

# LAW OF THE LAND

A blog on land use law and zoning

Posted by: Patricia Salkin | March 12, 2012

## 9th Circuit Finds no FHAA Violation in Creation of Senior Mobile Home Park Overlay District

Four mobile home park owners filed suit against the City of Yucaipa, challenging a zoning ordinance which prohibited the conversion of mobile home parks from senior only to all age housing. The park owners challenged this ordinance under the Fair Housing Act Amendment of 1988 (FHAA). The district court dismissed the owner's suit and they appealed. The United States Court of Appeals, Ninth Circuit affirmed.

In 2009, the City adopted an ordinance creating a Senior Mobilehome Park Overlay District, which prohibited the conversion of mobile home parks with a significant amount of space reserved or intended for senior use. The purpose behind the ordinance was to preserve affordable and independent housing for the City's senior population, "as well as to protect the reliance interests of those seniors who had purchased homes in existing senior-housing parks." The owners asserted this ordinance was in violation of the FHAA as it required the parks to discriminate on the basis of familial status and interfered with the parks' ability to "aid or encourage" families with children to enjoy fair housing rights. The City replied by asserting that the "senior exemption" applied, which under the FHAA, the Housing for Older Persons Act of 1995, and Department of Housing and Urban Development regulations, allows municipalities to exclude families and children. The owners' retorted by asserting the exemption did not apply because it required the owners to intend to provide senior housing, which they did not. The district court ruled in favor of the City, finding the exemption applied and the requisite intent was of the City, not the owners.

The owners appealed, alleging the intent to provide senior housing must be of the land owner and not the City, and that the HUD regulations relied upon are inconsistent with the housing law and are outside the scope of HUD's authority. The 9th Circuit began their discussion of the case by noting that the FHAA added familial status to the list of prohibited discrimination in housing. However, the FHAA provided an exemption – that restrictions would not apply to housing for older persons. The defendant has the burden of proof on this affirmative defense, and needs to show the requirements of the exception were satisfied at the time of the discriminatory act.

One of the elements of the affirmative defense is a showing of an intent to operate a senior "housing facility or community." In interpreting this statutory term, HUD stated that a municipally zoned area qualified as such a facility or community. HUD further provided that a municipally zoned area could meet the intent requirement by meeting certain requirements. The court stated that under the HUD regulations, there is no doubt that the intent of the City can be used to determine whether the "municipally zoned area" is a "housing facility or community" entitled to the senior exemption.

Thus, the only question is whether the HUD regulation is authoritative. In examining the regulations, the court stated that an agency's interpretation of a statute the agency is charged with implementing will be deferred to if reasonable. Prior to the Housing for Older Persons Act of 1995, the FHAA used in the exemption the language "owner or manager." Congress changed this to "housing facility or community," illustrating an intent to permit a broader array of senior housing providers. The statute also required the housing facility or community to adopt, publish, and adhere to policies and procedures, evidencing that these entities have the authority and power to issue these restrictions. These specific sections, as well as Congress's broad intent to ensure senior housing, lack of intent on the phrase in question, and its willingness to have HUD promulgate regulations on the matter, led the 9th Circuit to defer to HUD's interpretation of the term "housing facility or community." Thus, the HUD regulations were lawful, the City was rightfully determined to be a housing facility or community, and their actions satisfied the intent standard. The regulations were then determined to be lawful under the FHAA and the district court's dismissal of the action was affirmed.

Putnam Family Partnership v. City of Yucaipa, — F.3d —, 2012 WL 516063 (9th Cir. 2/17/2012)

The opinion can be accessed at:

<http://www.ca9.uscourts.gov/datastore/opinions/2012/02/17/10-55563.pdf>  
(<http://www.ca9.uscourts.gov/datastore/opinions/2012/02/17/10-55563.pdf>).

Posted in Current Caselaw, Fair Housing Act Amendments, Mobile Homes, Senior Housing

## Categories

- Access to Government
- Accessory Uses
- ADA
- Adequate Public Facilities Ordinances
- Adult Entertainment Facilities
- Aesthetics

## 5.060 Senior Mobile Home Park Overlay District.

A. *Intent and Purpose.* The Senior Mobile Home Park Overlay District is intended to preserve a variety and balance of housing types within the City of Petaluma, and to provide assurances that existing senior mobile home parks within the Senior Mobile Home Park Overlay District and future senior mobile home parks established subject to the Overlay District will remain available to seniors.

B. *Definitions.*

1. **Convert or Conversion.** Changing a senior mobile home park to a mobile home park that does not qualify as a senior mobile home park in accordance with this section and other applicable law.
2. **Mobile Home Park.** Has the same meaning as in Petaluma Municipal Code Section 6.50.020(K), as amended from time to time, and currently defines “mobile home park” as any area of land within the incorporated areas of the City where two or more mobile home spaces are rented, or held out for rent, to accommodate mobile homes used for human habitation, subject to and in accordance with all applicable land use regulations.
3. **Senior Mobile Home Park.** A mobile home park in which at least 80 percent of the spaces are occupied by, or intended for occupancy by, at least one person who is 55 years of age or older.

C. *Designation.* The Senior Mobile Home Park Overlay District shall be designated by the symbol (MH-S) on the City of Petaluma Zoning Map. The (MH-S) designation applies to the five senior mobile home parks that exist in the City as of the effective date of this section, and to senior mobile home parks established in the City after the effective date of this section subject to the Overlay District. The five senior mobile home parks in the City as of the effective date of this section are:

Park Name	Address	Assessor Parcel Number
Leisure Lake	300 Stony Point Rd, Petaluma, CA 94952	007-422-042
Petaluma Estates	901 North McDowell Blvd, Petaluma, CA 94954	048-080-023 & 007-401-013
Royal Oaks	750 Wood Sorrel Dr, Petaluma, CA 94954	137-061-024
Cottages of Petaluma	576 North McDowell Blvd, Petaluma, CA 94954	149-030-003
Youngstown	911 North McDowell Blvd, Petaluma, CA 94954	048-080-024 & 007-401-004

- D. *Senior Occupancy Requirement.* At least 80 percent of the spaces in senior mobile home parks must be occupied by at least one person 55 years of age or older. This senior occupancy requirement does not apply to or affect ownership of a mobile home unit. As long as at least one resident of a mobile home in a senior mobile home park is 55 years of age or older, the senior occupancy requirement is satisfied as to that mobile home, whether or not the owner of the mobile home is 55 years of age or older.
- E. *Limitations on Rentals.* Spaces and mobile homes in a senior mobile home park overlay district shall be rented only to occupants who meet the senior occupancy requirements set forth in subsection (A) of this section; provided, however, that the occupants of a space or mobile home who do not meet the senior occupancy requirement in subsection (A) of this section have rented a space and/or mobile home in a senior mobile home park before the effective date of this section and continue to occupy that space and/or mobile home following the effective date of this section, they shall be allowed to remain in that senior mobile home park; and provided further, that when such occupant(s) cease to occupy that space and/or mobile home, the mobile home and space shall be rented to occupants who meet the senior occupancy requirement in subsection (A) of this section.
- F. *Minimum Design and Performance Standards.* The signage, advertising, leases, rental agreements, and park rules and regulations for spaces in a mobile home park in the Senior Mobile Home Park Overlay Zone (MH-S) shall state that the park is a senior mobile home park.
- G. *Annual Certification.* Each senior mobile home park shall have procedures for verifying that it qualifies as a senior facility under applicable federal and/or state law and this section, including documentation establishing that at least 80 percent of the mobile homes or spaces in the mobile home park are occupied by at least one resident who is 55 years of age or older in accordance with subsection (D) of this section. These procedures shall provide for regular updates, through surveys, affidavits, or other means of updating the initial information supplied by the occupants of the mobile home park. Such updates must take place at least once every two years. A summary of this occupancy verification documentation shall be available for inspection upon reasonable notice and request by City officials.
- The operator of each mobile home park in the Senior Mobile Home Park Overlay Zone shall, on an annual basis, provide to the City's Housing Director a certification that the subject mobile home park is in compliance with the senior occupancy requirement of this section, in substantially the following form:

I [name] hereby certify, under penalty of perjury in accordance with California law that there is at least one occupant 55 years of age or older in [number of units] units of the total [number of units in the park] units in the [name of the seniors mobile home park] senior mobile home park. This certification is based on my personal knowledge of the residents, evidence provided to me in the form of official government documents containing specific information about the current age of the residents, resident affidavits, or age certifications made by residents in their current lease agreements.

The City's Housing Director shall establish the deadline for filing the annual certification, which, to the extent possible, shall be coordinated with the timing of filings as may be required pursuant to the City's mobile home rent stabilization program.

H. *Violations.* Failure to comply with the requirements of this section shall constitute a violation of the ordinance codified in this section, and be subject to enforcement and the remedies provided in Chapters 1.10 through 1.16 of the Petaluma Municipal Code. (Ord. 2865 § 3, 2023.)

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**The Petaluma Implementing Zoning Ordinance is current through Ordinance 2890 NCS, passed June 17, 2024.**

Disclaimer: The city clerk's office has the official version of the Petaluma Implementing Zoning Ordinance. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: [cityofpetaluma.net](http://cityofpetaluma.net)

Hosted by General Code.

# CITY OF HUNTINGTON BEACH

## ZONING CODE

### Title 22 ZONING CODE--OVERLAY DISTRICTS

## Chapter 228 SR SENIOR RESIDENTIAL OVERLAY DISTRICT

### 228.02 Senior Residential Overlay District Established

The Senior Residential Overlay District is intended to promote the maintenance and viability of existing mobile home parks through appropriate zoning. It is an overlay district where mobile home parks are established as the primary land use in order to limit conversion of existing affordable housing to other land uses. The Senior Residential Overlay District may overlay any property which provides for mobile home park developments.

