

ORDINANCE NO. 2829

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE ADDING CHAPTER 8.70 (MOBILEHOME PARK RENT STABILIZATION) TO TITLE 8 (HEALTH AND SAFETY) REGARDING THE ADOPTION OF MOBILEHOME PARK RENT STABILIZATION FOR MOBILEHOME PARKS WITH ONE HUNDRED ONE (101) OR MORE MOBILEHOME PARK SPACES

WHEREAS, at the municipal election conducted on April 10, 1990, the voters of the City of El Monte (the "City") approved the "Mobilehome Tenant Rent Assistance Program" initiative ordinance (the "1990 Ordinance") which, among other things, precluded the City Council of the City of El Monte (the "City Council") from enacting any measure which "authorizes restrictions, ceilings, controls, or arbitration, mediation, administrative hearings, or trials concerning or which in any way relates to the subject to [sic] mobilehome park rents in El Monte which affects any Landlord...." (Source of quoted language: 1990 Ordinance); and

WHEREAS, at a November 6, 2012, General Municipal Election, the City voters approved Measure F, entitled "El Monte Fairness For Mobilehome Owners Ordinance," which repealed the 1990 Ordinance and restored full police power to the City Council to conduct inquiry into rents being charged in mobilehome parks in the City; and

WHEREAS, in light of the voter's approval of Measure F and the City Council's certification of the election results on December 18, 2012, the City Council found it to be in the interest of mobilehome park residents and owners, and the community at large that the City undertake a comprehensive study to consider regulations to protect affordable housing resources within mobilehome parks, including but not limited to, mobilehome park rent stabilization regulations; and

WHEREAS, the City engaged Waronzof Associates, Inc. and Stanley R. Hoffman Associates, Inc. to conduct such study (the "Study"); and

WHEREAS, In accordance with California Government Code sections 36934 and 36937, the City Council also adopted Interim Urgency Ordinance No. 2811 ("Ordinance No. 2811") at its regular meeting on December 18, 2012, imposing a moratorium on pending or new rent increases on mobilehome park rents of \$1,000 or more as of December 18, 2012, and limiting rent increases on rents more than \$600 but less than \$1,000 to no more than seven percent (7%) preventing mobilehome park owners from requiring tenants or prospective tenants to enter into any mobilehome park space rental agreement that is exempt from municipal mobilehome park of their respective levels as of December 18, 2012; and

WHEREAS, this moratorium has been extended, most recently by Interim Urgency Ordinance No. 2820, on June 18, 2013 through September 30, 2013; and

WHEREAS, on July 31, 2013, the City Council received and filed the final Study and directed staff to formulate a rent stabilization ordinance which excludes from its effect certain smaller mobilehome parks in light of the information submitted to the City in the Study; and

WHEREAS, as explained by California Health and Safety Code section 50840, "California is experiencing a severe housing shortage that compounds itself further each year." This shortage is particularly severe for low and

moderate income households. Mobilehome parks are a precious source of affordable housing for many lower-income households in the City and throughout California. Many of these households which reside in mobilehomes have few, if any, other affordable housing options; and

WHEREAS, The California Legislature enacted a comprehensive set of planning and housing laws in recognition of the State's dire housing shortage and the importance of preserving existing sources of affordable housing, including mobilehome parks. (Cal. Gov. Code § 65582.1). These laws obligate local governments to adopt planning and zoning policies that address the housing needs of all economic segments. Placing reasonable control on mobilehome rents is one of many important ways in which local governments can meet both the local housing needs of their residents and the State housing mandate; and

WHEREAS, State law requires municipalities to provide housing such as manufactured housing (including but not limited to mobilehomes) in the housing element of its general plan in order to meet the needs of very low-income residents (Cal. Gov. Code § 65583); and

WHEREAS, the United States Supreme Court and Ninth Circuit Court of Appeals in *Yee v. City of Escondido* (1992) 503 U.S. 519 and *Ventura Mobilehome Community Owners Ass'n v. City of San Buenaventura* (2004) 371 F.3d 1046 have found that as the governmental entities on the front lines of providing affordable housing, cities have a significant interest in assuring the maintenance of affordable rental levels in mobilehome parks in order to realize the goal of providing a housing option for their low income residents, including the elderly and people on fixed incomes; and

WHEREAS, the California Legislature enacted the Mobilehome Residency Law, codified in California Civil Code section 798, et seq., which confers many rights and protections on mobilehome residents. The Legislature found that the unique characteristics of mobilehome tenancies, including "the high cost of moving mobilehomes," entitle mobilehome residents to "unique protection from actual or constructive eviction[.]" and limited circumstances under which a park owner may terminate a mobilehome owner's tenancy, among many other protections. (Cal. Civ. Code § 798.55.) While the Mobilehome Residency Law does not impose rent control itself, it permits local jurisdictions, such as the City, to adopt mobilehome park rent control ordinances because of the unique nature of mobilehome parks and the residents' vulnerability to exorbitant rent increases. (Cal. Civ. Code §798.17.)

