

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD PROHIBITING RESIDENTIAL REAL PROPERTY RENTAL RATE INCREASES THAT EXCEED FIVE PERCENT (5%) ANNUALLY

THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of Oxnard hereby finds, determines and declares as follows:

- A. At the City Council meetings on October 19, 2021, and XXX, the City Council discussed the City of Oxnard's ("Oxnard" or "City") ability to address rent increases on residential real property.
- B. The increasing housing rent burden and poverty faced by many residents in the City threatens the health, safety, and welfare of its residents by forcing them to choose between paying rent and providing food, clothing, and medical care for themselves and their families.
- C. The average household in the City has a median annual income of \$72,843, which is below the State median income (\$80,440) and the Ventura County median income (\$92,236). The median income in the City is also substantially lower than some of its neighboring cities, such as Thousand Oaks (\$109,378). The City's housing stock consists of 51,460 units—27,631 of which are owner-occupied and 23,829 of which are renter-occupied.
- D. The U.S. Census Bureau uses a set of money income thresholds that vary by family size and composition to determine who classifies as impoverished. According to the Census Bureau, in 2019, the City had a poverty rate of 13.8%-- a number that is higher than the national average of 12.3%.
- E. Between 1996 and 2016, median home sales prices in the Southern California Association of Governments ("SCAG") region increased 206% from \$180,870 to \$552,994. During that same period the median income decreased by \$3,616 (when adjusted to 2016 dollars). In Oxnard, the median home price increased by 40.2% between 2013-2019 (\$323,700 to \$453,900). However, during that same period, the median family income in Oxnard grew at a disproportionate rate of 19% (\$60,784 to \$72,843).
- F. The increase in the cost of housing within the City can be attributed to new developments in the past 20 years, such as new communities like Seabridge, River Park and Victoria Estates where a three-bedroom home ranges from \$700,000 to \$2,000,000. The two-bedroom average rent in the City has increased by 18% over the past three years from \$1,823 to \$2,155, which indicates that households with the median income of \$72,843 cannot afford or would struggle to afford the average rent. A household with a median income of \$72,843 living in a two-

bedroom unit costing \$1,823 per month, would need to spend 30% of their income on housing.

- G. In the City, approximately 6,839 renter-occupied households had more than one occupant per room, which meets California's definition for overcrowding. Further, approximately 2,500 renter-occupied households had more than 1.5 occupants per room, which meets California's definition of severe overcrowding.
- H. The housing rent burden and poverty faced by many residents in Oxnard threatens the health, safety, and welfare of its residents, particularly when resulting in eviction and displacement. Studies have shown that evictions play an impactful role in the lives of low-income renter households and can also contribute to poverty through disruptive effects such as job loss, adverse health effects, and negative consequences for children.
- I. Moreover, an eviction can remain on a renter's credit history for at least seven years, impacting one's ability to rent and find employment opportunities.
- J. The Costa-Hawkins Rental Housing Act, *California Civil Code* section 1954.50, et seq., limits the applicability of local rent stabilization policies, including prohibiting local jurisdictions from applying rent stabilization to certain residential rental properties. This Ordinance intends to comply with the Costa-Hawkins Rental Housing Act, and all other applicable state and federal laws.
- K. Increasing the number of homeless residents in Oxnard, particularly elderly residents who may be in need of medical or other care, could create a public health and safety risk.
- L. The economic conditions and recognized housing shortage in Southern California have the potential to detrimentally impact a substantial number of residents in Oxnard, and impose a particular hardship on senior citizens, persons living on fixed incomes, and other vulnerable persons living in Oxnard.
- M. The Mobilehome Residency Law ("MRL"), *California Civil Code* sections 798, et seq., expressly authorizes cities to regulate the setting and/or increasing of rents for the use and occupancy of a mobile home space, subject to certain exceptions.
- N. Through Oxnard City Code Chapter 24, Article I, the City previously established a rent stabilization system for mobile home parks, and the City Council desires to leave that system intact.
- O. With the exception of City Code Chapter 24, Article I, the City has not previously regulated the setting and increasing of rents for residential real property. Given the concerns discussed herein, the City Council desires to evaluate rent stabilization policies protecting residents outside of mobile home parks from unreasonable rent increases, while ensuring that the owners of residential real property may earn a fair and reasonable return on their property.

