

RESOLUTION NO. 2011-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIMESA ADOPTING THE ANNUAL REGISTRATION FEE FOR REGULATED MOBILE HOME PARKS AND MOBILE HOME SPACES IN THE CITY OF CALIMESA PURSUANT TO THE CITY'S MOBILE HOME RENT STABILIZATION ORDINANCE AND SUPERSEDING AND REPEALING RESOLUTION NO. 2011-33

WHEREAS, in 1990, the City of Calimesa ("City") enacted the City of Calimesa Mobile Home Rent Stabilization Ordinance, which is codified in Chapter 9.05, Sections 9.05.010, et seq., of the Calimesa Municipal Code (the "Ordinance"); and

WHEREAS, since 1990, CMC Section 9.05.060(F) of the Ordinance, has authorized the City Council to adopt an annual registration fee based on the number of spaces in the mobile home park to be used for the costs of administering the Ordinance. The fee is to be paid by each park owner for each space which is not exempt pursuant to Civil Code Section 798, et seq. at the time the initial and annual registration statements are filed with the City; and

WHEREAS, CMC Section 9.05.060(F) further provides that the registration fee may be apportioned equally among the nonexempt spaces in the mobile home park with one-half thereof charged by the park owner to the residents of those spaces according to the apportionment in 12 equal monthly installments; and

WHEREAS, CMC Section 9.05.060(G) provides that a mobile home park owner who fails to comply with any provision of the registration provisions of Section 9.05.060, including the payment of the registration fee, shall not be entitled to charge, collect, retain or apply for any rent increases permitted by the Ordinance; and

WHEREAS, the City determined the amount of the monthly registration fee per regulated space by determining the average of the administrative and legal costs incurred by the City for the administration and enforcement of the Ordinance over the past five fiscal years, which total \$30,133.46; and dividing that sum by the total number of regulated spaces in the City, or 699 regulated spaces; and then dividing that sum by twelve months; and

WHEREAS, In accordance with California Government Code Section 66018, the City Council conducted a duly noticed public hearing on September 19, 2011 with respect to the fee, as set forth herein, prior to the adoption of this Resolution, at which time the public was given the opportunity to provide oral or written presentations regarding the proposed fee; and

WHEREAS, the fees and charges established by this resolution shall be used solely and exclusively to cover actual costs incurred by the City to administer and enforce the Mobile Home Rent Stabilization Ordinance, and to process and act upon petitions for rent increases under the Ordinance; and all fees collected shall be placed in a special fund for those purposes only; and

WHEREAS, the adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA," Public Resources Code Sections 21000 et seq.), because it approves and sets a fee for the purpose of meeting the operating expenses of City departments for the administration and enforcement of the Mobile Home Rent Stabilization Program, as set forth in Public Resources Code Section 21080(b) (8) (A) and CEQA Guidelines, Section 15273(a) (1); and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALIMESA DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

Section 1. All facts set forth in the Recitals of this Resolution are true and correct.

Section 2. The annual registration fee for each regulated mobile home park in the City of Calimesa is hereby adopted as follows:

A. The annual registration fee is \$43.08 for each regulated mobile home park in the City of Calimesa, calculated at the rate of 3.59 per month per regulated space.

B. As used herein, "regulated mobile home park" or "regulated park" means a mobile home park, or any portion thereof, constructed prior to January 1, 1990; and a "regulated space" means a space not exempt from the Ordinance pursuant to a long-term lease or rental agreement entered into pursuant to Civil Code Section 798.17, or a space that otherwise falls within the definition of "new construction" pursuant to Civil Code Section 798.7.

C. The park owner shall pay the annual registration fee on a monthly basis, not later than the 30th of each month, in the amount of \$3.59 per regulated space per month. The park owner shall not be current on the registration fee until payment of the required registration fee for that month for all regulated spaces in the park.

D. The park owner may bill the residents of the regulated spaces in the Park a maximum of one-half of the total monthly registration fee paid to the City each month, not to exceed \$1.79 per month per regulated space (the "Park Resident Registration Fee Portion"). Billing of residents shall be subject to the following requirements and limitations:

1. The Park Resident Registration Fee Portion shall not exceed \$1.79 per space per month per regulated space. A park owner shall not bill the residents of any regulated space in a lump sum for the annual Park Resident Registration Fee Portion (\$21.48).

2. In accordance with CMC Section 9.05.060(F), the Park Resident Registration Fee Portion shall be separately itemized on the monthly statement or invoice issued to the residents of each regulated space, and shall not be included in the rent for purposes of any rent increase or rent adjustment determined pursuant to the Ordinance.