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 8 (Health and Safety) of the El Monte Municipal Code is hereby amended by the addition of the following Chapter 8.70 which shall read as follows:

Chapter 8.70 – Mobilehome Park Rent Stabilization

This Chapter may be cited as the "Mobilehome Space Rent Stabilization Ordinance" of the City of El Monte.

8.70.020 Statement of purpose and findings.

A. Mobilehome parks in the City provide lower income residents with affordable housing. The average household income of residents in non-mobile homes in El Monte is about \$53,063. In comparison, at \$33,958, the average household income of residents in mobile homes is sixty-four percent (65%) of the average household income of residents in non-mobile homes. (Study, page 3-2.) Households in mobilehomes in the City have almost twice the average percentage of households in poverty when compared to all households in the City. (Study, page 3-2.) Also, about forty-eight percent (48%) of the population

below the age of fifty-five (55) in mobilehomes are in poverty. Overall, the percentage of household in mobilehomes in the City that are in poverty is about eighty percent (80%) higher when compared to non-mobile home households. (Study, page 3-20.)

B. Finding alternative sites for the relocation of mobilehomes is difficult due to the shortage of vacant rental spaces which is a function of the actual immobility of mobilehomes and the scarce supply of land for mobilehome parks and mobilehome park spaces. The cost of moving a mobilehome is substantial and the risk of damage to the mobilehome is significant (Study, page 2-6, 2-20.)

C. Private sector ownership of mobilehome parks brings with it economic incentives to raise rents, which in light of the scarcity of spaces and the prohibitive cost of mobilehome relocation, makes mobilehome owners susceptible to excessive or unfair rent increases (Study, page 2-20.)

D. Monthly rents at for certain mobilehome spaces in the City have been found to exceed the average rent for area apartments, which is \$1,174 per unit/month. (Study, pages 5-3, 2-11.)

E. Mobilehome park regulations should be tailored to address the different manner in which large and small mobilehome parks operate. (Study, page 6-2.)

F. It is appropriate to ensure that conditions are preserved to promote and enhance fairness in the economic relationship between mobilehome park owners and mobilehome owners, in accordance with the Mobilehome Residency Law, in order to achieve mutually satisfactory agreements regarding space rents in mobilehome parks. Mobilehome owners and residents should be protected from unreasonable space rental increases while recognizing the need of mobilehome park owners to receive a just and reasonable return on their investments. (Study, page 6-2.)

8.70.030 Definitions.

For the purposes of this Chapter unless otherwise defined, the following words, terms and phrases shall be defined as follows:

A. "Board" shall mean the El Monte Mobilehome Park Rental Review Board.

B. "Camping trailer" shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold for occupancy, and designed for human habitation for recreational or emergency occupancy.

C. "Capital improvement" shall mean improvements to a park, major refurbishment of a park and rehabilitation of a park which involve more than ordinary maintenance.

D. "Department" shall mean the Economic Development Department of the City of El Monte.

E. "Homeowner" shall mean an owner of a mobilehome in a mobilehome park in the City.

F. "Mobilehome" shall mean a vehicle, designed or used for human habitation, including a camping trailer, travel trailer, motor home and slide-in camper, when used as the principal place of habitation for the occupants thereof.

G. "Mobilehome space" shall mean the site within a mobilehome park intended, designed, or used for the location or accommodation of a mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith.

H. "Motor home" shall mean a vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

I. "Park Owner" shall mean an owner or operator of a mobilehome park or a person authorized to act on the owner's behalf in operating the park.

J. "Rehabilitation" work shall mean any renovation or repair work completed on or in a mobilehome park which was performed in order to comply with the direction or order of a public agency, or to repair damage resulting from fire, earthquake, or other casualty.

K. "Rent" shall mean the consideration paid for the use or occupancy of a mobilehome space.

L. "Slide-in camper" shall mean a portable unit, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and designed for human habitation for recreational or emergency occupancy and shall include a truck camper.