The Senior Residential Overlay District is established and shall be designated by the symbol (SR). The (SR) designation applies to all of the 10 senior residential mobile home parks that existed in the City of Huntington Beach as of the approval on August 5, 2013 of the City's moratorium ordinance regarding senior mobile home park conversions. (4019-4/14)

### 228.04 Zoning Map Designator

The Zoning Map shall show all property subject to the provisions of this chapter and overlay district by adding a "SR" designator to the underlying base zone. (4019-4/14)

### 228.06 Definition

Except where the context clearly indicates otherwise, the definition given in this section shall govern the provisions of this chapter.

Senior residential park. A "senior residential park" means a mobile home park in which at least 80% of the spaces are occupied by, or intended for occupancy by, at least one person who is 55 years of age or older, or where 100% of the spaces are occupied or intended for occupancy by persons 62 years of age or older. (4019-4/14)

### 228.08 Land Use Regulations

At least 80% of the spaces in mobile home parks in the Senior Residential Overlay Districts shall be occupied by at least one person 55 years of age or older. If an existing mobile home park met this qualification on August 5, 2013, and fell below the 80% requirement between that date and the effective date of the ordinance codified in this section, the Senior Residential Overlay District shall be applied to that mobile home park and the park shall be required to operate as a senior residential park by renting spaces and mobile homes only when at least one occupant of the mobile home is 55 years of age or older. The signage, advertising, park rules, regulations, rental agreements and leases for spaces in a senior residential park in the SR Overlay District shall state that the park is a senior residential park.

Pursuant to Section 228.06, Definition, and as of the effective date of the ordinance codified in this section, the senior residential parks in the SR Zoning District are Rancho Del Rey Mobile Home Park, Skandia Mobile Home Park, Huntington Harbor Mobile Home Park, Sea Breeze Mobile Home Park, Beachview Mobile Home Park, Los Amigos Mobile Home Park, Brookfield Manor, Del Mar Mobile Home Park, Mariners Pointe, Rancho Huntington Mobile Home Park.

Spaces and mobile homes in senior residential parks shall be rented only to occupants who meet the age requirement set forth in Section 228.08 above; provided, however, that if the occupants of a space or mobile home who do not meet this requirement rented the space or mobile home before the effective date of the ordinance codified in this section, they shall be allowed to remain, and provided further that when such occupants cease to occupy a space or mobile home, the mobile home and space cannot thereafter be rented except to occupants who meet the age requirements set forth in this section. (4019-4/14)

#### **228.10 Minimum Design and Performance Standards**

The signage, advertising, leases, and park rules and regulations for spaces in senior residential parks shall state that the park is a senior residential park. Each senior residential park shall have procedures for verifying that it qualifies as a senior facility under applicable federal and/or state law, including documentation establishing that at least 80% of the mobile homes or spaces in the mobile home park are occupied by at least one resident who is 55 years of age or older. These procedures shall provide for regular updates, through surveys or other means of initial information supplied by the occupants of the mobile home park. Such updates must take place at least once every two years. A summary of this occupancy verification documentation shall be available for inspection upon reasonable notice and request by City officials. (4019-4/14)

#### **228.12 Removal of the Senior Residential Overlay District**

A zoning map amendment to remove the SR overlay designation shall be subject to the provisions of Chapter 247. (4019-4/14)

ORDINANCE NO. 4555

**AN ORDINANCE OF THE VENTURA COUNTY BOARD OF SUPERVISORS  
AMENDING DIVISION 8, CHAPTER 1, ARTICLE 2, 3, 4, AND 9 OF THE VENTURA  
COUNTY ORDINANCE CODE, NON-COASTAL ZONING ORDINANCE PERTAINING  
TO THE ESTABLISHMENT OF A SENIOR MOBILEHOME PARK OVERLAY ZONE  
AND RELATED REGULATIONS**

The Board of Supervisors of the County of Ventura, State of California, ordains as follows:

**Section 1**

The Board of Supervisors finds that:

- A. There are 25 mobilehome parks in the unincorporated area of Ventura County, eight of which have long operated as senior mobilehome parks, providing an important source of affordable senior housing;
- B. The eight senior mobilehome parks represent approximately 660 spaces out of 1,360 total spaces, or 50 percent of all mobilehome spaces in the unincorporated area;
- C. The conversion of senior mobilehome parks to mobilehome parks allowing occupancy by persons of all ages will result in harmful environmental effects and the loss of existing affordable senior housing within the County. These effects present a threat to, and a specific adverse impact upon, public health, safety and welfare and the County's ability to provide safe and decent housing opportunities to seniors;
- D. The goals of the 2014-2021 Housing Element of the County's General Plan include discouraging the conversion of existing senior citizen housing to other uses and providing opportunities for new, and preserving existing, senior housing including ownership, rental, and manufactured housing (Housing Element Goals/Policies 3.3.2-4(1) and 3.3.1-5(4));
- E. The California Legislature has authorized counties to provide zoning for "senior mobilehome parks" pursuant to California Health and Safety Code section 18300;
- F. The California Attorney General has opined that zoning for senior housing does not conflict with the general prohibition against discrimination based upon age contained in California Government Code section 65008 (87 Cal. Ops. Atty. Gen. 148 (Oct. 20, 2004));



- G. It is necessary to develop new zoning regulations to implement a Senior Mobilehome Park Overlay Zone in order to promote and preserve low cost senior mobilehome parks;
- H. This ordinance is necessary to mitigate the unregulated effects of conversion of senior housing to housing allowing occupancy by persons of all ages, including the potential shrinking inventory of existing quality affordable housing for seniors, and restricted housing options for seniors hoping to remain in their mobilehome community or transition into such a community from larger or more expensive housing. No feasible alternative is available to satisfactorily mitigate or avoid these specific adverse impacts as well as or better than, or with a less burdensome effect than, the adoption of the proposed ordinance;
- I. California's Unruh Civil Rights Act (Civil Code, § 51 et seq.) authorizes private parties to establish housing for senior citizens and the Federal Fair Housing Act (42 U.S.C. § 3601 et seq.) expressly allows for "housing for older persons"; and
- J. The adoption of the text amendments herein and the zoning of the listed existing mobilehome park properties to the Senior Mobilehome Park Overlay Zone is consistent with the Ventura County General Plan and good zoning practice and is in the interest of the public health, safety and general welfare.

## **Section 2**

### **Article 2: Definitions**

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**Article 2, Section 8102-0 – Application of Definitions**, of Chapter 1 of Division 8 of the Ventura County Ordinance Code, is hereby amended by addition of the following definition in appropriate alphabetical order:

Senior Mobilehome Park – A mobilehome park with a minimum of 10 spaces in which at least 80 percent of the occupied mobilehomes or manufactured homes are inhabited by, or intended for habitation by, at least one person who is 55 years of age or older.

## **Section 3**

### **Article 3: Establishment of Zones, Boundaries and Maps**

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**Article 3, Section 8103-0 – Purpose and Establishment of Zones and Minimum Lot Areas**, of Chapter 1 of Division 8 of the Ventura County Ordinance Code is hereby amended to read as follows:

#### **Sec. 8103-0 – Purpose and Establishment of Zones and Minimum Lot Areas**

In order to classify, regulate, restrict, and segregate uses of land and buildings; to regulate the height and size of buildings; to regulate the area of yards and other open spaces around buildings; and to regulate the density of population, the following classes of use zones are established along with their abbreviations and minimum lot areas. Alternative minimum lot areas may be established pursuant to Section 8103-1 et seq. Minimum lot area requirements are expressed in "gross" area for land uses and structures. The minimum lot area for subdivision purposes is expressed in "net" area for parcels of less than 10 acres, and "gross" area for parcels of 10 acres or more.

<b>Zoning District Base Zones</b>	<b>Abbreviation</b>	<b>Minimum Lot Area*</b>
Open Space.....	OS.....	10 Acres
Agricultural Exclusive .....	AE .....	40 Acres
Rural Agricultural .....	RA .....	1 Acre
Rural Exclusive .....	RE .....	10,000 sq.ft.
Single-Family Estate .....	RO .....	20,000 sq.ft.
Single-Family Residential .....	R1.....	6,000 sq.ft.
Two-Family Residential .....	R2.....	7,000 sq.ft.
Residential Planned Development .....	RPD .....	As Specified by Permit
Residential High Density.....	RHD.....	0.80 acre (1)
Commercial Office .....	CO .....	No Requirement
Neighborhood Commercial .....	C1 .....	No Requirement
Commercial Planned Development .....	CPD .....	No Requirement
Industrial Park .....	M1 .....	10,000 sq.ft.
Limited Industrial .....	M2 .....	10,000 sq.ft.
General Industrial .....	M3 .....	10,000 sq.ft.
Timberland Preserve .....	TP.....	160 Acres
Specific Plan .....	SP .....	Established by Plan
Residential.....	RES.....	OTSDC (2)
Residential Mixed Use.....	R/MU .....	OTSDC (2)
Town Center.....	TC .....	OTSDC (2)
Industrial.....	IND.....	OTSDC (2)

### **Overlay Zones**

Refer to Article 9 (Standards for Specific Zones and Zone Types) for development standards applicable in Overlay Zones

Scenic Resource Protection .....	/SRP .....	Not Applicable
Mineral Resource Protection .....	/MRP .....	Not Applicable
Community Business District .....	/CBD .....	Not Applicable
Temporary Rental Unit Regulation .....	/TRU .....	Not Applicable
Dark Sky .....	/DKS .....	Not Applicable
Habitat Connectivity and Wildlife Corridors.....	/HCWC.....	Not Applicable
Critical Wildlife Passage Areas .....	/CWPA.....	Not Applicable
Mobilehome Park .....	/MHP.....	Not Applicable
Senior Mobilehome Park .....	/SMHP.....	Not Applicable

## **Section 4**

### **Article 4: Purposes of Zones**

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**Article 4, Section 8104-7 – Overlay Zones**, of Chapter 1 of Division 8 of the Ventura County Ordinance Code is hereby amended by the addition of the following:

#### **Sec. 8104-7.10 – Senior Mobilehome Park (SMHP) Overlay Zone**

The purposes of this zone are:

- a. To recognize senior mobilehome parks as walkable communities where seniors may live actively and independently among peers, the preservation of those qualities being central to residents' continued health, welfare and financial stability.
- b. To recognize that senior mobilehome parks provide one of the few housing options within Ventura County available to seniors that are affordable and allow for independent living in a detached dwelling.
- c. To preserve a significant source of affordable, senior housing by ensuring that senior mobilehome parks within the unincorporated area remain predominantly available to seniors and are not converted to allow occupancy by persons of all ages.
- d. To meet the purpose of the federal Housing for Older Persons Act of 1995 (42 U.S.C. § 3607).
- e. To ensure a sufficient supply of land for this type of use in the future.

