City”) was notified that the owner of Rancho La Paz Mobilehome Park (“La Paz”), an age restricted (55+) community, had issued notices to its residents of monthly base rent increases in excess of forty percent (40%) effective June 1, 2019.

WHEREAS, the City subsequently received information that the La Paz ownership had withdrawn the notices of proposed rent increases and was delaying any rent modifications until at least September 1, 2019; and

WHEREAS, the notices issued to the La Paz residents highlighted the situation faced by many of the residents who reside at mobilehome parks in Anaheim, a significant number of whom are elderly, live on fixed incomes, and cannot afford a precipitous increase in rent; and

WHEREAS, there are approximately 27 mobilehome parks in Anaheim, a substantial 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 situation confronting La Paz residents, as outlined in their oral and written communications, suggest the economic conditions and recognized housing shortage in Southern California has the potential to detrimentally impact a substantial number of mobilehome residents in Anaheim, and impose a particular hardship on senior citizens, persons living on fixed incomes, and other vulnerable persons living in mobilehome parks in Anaheim; and

WHEREAS, many of the elderly residents of La Paz reported that they would become homeless if their rents were increased as originally planned, and the same may be true if other mobilehome park owners were to impose significant rent increases; 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, could create a public health and safety risk; 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, Anaheim provides for and promotes the orderly growth and development of sites for 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 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 finds that, based on the unique characteristics of mobilehome tenancies, and the need to provide protection for tenants against actual or constructive eviction as a result of the high cost of moving and installing mobilehomes, finds that allowing owners of mobilehome parks to impose unrestricted rent increases could displace a large numbers of elderly, fixed-income, or low and moderate-income Anaheim residents; and

WHEREAS, the setting and increasing of rents for mobilehome spaces has not previously been a subject of regulation in the City of Anaheim, and the City Council desires to evaluate rent stabilization policies protecting mobilehome residents from unreasonable rent adjustments while ensuring that the owners of mobilehome parks may earn a fair and reasonable return on their property; and

WHEREAS, with the lack of current local regulation, some owners of mobilehome parks in the City may seek to significantly increase existing rents, which rent increases could exacerbate the current housing and economic conditions and impose a hardship on individual mobilehome residents, many of whom are elderly and/or living on low or moderate incomes; and

WHEREAS, this interim ordinance allows for an annual adjustment of mobilehome space rent in Anaheim of up to three percent (3%), or the change in the Consumer Price Index, whichever is greater, for a period of one hundred eighty (180) days. A Consumer Price Index-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 mobilehome space rents and rental increases.

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

SECTION 1.

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 2.

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 3.

Unless expressly exempt under the Mobilehome Park Residency Law codified in California Civil Code Section 798 et seq., commencing as of the effective date of this ordinance and continuing thereafter for a period of one hundred eighty (180) days, up to and including September 29, 2019, increases in rents on mobilehome spaces in the City of Anaheim in excess of three percent (3%) or the change in the Consumer Price Index, whichever is greater, and more than one rent increase in any twelve-month period, are prohibited. The term Consumer Price Index means, at the time of the adjustment calculation, the percentage increase in the United States Consumer Price Index for all Urban Consumers in the Los Angeles-Anaheim-Long Beach Metropolitan Area published by the Bureau of Labor Statistics, not seasonally adjusted, for the most recent twelve-month period ending prior to the proposed rent increase/adjustment.

SECTION 4.

This ordinance allows for an annual adjustment of mobilehome space rent of up to three percent (3%), or the change in the Consumer Price Index, whichever is greater. A Consumer

Price Index-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 mobilehome space rents and rental increases. Notwithstanding the foregoing, however, any owner of a mobilehome park who contends that the limit on mobilehome space rental increases set forth in Section 3 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 in Section 3 pursuant to the procedures set forth in Section 5.

#### SECTION 5.

A mobilehome park owner may petition for a rent increase in excess of that provided in Section 3 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 in Section 3 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 spaces 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 space or spaces 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.

#### SECTION 6.

Pursuant to California Civil Code Section 798.17, the provisions of this interim ordinance regulating the amount of rent which a mobilehome park owner may charge for a mobilehome space shall not apply to any mobilehome park spaces initially held out for rent after January 1, 1990, nor 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 space, 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 space 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.

#### SECTION 7.

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 8.

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 9.

The City Manager and City staff shall continue to study and assess the conditions that led to the adoption of this interim ordinance and, on or before July 20, 2019, shall provide a report to the City Council regarding policy alternatives with regard to mobilehome rent stabilization measures based on legal analysis, market analysis, best practices from other jurisdictions, and stakeholder engagement.

#### SECTION 10.

This ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

#### SECTION 11.

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 \_\_\_\_ day of \_\_\_\_\_, 2019, and thereafter passed and adopted at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By: \_\_\_\_\_  
MAYOR OF THE CITY OF ANAHEIM

ATTEST:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF ANAHEIM

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