- P. Pursuant to the City's police power, as granted broadly under Article XI, section 7 of the California Constitution, the Oxnard City Council has the authority to enact and enforce ordinances and regulations for the public peace, health, and welfare of the City and its residents.
- Q. Based on the foregoing facts, and the facts presented to the City Council at the meetings at which this ordinance was introduced and adopted, the City Council finds that allowing owners of residential real property to have unfettered discretion to increase rents would pose a threat to the public health, safety, and welfare, and that a prohibition of rent increases, except as allowed herein, is therefore necessary.
- R. The City Council hereby adopts these regulations in order to address the threats set forth below.
1. Absent the adoption of this ordinance, as a result of the economic conditions and recognized housing shortage in Southern California, significant rent increases will impact a substantial number of residents in Oxnard and constitute a threat to public health, safety, and welfare, and a particular hardship for senior citizens, persons living on fixed incomes, and other vulnerable persons living in the City;
 2. For the preservation of the public peace, health, and safety, the City Council finds that it is necessary to adopt an ordinance stabilizing rents for all of the reasons set forth in the recitals above, which are hereby incorporated by reference; and
 3. Certain aspects of public health, safety, and welfare are not adequately protected by the City's existing mobile home park rent stabilization system both because of that system's limited scope and due to City's the lack of rent stabilization mechanics or controls on residential real property generally, and it is in the interest of the City, owners, residents, and the community as a whole that the City adopt regulations to protect affordable housing within the City, including, but not limited to, rent stabilization regulations applicable to residential real property generally.
- S. The direction for this ordinance dated October 19, 2021, shall be incorporated herein by this reference, and together with this ordinance, any amendments or supplements, and oral testimony, shall constitute the necessary findings for this ordinance.
- T. The City Council finds, determines and declares that the threat to the public health, safety, and welfare of the City and its residents necessitates the enactment of the ordinance.

Section 2. The recitals and statements of fact set forth in the preamble to this ordinance are true and correct, constitute a substantive part of this ordinance, and are incorporated herein by this reference.

Section 3. Chapter 27, Article II, is hereby added to the Code of the City of Oxnard as follows:

Article II: RENT STABILIZATION

Section 27-10 – Citation.

This Article shall be known as the “Rent Stabilization Ordinance.”

Section 27-11 – Prohibited Increases.

Increases in rent on residential real property in the City of Oxnard in excess of five percent (5%), and more than one rent increase in any twelve (12) month period, are prohibited, unless expressly exempt under the Costa-Hawkins Rental Housing Act codified in California Civil Code section 1954.50, et seq.

Section 27-12 – Reasonable Rate of Return.

This ordinance allows for an annual adjustment of residential real property rent of up to five percent (5%). Such an increase is found and determined to provide a just and reasonable return on an owner’s property, and has been adopted to encourage good management, reward efficiency, and discourage the flight of capital, as well as to be commensurate with returns on comparable investments, but not so high as to defeat the purpose of curtailing excessive rents and rental increases. Notwithstanding the foregoing, however, any owner of residential real property who contends that the limit on rental increases set forth in Section 27-11 above will prevent the owner from receiving a fair and reasonable return on their property may petition for relief from the cap set forth in section 27-11 pursuant to the procedures set forth in section 27-13.

Section 27-13 – Fair Return Petition for Rent Increase.

