

ORDINANCE NO. 2024-1555

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, IMPOSING A TEMPORARY CITY-WIDE MORATORIUM ON THE CONVERSION/CHANGE OF ANY MOBILEHOME PARK EXISTING IN THE CITY FROM A PARK OCCUPIED PRIMARILY OR EXCLUSIVELY BY RESIDENTS AGED 55 YEARS OR OLDER TO A MOBILEHOME PARK ALLOWING RESIDENTS OF ALL AGES AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY

WHEREAS, pursuant to Article XI, section 7 of the California Constitution, the City has the police power to make and enforce ordinances to regulate the use of land within its jurisdictional boundaries; 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, twelve mobilehome parks (Casitas Del Amigos, Casitas Del Sol, El Dorado, Foothills of San Marcos, Lakeview Estates, La Moree Estates, Madrid Manor, Palomar Estates East, Palomar Estates West, Rancho Vallecitos, San Marcos Mobile Estates, and Valle Verde) located within the City of San Marcos ("City") operate and maintain their status as age regulated mobilehome parks providing housing for older persons; and

WHEREAS, the City has an interest in preserving affordable housing for persons aged 55 years or older (referenced hereafter as "older persons" or "senior residents") to support the well-being, independence, and overall health and safety of such older residents; and

WHEREAS, as set forth in the Housing Element of the City's General Plan, an important goal for the City is to preserve the existing senior housing stock, which is represented in part by affordable mobilehome housing (see, San Marcos Housing Element, pp. 35-38; Programs 4, 7, 14, 19); and

WHEREAS, mobilehome parks represent one of the few affordable housing options left for older persons that permit exclusive residence in a detached dwelling older persons; and

WHEREAS, Lakeview Mobilehome Estates ("Lakeview") has recently published new Rules and Regulations reserving the right to rescind any age regulation, and reserving to the owner the right to change the Park to persons of "all age," and does not covenant that the Park will remain a community for older persons; and

WHEREAS, when requested to confirm or acknowledge that the language utilized in its recent rules change recognized a need for a future rules change and attendant notice and processing prior to implementation of an all-ages park, counsel for Lakeview did not confirm that was the case; and

WHEREAS, converting mobilehome parks from housing for older persons to an all ages park would reduce the number of housing units available to those persons aged 55 years and older (hereinafter "housing for older persons" or "senior housing"); and

WHEREAS, there exists a current and immediate threat to the public health, safety, and welfare arising from the lack of housing options for persons aged 55 and older in and around the City; and

WHEREAS, Government Code Section 65858 expressly authorizes the City Council, in order to protect the public health, safety and welfare, to adopt an interim urgency ordinance prohibiting a use that is in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission, or the planning department is considering or studying or intends to study within a reasonable time, provided that the urgency measure shall require a four-fifths vote of the legislative body for adoption, and shall be of no further force and effect forty-five (45) days from its date of adoption, unless duly extended; and

WHEREAS, the Federal Housing Amendments Act ("FHAA") in 42 USCA § 3607 and California Government Code § 12955.9 provide an exception for housing for older persons, such that discrimination on the basis of familial status does not violate the FHAA or the California Government Code if the senior exemption applies; and

WHEREAS, the 9th Circuit of Appeals has upheld the right of a municipality to create housing for older persons so long as all statutory requirements pursuant to 42 USCA § 3607 are met; for example, the case of *Putnam Family Partnership v. City of Yucaipa*, Cal., 673 F.3d 920 (C.A.9 (Cal.), 2012) held that a City may create housing for older persons through an exercise of zoning authority if the city ensures maintenance of an

eighty-percent senior population, publishes and adheres to policies that demonstrate an intent for housing for older persons, and complies with age verification rules. *Id.* at 931.

NOW, THEREFORE, the City Council of the City of San Marcos finds and declares as follows:

Section 1: Declaration of Findings Constituting Urgency:

- a. The City Council hereby incorporates the recitals set forth above and affirms the same as findings, and based thereon declares that such recitals and findings evidence facts constituting urgency as required under the law for the subject action.
- b. The City's Housing Element addresses senior housing as a special housing need that calls for targeted program responses. As such, programs and policy are developed that align with and support this need.
- c. The City's Housing Element additionally addresses the risk of displacement for protected classes, including seniors, underscoring the need for proactive policies that protect the reliance interests of older persons who purchased homes in existing senior housing parks.
- d. Residents of mobilehome parks face particularly precarious housing dynamics due to multilayered and unique vulnerabilities. Residents typically own their homes but lease the land on which they are placed. Additionally, mobilehomes are rarely moved owing to high transport costs, difficulty in logistics, and low rent space availability in nearby areas. These factors create a distinct susceptibility that highlights the need to protect seniors living in the City's mobilehome parks.
- e. The City has limited senior housing in mobilehome parks. Only twelve, including Lakeview Mobile Estates, maintain status as parks for older persons, constituting approximately 2700 spaces for mobilehome coaches. The conversion of housing for older persons, or age restricted mobilehome parks, to mobilehome parks allowing occupancy by persons of all ages will result in the loss of limited existing affordable senior housing within the City, and the associated environmental effects relating to the placement of all ages into facilities designed for and operated as senior housing. These effects present a threat to, and a specific adverse impact upon, public health, safety and welfare and the City's ability to provide safe and decent housing opportunities to seniors.