## **Section 5**

### **Article 9: Standards for Specific Zones and Zone Types**

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**Article 9, Section 8109-4 – Standards for Overlay and Special Purpose Zones**, of Chapter 1 of Division 8 of the Ventura County Ordinance Code is hereby amended by the addition of the following:

#### **Section 8109-4.11 – Senior Mobilehome Park Overlay Zone**

##### **Sec. 8109-4.11.1 – Application**

The abbreviated reference for this zone when applied to a base zone shall be "SMHP". The provisions of this overlay zone are intended to apply to all mobilehome parks in the unincorporated area where, as of the operative date of the Ordinance enacting this Section 8109-4.11, such mobilehome parks meet the definition of senior mobilehome park and are rezoned to the SMHP Overlay Zone. The suffix "SMHP" shall be added to the base

zone covering land so identified (e.g., RPD-8 du/ac/MHP/SMHP), but shall have no effect on the provisions of the base zone, except for the limitations provided herein. In this overlay zone the permit requirements of Division 11, Chapter 1, Articles 5, 11, 13 and 17 shall apply.

#### **Sec. 8109-4.11.2 – Allowed Uses**

Only the following uses, as authorized in this Chapter and with appropriate permits, are allowed:

- a. Principal Uses: Senior mobilehome parks.
- b. Accessory Uses: Accessory structures and uses incidental to the operation of senior mobilehome parks, and for the exclusive noncommercial use of the senior mobilehome park residents and their guests, such as a clubhouse or community center, community pool, recreational vehicle storage, or common laundry facility.
- c. Accessory Uses to Dwellings, in accordance with section 8105-4.
- d. Uses exempt from obtaining permits, in accordance with section 8105-4.
- e. Uses not listed above to which owners and residents of mobilehome parks have reasonable expectancy, consistent with applicable permit conditions and section 8101-4.10, and which do not interfere with the operation of mobilehome parks or their use and enjoyment by residents. Examples of such uses include occasional filming activities and wireless communications facilities.

#### **Sec. 8109-4.11.3 – Land Use Regulations**

All owners, operators, and occupants, as applicable, located within the Senior Mobilehome Park Overlay Zone shall comply with all of the requirements and limitations described below.

##### **Sec. 8109-4.11.3.1 – Signage, Advertising, Rental Agreements and Leases**

- a. Signage, advertising, park rules, regulations, rental agreements and leases for units in a mobilehome park in the Senior Mobilehome Park Overlay Zone must state that the park is a "Senior Mobilehome Park."
- b. Any advertisement for a rental or vacancy in a Senior Mobilehome Park must state that the vacancy is intended for occupancy by at least one person 55 years of age or older.

##### **Sec. 8109-4.11.3.2 – Occupancy Limitations & Rentals**

At least 80 percent of the occupied units in a Senior Mobilehome Park must be occupied by at least one person 55 years of age or older.

Senior Mobilehome Park occupancy satisfies the requirements of this section even if:

- a. There are unoccupied mobilehomes, provided that at least 80% of the occupied mobilehomes are occupied by at least one person 55 years of age or older.
- b. To the extent permitted by applicable law, for a period of no more than two consecutive years fewer than 80 percent of the occupied units are occupied by at least one person 55 years of age or older, provided the Senior Mobilehome Park has reserved all unoccupied mobilehomes for occupancy by at least one person 55 years of age or older.

**Sec. 8109-4.11.4 – Age Verification & Compliance Procedures**

- a. The County shall determine, and maintain summary documentation establishing, that at least 80 percent of the mobilehomes in a Senior Mobilehome Park are occupied by at least one resident who is 55 years of age or older. The occupancy verification documentation shall be made available by park owners for inspection by County upon reasonable notice and request.
- b. At least once every two years owners and operators of Senior Mobilehome Parks shall submit documentation confirming that at least 80 percent of all occupied mobilehomes are occupied by at least one resident 55 years of age or older to the Planning Division of the County of Ventura Resource Management Agency.
- c. The County shall consider government-issued identification to be reliable documentation of the age of the residents of the mobilehome park, provided that it contains specific information about current age or date of birth (e.g., driver's license).
- d. Reliable documentation shall also include a certification in a lease, application, affidavit, or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older.
- e. If the occupant(s) of a particular mobilehome refuse or are unable to comply with these age verification procedures, the County may, if it has sufficient evidence, consider the unit to be occupied by at least one person 55 years of age or older. Such evidence may include:
  - (1) Government records or documents;
  - (2) Prior forms or applications; or
  - (3) A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for such knowledge and be signed under penalty of perjury.

**Sec. 8109-4.11.4.1 – Duty of Mobilehome Park Residents to Comply with Age Verification Request**

Upon the operative date of this Section 8109-4.11.4.1, and no later than 30 days after request for age verification by a mobilehome park owner or operator or an employee or agent of the County, all owners and residents of all mobilehomes located, or proposed to be located, within the Senior Mobilehome Park Overlay Zone shall provide to the mobilehome park operator and to the Planning Division of the County the requested age verification documents.

**Sec. 8109-4.11.4.2 – Duty of Mobilehome Park Owners/Operators to Comply With Age Reporting Requirement and Certification**

a. Within 60 days of the passage (12/10/2019) of this Section 8109-4.11.4.2, and then every two years thereafter, the owner or operator of each Senior Mobilehome Park shall report to the Planning Director of the County confirmation that at least 80 percent of all occupied mobilehomes are occupied by at least one resident 55 years of age or older. The owners or operators of each senior mobilehome park shall maintain procedures for verifying the age of park residents.

b. The senior mobilehome park owner or operator shall provide to the County a certification substantially in the following form:

*"I [name] hereby certify that there is at least one occupant 55 years of age or older living in \_\_\_\_ [number of such mobilehomes] mobilehomes out of a total number of \_\_\_\_ [total number] mobilehomes located in this mobilehome park. This certification is based on my personal knowledge of the residents, evidence provided to me in the form of official government documents containing specific information about the current age of the residents, resident affidavits, or age certifications made by residents."*

## Section 6

Section 8109-4.11.4.1 in Section 5 of this ordinance shall become effective and operative 30 days following the adoption of this ordinance. Section 8109-4.11.4.2 in Section 5 of this ordinance shall become effective 30 days following the adoption of this ordinance and operative 60 days following adoption. All remaining provisions of this ordinance shall become effective 30 days following adoption of this ordinance and shall become operative 90 days following adoption.

PASSED AND ADOPTED this 10 day of December 2019 by the following vote:

AYES: Supervisors Parks, Long, Huber, Zaragoza and Bennett

NOES: Supervisors none

ABSENT: Supervisors none

  
\_\_\_\_\_  
CHAIR, BOARD OF SUPERVISORS  
COUNTY OF VENTURA

ATTEST:

MICHAEL POWERS

Clerk of the Board of Supervisors

County of Ventura, State of California

By: Tom Gurnie  
Deputy Clerk of the Board



ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF THOUSAND OAKS AMENDING  
SECTIONS 9-4.202, 9-4.309 AND 9-4.2003 AS WELL  
AS ADDING SECTIONS 9-4.2005, 9-4.2006, 9-  
4.2007, AND 9-4.2008 OF THE MUNICIPAL CODE OF  
THE CITY OF THOUSAND OAKS REGARDING THE  
ESTABLISHMENT OF A SENIOR MOBILE HOME  
PARK OVERLAY ZONE AND RELATED  
REGULATIONS

The City Council of the City of Thousand Oaks does hereby ordain as follows:

**Part 1**

The City Council finds that:

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution and sections 37100 *et seq.* of the California Government Code, the City Council may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws;

WHEREAS, pursuant to California Government Code Section 36937, the City Council may, by a four-fifths vote, adopt an urgency ordinance for the immediate preservation of the public peace, health, or safety, containing a declaration of the facts constituting the urgency, to be effective immediately upon passing;

WHEREAS, the City Council of the City of Thousand Oaks deems it necessary to adopt an urgency ordinance to provide protections for senior housing within the City's jurisdiction given recent and significant actions to modify mobile home park occupancy types within the City;

WHEREAS, there are eight (8) mobile home parks in the City, five (5) of which have long operated as senior mobile home parks, providing an important source of unsubsidized senior housing;

WHEREAS, the five senior mobile home parks represent approximately 865 spaces out of 1,008 total spaces of all mobile home spaces in the City;

WHEREAS, the conversion of senior mobile home parks to mobile home parks allowing occupancy by persons of all ages will result in the loss of existing unsubsidized senior housing that is affordable within the City. Such a loss



presents 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;

WHEREAS, mobile home parks represent one of a few unsubsidized affordable housing options left to senior citizens that permit exclusive residence in a detached dwelling by those individuals over the age of 55 years;

WHEREAS, the goals of the 2021-2029 Housing Element of the City's General Plan mobile home parks as a source of unsubsidized senior housing that is vital to preserve. Furthermore, future change to the land use designation and zoning requires approval by a vote of the people, unless park tenants receive certain payments as prescribed by the measure passed by the citizens;

WHEREAS, the City's Housing Element recognizes that seniors over the age of 65 represent 19 percent of the City's population as of 2019;

