

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
FULLERTON, CALIFORNIA, ADOPTING A TEMPORARY LIMIT
ON MOBILEHOME RENTAL RATE INCREASES WITHIN THE
CITY OF FULLERTON AS SET FORTH HEREIN

WHEREAS, the owner of Rancho La Paz Mobilehome Park ("La Paz") has issued notices to its residents of rent increases, which amount to increases of approximately 111% in cumulative total, over a six-year period; the City is informed and believes that prior rent increases at La Paz were between only \$10-\$30 annually; and

WHEREAS, La Paz is an age restricted (55+) community that was constructed in approximately 1955, with approximately 155 mobilehomes (spaces/parks) located within the City of Fullerton; many of the residents at La Paz are elderly and live on fixed incomes, and thus have limited resources to accommodate sudden, unprecedented and precipitous increases in rent; and

WHEREAS, there are six mobilehome parks in the City of Fullerton, with a total of approximately 745 mobilehome spaces; a significant number of the spaces at these mobilehome parks serve as the primary residences of senior citizens on fixed incomes and/or low and moderate income households; and

WHEREAS, anticipated or potential future significant rent increases at mobilehome parks has had and will continue to have significant adverse impacts on the physical and mental health of residents; and

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

WHEREAS, in the majority of mobilehome parks in the City, tenants rent space in the mobilehome park and do not own the underlying land; however, unlike other residential tenants, most mobilehome tenants have a significant investment in the purchase of their mobilehomes and permanent or semi-permanent improvements; and

WHEREAS, because a mobilehome is affixed to the property on which it is located, it is generally not cost effective to move it, resulting in a significant devaluation or even loss of a tenant's home and investment as referenced above if they cannot pay the rent imposed by the landlord; and

WHEREAS, the economic conditions and recognized housing shortage in Southern California detrimentally impacts a substantial number of mobilehome residents in Fullerton, and a particular hardship for senior citizens, persons living on fixed incomes, and other vulnerable persons living in mobilehome parks in the City of Fullerton; and

WHEREAS, many of the elderly residents of La Paz report that they will become homeless if the rent increases take effect as planned, and the same is anticipated to be true if other mobilehome park owners impose significant rent increases; and

WHEREAS, the North Orange County region already has a sizable homeless population, and Fullerton has helped fund homeless shelters in the area to meet the needs of the homeless; and

WHEREAS, reducing affordable housing options and thereby potentially increasing the number of homeless residents in Fullerton, particularly elderly residents who may be in need of medical or other care, would create a public health and safety risk; and

WHEREAS, the United States Supreme Court has recognized the following with regard to mobile homes: "The term 'mobile home' is somewhat misleading. Mobile homes are largely immobile as a practical matter, because the cost of moving one is often a significant fraction of the value of the mobile home itself. They are generally placed permanently in parks; once in place, only about 1 in every 100 mobile homes is ever moved. A mobile home owner typically rents a plot of land, called a 'pad,' from the owner of a mobile home park. The park owner provides private roads within the park, common facilities such as washing machines or a swimming pool, and often utilities. The mobile home owner often invests in site-specific improvements such as a driveway, steps, walkways, porches, or landscaping. When the mobile home owner wishes to move, the mobile home is usually sold in place, and the purchaser continues to rent the pad on which the mobile home is located." *Yee v. City of Escondido*, 503 U.S. 519, 523 (1992); and

WHEREAS, the State of California has recognized the unique relationship between owners and residents of mobilehome parks by the adoption of the Mobilehome Residency Law, California Civil Code Sections 798 et seq., which expressly authorizes the City of Fullerton to regulate the setting and/or increasing of rents for the use and occupancy of a mobilehome spaces subject to certain exceptions; and

WHEREAS, due to the high cost and realistic impracticality of moving mobilehomes, including damage to mobilehomes therefrom; lack of alternative home sites for mobilehomes; frequent substantial investment of tenants in mobilehomes; and other factors that give park owners unequal economic power compared to mobilehome owners/tenants, rent stabilization can serve a necessary means to protect tenants from unreasonable rent increases that can result from unbridled discretion of owners to raise rents and the unequal bargaining position that can permit exploitation of mobilehomes owners/tenants; and

WHEREAS, the setting and increasing of rents for mobilehome spaces has not previously been a subject of regulation in the City of Fullerton; and