- f. Lakeview's updated Park Rules and Regulations indicate an interest in removing the age restriction which would allow the Park to change to an all ages park and reduce the already scarce senior housing in the City.
- g. The City's request for clarification from Lakeview ownership regarding intent and timeframes for the potential change to an all ages park have been refused, and the park owner's attorney has simply asserted the lack of City jurisdiction over the issue. The City is therefore unable to predict if or when Lakeview ownership will act on their demonstrated interest in removing the age restriction from the Rules and Regulations and changing the Park to an all ages park. If Lakeview is left to take the next step to create an all ages park, the City will have no options to preserve the senior housing currently available at Lakeview.
- h. Due to the time constraints and risk to a vulnerable housing population, the City must act pursuant to Government Code Section 65858 to impose a city-wide moratorium to maintain age regulations at all mobilehome parks currently operating as housing for older persons, or senior parks, while the City studies whether a "senior only" mobilehome park zoning ordinance is needed. Given the exigency of the circumstances and the time-consuming process associated with zoning regulations considered in due course, it may not be possible to consider and enact an ordinance by such means if Lakeview ownership moves quickly to remove age regulations and change the park to all ages.
- i. An urgency ordinance pursuant to Government Code Section 65858 allows the City to ensure housing stability for vulnerable seniors, and therefore protect the public health, safety, and welfare of residents by adopting an interim emergency moratorium to maintain age regulations at all mobilehome parks, City-wide, that are currently operating as age regulated parks, or senior parks to allow time to study whether certain land uses should be allowed, prohibited, and/or regulated under the City's zoning ordinance.

Section 2: Imposition of Moratorium

- a. The City currently does not have a "senior 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.
- b. The City has a compelling interest in protecting the public health, safety and welfare of its senior community in preserving housing stability, preventing displacement, and promoting existing community relationships. The adoption of this Ordinance is necessary on an urgency basis because of the current and immediate threat to senior housing security in the City.

- c. The City requires time to study and decide;
 - a. If such a zoning ordinance passed in due course would have adverse effects upon the general housing market and particularly the senior and affordable housing market in the City.
 - b. To ensure the ordinance aligns with the City's General Plan.
- d. Given the harm that would be caused to the community by the removal of mobilehome parks for older persons, 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.
- e. To ensure the immediate protection of the public health, safety and welfare in accordance with Government Code Section 65858 and based on the findings set forth above in Section 1 of this Ordinance, as well as additional verbal and written information presented to the City Council, from and after the date of this Ordinance, a city-wide moratorium is hereby imposed on the conversion/change of any mobilehome park existing in the City from a mobilehome park occupied primarily or exclusively by residents aged 55 years or older to a mobilehome park allowing residents of all ages, until such time as the City Council repeals or otherwise modifies this Ordinance. By "currently operating," we include Lakeview Mobile Estates within the purview of this Ordinance, as the owner of which has promulgated rules and regulations that acknowledge the current older persons status but also purport to reserve the right to change to an all-ages park.
- f. This moratorium shall become effective on the date of adoption of this Ordinance and shall remain in effect for 45-days, unless extended by the City Council as provided for in Government Code Section 65858.
- g. Ten days prior to the expiration of the moratorium or any extension, the City Council shall issue a written report describing the steps and/or regulations for these land uses taken by the City.

Section 3: Severability If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 4: CEQA This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act ("CEQA") and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because it places a moratorium on the change of land use. (Cal. Code Regs., tit. 14, § 15378.) Furthermore, even if the action were considered subject to CEQA, it would qualify for the Commonsense Exemption, as it can be stated with certainty that there is no possibility the action may have a significant effect on the environment (Cal. Code Regs., tit. 14, § 15061(b)(3)).

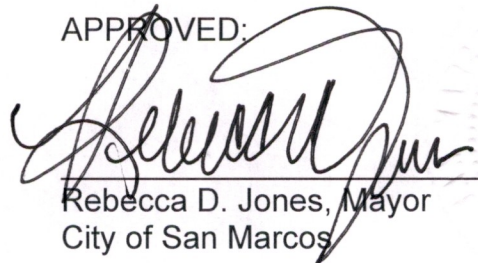
Section 5: Effective Date This Ordinance shall take effect immediately upon adoption as an urgency measure. The temporary moratorium shall be of no further force and effect forty five (45) days from the date of the adoption of this Ordinance, unless, prior to its expiration, following a noticed public hearing in accordance with Government Code Section 65090, the City Council extends the Ordinance pursuant to Government Code Section 65858.

Section 6: Publication Within fifteen (15) days following the adoption of this Ordinance, the City Clerk shall publish this Ordinance, or the title thereof, as a summary as required by State law.

PASSED, APPROVED AND ADOPTED AS AN INTERIM URGENCY ORDINANCE at a special meeting of the City Council of the City of San Marcos held on the 2nd of December, 2024 by the following roll call vote:

AYES: COUNCILMEMBERS: JENKINS, MUSGROVE, NUÑEZ, SANNELLA, JONES
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

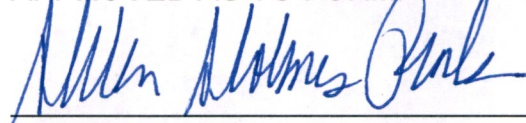
APPROVED:


Rebecca D. Jones, Mayor
City of San Marcos

ATTEST:


Phillip Scollick, City Clerk
City of San Marcos

APPROVED AS TO FORM:


Helen Holmes Peak, City Attorney
City of San Marcos