

WORK SESSION AGENDA

**CITY COUNCIL WORK SESSION
TUESDAY
APRIL 29, 2014**

**COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
6:00 P.M.**

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR NABOURS
VICE MAYOR EVANS
COUNCILMEMBER BAROTZ
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER WOODSON

4. Preliminary Review of Draft Agenda for the May 6, 2014, City Council Meeting.*

** Public comment on draft agenda items may be taken under "Review of Draft Agenda Items" later in the meeting, at the discretion of the Mayor. Citizens wishing to speak on agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk.*

5. Public Participation

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

6. Presentation by Arizona Lodging and Tourism Association about National Tourism Week

7. Presentation and Discussion on Potential Resident Displacement Relocation Policy

8. Discussion of Coconino County Ordinance No. 2014 -03: Ban of Portable Communication Devices and Texting While Operating a Motor Vehicle

9. Review of Draft Agenda Items for the May 6, 2014, City Council Meeting.*

** Public comment on draft agenda items will be taken at this time, at the discretion of the Mayor.*

10. Public Participation

11. Informational Items To/From Mayor, Council, and City Manager; request for possible future agenda items.

12. Adjournment

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2014.

Elizabeth A. Burke, MMC, City Clerk

Memorandum

6.

CITY OF FLAGSTAFF

To: The Honorable Mayor and Council
From: Heidi Hansen, CVB Director
Date: 03/17/2014
Meeting Date: 04/29/2014



TITLE:

Presentation by Arizona Lodging and Tourism Association about National Tourism Week

DESIRED OUTCOME:

Update Only

INFORMATION:

A representative from the Arizona Lodging and Tourism Association (AzLTA) will be addressing City Council on the importance of National Tourism Week (NTW), as well as providing an update on how our state is performing overall. National Tourism Week is May 3-11, 2014. The Flagstaff Convention and Visitors Bureau (CVB) staff are kicking off NTW with a stakeholder breakfast on Monday, May 5th at the Flagstaff Visitor Center along with local advertisements in the Arizona Daily Sun that share the economic impacts of tourism on our local economy and how it fosters a better quality of life for our community. We will have radio and social media outreach days where staff will go on air to talk about NTW, and we are encouraging all stakeholders to participate on social media by using a customized hash tag on their sites as well as direct locals and visitors to our website: flagstaffarizona.org for more information.

Attachments:

Memorandum

7.

CITY OF FLAGSTAFF

To: The Honorable Mayor and Council
From: Dan Folke, Planning Director
Date: 04/17/2014
Meeting Date: 04/29/2014



TITLE:

Presentation and Discussion on Potential Resident Displacement Relocation Policy

DESIRED OUTCOME:

To inform the City Council and public on issues pertaining to resident displacement relocation programs, including an overview of State law, current zoning review and potential paths forward.

INFORMATION:

Staff will provide information on who is impacted by a project that displaces residents and what are the existing remedies. The presentation will provide parameters within which City Council has the ability to legislate and provide information on the State of Arizona's Mobile Home Relocation Act and Landlord Tenant Act. Staff will also present an overview of the City's criteria to approve a rezoning request and how a relocation plan will be evaluated under the current General Plan policies as well as the policies that are included in the 2030 Regional Plan. A brief overview of two model relocation ordinances will be provided and finally, three options to move forward will be presented.

Attachments: Displaced Resident Presentation
 Palo Alto Ord
 Santa Barbara Ord

Relocation of Displaced Residents Policy Work Session

April 29, 2014

City of Flagstaff

Community Development Division
Planning and Development Services



Goals of the work session:

- Provide information to City Council and the public on relocation policy options and limitations
 - Who is impacted & remedies
 - Parameters
 - Existing State programs
 - Flagstaff rezoning process and Regional Plan policies
 - Relocation model ordinances
- Options to move forward

Who is impacted by non-governmental caused relocation?

Tier → Affected person → Remedy

Tier 1 → Land Owner → Purchase Contract (private sale)

Tier 2 → Mobile Home Owner → Mobile Home Parks
Residential Landlord Tenant Act

Tier 3 → Tenant (mobile, apt., house) → Open

Parameters

1. City can enact ordinances to affect persons in Tier 3
2. Must meet Due Process – cannot unduly burden property owners
3. Must meet Equal Protection – treat those in similar situations the same
4. Consider practical implications, such as willingness to “wait out” leases

Existing State Legislation

Mobile Home Parks Residential Landlord Tenant Act

- Benefits to Tier 2 renter of mobile home pad only (resident owns mobile home) – no benefits to Tier 3 renters of mobile homes, RVs or travel trailers
- Park owner and unit owner pay into state fund: annual state assessment & \$500 single/\$800 double, for each tenant that files a claim
- Eviction due to change of use
 - Requires 180 day notice to tenants
 - Inform tenants of mobile home relocation fund

Mobile Home Act

Benefits to mobile home owners (Tier 2)