WHEREAS, pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution the City has the authority to enact and enforce ordinances and regulations for the public peace, health and welfare of the City and its residents, and restrictions as to the ability of cities to impose rent stabilization do not apply to mobilehome owners and/or tenants, Cal. Civil Code Section 1954.51; and

WHEREAS, "it is well settled that 'legislation regulating prices or otherwise restricting contractual or property rights is within the police power if its operative provisions are reasonably related to the accomplishment of a legitimate governmental purpose,'" and rent stabilization ordinances, in particular, will be upheld as "a proper exercise of the police power" since they are ordinarily "a reasonable means of counteracting harms and dangers to the public health and welfare emanating from a housing shortage." *Carson Mobilehome Park Owners Ass'n. v. City of Carson*, 35 Cal. 3d 184, 189 n. 4 (1983) (citing *Birkenfeld v. City of Berkeley*, 17 Cal.3d 129,

158, 161 (1976); *Nebbia v. New York*, 291 U.S. 502, 537, 78 L. Ed. 940, 957, 54 S. Ct. 505 (1934)); *Hamer v. Town of Ross*, 59 Cal. 2d 776, 783, 31 Cal. Rptr. 335 (1963); *Lockard v. City of Los Angeles*, 33 Cal. 2d 453, 461-462, 202 P.2d 38 (1949)); and

WHEREAS, the City Council finds that allowing owners of mobile home parks to have unfettered discretion to increase rents prior to the City's completion of a study of the legality, feasibility, impacts and potential regulation of mobilehome rent increases in an effort to avoid displacing large numbers of low income and/or elderly Fullerton residents, would pose a threat to the public health, safety or welfare, and that a temporary limitation on mobilehome rent increases, except as allowed herein, is therefore necessary; and

WHEREAS, the City has a legitimate interest in preventing excessive and unreasonable rent increases, which may be caused or exacerbated by the growing shortage of and increasing demand for housing within the City, particularly as to affordable housing for seniors, which may contribute to evictions and hardships for tenants; and

WHEREAS, the City also has a significant interest in local neighborhood preservation, continuity, and stability; and

WHEREAS, the City is also mindful of its obligation not to unduly interfere with the rights of property owners, particularly to a reasonable return on investment, while reasonably exercising its police power for the public benefit, so that its regulations of mobilehome rental rates is "just, fair and reasonable" *Carson Mobilehome Park Owners Ass'n. v. City of Carson*, 35 Cal. 3d 184, 190 (1983); and

WHEREAS, the adoption of this temporary limitation on the increase of mobilehome space rents or the implementation of such rent increases already noticed, approved or intended, is necessary to temporarily protect mobilehome owners/tenants from potentially significant rent increases while the City studies its ability to effect rent stabilization measures and/or to assist or mitigate the impacts of rent increases, and evaluate and study potential and appropriate regulations for the procedures and/or scope of such rental increases and/or other management for the public benefit; and

WHEREAS, based upon all of the above factors and the need for the City to prevent rental increases while studying the matter and consideration of the potential adoption of appropriate regulations, the effectiveness of the temporary limitations imposed herein are necessary for the preservation of the public peace, health, or safety; and

WHEREAS, this Ordinance shall remain in effect for six months and may be extended by further act of the City Council; and

WHEREAS, the City Council finds there is a threat to the public's health, welfare and safety related to unregulated or unrestricted increases in mobilehome space rents in the City without the City's review and consideration of regulations as to such increases, and there is a need to prohibit such rental increases above standard cost-of-living increases, so that the City may temporarily limit the implementation or imposition of any rental increases on residents or tenants of mobilehome parks, including increases that may have already been adopted, noticed or that may be intended by mobilehome park owners within the time period that this Ordinance is in effect, except cost-of-living increases, which will allow the City to study potential regulations of all mobilehome rental increases throughout the City.

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

SECTION 1. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 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.

SECTION 2. Based on the facts stated herein and the City Council findings, the City Council finds, determines and declares that this Ordinance is necessary for the preservation of the public peace, health or safety pursuant to, and as authorized by, Article XI, Section 7 of the California Constitution.