WHEREAS, in contrast to other senior housing in the City, mobile home parks afford seniors the ability to live in their own homes rather than in apartments and provide a senior living community in a low-rise setting that provides a clubhouse for community events and socializing as well as recreational facilities inside the park so that the residents can easily walk to these facilities and events;

WHEREAS, the City Council received written requests and numerous public comments from individuals concerned about the loss of senior housing in mobile home parks, including concerns one of the five parks would convert from a senior-only park to an all-age mobile home park;

WHEREAS, the City is aware of one mobile home park owner who intends to convert its mobile home park from a senior-only park to an all-age/family park and that this owner has already provided notice to the State Department of Housing and Community Development of this intent under the State Mobile Home Park Residency laws;

WHEREAS, currently, the City does not impose any regulations on the conversion of mobile home parks from senior-only to all-age / family parks;

WHEREAS, this ordinance is necessary to develop new zoning regulations to implement a Senior Mobile Home Park Overlay Zone to promote and preserve senior mobile home parks subject to the City's Rent Stabilization Ordinance;

WHEREAS, this ordinance is also necessary to mitigate the unregulated effects of conversion of senior housing to housing allowing occupancy by persons of all ages, including the potential shrinking inventory of existing quality unsubsidized affordable housing for seniors, and restricted housing options for

seniors hoping to remain in their mobile home community or transition into such a community from other housing. No feasible alternative is available to satisfactorily mitigate or avoid these specific adverse impacts as well as or better than, or with a less burdensome effect than, the adoption of the proposed ordinance;

WHEREAS, California's Unruh Civil Rights Act (Civil Code, § 51 et seq.) authorizes private parties to establish housing for senior citizens and the Federal Fair Housing Act (42 U.S.C. § 3601 et seq.) expressly allows for "housing for older persons";

WHEREAS, the Federal Housing Act, California Fair Employment and Housing Act, and California Mobile Home Park Residency law permit local regulation of mobile park housing to provide "housing for older persons" to include housing that is restricted to occupancy of at least 80 percent of units by at least one person who is age 55 or older;

WHEREAS, the California Legislature has authorized cities to provide zoning for senior-only mobile home parks under Health and Safety Code section 18300;

WHEREAS, the ordinance would not alter existing General Plan land use designations or development standards;

WHEREAS, the City Council finds that, pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment and, therefore, is exempt from CEQA. This Ordinance merely amends the Thousand Oaks Municipal Code to maintain a senior-only status for mobile home parks within the City that have demonstrated over a long period of time that the park owner required at least one member of the mobile home park coach located within the park be a person of 55 years of age or older. This Ordinance does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new mobile home parks would be subject to additional environmental review on a case-by-case basis. Accordingly, the City Council finds that this Ordinance would be exempt from CEQA under the common sense exemption;

WHEREAS, the City Council determined that an urgency ordinance is necessary to preserve the public peace, health, or safety of the citizens of the City, and further determined upon that basis that an urgency ordinance is necessary to prevent unregulated conversions of senior-only mobile home park conversions to "all ages/family" parks within the City; and

WHEREAS, the adoption of the text amendments herein and the zoning of the listed existing mobile home park properties to the Senior Mobile Home Park Overlay Zone is consistent with the City of Thousand Oaks General Plan and good

zoning practice and is in the interest of the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Thousand Oaks as follows:

SECTION 1: Based on the evidence presented, and the findings set forth, the above-titled Urgency Ordinance No. [ ] is hereby found to be consistent with the City's General Plan and the land uses permitted within said zone classification.

SECTION 2: The City Council does hereby approve changes to the Existing Trailer Park Development Zone Map in Exhibit A by adding the Senior Mobile Home Park Overlay Zone to properties as identified in Exhibit B of this Ordinance.

## **Part 2**

### **Article 2: Definitions**

**Article 2, Section 9-4.202 Definitions**, of Chapter 4 of Title 9 of the Thousand Oaks Municipal Code, is hereby amended by the addition of the following definition in appropriate alphabetical order:

"Mobile home park" means an area or land where two or more spaces are rented or leased for mobile homes or manufactured homes to be used as dwellings. The dwellings may be either owned or rented by the occupants. A mobile home park is defined in State Law, Civil Code, § 798.4, and does not include residences provided by employers for farmworkers or other employees, nor does it include campgrounds or other sites for temporary lodging.

"Senior mobile home park" means a mobile home park as defined in Section 798.4 of the California Civil Code where the occupancy of a mobile home space is restricted such that at least one person occupying the mobile home as a permanent resident must be age 55 or older and that person must own or be a part-owner of that mobile home or the direct beneficiary of a trust or estate that owns that mobile home. To comply with federal law, a senior park may permit up to 20 percent of the coach owners under the age of 55.

## **Part 3**

### **Article 3: Establishment and Designation of Zones**

**Article 3, Section 9-4.309 – Establishment and Designation of Zones**, Chapter 4 of Title 9 of the City of Thousand Oaks Code is hereby added to read as follows:

There is hereby established the Senior Mobile Home Park Overlay Zone (SMHP) that provides an overlay zone within any use zone wherein properties so zoned are identified as parcels containing mobile home parks. The development of land within the SMHP Zone shall conform to the regulations set forth in Article 20 of this chapter.

#### **Part 4**

#### **Article 4: Purposes of Zones**

**Article 20, Section 9-4.2003 – Overlay Zones**, of Chapter 4 of Title 9 of the Thousand Oaks Municipal Code is hereby amended by the addition of the following:

#### **Sec. 9-4.2003 – Senior Mobile Home Park Overlay Zone (SMHP)**

The purposes of this zone are:

- a. To recognize senior mobile home parks as walkable communities where seniors may live actively and independently among peers, the preservation of those qualities being central to residents' continued health, welfare, and financial stability.
- b. To recognize that senior mobile home parks provide one of the few housing options within Thousand Oaks available to seniors that are unsubsidized and allow for independent living in a detached dwelling.
- c. To preserve a significant source of unsubsidized, senior housing by ensuring that senior mobile home parks within the City's jurisdiction remain predominantly available to seniors and are not converted to allow occupancy by persons of all ages.
- d. To recognize mobile home parks as communities in which residents are substantially invested and to provide for the security of tenancy comparable to that of other residential communities less vulnerable to redevelopment.
- e. To meet the purpose of the federal Housing for Older Persons Act of 1995 (42 U.S.C. § 3607).
- f. To prevent senior mobile home parks from converting or becoming all-ages mobile home parks.
- g. To ensure a sufficient supply of land for this type of use remains in the City for seniors.

## **Part 5**

### **Article 3: Establishment and Designation of Zones**

Article 3 under Chapter 4 of Title 9 of the City of Thousand Oaks Municipal Code is hereby amended by the addition of the following:

#### **Section 9-4.309 – Senior Mobile Home Park Overlay Zone**

There is hereby established the Senior Mobile Home Park Overlay Zone (SMHP) to provide an overlay zone within any use of the Trailer Park Development Zones as identified in Article 20 of this chapter.

## **Part 6**

### **Article 20, Mobile Home Park Development Zones**

#### **Sec. 9-4.2005 – Occupancy Limitations & Rentals**

**Section 9-4.2005 of Article 20, Chapter 4, of Title 9 is reinstated and amended to read as follows:**

At least 80 percent of the occupied units in a Senior Mobile Home Park must be occupied by at least one person 55 years of age or older.

Senior Mobile Home Park occupancy satisfies the requirements of this section even if:

- a. There are unoccupied mobile homes, provided that at least 80 percent of the occupied mobile homes are occupied by at least one person 55 years of age or older.
- b. To the extent permitted by applicable law, for a period of no more than two consecutive years fewer than 80 percent of the occupied units are occupied by at least one person 55 years of age or older, provided the Senior Mobile Home Park has reserved all unoccupied mobile homes for occupancy by at least one person 55 years of age or older.

**Section 9-4.2006 of Article 20, Chapter 4 of Title 9 is added to read as follows:**

#### **Sec. 9-4.2006 – Age Verification & Compliance Procedures**

- a. The City shall determine, and maintain summary documentation establishing, that at least 80 percent of the mobile homes in a Senior Mobile Home Park are occupied by at least one resident who is 55

years of age or older. The occupancy verification documentation shall be made available by park owners for inspection by the City upon reasonable notice and request.

- b. At least once every two years owners and operators of Senior Mobile Home Parks shall submit documentation confirming that at least 80 percent of all occupied mobile homes are occupied by at least one resident 55 years of age or older to the Planning Division of the City.
- c. Upon the operative date of this Section 9-4.2006, and no later than 30 days after the request for age verification by a mobile home park owner, operator, or employee of the owner or operator, all owners and residents of all mobile homes units located, or proposed to be located, within the Senior Mobile Home Park Overlay Zone shall provide to the park owner or operator, and the Planning Division of the City's Community Development Department the requested age verification documents or information.
- d. The City shall consider government-issued identification to be reliable documentation of the age of the residents of the mobile home park, provided that it contains specific information about current age or date of birth (e.g., driver's license).
- e. Reliable documentation shall also include a certification in a lease, application, affidavit, or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older.
- f. If the occupant(s) of a particular mobile home refuses or is unable to comply with these age verification procedures, the City may, if it has sufficient evidence, consider the unit to be occupied by at least one person 55 years of age or older. Such evidence may include:
  - (1) Government records or documents;
  - (2) Prior forms or applications; or
  - (3) A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for such knowledge and be signed under penalty of perjury.
- g. Failure to submit the verification required by this chapter or failure of the verification to confirm a mobile home park with the Senior Mobile Home Park Overlay Zone (SMHP) meets the definition in Section 9-4.202 shall constitute a violation of the zoning ordinance, subject to

enforcement in the manner provided in Municipal Code Section 1-2.01.

