

RESOLUTION NO. 2025 – XXXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS HOLDING PROPOSED MOBILEHOME PARK CHANGES FROM HOUSING FOR OLDER PERSONS TO HOUSING FOR ALL-AGES IN ABEYANCE PENDING COMPLETION OF CITY REVIEW AND EVALUATION OF THE IMPACTS OF SUCH PROPOSED CHANGES

WHEREAS, the City of San Marcos (“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, twelve mobilehome parks (Casitas Del Amigos, Casitas Del Sol, El Dorado, Foothills of San Marcos, Lakeview Mobile Estates (“Lakeview”), La More Estates, Madrid Manor, Palomar Estates East, Palomar Estates West, Rancho Vallecitos, San Marcos Mobile Estates, and Valle Verde) located within the City operate and maintain their status as age-regulated mobilehome parks providing housing for older persons; and

WHEREAS, at approximately 2,900 units, these mobilehome parks provide a significant portion of the available affordable housing for older persons within the City; and

WHEREAS, as set forth in the Housing Element of the City’s General Plan, an important goal of the City is to preserve the existing senior housing stock, which is represented in good 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; and

WHEREAS, Lakeview 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 transitioning to an all-ages park, given a statement therein affirming that the park is one that houses older persons, counsel for Lakeview did not confirm that was the case; and

WEHERAS, recent correspondence from said counsel for Lakeview cited to the recent Supreme Court ruling in *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024) to support an argument that: (i) the Housing for Older Persons Act vests mobilehome park owners “with the exclusive election to pursue the narrow exemption of ‘older persons’ housing;” (ii) cities “may not force owners to provide ‘older persons’ housing;” and (iii) Congress never empowered the Department of Housing and Urban Development to bestow local governments with the election to pursue “older persons” housing status and, thus, the “1999 Code of Federal Regulations is *pro tanto* void;” and

WHEREAS, the City has identified the correspondence and its interpretation of the impact of the recent Supreme Court decision overturning *Chevron v. Natural Resources Defense Council*, 104 S.Ct. 2778 (1984) as a threat to the provision and availability of affordable housing for older persons; and

WHEREAS, the City is currently analyzing the impacts of the communication described above and evaluating what, if any, action should be taken in response; and

WHEREAS, the City needs time to complete its review, and to preserve the City's limited supply of affordable senior housing while it does so, and, therefore, any changes by a mobilehome park that is currently a senior park to its rules to make it an all-ages park must be held in abeyance until the City has the opportunity to review and evaluate the proposed change for its impact on affordable housing for older persons, which is more consistent with San Marcos Municipal Code section 16.04.070, adopted by a vote of the people in 1996; 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 [e.g., the case of *Putnam Family Partnership v. City of Yucaipa, Cal.*, 673 F.3d 920 (9th Cir. 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]. 7. Implementation of any rule change that would modify or affect senior mobilehome housing shall be held in abeyance and shall not become effective until City staff has the opportunity to study its potential impacts and present a further report on the same to the City Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Marcos, as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein.

SECTION 2. In order to allow the City the time to complete the above, and to preserve the limited supply of affordable senior housing, any mobilehome park that is currently a senior park that intends or desires to changes its rules, to make it an all-ages park and/or has initiated such efforts, must notify the City of the proposed rule change and provide the City the opportunity to study the impact of the change on senior housing before implementing it.

SECTION 3. Implementation of any rule change by a mobilehome park owner that would reduce mobilehome housing for older persons shall be held in abeyance and shall not become effective to allow City staff the opportunity to study its potential impacts and present a further report on the same to the City Council for consideration.

SECTION 4. If any section, sentence, clause, or phrase of this Resolution 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 Resolution. The City Council declares that it would have passed and adopted this Resolution, 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 5. This resolution shall be in effect for the period of one year from the date of adoption of this Resolution, or until the City completes its current consideration of the issue of senior mobilehome housing, whichever occurs earlier.

PASSED, APPROVED AND ADOPTED by the City Council of the City of San Marcos, California, at a regular meeting held on the 14th day of January, 2025, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Rebecca D. Jones, Mayor
City of San Marcos

ATTEST:

Phillip Scollick, City Clerk
City of San Marcos