

ORDINANCE NO. 2022-1220

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, ENACTING A MORATORIUM ON EVICTIONS AND RENT INCREASES BEYOND THREE PERCENT WHICH INCLUDES ANTI-HARRASSMENT PROTECTIONS FOR TENANTS AND RESIDENTS OF MOBILE HOME PARKS AND RV PARKS DURING THE COUNTY OF SAN DIEGO PUBLIC HEALTH CRISIS FOR HOMELESSNESS AND COVID 19 STATE OF EMERGENCY

WHEREAS, a person's housing stability is inextricably linked to their health and living on the streets is unsafe, inhumane, and causes harm to people's physical and mental health; and

WHEREAS, according to the County of San Diego's information, people experiencing homelessness are disproportionately people of color, people over the age of 55, and people with physical disabilities; and

WHEREAS, on September 27, 2022, the County of San Diego voted unanimously to declare a public health crisis for homelessness throughout the County of San Diego; and

WHEREAS, the City is in the process of studying the need for more permanent rent stabilization policies and eviction policies in mobile home parks to further protect residents and prevent more people from becoming homeless during this public health crisis; and

WHEREAS, a novel coronavirus referred to as COVID-19, which causes infectious disease, was first detected in December 2019, and has now spread throughout the world; and

WHEREAS, on January 31, 2020, the U.S. Secretary of Health and Human Services declared a public health emergency related to the COVID-19 outbreak pursuant to Section 319 of the Public Health Service Act; and

WHEREAS, on February 14, 2020, the San Diego County Public Health Officer declared a local health emergency due to the threat of COVID-19; and

WHEREAS, on February 19, 2020, the San Diego County Board of Supervisors ratified the Declaration of Local Health Emergency and Proclamation of Local Emergency arising out of the COVID-19 outbreak; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom proclaimed a State of Emergency to exist in the State of California as a result of COVID-19; and

WHEREAS, various health organizations throughout the world, including the CDC and the World Health Organization (WHO), consider the COVID-19 virus to be a very serious health threat, a “public health emergency of international concern,” and as of March 11, 2020, the WHO identified it as a pandemic; and

WHEREAS, on March 12, 2020, the City’s Director of Emergency Services proclaimed the existence of a local emergency within the City and on March 16, 2020, the City Council for the City of Imperial Beach adopted Resolution 2020-13, ratifying the declaration of the Director of Emergency Services and declaring the existence of an ongoing local emergency pursuant to COVID-19 and has renewed the local emergency proclamation regularly including at its last Council meeting on September 21, 2022; and

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly and indirectly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, as a result of the public health emergency and the precautions recommended and required by health authorities to address the COVID-19 virus, many residential tenants in the City of Imperial Beach have experienced and are expected to experience sudden and unexpected income loss which is out of their control; and

WHEREAS, during this Local Emergency and County public health crisis, and in the interest of protecting the public health and preventing the transmission of COVID-19, it is essential to avoid unnecessary housing displacement due to eviction or rent increases, to protect the City’s available housing stock, and to prevent housed individuals from falling into homelessness; and

WHEREAS, further substantial and long-term economic impacts caused by COVID-19 and the County public health crisis on homelessness are anticipated, leaving residential tenants vulnerable to eviction and rent increases; and

WHEREAS, a tenant’s sudden and immediate displacement caused by an eviction or unsustainable rent increase can have a profound impact on the financial, emotional, physical health, and professional stability of a tenant’s life, which impacts are compounded by the ongoing Covid-19 emergency and County public health crisis on homelessness; and

WHEREAS, pursuant to Chapter 2 of the Imperial Beach Municipal Code, the Director recommends that the City Council adopt this ordinance as a local measure in order to protect life and property of the residents of Imperial Beach affected by the declared emergency and public health crisis on homelessness; and

WHEREAS, the City Council has the power under Government Code Sections 36934 and 36937 to adopt an ordinance that takes effect immediately if it is an ordinance for the immediate preservation of the public peace, health or safety, contains a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the City Council; and

WHEREAS, the City finds it is necessary for the City Council to adopt this ordinance as an Urgency Ordinance, as set forth in the above recitals, which are incorporated herein by reference, and pursuant to the powers under Government Code Sections 36934 and 36937, for the immediate preservation of the public health and safety, as affected by the emergency caused by the spread of COVID-19 and the County public health crisis on homelessness; and

WHEREAS, this ordinance is exempt from review under the California Environmental Quality Act (CEQA; California Public Resources Code Section 2100 et seq.) and CEQA regulations (Title 14, California Code of Regulations Section 15000, et seq.) because this ordinance is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3)).

NOW, THEREFORE, the City Council of the City of Imperial Beach does ordain as follows:

SECTION 1. The above recitals are true and correct and are incorporated herein as findings as though set forth in full.