M. "Tenancy" shall mean the right of a Homeowner to use or occupy a mobilehome space in a park in the City.

N. "Resident Homeowner" shall mean a Homeowner who has a tenancy in the park and resides in the mobilehome in the park.

O. "Travel trailer" shall mean a portable unit, mounted on wheels, of such size and weight as not to require special highway movement permits when drawn by a motor vehicle, and for human habitation for recreational or emergency occupancy.

8.70.040 El Monte mobilehome park rental review board.

A. The El Monte Mobilehome Park Rental Review Board is hereby established and shall consist of seven (7) members. In order to provide varied and balanced backgrounds, one member shall be a Resident Homeowner who are each at least 18 years of age, one member shall be an officer, employee, or principal of a Park Owner each of whom shall be an individual who is not less than 18 years of age and five (5) members shall be "At Large Members." An at Large Member shall be an individual who is not less than 18 years of age and who is also a registered voter who resides in the City, who is not a Resident Homeowner, not a Park Owner, and not a tenant in multifamily housing. There shall also be eight (8) Alternate Members; one Alternate shall be a Homeowner, one Alternate shall be a Park Owners and six (6) Alternates shall be At Large Member. The terms of the Board Members shall be two (2) years and a Board Member shall continue to serve until a successor has been appointed.

All Board Members and Alternate Board Members shall be appointed by the City Council. The tenure of any Board Member and Alternate may be terminable at any time by the City Council. If a vacancy occurs in a Board Member or Alternate Board Member position, an appointment shall be made by City Council. Each Board Member or Alternate shall continue to serve until a successor has been appointed by the order of the Mayor subject to the approval of a majority of the City Council, including the Mayor. All appointments of Board Members and Alternates shall be made in an open meeting of the City Council.

An Alternate shall serve on the Board in the absence of a Board Member. The Alternate to be called first, if available, shall have the same qualification as the absent Board Member. If the Alternate Member with the same qualifications as the absent Board Member should be unavailable, an At Large Alternate shall be called on to serve in place of the absent Board Member. Provided however that Resident Homeowner Alternate shall not serve in place of a Park Owner Member and a Park Owner Alternate shall not serve in place of a Resident Homeowner Member.

B. If a member of the Board is absent from three (3) successive regular meetings without being excused by the Board, or is absent for any reason for more than six (6) regular meetings in any twelve (12) month period, the office of such member shall be vacated and the Chair shall immediately notify the City Manager, who shall notify the City Council that said office is vacant. Upon such notification, a successor for the remainder of the term of such member shall be

appointed by the Mayor with the approval of a majority of the entire City Council present, including the Mayor.

C. The Board shall establish the time of any hearings or meetings held pursuant to this Chapter and such hearings or meetings shall be held in the City Hall as often as the Board determines to be necessary to discharge its duties hereunder.

D. The Board shall elect one (1) of its members as the Chair and one (1) as Chair Pro Tem and said election shall be held as soon as practicable after each new term commences or new appointments are made to the majority of the Board Member positions. Four (4) Board Members, counting any Alternate serving in the absence of a Board Member, shall constitute a quorum. The decisions of the Board shall be made by a majority vote, and in no case less than four (4) affirmative votes, shall be required to reach a decision on a rent increase or rent adjustment application.

E. The duties and responsibilities of the Board shall include the following:

1. The Board shall make any recommendations to the City Council that the Board deems appropriate regarding the implementation and enforcement of this Chapter.
2. The Board shall hear rent adjustment applications and determine whether to approve, modify or disapprove a rent adjustment pursuant to the procedures set forth in Section 8.70.060.
3. The Council, in its sole discretion, may permit the granting of a stipend to Members or compensation for Council-authorized costs and expenses incurred by a Member on behalf of the Board or the City. The Council, in its sole discretion may set, increase or decrease the amount or rate of the stipend at any time with or without cause or notice to the Members. Service on the Board is voluntary and any stipend Commissioners may receive shall not be construed as an inducement to, or consideration for, their service on the Board but merely a means to defray costs and expenses incident to such service. Members shall have no vested interest in receiving any stipend the Council, in its sole discretion, may elect to provide. Accordingly, the Council may reduce the amount or rate of stipends or eliminate the grant of stipends altogether at any time it determines such action is necessary or desirable. Any of the actions authorized under this section shall be accomplished by resolution of the Council. per meeting, in accord with a resolution of the City Council.