(a) An owner of residential real property may petition for a rent increase in excess of that provided in section 27-11 in order to obtain a fair and reasonable return on their property (“Fair Return Petition”). Such Fair Return Petition shall be on an application form prescribed by the City Manager and shall be decided by the City Manager, or their designee (“City Manager”). Owner shall provide a copy of any Fair Return Petition submitted to the City to the applicable tenant(s), and provide City with proof of completing such service to the applicable tenant(s). The tenant(s) will then have thirty (30) days from the date of receiving the Fair Return Petition to reply or provide additional materials to the City in response to the Fair Return Petition. The applicant shall bear the burden of establishing that a rate increase in excess of that provided in section 27-11 is necessary to provide the applicant with a fair and reasonable return on their property, including by providing an independent financial report and verified financial data demonstrating that without such an increase, they will not realize a fair and reasonable return on their property.

(b) Applicant shall be responsible for all costs associated with the City’s review of the Fair Return Petition. Upon receipt of a Fair Return Petition, the City Manager shall

determine the anticipated costs of review and if the employment of expert(s) will be necessary or appropriate for a proper analysis of the applicant's request. If the City Manager so determines, the City Manager shall also determine the anticipated costs of employing such expert(s). The resulting figure shall be communicated to the applicant, and the Fair Return Petition shall not be processed until the applicant has paid to the City the estimated cost of the complete analysis. City will provide applicant with an invoice of all costs incurred after the review of the Fair Return Petition. Any unused portion of the advance payment for analysis shall be refunded to the applicant. If additional funds are required, payment will be required before applicant receives the determination on the Fair Return Petition from the City.

(c) The factors the City Manager may consider in deciding a Fair Return Petition may include, but not be limited to:

- (1) Changes in the Consumer Price Index for All Urban Consumers in the Oxnard-Thousand Oaks-Ventura Metropolitan Area published by the Bureau of Labor Statistics.
- (2) The rent lawfully charged for comparable residential real property or mobile home spaces in the City.
- (3) The length of time since the last determination by the City Manager on a rent increase application, or the last rent increase if no previous rent increase application has been made.
- (4) The completion of any capital improvements or rehabilitation work related to the residential real property or mobile home space or spaces specified in the Fair Return Petition, and the cost thereof, including materials, labor, construction interest, permit fees, and other items the City Manager deems appropriate.
- (5) Changes in property taxes or other taxes related to the subject residential real property or mobile home park.
- (6) Changes in the rent paid by the applicant for the lease of the residential real property or land on which the subject mobile home park is located.
- (7) Changes in the utility charges for the subject residential real property or mobile home park paid by the applicant, and the extent, if any, of reimbursement from the tenants.
- (8) Changes in reasonable operating and maintenance expenses.
- (9) The need for repairs caused by circumstances other than ordinary wear and tear.

- (10) The amount and quality of services provided by the applicant to the affected tenant(s).
- (11) Any existing written lease lawfully entered into between the applicant and the affected tenant(s).

(d) A Fair Return Petition shall be decided by the City Manager within sixty (60) calendar days of the date that the application has been deemed complete, including proof of service of the Fair Return Petition on the applicable tenant(s). The decision shall be emailed and sent by mail, with proof of mailing to the subject property owner, the owner's designated representative(s) for the Fair Return Petition, and a designated representative of the tenant(s). Any appeal of the City Manager decision on a Fair Return Petition shall proceed pursuant to the administrative appeal procedures found in Chapter 1, Article V of the Oxnard City Code.

Section 27-14 – Exemptions.

(a) Pursuant to the Costa-Hawkins Rental Housing Act, the provisions of this ordinance regulating the amount of rent that a residential real property owner may charge shall not apply to the following: any residential real property that has a certificate of occupancy issued after February 1, 1995 (California Civil Code section 1954.52(a)(1)); and, any other provisions of the Costa-Hawkins Rental Housing Act addressing exemptions, as applicable.

(b) Pursuant to the Tenant Protection Act of 2019, California Civil Code section 1947.12(d), the provisions of this ordinance regulating the amount of rent that a residential real property owner may charge shall not apply to the following:

- (1) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the California Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the California Health and Safety Code or comparable federal statutes.
- (2) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- (3) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:
 - A. The owner is not any of the following:
 - i. A real estate investment trust, as defined in section 856 of the Internal Revenue Code.