- Pay moving expenses to relocate mobile home within 50 miles of vacated park; or \$5,000 for single, \$10,000 for multi-section mobile home, whichever is less
- Abandon the mobile home – receive $\frac{1}{4}$ of the maximum allowable due for relocation (mobile homes constructed prior to 1976 may be cost prohibitive)

Existing State Legislation

Landlord Tenant Act

- Applies to residential leases in Arizona (mobile homes, apts., houses)
- If landlord evicts tenant prior to lease expiration
 - Landlord must pay two month's rent or twice the actual damages, whichever is more
 - Tenant entitled to security deposit

State Legislation Conclusion

For Tier 2

- State provides benefits to mobile home owners. Relocation benefits are available to undocumented residents, not abandonment

For Tier 3

- City can enact an ordinance that does not conflict with Landlord Tenant Act, within legal parameters

City Council Current Authority: Criteria to Approve Rezone Request

Findings for Zoning Map Amendments that can be used to require a relocation plan:

- (1) The proposed amendment is consistent with and conforms to the goals of the General Plan and any applicable specific plans;
- (2) The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City and will add to the public good as described in the General Plan; and

2001 Regional Land Use Plan

- GOAL HN₁: The supply of affordable home ownership, rental, and special needs housing units affordable to low- and moderate-income households will be increased.

2001 Regional Land Use Plan

- Policy HN1.1—Evaluate and Adjust Housing Policies and Strategies - The City and County shall maintain a current assessment of housing and economic conditions and adjust their housing planning, policy, and strategy approaches as necessary to ensure community services and resources are delivered appropriately and efficiently to meet community needs and vision.

2001 Regional Land Use Plan

- GOAL HN2: New neighborhoods will be built and support will be given to existing neighborhoods that integrate a variety of housing types and densities with amenities, services, and retail to ensure opportunities for a variety of household income levels.

2001 Regional Land Use Plan

- Policy HN2.5—Preserve and Enhance Existing Neighborhoods Within Districts The character of stable residential neighborhoods shall be preserved through neighborhood and district planning, assistance to neighborhood organizations, and supportive regulatory techniques. The City shall attempt to retain existing affordable housing stock through conservation efforts of older residential neighborhoods, while allowing infill development and accessory dwellings in a sensitively designed manner.

Regional Plan 2030

(effective May 21, 2014 with voter ratification)

- Policy LU.1.12. Seek fair and proper relocation of existing residents and businesses in areas affected by redevelopment and reinvestment, where necessary.
- Policy NH.1.8. Prioritize the stabilization of a neighborhood's identity and maintain cultural diversity as new development occurs.

Regional Plan 2030

(effective May 21, 2014 with voter ratification)

- Policy NH.3.3. Increase the availability of affordable housing for very low-income persons, through innovative and effective funding mechanisms.
- Policy NH.4.1. Expand the availability of affordable housing throughout the region by preserving existing housing, including housing for very low-income persons.

Regional Plan 2030 (effective May 21, 2014 with voter ratification)

- Policy NH.4.2. Reduce substandard housing units by conserving and rehabilitating existing housing stock to minimize impacts on existing residents.
- Policy NH.6.1. Promote quality redevelopment and infill projects that are contextual with surrounding neighborhoods. When planning for redevelopment, the needs of existing residents should be addressed as early as possible in the development process.

Benefits of Current Rezone Process

- Flexible: allows for tailoring conditions to meet specific circumstances
- State legislature unlikely to pre-empt City Council actions

Model Ordinances

City of Palo Alto Mobile Home Park Conversion Ordinance

- Requires a Relocation Impact Report
 - Proposed new use and timeline for conversion
 - Assessment of each space – size of unit, occupant information, special needs of occupants, value of unit
 - Location of comparable parks within 35 miles
 - Relocation specialist to assist residents
 - Proposed measures to mitigate impacts to residents

Model Ordinances

City of Palo Alto

- Requires a public hearing
- Hearing officer approves or denies request:
 - Adequately mitigates impacts of displaced residents
 - Covers the costs to move mobile home or provide lump sum payment for comparable unit

Model Ordinances

City of Santa Barbara

- Tenant Displacement Assistance Ordinance
 - Provides 4 times the median monthly advertised rental rate or \$5,000 whichever is greater
 - Special needs tenants (seniors, disabled and low income) – 5 times median monthly rate or \$6,000 whichever is greater
 - Right to purchase new unit
 - Right to terminate lease after notification

Options to Move Forward

1. Evaluate if resident displacement plan has been provided by an applicant consistent with the findings required to approve a rezoning request. Will require addition of a displaced resident relocation plan to the submittal checklist and the creation of criteria to evaluate the plan. May require Zoning Code amendment.

Options to Move Forward

2. Develop a resident displacement policy with defined objectives and relocation plan components which require a finding that applicant's plan meets the purpose and goals of the policy. Requires an amendment to Zoning Code.