8.70.050 Applicability of chapter.

A. This Chapter shall apply to mobilehome parks in the City.

B. Pursuant to California Civil Code section 798.17, the provisions of this Chapter regulating the amount of rent which a mobilehome park owner may charge for a mobilehome space shall not apply to any mobilehome owner or 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 Civil Code section 798.17(b). A rental agreement of more than twelve (12) months in duration which meets the criteria of Civil Code section 798.17(b) is referred to herein 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 of 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 rent charged for the space. For the purpose 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 Chapter 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 Chapter. If a notice of rent increase is given for a space which is exempt by the operation of this Section, but the rent increase will take effect after the

expiration of the rental agreement, the mobilehome owner or tenant shall not be disqualified from seeking a review of such rent increase under this Chapter, unless a new qualifying rental agreement or an extension of the previous qualifying rental agreement is entered into by the mobilehome owner or tenant.

C. With the exception of Section 8.70.140 and Section 8.70.150 of this Chapter, which shall remain applicable, notwithstanding any other provision of this Chapter to the contrary, the rent charged by Park Owners to the Resident Homeowners under rental agreements in mobilehome parks with one hundred (100) or fewer spaces shall not be subject to regulation or review under this Chapter.

D. With regard to rent charged by Park Owners to Resident Homeowners under rental agreements in mobilehome parks with one hundred one (101) or more spaces, if the monthly rent under a rental agreement in such a park is less than \$760 (exclusive of monthly metered utility charges of the Park Owner) as of October 1, 2013 ("Ceiling Rent Amount"), then the Park Owner may raise the monthly rent on such a space each year after the effective date of this Chapter without Board approval after October 1, 2013 in an amount not to exceed fifty dollars (\$50.00) per month between the time when the space rent was last increased and the date of the proposed rent increase taking effect on or after October 1, 2013, up to the Ceiling Rent Amount (\$760, exclusive of monthly metered utility charges of the Park Owner). All other proposed monthly space rent increases in excess of either fifty dollars (\$50.00) per month each year after the effective date of this Chapter and/or monthly space rent increases above the Ceiling Rent Amount, as described in the preceding sentence, in mobilehome parks with one hundred one (101) or more spaces, shall be subject to the review and approval of the Board. The City Council may adjust the Ceiling Rent Amount from time to time by resolution following not less than ten (10) days public notice.

8.70.060 Permitted rent increases based upon application approved by the board.

A. Except as provided in Section 8.70.050(C) or 8.70.050(D), a Park Owner may file with the Department a rent increase application for one (1) or more mobilehome spaces for approval by the Board. A Park Owner, a Resident Homeowner or the Department may file an application for a rent adjustment for one (1) or more spaces pursuant to Subsection H of this Section 8.70.060.

B. An application for a rent adjustment pursuant to this Section shall be filed upon a form prescribed by the Department and shall be accompanied by the payment of a fee to be established by resolution of the City Council. The application shall specify the address of the mobilehome park, the space number or numbers for which rent is requested to be increased, the amount of the requested rent increase, the facts supporting the application. Supporting documentation shall be filed with the application and the applicant shall produce at the request of the Department any records, receipts, reports, or other documents that the Department may deem necessary for the Board to make its determination concerning the application. The application shall be made under penalty of perjury and supporting documents shall be certified or verified as requested by the Department.

C. A rent increase application accompanied by the required fee shall be accepted and lodged by the Department but shall not be filed until it is substantially complete and the time periods provided by this Chapter for processing the application shall not begin to run until an application is substantially complete and filed. The Department shall determine within thirty (30) days after the lodging of an application whether said application is complete. If the Department determines that an application is not complete, it shall so notify the applicant in writing and the notice shall state what additional information is required to complete the application. An application which is substantially complete but lacks documentation to support certain claims can be processed for hearing, but any claimed expenses lacking adequate documentation shall not be

allowed as operating expenses. Any application which has not been substantially completed within six (6) months of its submission to the Department shall be returned to the applicant. Thereafter, a new application and fee shall be required if the applicant wishes to apply for a rent increase.

D. Upon receipt of a rent increase application, the Department shall mail a notice to the affected Resident Homeowners informing them that an application has been lodged and is being reviewed for completeness. The notice shall also state the amount of the increase being sought. Resident Homeowners may review the application in the Department and may also obtain copies of the application upon payment of the City's copying costs. Upon determining that the application is substantially complete, the Department shall mail a notice to the applicant stating that the application is substantially complete and has been filed. At the same time, the Department shall mail a notice to the affected Resident Homeowners stating that the application is substantially complete and informing them of the amount of the rent increase sought and that they have thirty (30) days from the date of the notice in which to submit written statements, photographs, documents, or other evidence relating to the application, to the Department. No written statements, photographs, documents or other evidence relating to the application may be filed with the Default later than ten (10) days before the hearing on the application. All materials submitted by a Park Owner, Resident Homeowner or any other interested party are public records, may be inspected and may be copied upon payment of the City's copying costs.