SECTION 3. In accordance with the authority granted to the City of Fullerton by Article XI, Section 7 of the California Constitution, commencing as of the effective date of this Ordinance and continuing thereafter for a period of six months, any rent increases for mobilehome spaces in excess of an aggregate total of three percent (3%) in any twelve-month period are temporarily prohibited from being implemented or imposed on tenants. For purposes of this prohibition and this Ordinance, the following definitions shall apply:

a. "Mobilehome" shall have the same meaning as the term defined in California Civil Code Section 798.3

b. "Mobilehome Park" shall have the same meaning as the term defined in California Civil Code Section 798.4.

c. "Rent" shall constitute the monthly or other period payment for use and occupancy by a "Mobilehome" of a space or other designated area within a "Mobilehome Park"; "rent" does not include the cost of utilities to a "Mobilehome" or other incidental charges for services actually rendered, as permitted to be charged to "Mobilehome" residents or occupants or other charges, fees or assessments permitted pursuant to the Mobilehome Residency Law, including California Civil Code Sections 798.31-798.32, etc.

SECTION 4. Any owner of a mobilehome park who contends that the temporary rental increase limitation imposed hereby deprives the owner of a reasonable rate of return on investment, may apply for an exception to the temporary limitation by requesting in writing an exception thereto, which request shall be submitted to the City Council. Such request shall be processed with any applicable fees for an appeal or other filing fee in accordance with the City's standard fees, and shall be set for a public hearing or other consideration by the City Council. The requesting mobilehome park owner or representative shall set forth in the request the specific rental increase sought in excess of three percent or in addition to one increase in any twelve-month period, and the grounds for such requested increase, including any hardship, unique circumstances, or other bases for the request. In particular, the requestor shall demonstrate to the City Council how the increase is needed for the owner's reasonable investment return and why such increase is especially necessary or justified within the time the temporary limitation imposed by this Ordinance is in effect. The Council's consideration of whether the request for rent increase beyond that permitted in this Ordinance is just, fair and reasonable may include the following considerations: changes in the consumer price index in the area; the Voluntary Pay and Price Standards or other wage and price guidelines; rent lawfully charged for comparable mobilehome spaces in the City or other relevant markets; when and in what amount rent was last increased for mobilehome spaces in the mobilehome park that

is the subject of the request; the cost and nature of any capital improvements, rehabilitation work or amenity additions or modifications to the mobilehome spaces or the mobilehome park that is the subject of the request; changes in property taxes; changes in land lease amounts owed by mobilehome park operators or owners; changes in utilities or other fees, assessments or charges for which a mobilehome owner is responsible, and the extent to which tenants contribute; changes in reasonable operating and maintenance expenses of the mobilehome park that is the subject of the request; needed or planned capital improvements or other repairs or rehabilitative work, especially if it is not due to ordinary wear and tear or is due to special circumstances above and beyond that ordinarily expected and not due to delayed maintenance; nature, amount and quality of services provided to tenants at the mobilehome park, especially as compare to those provided in similarly situated parks and/or ordinarily provided to tenants of such parks; relevant or changed terms of written leases with tenants; any other changed or unexpected circumstances, hardship, or any other facts or conditions relevant to the request for increased rent.

SECTION 5. Any owner of a mobilehome or other interested person who may be subject to any rent increase claimed to be in violation of this Ordinance may bring a civil action to enforce the provisions of this Ordinance. Any party enforcing this Ordinance shall have all rights provided by law to recover damages suffered from any violations of this Ordinance.

The enforcement methods set forth in this Section are intended to be alternate, separate and distinct methods from any other enforcement methods that may be permitted by law. Each method set forth herein is not exclusive and should not be considered to prevent concurrent or consecutive enforcement methods being used to achieve compliance herewith.

SECTION 6. The City Council 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 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. This Ordinance and each provision therein is also intended to be and shall be interpreted in a manner consistent with the Mobilehome Residency Law, California Civil Code Sections 798, et seq.

SECTION 7. The City Manager shall direct City staff to conduct any necessary and appropriate research and evaluation of options for potential continued rent stabilization of Mobilehome Rent and/or other measures that may help address or alleviate the public health, welfare and safety concerns noted herein.

SECTION 8. This Ordinance shall become effective 30 days from and after its passage, and shall remain in effect for six months from the date of its adoption, unless extended by the City Council by subsequent ordinance.

SECTION 8. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law. This Ordinance shall become effective thirty days from and after its passage.

ADOPTED BY THE FULLERTON CITY COUNCIL ON _____, 2019

Jesus J. Silva, Mayor

ATTEST:

Lucinda Williams, City Clerk

Date _____