Options to Move Forward

3. Develop a resident relocation policy which identifies and requires specific displacement benefits based on the needs of the resident. Requires an amendment to the Zoning Code.

Effective Date of New Requirements

- New policy would be effective 30 days after adopted
- New policy would apply to projects that submit an application to rezone after effective date
- All three options address Tier 3 tenants

Questions & Discussion



ORDINANCE NO. 4696
ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO
AMENDING TITLE 9 OF THE PALO ALTO MUNICIPAL CODE
TO ADD CHAPTER 9.76 RELATING TO MOBILEHOME PARK
CONVERSION

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Title 9 of the Palo Alto Municipal Code is hereby amended to add Chapter 9.76 to read as follows:

"9.76.010. Purpose and Findings. The mobilehome owners who rent spaces for their homes in mobilehome parks make a considerable investment in purchasing, maintaining and improving their homes and in maintaining the rented space for their homes. If a park closes or is converted to a new use, the mobilehome owners may lose their homes and the investment in them due to the high cost and risk of injury involved in moving a mobilehome, the fact that improvements to a home may not be movable and the lack of vacant mobilehome spaces in parks within a reasonable distance from the closing park that will accept relocating homes. In recognition of the unique situation and vulnerability of mobilehome owners, the State Legislature adopted the Mobilehome Residency Law, Civil Code section 798, *et seq.*, which protects them from eviction except for specified and limited causes, and Government Code sections 65863.7 and 66427.4, which authorize the City to require park owners who want to close a park or convert it to another use to provide reasonable relocation assistance as a condition of closing and converting a park.

This chapter is adopted pursuant to Government Code sections 65863.7 and 66427.4 and the City's police power to provide a procedure and standards for assessing the adverse impacts of a mobilehome park closure or conversion on the displaced mobilehome owners residing in the park that is being closed and to determine appropriate relocation assistance for those residents.

9.76.020. Definitions.

(a) "Comparable Mobilehome" means a mobilehome that is similar in size, age, condition, number of bedrooms and amenities to a mobilehome that is being displaced by conversion of a mobilehome park.

(b) "Comparable Mobilehome Park" means a mobilehome park that is similar in condition, age, size and amenities to the park that is being closed and is located within a community similar to that in which the park that is being closed is located and has similar access to community amenities such as shopping, medical services, recreational facilities and transportation.

(c) "Comparable housing" means housing in an apartment complex or condominium that is similar in size, number of bedrooms and amenities to the mobilehome that is being displaced and is located in a community that has similar access to shopping, medical services, recreational facilities and transportation or a comparable mobilehome in a comparable mobilehome park.

(d) "Conversion" means the closure of a mobilehome park and the cessation of holding out spaces in the park for rental even if no new use is planned and conversion of a mobilehome park to another use.

(e) "Legal Owner" means any person or entity having a legal interest in a mobilehome, such as a lender or mortgagor.

(f) "Mobilehome" shall have the meaning set forth in the Mobilehome Residency Law, Civil Code section 798, et seq. as now in effect or subsequently amended and shall also mean vehicles designed or used for human habitation, including camping trailers, motorhomes, slide-in campers and travel trailers if they have been in the park being closed or converted and used as the occupant's primary residence, as established by nine (9) months continuous residency prior to the filing of a conversion application.

(g) "Mobilehome Park" or "Park" means an area of land where two or more mobilehome spaces are rented or held out for rent to accommodate mobilehomes used for human habitation.

(h) "Mobilehome Resident" or "Resident" means a registered owner of a mobilehome who resides in the mobilehome.

(i) "Park Owner" means a person or entity that owns a mobilehome park or a person or entity authorized to act on behalf of the owner of a mobilehome park.

9.76.030 Application and Relocation Impact Report.

(a) Prior to conversion of a Park, the Park Owner shall file with the City an application to convert the park, a resident questionnaire and relocation impact report ("RIR"). The application shall be made on a form provided by the City. No application shall be deemed complete until a resident questionnaire

for each affected resident and tenant and a completed RIR have been filed.

(b) No notice that the Park is being converted or of any proposed new use of the Park shall be given and no signs indicating that the Park is being converted or closed or indicating the future use of the Park shall be posted prior to the date on which the City has approved the conversion and the Park Owner has signed and filed a certificate accepting the conditions of approval adopted by the City.