E. The Board shall hold a public hearing on an application within sixty (60) days of the date that the application is determined to be substantially complete, except as provided in Subsection J of this Section. Notice of the time, date and place of the hearing shall be mailed to the applicant and affected Homeowners at least fifteen (15) days prior to the hearing date. The staff report on an application shall be provided to Board Members, and made available to the applicant, the Resident Homeowners and their designated representatives, if any, at least five (5) days prior to the hearing.

F.

1. At the public hearing, the applicant, affected Resident Homeowners, their representatives and any interested person may offer any testimony that is relevant to the application. They may offer documents, written declarations, photographs or other written or documentary evidence for the first time at the hearing only if good cause is shown why such evidence could not, with reasonable diligence, have been filed with the Department ten (10) days prior to the hearing and that the material was filed with the Department as soon as possible. Board Members and Alternates may testify at a hearing on a rent increase application only when they have recused themselves and the application involves a park in which they reside, have a financial interest or manage, or in which a parent, grandparent or siblings of the Board Member or Alternate resides.

2. All persons testifying at the hearing shall be sworn under penalty of perjury. Formal rules of evidence shall not be applicable to the hearing.

3. The Board may approve the rent increase requested, approve a modified rent increase or deny the application pursuant to the standards established by Subsections G and H of this Section and shall adopt a written resolution setting forth its findings and decision no later than seventy-five (75) days after the application was deemed substantially complete.

G. The Board shall grant such rent increases as it determines to be fair, just and reasonable. A rent increase is fair, just and reasonable if it protects Resident Homeowners from an excessive rent increase and allows a fair return on investment to the Park Owner. The Board shall consider the following factors, and any Guidelines adopted by Resolution of the City Council, which references

this Section 8.70.060, as well as any other relevant factors, in making its determination, and no one (1) factor shall be determinative.

1. Changes in the Consumer Price Index for All Urban Consumers in the Los Angeles-Anaheim-Riverside Area published by the Bureau of Labor Statistics. If the Bureau of Labor Statistics subsequently changes the geographic reporting area in which the City is located, the Board shall use the most current applicable reporting area established by the Bureau.
2. The rent lawfully charged for comparable mobilehome spaces in other parks in the City of El Monte.
3. The length of time since either the last hearing and final determination by the Board on a rent increase application for the applicable mobilehome park or the last rent increase if no previous rent increase application has been made for the applicable mobilehome park.
4. The completion of any capital improvements related to the mobilehome space or spaces included in the rent increase application, including such items of cost as materials, labor, interest, permit fees and other items as established by evidence and deemed relevant by the Board.
5. Changes in property taxes or other taxes related to the applicable mobilehome park.
6. Changes in the rent paid by the applicant for the lease of the land on which the applicable mobilehome park is located.
7. Changes in the utility charges for the applicable mobilehome park paid by the applicant and the extent, if any, of reimbursement from the Homeowner.
8. Changes in reasonable operating and maintenance expenses of the applicable mobilehome park.
9. The need for repairs caused by circumstances other than ordinary wear and tear in the applicable mobilehome park.
10. The amount and quality of services provided by the applicant to the affected Homeowner(s) in the applicable mobilehome park.
11. Any existing written lease lawfully entered into between the applicant and the affected Resident Homeowner.

H.

1. The Board may provide that an increase in rent, or a portion of an increase in rent, granted by the Board be limited to the length of time necessary to allow the Park Owner to reasonably amortize the cost of a capital improvement, including interest and any costs necessary to the capital improvement, excluding attorneys' fees. Such increases shall not continue beyond the time necessary for reasonable amortization of the cost of such capital improvement and shall be listed separately from the base rent for a space on the monthly rent statement, invoice or bill provided to the Resident Homeowners. When calculating general rent increases, any capital improvement rent increase shall not be included in the existing rent.
2. If the cost of a capital improvement for which an increase was granted under this subsection is later recovered by the Park Owner from a third party before the expiration of the amortization period approved by the Board, the Park Owner, any affected Homeowner or the Director of the Department or his designee, may file an application with the Department for the termination of the capital improvement rent increase on the ground

that the Park Owner has recovered the cost of the improvement through insurance, litigation or other right of indemnity. The capital improvement rent increase shall be suspended pending determination of the application and if the application is denied the amortization period during which the increase may be collected shall be extended as necessary to allow the full amortization period originally allowed by the Board.