3. The residents of each regulated space shall pay the Park Resident Registration Fee Portion concurrently with their payment of the space rent due each month under their rental agreement.

4. The park owner may charge a late fee in connection with the late payment or nonpayment of the Park Resident Registration Fee Portion of the annual registration fee (collectively "Registration Late Fee") subject to the following limitations:

a. The Park Resident Registration Fee Portion shall not be late if it is paid by the residents of a regulated space prior to the date that space rent is defined as "late" under the applicable rental agreement for the regulated space.

b. The monthly Registration Late Fee charged to a regulated space shall not exceed the monthly Park Resident Registration Fee Portion due for the space (\$1.79). The maximum amount of a Registration Late Fee that may be imposed on or collected from any regulated space in a calendar year shall be the total annual Park Resident Registration Fee Portion due from the park owner for that space (\$21.48) per calendar year. This limit applies regardless of the number of months that a resident fails to pay, or makes late payment of any or all of the Park Resident Registration Fee Portion, and regardless of the number of occupants of the regulated space.

c. Except as otherwise provided in this Section, no other charges, fees, penalties, fines or payments of any kind shall be charged to, imposed on, or demanded or collected from any resident of any regulated space arising from the collection of the Park Resident Registration Fee Portion or the Registration Late Fee.

5. If a park owner fails or neglects to bill the residents of a regulated space for the Park Resident Registration Fee Portion (or any part of such portion) for any month, the park owner may retroactively bill the park residents of a regulated space for the previously unbilled registration fees only if the park owner provides the residents with the same time period to pay as the park owner was late in billing for the fee. The park owner shall not retroactively bill the park residents for any unbilled fees covering any period of time longer than 12 months prior to the date of retroactive billing. The park owner shall not charge late fees or any other charges on the payment of any retroactively-billed registration fees if the Park Resident Registration Fee Portion is paid by the residents within the time allowed by this sub-paragraph, but may charge a Registration Late Fee if paid thereafter.

E. In each annual and updated registration statement and rent schedule filed with the City, the park owner shall list the amounts billed to and collected from each

regulated space for the Park Resident Registration Fee Portion and Registration Late Fee for the period covered by the registration statement and rent schedule, and shall further comply with the Ordinance and any other rules and regulations adopted by resolution of the City Council in implementing this Resolution.

Section 3. This City Council hereby finds and determines that, based upon the data, information, analyses, oral and written documentation heretofore presented to this City Council, the annual registration fee established in Section 2, above, does not exceed the estimated reasonable cost of providing the service to which the fee applies. In addition, the City Council finds that the fee is for purposes of funding a regulatory program and is paid by the persons and entities that are subject to the burdens and benefits of that regulatory program.

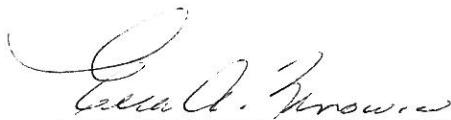
Section 4. The City Council shall review the annual registration fee from time to time and may periodically increase or decrease the fee to ensure that over time, the fee does not exceed the reasonable cost of the regulatory program.

Section 5. This Resolution supersedes and repeals Resolution No. 2011-33.

Section 6. If any section, subsection, sentence, clause, phrase or portion of this resolution for any reason is held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity or the remaining portions of this resolution. The City Council of the City of Calimesa hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions were to be declared invalid or unconstitutional.


Section 7. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 17th day of October, 2011.



ELLA ZANOWIC, MAYOR

ATTEST:



DARLENE GERDES, CITY CLERK

STATE OF CALIFORNIA }
COUNTY OF RIVERSIDE }
CITY OF CALIMESA } SS.

I, **DARLENE GERDES**, City Clerk of the City of Calimesa, California, DO HEREBY CERTIFY, that the aforementioned is a true and correct copy of **Resolution No. 2011-40** known as:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIMESA ADOPTING THE ANNUAL REGISTRATION FEE FOR REGULATED MOBILE HOME PARKS AND MOBILE HOME SPACES IN THE CITY OF CALIMESA PURSUANT TO THE CITY'S MOBILE HOME RENT STABILIZATION ORDINANCE AND SUPERSEDING AND REPEALING RESOLUTION NO. 2011-33

And which is on file in the Office of the City Clerk, City of Calimesa California.


Said Resolution was adopted by the said City Council at a regular meeting thereof held on the 17th day of October 2011 by the following vote:

AYES: Zanowic, Davis, Hewitt, Hyatt and McIntire

NOES: None

ABSENT: None

ABSTAINED: None


DARLENE GERDES, CITY CLERK

Dated this 27th day of October, 2011.