(c) Resident Questionnaire. A confidential Resident Questionnaire shall be sent to each resident and tenant of the park on a form provided by the City as soon as the conversion application has been filed. The form shall require the following information for each mobilehome space in the Park:

(1) The registered owner and legal owner of the mobilehome;

(2) The identity, ages, number and any mental or physical handicap or special needs of the residents occupying the mobilehome;

(3) The date of manufacture of the mobilehome, the name of the manufacturer, the size of the mobilehome, the number of bedrooms in the mobilehome, any special amenities in the home, including but not limited to equipment needed because of the medical condition, age, or handicap or disability of any resident or tenant in the home;

(4) Any improvements or renovations to the mobilehome or improvements to the mobilehome space made by the current resident, including, but not limited to, a new roof, porches, patios, awnings, pop-out rooms, recreational equipment, barbecue equipment, landscaping, etc., whether such improvements are movable and the cost of such improvements;

(5) The purchase price paid by the current resident of the mobilehome and the amount and terms of any remaining mortgage or loan on the home;

(6) Any special circumstance that would limit the area to which the resident or tenant is able to relocate;

(7) Whether the residents receive Supplemental Social Security Income or qualify as low or very low income persons or families under the standards issued by the Department of Housing and Urban Development ("HUD");

The questionnaires shall be kept separately from the rest of the application materials and shall not be included in the RIR sent to each resident and tenant. The identity of each resident and his or her responses shall be kept confidential and used only to determine the relocation assistance to be provided to a particular resident or tenant. If the Park Owner does not submit questionnaires containing sufficient information, the City may seek the information directly from the residents.

(d) Contents of the RIR. The RIR shall include the following information:

(1) A description of any proposed new use for the site;

(2) A proposed timetable for the conversion of the park;

(3) A legal description of the park;

(4) The number of spaces in the park;

(5) For each space in the park:

(i) the size, number of bedrooms, manufacturer and date of manufacture of the mobilehome on the space,

(ii) the names and ages of the occupants of the mobilehome and their length of residency in the park,

(iii) any special needs, handicaps or disability of the occupants and related special equipment, modifications or improvements to the home known to the Park Owner,

(iv) the value the mobilehome would have if the park were not being closed, the depreciated replacement value of the mobilehome and its value if it is to be removed from the park and cannot be relocated to a space in a comparable mobilehome park, these values shall be determined by appraisals by a qualified appraiser to be chosen by the Park Owner from a list supplied by the City. The cost of the appraisals shall be paid by the Park Owner.

(v) any improvements to the home, including but not limited to, patios, porches, pop-out rooms and any recent major improvements to the home, including but not limited to, a new roof or new siding.

(vi) any information available to the Park Owner concerning any handicap, disability or special need of the residents.

(vii) two sets of mailing labels for both the residents and legal owners of each mobilehome.

(e) The purchase price paid for the park by the Park Owner and any amount incurred to make capital improvements to the park.

(f) An appraisal of the park if continued in use as a mobilehome park and an appraisal of the park site if used for the highest and best use permitted by the zoning for the site or any new zoning being requested by the Park Owner. The appraiser shall be selected by the Park Owner, subject to the approval of the City, and shall be paid by the Park Owner.

(g) Whether the Park Owner has offered to sell the mobilehome park to the residents and terms of that offer.

(h) The purchase price of comparable mobilehomes in comparable mobilehome parks.

(i) The cost of comparable housing, including the purchase price of comparable condominiums and comparable mobilehomes in a comparable mobilehome park and the cost of moving into a comparable apartment, including such items as first and last months rent, security deposits and higher rent or mortgage payments at the comparable housing.

(j) A list of comparable parks within a 35 mile radius and for each such park, the space rents and the qualifications for residency in each park (e.g., age restrictions, no pets), whether the park has any vacant space and will accept homes being relocated and if so, any restrictions, such as size and age, on the relocated homes that would be accepted.

(k) Estimates from two moving companies approved by the City, and qualified to move mobilehomes on public streets and highways, of the cost of moving each mobilehome in the park, including the cost of permits and tearing down and setting up the home at the new location, including the cost of any upgrades to comply with applicable building, plumbing, electrical and health and safety codes and the cost of moving any improvements, including, but not limited to, patios, porches and pop-out rooms.

(l) Proposed measures to mitigate the adverse impacts of the park conversion on the residents in the park.

(m) Identification of a relocation specialist to assist the residents in finding and moving to relocation spaces and comparable housing. The relocation specialist shall be selected by the Park Owner subject to the approval of the City and shall be paid by the Park Owner.

9.76.040 Hearing Procedures.

(a) An Application shall be deemed complete within 30 days unless written notice is given specifying the information that must be supplied to make the application complete.

(b) A hearing on application shall be set within 60 days of the date the application is completed.

(c) 30 days prior to hearing, the Park Owner must verify to the City that the residents and legal owners of the mobilehomes in the park have been given the required notice of the application.

(d) A copy of the RIR must be provided to residents at least 30 days before the hearing.

(e) At least 30 days mailed notice of the hearing on the application shall be given to each affected resident, tenant, and legal owner.

(f) The application shall be heard by a qualified hearing officer selected by the City. The Park Owner shall pay all hearing officer fees.

(g) The hearing officer shall approve the application on the condition that the mitigation measures proposed by the Park Owner are adequate to mitigate the adverse impacts on the displaced residents and may condition the approval on additional conditions, including, but not limited to the following, provided that such conditions do not exceed the reasonable costs of relocation:

(1) For residents whose mobilehomes can be relocated to a space in a comparable mobilehome park:

(a) the cost of physically relocating the mobilehome, as defined above, within 35 miles of the Park that is closing.