- ii. A corporation.
- iii. A limited liability company in which at least one member is a corporation.

B.

- i. The tenants have been provided written notice that the residential real property is exempt from this section using the following statement:

“This property is not subject to the rent limits imposed by Oxnard Municipal Code section 24-1 and the owner is not any of the following: (1) a real estate investment trust, as defined by section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

- ii. For a tenancy existing before the effective date of this ordinance, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.
- iii. For a tenancy commenced or renewed on or after the effective date of this ordinance, the notice required under clause (i) must be provided in the rental agreement.

- (4) A property containing two separate dwelling units within a single structure in which the owner occupied one of the units as the owner’s principal place of residence at the beginning of the tenancy so long as the owner continues in occupancy, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit.

(c) The provisions of this ordinance regulating the amount of rent that a residential real property owner may charge shall not apply to the following:

- (1) A unit subject to Oxnard City Code Chapter 24, Article I, the City’s Mobile Home Park Rent Stabilization System.
- (2) A unit in a hotel, motel, inn, tourist home, or rooming and boarding house which is rented primarily to transient guests for a period of less than 30 days; and other transient occupancies as defined in California Civil Code section 1940, subdivision (b).
- (3) A unit in an institutional facility, including a hospital, medical care facility, residential care facility, asylum, group home for seniors or the disabled; a rental unit in a transitional housing program that assists homeless persons as defined in California Civil Code section

1954.12; a convent or monastery owned and operated by a religious organization; and a fraternity or sorority house affiliated with a college or university.

- (4) A unit that the owner or the owner's immediate family occupied as their principal place of residence at the beginning of the tenancy so long as the owner or the owner's immediate family continues in occupancy.

Section 27-15 – Rent Increase Ineffective.

No rent increase shall be effective if the owner:

- (a) Fails to substantially comply with all provisions of this article, including but not limited to the failure to provide notices as required; or
- (b) Fails to maintain the residential real property in compliance with California Civil Code Sections 1941.1 et seq. and California Health and Safety Code sections 17920.3 and 17920.10; or
- (c) Fails to make repairs ordered by the City or court of competent jurisdiction.

Section 27-16 – Notice Requirements.

(a) An owner of any residential real property subject to this article shall, on or before the date of commencement of a tenancy, give the tenant a written notice in a form prescribed by the City which must include the following information:

- (1) The existence and scope of this Chapter 27, Article II of the Oxnard City Code; and
 - (2) The tenant's right to respond to any Fair Return Petition filed with the City by the owner pursuant to section 27-13.
- (b) As part of any notice to increase rent, an owner must include:
- (1) Notice of the existence of this Chapter 27, Article II of the Oxnard City Code; and
 - (2) The tenant's right to respond to any Fair Return Petition filed with the City by the owner pursuant to section 27-13, unless such rent increase is pursuant to an approved Fair Return Petition.
 - (3) No rent increase shall take effect until the requirements of this article have been met.
- (c) The owner must give notices to the tenant in the language that the owner and tenant used to negotiate the terms of the tenancy.

Section 27-17 – Definition of Rent.

For the purposes of this article, “Rent” means all periodic payments and all nonmonetary consideration, including, but not limited to, the fair market value of goods or services rendered to or for the benefit of the owner under an agreement concerning the use or occupancy of residential real property, including all payment and consideration demanded or paid for parking, pets, furniture, subletting, and security deposits for damages and cleaning.

Section 27-18 – Violations.

(a) It shall be unlawful for any person to violate or fail to comply with any provision of this article. The violation of any provision of this article shall first be punished through the use of a civil citation, prior to prosecution as a misdemeanor, infraction, or civil injunction as provided in Oxnard City Code section 1-10.

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

Section 4. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility it will have a significant effect on the environment, and it is not a "project", as defined in section 15378 of the State CEQA Guidelines.

Section 5. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid or unconstitutional.

Section 6. The Clerk of the Council shall certify to the adoption of this ordinance and cause the same to be published in the manner prescribed by law.