SECTION 2. A moratorium on the following actions during the term of this ordinance is enacted as follows:

- A. A landlord shall not evict or endeavor to evict a tenant or resident from a mobile home park or recreational vehicle park within the City during the term of this ordinance.
- B. A landlord shall not increase any rent due from a tenant or resident of a mobile home park or recreational vehicle park within the City by more than 3% during the term of this ordinance.
- C. A landlord shall not threaten or harass any tenant or resident of a mobile home park or recreational vehicle park within the City during the term of this ordinance by doing any of the following:
 - 1) Reducing or eliminating housing services required by a lease, contract or law, including the elimination of parking if provided in the tenant's or resident's lease or contract except when necessary to comply with a court order or local or state law, or to create an accessory dwelling unit or additional housing.
 - 2) Failing to perform and timely complete necessary repairs and maintenance required by Federal, State, County, or local housing, health, or safety laws.

- 3) Abuse of the right of access into a rental unit as established and limited by California Civil Code Section 1954, including entering or photographing portions of a rental unit that are beyond the scope of a lawful entry or inspection.
- 4) Threatening a tenant or resident, by word or gesture, with physical harm.
- 5) Attempting to coerce the tenant or resident to vacate with offer(s) of payments.
- 6) Misrepresenting to a tenant or resident that the tenant or resident is required to vacate a rental unit or enticing a tenant or resident to vacate a rental unit through an intentional misrepresentation or the concealment or omission of a material fact.
- 7) Threatening to or engaging in any act or omission which interferes with the tenant's or resident's right to use and enjoy the rental unit or whereby the premises are rendered unfit for human habitation and occupancy.
- 8) Refusing to acknowledge or accept receipt of lawful rent payments as set forth in the lease agreement or as established by the usual practice of the parties or applicable law.
- 9) Inquiring as to the immigration or citizenship status of a tenant, prospective additional tenant, resident, occupant, or prospective additional occupant of a rental unit, or requiring any of these people to make any statement, representation, or certification concerning their immigration or citizenship status. Disclosing or threatening to disclose to any person or entity information regarding the immigration or citizenship status of a tenant or resident, whether in retaliation for engaging in legally protected activities or to influence them to vacate or for any other reason.
- 10) Disclosing or threatening to disclose information about a tenant or resident to any government entity for engaging in legally protected activities or to influence them to vacate.
- 11) Engaging in an activity prohibited by federal, state, or local housing anti-discrimination laws.
- 12) Retaliating, threatening, or interfering with tenant or resident organizing activities, including forming or participating in tenant associations and unions.
- 13) Interfering with a tenant's or resident's right to privacy or requesting information that violates a tenant's or resident's right to privacy, including, but not limited to, residency or citizenship status or social security number, except as authorized by law.
- 14) Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of a tenant(s) and that cause, are likely to cause, or are committed with the objective to cause a tenant(s) or resident(s) to surrender or waive any rights in relation to such tenancy.

D. As used in this ordinance, "endeavor to evict" shall include a landlord taking or attempting to take any of the following actions: threatening to or actually serving a notice, filing or prosecuting any action to obtain possession of the property

rented by that tenant or resident or otherwise seeking to evict the tenant or resident.

- E. A landlord of a mobile home park or recreational vehicle park within the City shall make every effort to address disputes with tenants or residents through use of a neutral mediator.
- F. Nothing in this ordinance relieves the tenant or resident of the obligation to pay rent or restricts the landlord's ability to recover rent due.
- G. A residential tenant or resident of a mobile home park or recreational park in the City of Imperial Beach may use the protections afforded in this ordinance as an affirmative defense in an unlawful detainer action.
- H. The City reserves the right to enforce administrative remedies in the Imperial Beach Municipal Code and to pursue any other remedies legally available against individuals knowingly or intentionally violating the provisions of this ordinance.
- I. This ordinance shall not be applicable to any properties/units that are being sold, including those that are in escrow or under contract for sale and reliant on eviction notices already served as of the effective date of this ordinance.

SECTION 3. This ordinance is intended to supplement, not to duplicate or contradict, applicable state and federal law and shall be interpreted in light of that intent.

SECTION 4. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 5. Pursuant to Government Code Section 36936, this ordinance shall be effective immediately upon its adoption by a 4/5ths vote of the City Council and shall remain in effect until 60 days after the: (1) end of the local emergency declared by the City Council or (2) end of the County of San Diego public health crisis on homelessness, whichever occurs first.

SECTION 6. The City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation for the City of Imperial Beach.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its regular meeting held on the 5th day of October 2022, by the following vote:

AYES:
NOES:
ABSENT:

COUNCILMEMBERS:
COUNCILMEMBERS:
COUNCILMEMBERS:

SERGE DEDINA, MAYOR

ATTEST:

JACQUELINE M. KELLY, CMC
CITY CLERK