(b) the cost of moving the personal property in the mobilehome.

(c) the cost of staying overnight in a motel for the number of nights required to move and set up the mobilehome in the new park.

(d) costs incurred to move into the new park, such as first and last months rent and security deposits.

(e) for those residents who qualify as low or very low income persons or families, as defined by HUD or are receiving supplemental social security, a lump sum based on consideration of the difference between higher rent at the new park for one year and the park that is closing.

(f) for those residents who are handicapped or disabled, a lump sum based on consideration of the cost of obtaining any assistance necessary to move, such as help with packing or other physical tasks that the resident cannot do without assistance and to offset the cost of replacing any special equipment that cannot be moved and is used because of the resident's disability.

(2) For residents whose mobilehomes cannot be relocated to a space in a comparable park:

(a) a lump sum based on consideration of the cost of moving to and purchasing or renting comparable housing, including, but not limited to, the cost of purchasing a comparable mobilehome in a comparable mobilehome park, the cost of moving personal property from the mobilehome in the closing park to comparable housing, payment of first and last month's rent and any security deposit at the comparable housing, the loss of investment in the mobilehome that cannot be relocated and any remaining loan payments that must be made even though the resident cannot continue to live in the mobilehome.

(b) if the resident is disabled or handicapped, an additional sum toward the cost of obtaining any assistance needed to enable the resident to move.

(c) if the residents are low income persons or a low income family, as defined by HUD, or are receiving supplemental social security, an additional sum to partially offset any higher rent at the comparable housing during the first year at the new location.

9.76.050 Acceptance of Conditions Required. The City's approval of a conversion application shall not be valid and effective until the Park Owner has filed a certificate of acceptance of the conditions of approval with the City.

9.76.060 Appeals. Any aggrieved person may appeal the hearing officer's decision to the City Council by filing a written notice of appeal with the city clerk within 10 days of the date the

hearing officer's decision becomes final. The appeal shall be in the form specified by the City and shall be accompanied by a filing fee specified in the municipal fee schedule.

9.76.070 Relocation Notice. No resident shall be required to remove his or her mobilehome and no tenant shall be required to vacate a mobilehome until i) the Park Owner has given the six (6) months' notice of closure required by the Civil Code section 798.56, ii) that six (6) month period has elapsed, iii) the City's decision approving the closure is final, and iv) the Park Owner has provided the relocation assistance required by the City as a condition of conversion.

9.76.080 Exceptions to Requirement to Provide Relocation Assistance.

(a) The provisions of this Chapter shall not apply to a park that is closing due to bankruptcy.

(b) An applicant may seek a total exemption on the ground that imposition of any relocation assistance would eliminate substantially all reasonable use or economic value of the property for alternate uses. The application must provide evidence demonstrating that this result would occur.

(c) An applicant may seek a partial exemption on the ground that the imposition of a particular relocation obligation would eliminate substantially all reasonable use or economic value of the park for alternate uses. The application must specify the particular obligation that would cause this result and provide evidence to demonstrate that this result would occur.

9.76.090 Expiration and Extension of Approval of Conversion. Conversion approvals shall expire one (1) year after the date they are issued. The city manager may upon request grant extensions of time based upon a showing that good faith progress has been made toward fulfilling the conditions of approval or some intervening event not the fault of the Park Owner has prevented timely compliance with the conditions of approval.

9.76.100 Enforcement. Any person, firm or corporation violating any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided by law.

9.76.110 Provisions To Prevent Eviction Prior to Determination of Relocation Assistance.

(a) Any resident already renting a space in the Park on the date the application for conversion is filed shall be eligible for relocation assistance.

(b) No Park Owner shall require any resident to waive his/her rights to relocation assistance as a condition of renting a space in the park, except when the resident moves into the park after the date the conversion application is filed and notice has been given that the conversion application has been filed. Any such waiver will only be valid if the Park Owner completes the conversion hearing process within year

(c) Residents who are eligible for relocation assistance shall be entitled to the assistance required by the City as a condition of conversion even if they move out of the park before the City's final determination concerning required relocation assistance.

9.76.120 Rent Increase Review Petitions.

(a) A Resident may, with the written support of no less than 25% of the total number of Residents, petition for review of any notice of rent increase that alone or in combination with any other rent increases imposed in the last twelve months exceeds the sum of the then current Bureau of Labor Statistics Consumer Price Index - All Urban Consumers - San Francisco - Oakland - San Jose, plus 6%.