3. Upon receipt of an application to terminate a capital improvement rent increase, and upon satisfactory proof of recovery of the cost of the improvement, such as, but not limited to, a court judgment or insurer's acknowledgment of coverage, the Director of the Department shall give notice of the application to the Park Owner and affected Homeowners and the capital improvement rent increase shall be terminated within fifteen (15) days unless within ten (10) days of the notice it is protested by the Park Owner on the ground that he or she has not in fact recovered the cost of the improvement. If satisfactory proof of recovery of the cost of the improvement is not submitted with the application, the Department shall give notice of that determination to the applicant, the affected Homeowners and the Park Owner and the Director's decision shall become final within fifteen (15) days of the notice unless protested by the applicant or an affected Homeowner within fifteen (15) days of the notice. If a protest is filed by an affected Homeowner or the Park Owner, mailed notice shall be given to the affected Homeowners and Park Owner that the protest will be heard by the Board on a date not later than thirty (30) days after the filing of the protest. The notice shall be mailed no later than fifteen (15) days prior to the hearing and the Board shall make its decision by written resolution setting forth its findings within forty-five (45) days after the filing of the protest.

I. Notice of the Board's determination on an application shall be mailed to the applicant, the Park Owner and all affected Resident Homeowners at the mobilehome spaces designated in the application. The determination of the Board shall be final.

J. The time in which the Board must open the hearing on an application and the time in which the Board must make any final decision may be extended with the consent of the applicant or Park Owner and may be extended without the consent of the applicant or Park Owner if the need for the extension is caused by the conduct of the applicant or the Park Owner. In the event the Board is unable to make its decision within the time limits set forth in this Chapter, including any extensions of time consented to by the applicant, the Board's inability to make a timely decision is not due to the conduct of the applicant or the Park Owner, or some cause beyond the Board's control, such as, but not limited to, fire, earthquake or flood, the Board shall at the time it grants any rent increase based on Subsections G and H of this Section grant a temporary additional rent increase to the applicant to compensate the applicant for the difference between the rental income received between the time when an increase should have been granted pursuant to the time limits set forth in this Chapter and the rental income that would have been received if the increase had been timely granted.

8.70.070 Maximum Allowable Rent.

Except for the Ceiling Rent Amount subject to the regulations of this Chapter by the application of state law to a space under Section 8.70.050 the maximum allowable rent ("MAR") for any mobilehome space in a park in the City is the last rent approved by the Board. Each park shall register with the Department, on a form provided by the Department, the rent for each space in the park subject to City's provisions of this Chapter within thirty (30) days following the enactment of this Chapter by the City. Such registration shall include a description of the amenities and services provided to the Homeowner for each such space as registered in the park on that date without any charge beyond the rent in effect on that date. The rent so registered for each space shall become the MAR for that space unless that rent is challenged by a Resident Homeowner in the park

within thirty (30) days after notice is sent by the Department to each Homeowner showing the rent that has been registered for each space. The challenge must be based on evidence showing that the rent registered exceeds that in effect for the space at the time that level rent for such space initially because subject to this Chapter. Any challenge by a Resident Homeowner to the initial rental level shall be submitted in writing to the Department. Upon receipt of such a challenge, the Department shall notify the Park Owner that he or she has thirty (30) days in which to provide any information relevant to determining the MAR for the space or spaces for which the challenge, of the initial or starting rent, has been filed. The Department shall set a public hearing to determine the MAR for each space for which a challenge has been filed no later than thirty (30) days after the expiration of the Park Owner's time to respond. Notice of the time, date and place of the hearing shall be mailed to the Park Owner and affected Homeowners no later than fifteen (15) days prior to the public hearing and no written or documentary evidence may be submitted later than ten (10) days prior to the hearing date. The hearing shall be held according to the provisions governing hearings on rent increase applications. The Board shall adopt a written resolution setting forth its findings and the MAR for the spaces for which a challenge was filed within fifteen (15) days after the date on which the public hearing is opened. No fee shall be charged for registering rents under this Subsection or for filing a challenge to a rent or rents challenged pursuant to this Subsection.

8.70.080 Tenancies Not Governed by the Mobilehome Residency Law.

A. A Resident Homeowner whose tenancy is not regulated by the provisions of the Mobilehome Residency Law (Civil Code section 798, et seq.) shall not be charged a fee for anything other than rent or utilities with the exception of incidental reasonable charges for services actually rendered.