**Section 9-4.2007 of Article 20, Chapter 4 of Title 9 is added to read as follows:**

**Sec. 9-4.2007 – Duty of Mobile Home Park Residents to Comply with Age Verification Request**

Upon the operative date of this Section 9-4.2007, and no later than 30 days after the request for age verification by a mobile home park owner or operator or an employee or agent of the City, all owners and residents of all mobile homes located, or proposed to be located, within the Senior Mobile Home Park Overlay Zone shall provide to the mobile home park operator and the Planning Division of the City the requested age verification documents.

**Section 9-4.2008 of Article 20, Chapter 4 of Title 9 is added to read as follows:**

**Sec. 9-4.2008 – Duty of Mobile Home Park Owners/Operators to Comply with Age Reporting Requirement and Certification**

- a. Within 90 days of the passage of this Section 9-4.2008, and then every two years thereafter, the owner or operator of each Senior Mobile Home Park shall report to the Planning Director of the City confirmation that at least 80 percent of all occupied mobile homes are occupied by at least one resident 55 years of age or older. The owners or operators of each senior mobile home park shall maintain procedures for verifying the age of park residents.
- b. The senior mobile home park owner or operator shall provide to the City a certification substantially in the following form:

*"I [name] hereby certify that there is a least one occupant 55 years of age or older living in \_\_\_\_ [number of such mobile homes] mobile homes out of a total number of \_\_\_\_ [total number] mobile homes located in this mobile home park. This certification is based on my personal knowledge of the residents, evidence provided to me in the form of official government documents containing specific information about the current age of the residents, resident affidavits, or age certifications made by residents."*

**Part 7**  
(Uncodified)  
Conflicts with Prior Ordinances

If the provisions in this Ordinance conflict in whole or in part with any other City regulation or ordinance adopted prior to the effective date of this section, the provisions in this Ordinance will control.

**Part 8**  
(Uncodified)  
Severability

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this title; it is hereby expressly declared that this title, and each section, subsection, sentence, clause, and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Part 9**  
(Uncodified)  
Effective Date

This Ordinance shall take effect immediately upon passage and adoption.

PASSED AND ADOPTED this 12th day of September 2023, by the following vote:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Kevin McNamee, Mayor  
City of Thousand Oaks, California

ATTEST/CERTIFY:

\_\_\_\_\_  
Laura B. Maguire, City Clerk

Date Attested: \_\_\_\_\_



APPROVED AS TO FORM:  
Office of the City Attorney

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Tracy M. Noonan, City Attorney

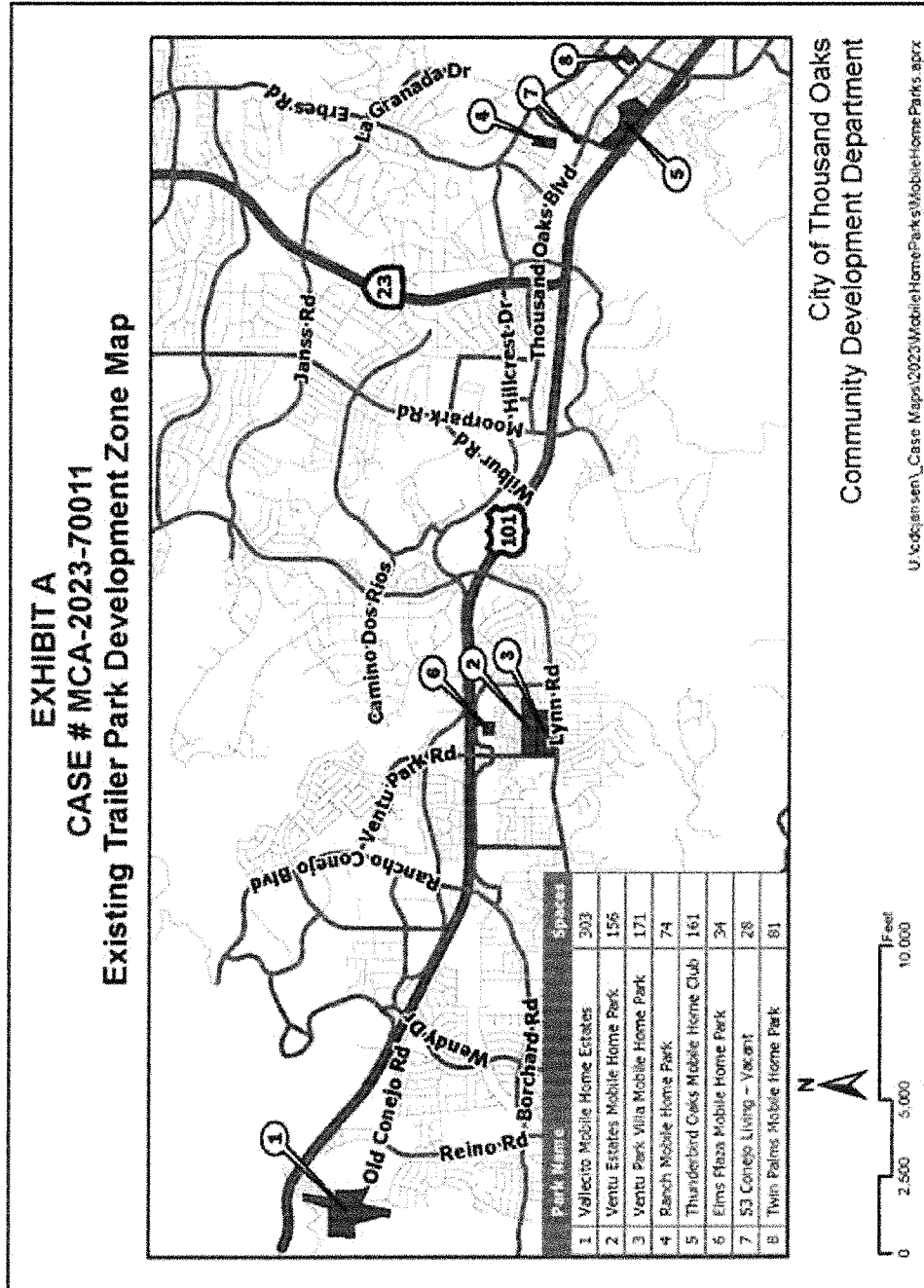
APPROVED AS TO ADMINISTRATION:

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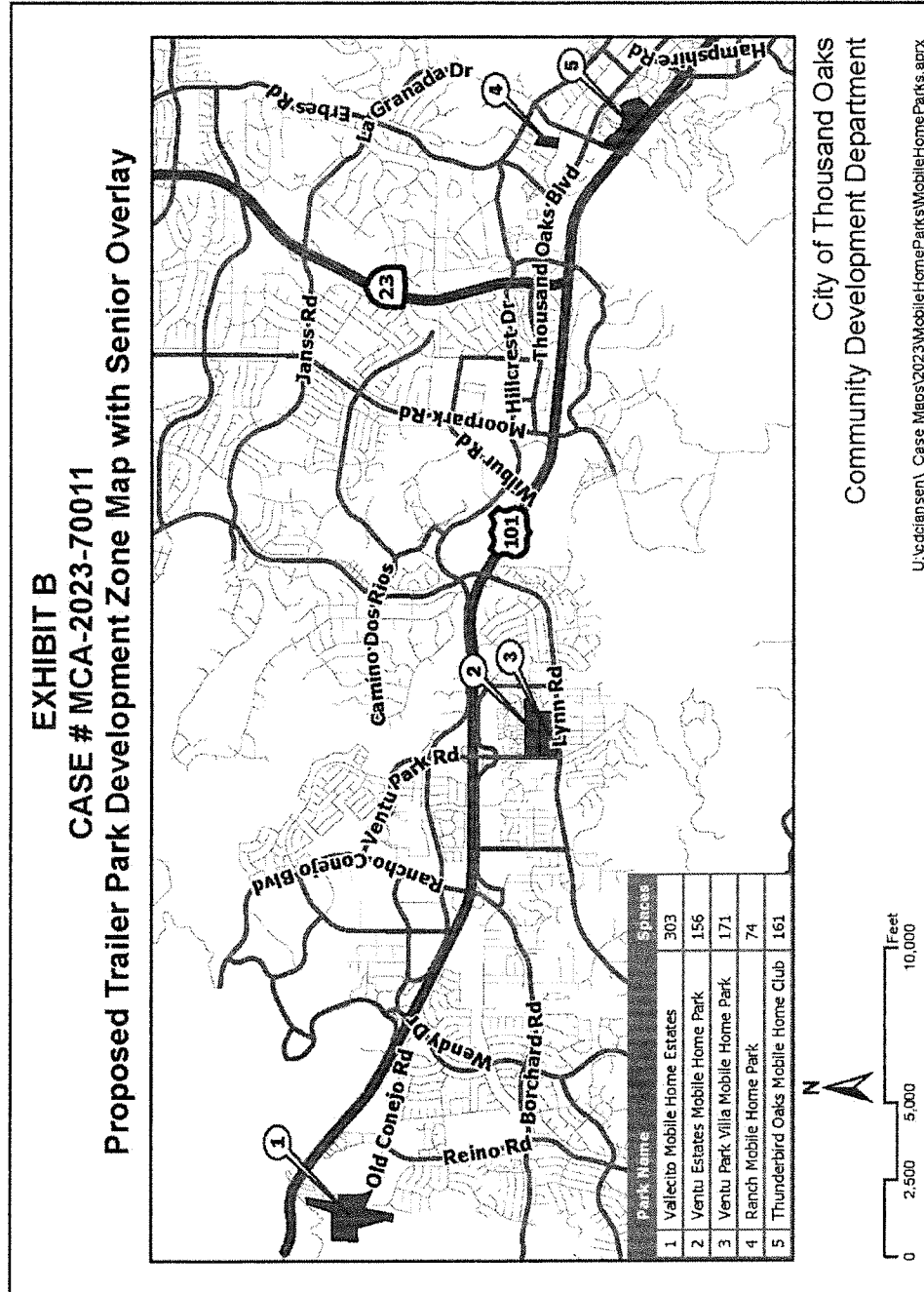
Andrew P. Powers, City Manager