(b) The petition must be filed with the city clerk within thirty (30) days after notice of the rent increase is given by the Park Owner and must contain sufficient information to allow the City to determine whether the rent increase which is the subject of the petition meets the criteria of this subsection. The petition shall include the following information:

(1) The number of eligible resident households in the park;

(2) The space number and members of each eligible resident household signing the petition;

(3) The signature of one adult member of each eligible resident household signing the petition;

(4) The date of notice and amount of the rent increase that is the subject of the petition;

(5) The amount of the existing rent, the date(s) of any increase imposed during the immediately preceding twelve months and the amount of the rent before those increases were imposed;

(6) A statement describing the efforts of the Residents and Park Owner to resolve the dispute through formal or informal dispute resolution, including but not limited to mediation;

(c) The City shall give notice of the petition by certified mail or personal delivery to the Park Owner and the petitioning resident within fifteen (15) days of the date it is received. The notice shall state a preliminary determination whether the petition meets the criteria of this subsection. If the preliminary determination is that it does meet the criteria, the notice shall include a list of qualified hearing officers who are available, at the Park Owner's expense, to conduct a hearing on the matter. The Park Owner and petitioning resident shall attempt to agree on the selection of a hearing officer, but if they do not or cannot agree within ten (10) days, the hearing officer shall be chosen by the City.

(d) If the City's preliminary determination is that the petition does not meet the criteria of this section or that it is otherwise incomplete, the notice shall state that the petition is being rejected and the reasons for the rejection. In such case, the petitioners may submit a revised petition, which cures the reason for rejection, within ten (10) days of receipt of the rejection notice. The revised petition shall be processed in the same manner as the original.

(e) Upon selection of the hearing officer, the City shall give notice of the hearing date by certified mail or personal delivery to the Park Owner and the petitioning resident. The hearing date shall be not sooner than thirty (30) and no later than eighty (80) days after the date the petition was received. The notice shall also state that the Park Owner has thirty (30) days in which to provide justification for the rent increase pursuant to this chapter and notice that the noticed increase cannot be charged, demanded, collected or retained unless and until approved by the City.

(f) In determining whether a rent increase should be granted and if so, the amount of that increase, the hearing officer shall approve such increases as are required to provide a just, reasonable and fair return on investment to the Park Owner and shall consider all relevant evidence and facts, including but not limited to, the following:

(1) Changes in the CPI since the last rent increase;

(2) Rents in comparable mobilehome parks;

(3) Increases or decreases in the level of services, amenities and maintenance;

(4) Changes in operating and maintenance costs, including utilities not paid by the residents and taxes, since the last rent increase. These costs shall not include interest on mortgage debt or principal payments on mortgage debt;

(5) Costs incurred for capital improvements or unusual repairs not reimbursable by insurance since the last rent increase;

(6) Changes in the park's profits since the last rent increase;

(7) Length of time since the last increase;

(8) Evidence demonstrating that a rent increase is necessary to allow the park to earn a just and reasonable return;

(g) The hearing officer shall render his or her findings and decision in writing within ninety (90) days of the date the petition was received by the City. The decision of the hearing officer shall be final.

(h) This section shall not apply to spaces subject to a lease exempt from local rent regulations pursuant to the Mobile Home Residency Law, California Civil Code section 798, et seq., shall not apply to spaces first held out for rent after January 1, 1990, or the rent first charged to a purchaser of a mobile home in the park or for a vacant space, provided that a space shall not be deemed vacant when an existing mobile home resident removes his or her mobile home to replace it with a new mobile home.

(i) An eligible resident may refuse to pay any rent in excess of the maximum rent permitted by this section. The fact that such unpaid rent is in excess of the maximum rent permitted by this section shall be a defense in any action brought to recover possession of a mobile home space and for nonpayment of rent or to collect the illegal rent.

(j) Notice of the hearing officer's decision to the Park Owner and affected resident shall state that the ninety (90) day statute of limitations in Code of Civil Procedure section 1094.6 is applicable.

9.76.130 This chapter shall be interpreted so as to be consistent with the Mobilehome Residency Law, Evidence Code section 798, et seq. and Government Code sections 65863.7, 65863.8 and 66427.4, as now in effect or as subsequently amended.

9.76.140 Any action challenging a decision made pursuant to this chapter shall be brought within the ninety (90) day statute of limitation period set forth in Code of Civil Procedure section 1094.6."

SECTION 2. The City Council finds that this project is exempt from the provisions of the Environmental Quality Act ("CEQA") because it can be seen with certainty that there is no possibility that this project will have a significant effect on the environment.

SECTION 3. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED: April 30, 2001

PASSED: May 14, 2001

AYES: BEECHAM, EAKINS, LYTLE, MOSSAR, OJAKIAN,

NOES: BURCH, FAZZINO, KLEINBERG, WHEELER

ABSENCES:

ABSENT:

ATTEST:

APPROVED:

Donna J. Rogers
City Clerk

Sandy Eakin
Mayor

APPROVED AS TO FORM:
[Signature]
City Attorney

[Signature]
City Manager

Ed Hany
Director of Planning &
Community Environment

THIS DOCUMENT IS CERTIFIED TO BE AN ORDINANCE DULY PASSED BY THE COUNCIL OF THE CITY OF PALO ALTO AND THEREAFTER POSTED IN THE COUNCIL CHAMBERS ON 6/1/01 (WITHIN 15 DAYS OF ITS PASSAGE)

"I certify (or declare) under penalty of perjury that the foregoing is true and correct."