B. A tenancy in a mobilehome park which is not subject to the provisions of the Mobilehome Residency Law shall not be terminated nor shall its renewal be refused, except for one (1) or more of the following reasons:

1. Failure of the occupant of the mobilehome to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the occupant receives a notice of noncompliance from the appropriate governmental agency.
2. Conduct by the occupant, which constitutes a substantial annoyance to other occupants or Homeowners.
3. Failure of the occupant to comply with reasonable rules or regulations of the mobilehome park. No act or omission of the occupant shall constitute such a failure to comply unless and until the Park Owner has given the occupant appropriate notice of the alleged rule or regulation violation and the occupant has failed to adhere to the rule or regulation within seven (7) days.
4. Nonpayment of rent, utility charges, or reasonable incidental service charges.
5. Condemnation of the mobilehome park.
6. Change of use of the mobilehome park; provided, that:
 - a. The Park Owner has complied with the provisions of California Civil Code section 798.56 and Government Code sections 65863.7 and 65863.8 and applicable City regulations on change of use of the mobilehome park.
 - b. The Park Owner has given the occupant written notice of the proposed change twelve (12) months or more before the date of the proposed change on the occupant takes possession of the mobilehome following

notice by the Park Owner to the predecessor in interest of such occupant.

C. Notice of termination or refusal to renew must be given in writing in the manner prescribed by Code of Civil Procedure section 1162 at least sixty (60) days prior to the termination date of the tenancy. Said notice shall state the date the tenancy terminates, the reason for the termination or refusal to renew, and the specific facts upon which the Park Owner is relying.

8.70.090 Refusal of Homeowner to Pay Illegal Rent.

A Homeowner may refuse to pay any rent in excess of the maximum allowable rent ("MAR") permitted by this Chapter. The fact that such unpaid rent is in excess of the MAR shall be a defense in any action brought to recover possession of a mobilehome space for nonpayment of rent or to collect the illegal rent.

8.70.100 Remedies.

A. Any person who demands, accepts or retains any payment of rent in violation of the provisions of this Chapter shall be liable in a civil action to the person from whom such payment is demanded, accepted or retained for damages in the sum of three (3) times the amount by which the payment or payments demanded, accepted, or retained exceed the maximum rent which could lawfully be demanded, accepted or retained together with reasonable attorneys' fees and costs as determined by the court.

B. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and shall be punishable in the manner provided by EMMC Chapter 1.24.

C. Code of Civil Procedure section 1094.6 is applicable to decisions of the El Monte Mobilehome Park Rental Review Board granting or denying rent increase applications and no legal challenge to any such decision of the Board may be brought unless it is filed within ninety (90) days of the Board's final decision, as set forth in its written resolution making findings. The Board's resolution granting or denying the increase shall state that the time within which judicial review must be sought is governed by Code of Civil Procedure section 1094.6 and a copy of the resolution, including a certificate of mailing, shall be sent to the applicant, and to a representative of the residents of the affected mobilehome park, if one has been designated, by first class mail.

8.70.110 City Council Review of This Chapter.

The City Council shall review the provisions of this Chapter within twelve (12) months following the date of adoption thereof, and at any other time deemed appropriate, in order to consider the following:

A. Whether mobilehome space rent control continues to be necessary to protect the public health, safety and welfare;

B. Whether the implementation of the provisions of this Chapter have been adequate; and

C. Whether the provisions of this Chapter should be amended to provide more effective regulations or to avoid unnecessary hardship.

8.70.120 Lease Regulations.

No Park Owner may require, directly or indirectly, that any Homeowner or prospective Homeowner sign a lease or rental agreement that provides that it shall be exempt from local rent control or provides for space rent in excess of that permitted by this Chapter as a condition of tenancy in the park and no Park Owner may deny a tenancy to a prospective purchaser of a mobilehome in the

park on the grounds that the prospective purchaser will not sign such a lease or rental agreement.

8.70.130 Utility Fees-Registration and Posting.

A. Not less than ninety (90) days prior to imposing a separate charge for a utility service previously included in the rent pursuant to Civil Code section 798.41, a Park Owner shall file notice thereof with the Department on a form provided by the City, which specifies the current rent for each space, the new charge to be imposed, the duration and expiration date of the separate charge if it has a limited duration or is amortized for a specified period, the rent reduction to be made simultaneously with imposition of the charge, the calculation of the new charge and rent reduction and the new MAR for each space.

B. Not less than ninety (90) days prior to imposing, increasing, decreasing or eliminating a charge separately billed pursuant to Civil Code section 798.49, a Park Owner shall file a notice with the Department on a form provided by the City which specifies for each space the current rent, the amount of the new charge or charge eliminated or the amount of any increase or decrease in an existing charge, the fee or assessment on which the charge or change therein is based, the basis for the amount of the charge or any change therein and the duration and expiration date of the charge if it has a limited duration or is amortized for a specified period.