*The presence of electronic signature certifies that the foregoing is a true and correct copy as approved by the City of Thousand Oaks City Council on the date cited above.*

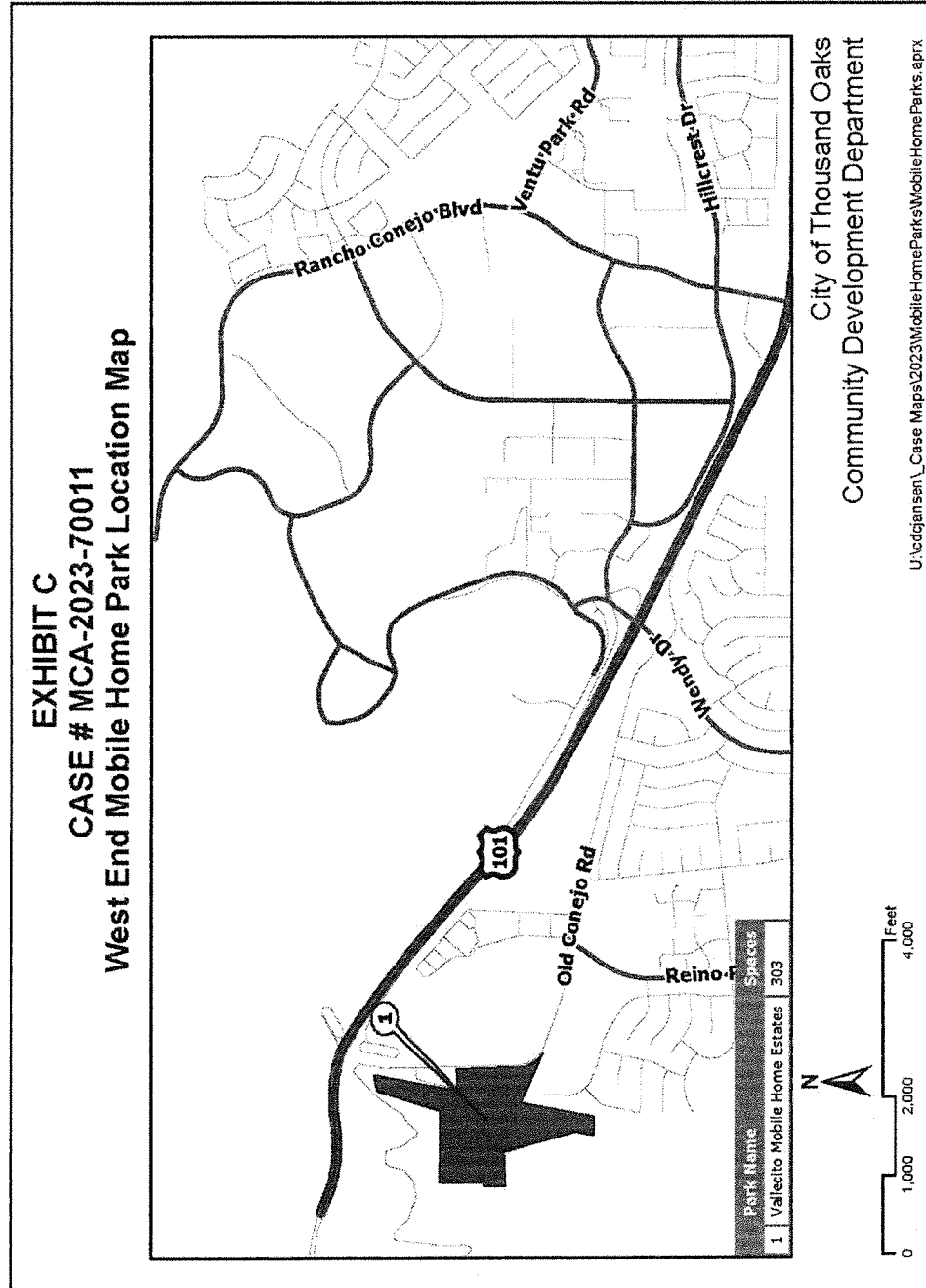
# EXHIBIT A



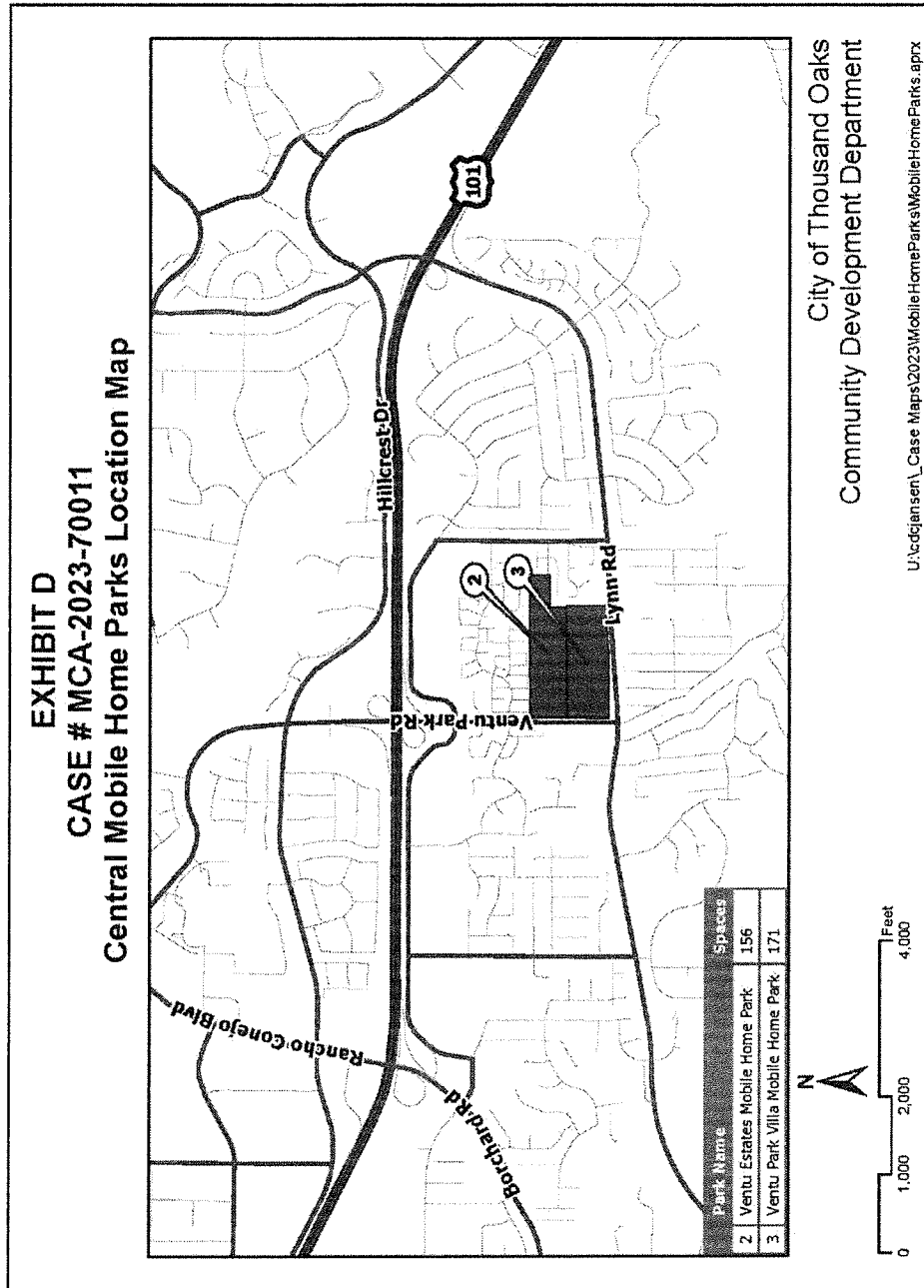
# EXHIBIT B



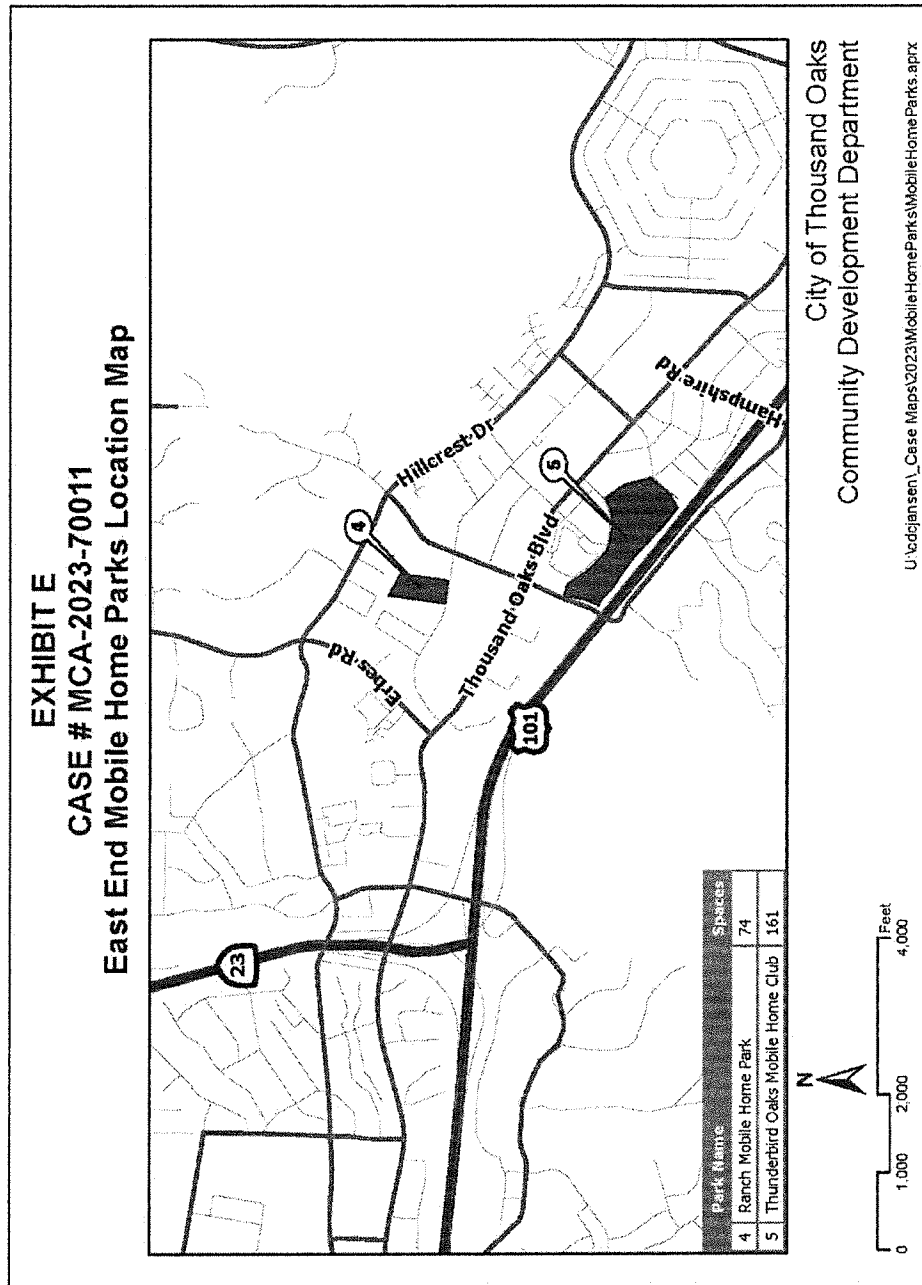
# EXHIBIT C



# EXHIBIT D



# EXHIBIT E



**ORDINANCE NO. 289**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUCAIPA, CALIFORNIA, AMENDING ORDINANCE NO. 232, AMENDING THE OFFICIAL LAND USE PLAN AND ZONING ORDINANCE OF THE CITY OF YUCAIPA, AND AMENDING ARTICLE 3 (MOBILEHOME PARK (MHP) OVERLAY DISTRICT) OF CHAPTER 4 (LAND USE MODIFICATIONS) OF DIVISION 5 (OVERLAY DISTRICTS) OF VOLUME II (DEVELOPMENT CODE) OF THE YUCAIPA MUNICIPAL CODE, ESTABLISHING A SENIOR MOBILEHOME PARK OVERLAY DISTRICT**

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**WHEREAS**, the City of Yucaipa ("City") General Plan includes policies and goals for senior housing oriented development, and it establishes the City's objective to provide sufficient housing for senior residents, and

**WHEREAS**, the City is committed through the General Plan Housing Element policies to preserving the City's existing affordable housing stock and to maintaining housing for special needs groups, such as senior citizens; and

**WHEREAS**, one of the goals of the Yucaipa General Plan is that the City will promote the maintenance and viability of existing mobilehome parks through the establishment of appropriate zoning and development standards (Goal LU-8); and

**WHEREAS**, one of the goals of the Yucaipa General Plan is that the City will assist in the provision of a variety of housing to meet the needs of the community (Goal H-2); and

**WHEREAS**, approximately 24% of the City's population is made up of persons age 55 years of age or older, which percentage is significantly larger than that of San Bernardino County (14.6%) as a whole; and

**WHEREAS**, the twenty-two (22) mobilehome parks in the City that have long operated as senior mobilehome parks provide an important source of affordable senior housing; and

**WHEREAS**, the twenty-two (22) seniors-only mobilehome parks represent approximately 2,271 spaces out of 4,262 spaces, or 53% of all mobilehome spaces in the City; and

**WHEREAS**, in accordance with the provisions of Government Code section 65858, the City Council adopted Ordinances 275-U and 287-U, as interim urgency ordinances placing a moratorium on the conversion of any mobilehome park currently existing in the City from a park occupied primarily or exclusively by residents over the age of 55 years (senior residents) to a mobilehome park allowing residents of all ages (the

"Moratorium") to assure the continued availability of affordable housing to residents of existing parks and to individuals over the age of 55 years; and

**WHEREAS**, the Moratorium expired on July 28, 2009; and

**WHEREAS**, the City Council has determined that new regulations are necessary to protect the public health, safety and welfare of the citizens of the City, particularly those tenants or residents who are over 55 years of age in mobilehome parks within the special needs group; and

**WHEREAS**, certain senior restricted mobilehome parks are faced with the threat of converting those facilities to all-age mobilehome parks, which would allow residents of any age to reside in that community, and such conversions to non-age restricted housing would result in the loss of existing predominantly senior only housing and is detrimental to the senior citizens of the community. Additionally, conversions to non-senior housing results in a loss of existing senior only housing available within the City, and this loss of affordable senior housing in the City creates a threat to the health, safety and welfare of the seniors in the City; and

**WHEREAS**, the 2000 Census demonstrates that a senior citizen occupied housing unit will likely have fewer residents in the unit than if the unit housed only non-seniors; and

**WHEREAS**, Table 26 of the California Travel Trends and Demographics Study Final Report that was issued to the Department of Transportation, Division of Transportation Planning, Office of State Planning, in December 2002, demonstrates that senior citizens are likely to make substantially fewer trips than non-seniors; and

**WHEREAS**, that study found that individuals aged 55-59, 65-69, and 75-79 make 87.5%, 78.6%, and 64.5% less daily trips than those aged 40 to 44; and

**WHEREAS**, in contrast to other senior housing in the City, mobilehome parks afford seniors the ability to live in their own homes rather than in apartments and provide a senior living community in a low-rise setting that typically provides a clubhouse for community events and socializing as well as recreational facilities inside the park so that the residents can easily walk to these facilities and events; and

**WHEREAS**, many of the seniors living in these senior mobilehome parks enjoy having their grandchildren visit them in the parks and love children, but they, like the seniors without grandchildren, purchase mobilehomes in a senior park in order to live in a quieter community with others in their own age group and purchased their homes in these parks because they were senior parks that only accepted prospective purchasers of homes in the park if at least one occupant of the mobilehome being purchased was 55 years of age or older; and

**WHEREAS**, the California Mobilehome Park Residency Law, the California Fair Employment and Housing Act, and the Federal Fair Housing Act each recognize the need



for and value of senior housing by expressly exempting facilities in which 80 percent of the units are occupied by at least one person who is 55 years of age or older from the requirement to rent to families with children; and