6/7/01 Palo Alto
Date & Place

[Signature]
Signature

Chapter 28.89

TENANT DISPLACEMENT ASSISTANCE ORDINANCE

Sections:

28.89.010 Definitions.

28.89.020 Submittal Requirements.

28.89.030 Displacement Assistance.

28.89.040 Certification of Displacement Assistance.

28.89.050 Protections for Resident Households.

28.89.010 Definitions.

Except where the context or particular provisions require otherwise, the following definitions shall govern the construction of this Chapter.

A. **Application.** Any application required to be submitted to the City of Santa Barbara for discretionary or ministerial approval of a land use change or improvement of real property that will result in a displacement of a resident household.

B. **Displacement.** The vacating of a rental unit by a resident household upon notice from the property owner as the result of or to enable any of the following: 1. the demolition of any rental unit on the lot, 2. the alteration of any structure on the lot in a manner that **requires a permit from the City and which reduces the number of rental units** on the lot, 3. the conversion of a single residential unit to a condominium unit, or 4. a change of use of real property from a residential use to a nonresidential use that requires a permit from the City. For purposes of this Chapter, a displacement does not include a vacation of a rental unit as the result of the following: 1. a condominium conversion regulated and processed pursuant to Chapter 28.88 of this Code, 2. a conversion of any portion of a mobilehome park or a permanent recreational vehicle park regulated and processed pursuant to Chapter 28.78 of this Code, 3. a property owner's compliance with an enforcement order of the City Building Official for which the property owner has been ordered to pay relocation expenses pursuant to Health and Safety Code section 17980.7 or any other state or federal law, or 4. a vacation of a rental unit resulting from the damage or destruction of the unit which is caused by a natural disaster.

C. **Eligible Resident Household.** A resident household occupying a rental unit at the time an application is filed with the City. There shall be a rebuttable presumption that any resident household which received a notice to quit pursuant to Section 1946 of the Civil Code within the six (6) month period preceding the filing of an application is an eligible resident household for purposes of receiving displacement assistance pursuant to this Chapter. The presumption specified in the preceding sentence shall not apply where the property owner provides evidence of either of the following: 1. the resident household's occupancy ended due to the expiration of a term lease and the tenancy was not extended by the operation of Section 1945 of the Civil Code, or 2. the resident household was found to have committed an unlawful detainer pursuant to Subdivisions 2, 3, 4 or 5 of Section 1161 of the Code of Civil Procedure as evidenced by a final judgment of a court of competent jurisdiction.

D. **Immediate Family.** Immediate family includes a spouse, registered domestic partner, children, parents, and the spouses or registered domestic partners of children of a property owner.

E. **Median Advertised Rental Rate.** An estimate of rental rates for residential rental units within the City prepared annually by the staff of the Community Development Department. For the purposes of this Chapter, the median advertised rental rate shall be calculated annually based on the median of a representative sample of rental units advertised in a newspaper of general circulation for one Sunday during the month of April. The median advertised rental rate shall be published by the City each May 1 and shall remain in effect for the next twelve (12) months or until a new median advertised rental rate is provided by the City. The median advertised rental rate shall be calculated and published for the following categories of rental units: 1. studio units (no bedrooms), 2. one bedroom units, 3. two bedroom units, and 4. units with three or more bedrooms. As used in this Chapter, the applicable median advertised rental rate shall be determined based on the number of bedrooms in the rental unit to be vacated by the residential household. The methodology for calculating the median advertised rental rate shall be approved by the Community Development Director and described in detail in the City's Affordable Housing Policies and Procedures.

F. **Rental Unit.** A structure (or part thereof) used as a place of permanent or customary and usual abode of a resident household. A rental unit shall not include a room or any other portion of any residential unit which is occupied by the property owner or a member of the property owner's immediate family.

G. **Resident Household.** Any person or group of persons entitled to occupy a rental unit under a valid lease or rental agreement (written or oral) including all persons who are considered residents under the Civil Code, but not including the owner of the rental unit or members of the owner's immediate family.

H. **Special Needs Resident Household.** An eligible resident household with any of the following characteristics: 1. at least one member who is 62 years of age or older, 2. at least one member qualifies as a disabled person pursuant to section 295.5 of the Vehicle Code, or 3. the household qualifies as a low income household pursuant to the City's Affordable Housing Policies and Procedures. (Ord. 5401, 2006.)