C. Within ten (10) days of executing any rental agreement or lease which is exempt from this Chapter pursuant to Civil Code section 798.17, a Park Owner shall register that lease with the Department on a form provided by the City, which specifies the beginning and ending date of the lease and the rental rate(s) applicable during the duration of the lease, and shall attach thereto a copy of the lease.

D. Every Park Owner shall post a copy of this Chapter in the park office or manager's office and in any clubhouse, recreation building or room, auditorium or assembly room, shall give each Resident Homeowner and each prospective Resident Homeowner a copy of this Chapter before such Homeowner executes any lease or rental agreement with the park and the Park Owner shall file a signed receipt from each such Homeowner acknowledging receipt of a copy of this Chapter prior to execution of any lease or rental agreement with the Department within ten (10) days of execution of the lease or rental agreement.

8.70.140 Rights of Prospective Tenants

A. Any prospective tenant must be offered the option of renting a mobilehome space in a manner which shall permit him or her to receive the benefits of the City's rent stabilization program, as set forth in this Chapter, which include, but are not limited to, rental of a mobilehome space on a month-to-month basis. Such a person cannot be denied the option of a tenancy of twelve months or less in duration.

B. Each mobilehome park owner shall provide each prospective tenant with written notification of this Chapter and a copy of this Chapter.

C. Any effort to circumvent the requirements of this section shall be unlawful.

8.70.150 Retaliation Prohibited

A. It shall be unlawful for any landlord to evict a mobilehome owner or mobilehome tenant where the landlord's dominant motive in seeking to recover possession of the unit is:

1. Retaliation for the mobilehome owner's or mobilehome tenant's petitioning government for rent relief, or exercising any right granted under this Chapter;
- or

2. Evasion of the purposes of this Chapter.

B. It shall be unlawful for a landlord to retaliate against a mobilehome owner or mobilehome tenant for the owner's or tenant's assertion or exercise of rights under this Chapter in any manner, including but not limited to:

1. Threatening to bring or bringing an action to recover possession of a rental unit.
2. Engaging in a form of harassment that causes the owner or tenant to quit the premises.
3. Decreasing housing services.
4. Increasing rent.
5. Imposing or increasing a security deposit or other charge payable by the owner or tenant.

8.70.160 Sunset

A. This Chapter shall have no force or effect one (1) year following its effective date, unless, before such time, the City Council adopts an Ordinance extending the effectiveness of this Chapter. For purposes of this Chapter, the words "effective date" means the day thirty (30) days after the second reading of the Ordinance which enacts this Chapter.

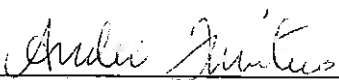
B. City staff is hereby directed to: i) continue to study and assess the conditions engendering the adoption of this chapter as set forth in Ordinance No. 2829 and submit a report within nine (9) months to the City Council regarding policy alternatives for the operation of mobilehome parks and the preservation and expansion of affordable housing appurtenances in mobilehome parks, and such a report shall describe City consultations with stakeholders, including Park Owners and Resident Homeowners. In the event that the effectiveness of this Chapter may not be so extended by an Ordinance of the City Council, the Board shall nonetheless retain jurisdiction to complete its deliberation and enter a finding with respect to any rent review matters pending as of the first (1st) day following expiration of this Chapter.

SECTION 2. The City Council does hereby find that the actions contemplated herein do not constitute a project subject to the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA") and its implementing regulations, (Cal. Code Regs., tit. 14, § 15000 et seq.), as they will not result in a direct or reasonably foreseeable indirect physical change to the environment (Cal. Code Regs., tit. 14, §§ 15060(c)(2)-(3), 15378.)

SECTION 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

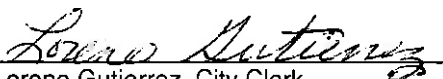
SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within fifteen (15) days after its adoption. This Ordinance shall become effective thirty (30) days after adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at the regular meeting of this 3rd day of September, 2013.



Andre Quintero, Mayor
City of El Monte

ATTEST:



Lorene Gutierrez, City Clerk
City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF EL MONTE) SS:

I, Lorene Gutierrez, City Clerk of the City of EL Monte, hereby certify that the foregoing Ordinance No. 2829 was passed and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 3rd day of September, 2013 and that said Ordinance was adopted by the following vote, to-wit:

AYES: Mayor Quintero, Mayor Pro Tem Macias, Councilmwn Gomez, Councilwoman Martinez and Councilman Patel

NOES: None

ABSTAIN: None

ABSENT: None



Lorene Gutierrez, City Clerk
City of El Monte