**WHEREAS**, while senior housing complexes in the City, other than senior mobilehome parks, are generally restricted to senior occupancy by conditions, covenants and restrictions, this is not the case in senior mobilehome parks. The residents of those mobilehome parks relied upon the representations of the park management and park owners that only seniors could purchase homes in those parks and obtain tenancies in those parks. These representations were set forth in the leases or rental agreements they were required to sign upon purchasing a mobilehome in the parks and moving into the parks and in the rules of those parks, which the residents were also required to sign and acknowledge. Now some owners of senior mobilehome parks have indicated that they can, and may be already attempting to, change their parks from senior parks to family parks, over the objections of their senior residents, simply by changing park rules using the procedure in Civil Code Section 798.25; and

**WHEREAS**, while the seniors now living in senior mobilehome parks could remain in a park that changed to a family park, those seniors would no longer enjoy the quiet and companionship of a senior community and the limited supply of senior parks that now exists in the City could be greatly diminished or even eliminated. Since mobilehomes are not mobile in any practical sense due to the high cost of moving a home, the risk of damage to the home in moving, the loss of improvements such as porches, patios, carports and landscaping, which cannot be moved, and the lack of available rental spaces in senior parks, or in any mobilehome park in the City or surrounding areas that will accept re-located homes, senior residents of a park that becomes a family park would have to sell the homes in which they have lived for many years and in which they have invested both financial and personal resources in order to move to another senior facility. After selling their mobilehomes, these seniors may no longer have sufficient funds to purchase a mobilehome in another senior park or other senior facility. Further, as the number of senior mobilehome parks diminishes, it will become harder and harder to find a mobilehome to purchase in a senior park in the City or surrounding areas; and

**WHEREAS**, for the reasons set forth in the preceding recitals, the City Council finds it necessary to protect, enhance and encourage the preservation and enhancement of senior-only mobilehome parks through the adoption of this Ordinance; and

**WHEREAS**, the Housing for Older Persons Act amendments to the federal Fair Housing Act, 47 U.S.C. §3607(b), and the provisions of the implementing regulations set forth in the Code of Federal Regulations (24 CFR §100.304(b)(4)) and the Appendix thereto (64 Fed.Reg. 16331) provide that a senior housing facility or community includes a municipally zoned area and that an area zoned by a unit of local government as "senior housing" satisfies the intent requirement of the senior housing exemption from the provisions of the Fair Housing Act prohibiting discrimination based on familial status; and

WHEREAS, the City intends that this Ordinance be consistent with, comply with and implement the federal Fair Housing Act as amended by the Housing for Older Persons Act and the California statutes providing senior housing exemptions from statutes prohibiting discrimination in housing based on age and familial status; and

WHEREAS, on August 5, 2009, the Yucaipa Planning Commission held a duly noticed public hearing to consider the provisions of this Ordinance, and following the receipt of public comments and any written materials, the Planning Commission closed the hearing, reviewed and considered all the evidence presented, and recommended adoption of the Negative Declaration and approval of this Ordinance; and

WHEREAS, the City Planner has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has conducted an Initial Study, in accordance with the California Environmental Quality Act (CEQA). Based upon the results of the Initial Study, the City Planner has determined that there is no substantial evidence, in light of the whole record before the City, that the project may have a significant effect on the environment, and therefore, the City Planner has prepared a Negative Declaration; and

WHEREAS, the City Council does hereby find that the Negative Declaration has been prepared in accordance with requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the Environmental Review Procedures of the City of Yucaipa, and hereby adopts the Negative Declaration; and

WHEREAS, on September 14, 2009, the Yucaipa City Council held a duly noticed public hearing to consider the provisions of this Ordinance, and following receipt of all written and oral public comments, the City Council closed the public hearing, considered the evidence presented, and deliberated;

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

**SECTION 1.** Findings.

The City Council finds and determines that:

- (a) The Recitals set forth above are true and accurate and incorporated herein by this reference.
- (b) The conversion of senior mobilehome parks to non-senior mobilehome parks will result in harmful environmental effects and the loss of existing affordable senior housing within the City. 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 senior citizens.

(c) This threat to, and specific adverse impact upon public health, safety and welfare that would result from allowing the conversion of senior housing to non-senior housing justifies the adoption of an ordinance.

(d) This ordinance is necessary to mitigate the unregulated effects of conversion of senior housing to non-senior housing, the potential shrinking inventory of existing quality affordable housing for seniors, the increased environmental effects of non-senior housing and to prevent inconsistency with the General Plan and Development Code. No feasible alternative is available to satisfactorily mitigate or avoid these specific adverse impacts as well or better with a less burdensome effect than the adoption of the proposed ordinance.

(e) California's Unruh Civil Rights Act (Civil Code § 51.1 *et seq.*) expressly allows private parties to establish housing for senior citizens and the Federal Fair Housing Act (42 U.S.C. § 3601 *et seq.*) expressly allows for "housing for older persons."

(f) On average, senior citizens make less impact on the environment than do non-seniors, as occupancy rates for seniors are significantly less than non-senior occupancy rates. Seniors also make substantially fewer trips than non-seniors, as seniors drive fewer vehicles, and therefore, they require fewer parking spaces per housing unit than do non-seniors.

(g) Based on the foregoing, all-age family mobilehome parks have a greater impact on the environment than do existing senior facilities.

## **SECTION 2.** Adoption of Senior Mobilehome Park Overlay District.

A public hearing has been held before the City Council of the City of Yucaipa (the "City"), duly noticed and conducted pursuant to the Planning and Zoning Laws of the State of California, and the applicable provisions of Division 3 of the Development Code (as adopted by Ordinance No. 124); and the Official Land Use Plan of the City of Yucaipa, as adopted by Ordinance No. 232, is hereby amended as provided for in Section 3 herein below.

## **SECTION 3.** Amendment of Official Land Use Plan.

The proposed MHP1 and MHP2 Overlay District designations contained on the "Mobile Home Park Overlay District Map" on file with the City, and bearing the file number as follows:

Case No. 09-063/GPA

are hereby approved, and are hereby adopted by the City and incorporated as part of the Official Land Use Plan for the City of Yucaipa as an amendment to Ordinance No. 232.

**SECTION 4.** The Index of Article 3 of Chapter 4 of Division 5 of Volume II (Development Code) of the Yucaipa Municipal Code is hereby amended to read as follows:

**“ARTICLE 3**

**MOBILEHOME PARK (MHP1) AND SENIOR  
MOBILEHOME PARK (MHP2) OVERLAY DISTRICTS**

**Sections:**

85.040301	General Provisions
85.040305	Development Standards
85.040310	Definitions
85.040315	Land Use Regulations
85.040320	Limitations on Rentals”

**SECTION 5.** Paragraph (a) of Section 85.040301 of Article 3 of Chapter 4 of Division 5 of Volume II (Development Code) of the Yucaipa Municipal Code is hereby amended to read as follows:

“(a) Intent  
The Mobilehome Park Overlay District is intended to promote the maintenance and viability of existing mobilehome parks through appropriate zoning. It is an overlay district where mobilehome parks are established as the primary land use in order to limit the conversion of existing affordable housing to other land uses.

The Senior Mobilehome Park Overlay District is intended to preserve a variety and balance of housing types within the City, and it provides assurances that existing senior mobilehome parks within the Mobilehome Park Overlay District will remain exclusively available to seniors.”

**SECTION 6.** Paragraph (c) of Section 85.040301 of Article 3 of Chapter 4 of Division 5 of Volume II (Development Code) of the Yucaipa Municipal Code is hereby amended to read as follows:

“(c) Designation  
The Mobilehome Park Overlay District shall be designated by the symbol (MHP1) on the City of Yucaipa Official Land Use Plan. The (MHP1) designation applies to all of the forty-two (42) mobilehome parks that exist in the City of Yucaipa as of the effective date of this section.

The Senior Mobilehome Park Overlay District shall be designated by the symbol (MHP2) on the City of Yucaipa Official Land Use Plan. The (MHP2) designation applies to all of the twenty-two (22) senior mobilehome parks that exist in the City of Yucaipa as of the effective date of this section.”

**SECTION 7.** Section 85.040305 of Article 3 of Chapter 4 of Division 5 of Volume II (Development Code) of the Yucaipa Municipal Code is hereby amended by adding subsection (d) to read as follows:

“(d) No Senior Mobilehome Park located within the MHP2 District shall convert to a non-senior mobilehome park.”

**SECTION 8.** Article 3 of Chapter 4 of Division 5 of Volume II (Development Code) of the Yucaipa Municipal Code is hereby amended by adding the following sections:

**“85.040310 Definitions.**

The following terms shall have the following meanings for the purposes of this article:

- (a) “Concessions” or “Incentives” means any concession or incentive issued or awarded to a project by the City by virtue of the project qualifying as a senior housing project. Concessions and incentives shall include, but are not limited to: (1) receipt of a density bonus, incentive, or lower parking requirements consistent with Government Code § 65915(b)(3); (2) any preference received on account of qualifying as “housing for older persons” under federal law, having been “designed to meet the physical and social needs of senior citizens” under state law, or qualifying as a “senior citizen housing development” as defined under Civil Code § 51.3 or 51.11, or similar authority; (3) any development which received any benefit pursuant to § 65995 et seq. [relating to lowered developer fees to fund school construction]; or (4) any other reduction in design or development standards, financial assistance, or other development related concession or incentive that the project received from the City on account of the project intending to become, or for actually becoming a senior housing project.
- (b) “Convert” or “Conversion” means changing from a Senior Mobilehome Park to a mobilehome park that could not qualify as a Senior Mobilehome Park.
- (c) “Mobilehome” is a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Vehicle Code Section 35790. Mobilehome does not include a recreational vehicle, as defined in Civil Code Section 799.4, or a commercial coach, as defined in Health and Safety Code Section 18218. For the purposes of this section, the term “Mobilehome” includes “Manufactured Home.”
- (d) “Mobilehome Park” is an area of land where two or more mobilehome or manufactured home sites are located to accommodate mobilehomes used for human habitation. This definition shall include rental mobilehome parks where mobilehome spaces are rented or held out for rent. Mobilehome Park shall also include a mobilehome subdivision, condominium, or stock cooperative in which specific ownership rights are acquired by the space occupants within the mobilehome park.

- (e) "Senior Mobilehome Park" means a mobilehome park in which at least 80 percent of the spaces are occupied by, or intended for occupancy by, at least one person who is 55 years of age or older, or in which 100% of the spaces are occupied or intended for occupancy by persons 62 years of age or older, or that, at the time of initial City approval, which approval occurred subsequent to the effective date of this section, received a concession or incentive from the City."

**SECTION 9.** Article 3 of Chapter 4 of Division 5 of Volume II (Development Code) of the Yucaipa Municipal Code is hereby amended by adding the following section:

**"85.040315 Land Use Regulations.**

At least 80% of the spaces in mobilehome parks in the Senior Mobilehome Park Overlay District shall be occupied by at least one person 55 years of age or older. If an existing mobilehome park met this qualification on January 1, 2009, and fell below the 80% percent requirement between that date and the effective date of this section, the Senior Mobilehome Park Overlay District shall be applied to that mobilehome park and that park shall be required to operate as a Senior Mobilehome Park by renting spaces and mobilehomes only when at least one occupant of the mobilehome is 55 years of age or older. The signage, advertising, park rules, regulations, rental agreements and leases for spaces in a Senior Mobilehome Park in the MHP2 Overlay District shall state that the park is a senior park."

**SECTION 10.** Article 3 of Chapter 4 of Division 5 of Volume II (Development Code) of the Yucaipa Municipal Code is hereby amended by adding the following section:

**"85.040320 Limitations on Rentals.**

Spaces and mobilehomes in a mobilehome park in the Senior Mobilehome Park Overlay District shall be rented only to occupants such that the age requirements set forth in Section 85.040315 are met, provided, however, that if the occupants of a space or mobilehome who do not meet this requirement rented the space or mobilehome before the effective date of this section, they shall be allowed to remain, and provided further that when such occupants cease to occupy a space or mobilehome, the mobilehome and space cannot thereafter be rented except to occupants who meet the age requirements."

**SECTION 11.** Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part hereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part hereof. The City Council of the City of Yucaipa hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

**SECTION 12.** Publication.

The City Clerk is hereby directed to cause the following summary of this Ordinance to be published by two (2) insertions in the Yucaipa News Mirror, a newspaper of general circulation that is printed, published, and circulated in the City of Yucaipa, and hereby designated for that purpose by said Council of the City of Yucaipa: "Ordinance No. 289 amends the Official Land Use Plan and Article 3, "Mobilehome Park (MHP) Overlay District", of Chapter 4, "Land Use Modifications", of Division 5, "Overlay Districts", of Volume II, "Development Code", of the Yucaipa Municipal Code, to establish a Senior Mobilehome Park Overlay District that prohibits the conversion of senior-only mobilehome parks to all-age family mobilehome parks."


**SECTION 13.** Effective Date.

This Ordinance shall take effect thirty (30) days after its adoption. The City Clerk shall attest to the adoption of this Ordinance and shall cause this Ordinance to be posted and published in the manner required by law.

**PASSED, APPROVED and ADOPTED** on this 28<sup>th</sup> day of September, 2009.

  
\_\_\_\_\_  
Dick Riddell, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Jennifer Shankland, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Michael Estrada, City Attorney