28.89.020 Submittal Requirements.

A. **Notice of Intent.** At least sixty (60) days prior to filing an application, either the property owner or the owner's agent shall notify each resident household residing on the subject real property of the owner's intent to file an application. The notice shall be provided by either: 1. personal delivery, or 2. certified mail, postage prepaid, with return receipt requested. Evidence of compliance with this section must be submitted to the City in order for the application to be deemed complete. The form of the notice shall be approved by the Community Development Department and shall contain at least the following information:

1. The name and address of current owner;
2. The name and address of the proposed applicant;
3. The approximate date on which the application is to be filed;
4. The resident's right to purchase a resulting residential unit, if applicable;
5. The resident's right of notice before being required to vacate the rental unit;
6. The resident's right to terminate lease without obligation for future rent;
7. A statement regarding the applicable limitations on rent increases;
8. An explanation of displacement assistance available for eligible resident households and special needs resident households under this Chapter (i.e., monetary assistance, relocation counseling, contact information for the Rental Housing Mediation Task Force, qualifications for Special Needs Resident Households, etc.);
9. The resident household's right to receive written notice for each hearing and right to appear and be heard at land use hearings, if applicable; and
10. Other information as may be deemed necessary or desirable by the Community Development Department.

B. **Resident Information.** Concurrent with the filing of the application, either the property owner or the owner's agent shall provide the Community Development Department with all of the following information for each rental unit that will be subject to a displacement as a result of the application:

1. The name of every member of the resident household who is a signatory on a written lease or the name of every person the property owner considers to be a resident under an oral lease; and
2. The names of all members of resident households that were issued a notice to vacate within the six (6) months preceding the filing of the application. (Ord. 5401, 2006.)

28.89.030 Displacement Assistance.

A. **Monetary Assistance.** As a condition of the City approval of any application that will result in a displacement, the property owner is obligated to pay to each eligible resident household monetary displacement assistance in an amount equal to four (4) times the median advertised rental rate or \$5,000, whichever is greater. The displacement assistance to be paid to an eligible special needs resident household shall be equal to five (5) times the median advertised rental rate or \$6,000, whichever is greater.

The displacement assistance shall be calculated on a "per rental unit" basis and shall be paid jointly, in one lump sum, to all members of the eligible resident household occupying the rental unit.

B. **Waiver of Assistance.** The payment of the monetary displacement assistance required pursuant to subsection A above, or the right of first refusal provided for in Section 28.89.050, may be waived or otherwise altered by mutual written agreement of the property owner and all members of the eligible resident household; provided, the waiver is executed after the members of the resident household have received notice of the application and notice of the provisions of this Chapter pursuant to Section 28.89.020. (Ord. 5401, 2006.)

28.89.040 Certification of Displacement Assistance.

Prior to any displacement or the issuance of any permit pursuant to the application, whichever occurs first, the property owner shall provide the Community Development Director with either: 1. a copy of a cancelled check evidencing payment of the displacement assistance required by this Chapter to the members of the eligible resident household or 2. a copy of a written waiver or modification of the displacement assistance obligation executed by the property owner and all of the members of the eligible resident household. In order to satisfy the requirements of this Section 28.89.040, the written waiver must be executed after the members of the resident household have received notice of the application and the provisions of this Chapter pursuant to Section 28.89.020. (Ord. 5401, 2006.)

28.89.050 Protections for Resident Households.

A. **Right to Purchase (Right of First Refusal).** The members of any eligible resident household or eligible special needs resident household shall be given an exclusive right to contract for the purchase of a residential unit within any resulting development upon the same terms and conditions that the residential unit will be initially offered to the general public or on terms more favorable to the members of the eligible resident household or eligible special needs resident household. The exclusive right to contract shall be valid for at least ninety (90) days from the date of issuance of a Subdivision Public Report or the commencement of sales, whichever date is later. The manner in which any exclusive right to contract shall be exercised shall be in accordance with administrative rules established by the Community Development Department in the City's affordable housing policies and procedures. This Subsection shall not apply to applications for conversions of rental units to hotels or similar commercial uses.

B. **Right to Terminate Lease.** After receipt of the notice required pursuant to subsection 28.89.020.A and until the applicant's withdrawal of the application or the displacement of the resident household, the resident household shall have the right to terminate the lease or rental agreement without obligation for any rent that would accrue under the lease or rental agreement after the vacation of the residential unit by the resident household. An eligible resident household's election to terminate the lease and relinquish possession of the rental unit following receipt of the notice required pursuant to subsection 28.89.020.A shall not constitute a waiver of the eligible resident household's right to assistance pursuant to subsection 28.89.030.A.

C. **Notice to New Residents.** Any prospective resident household that applies for residency after an application has been filed shall be notified in writing of the pending application and the potential for displacement prior to occupying any rental unit. The form of this notice shall be approved by the Community Development Department. The failure of the property owner or applicant to give notice in accordance with this subsection shall not be a ground to deny the proposed land use action; however, the property owner shall pay monetary displacement assistance in the manner specified in Section 28.89.030 to each resident household that was entitled to notice pursuant to this subsection and who did not receive such notice. (Ord. 5401, 2006.)

Memorandum

8.

CITY OF FLAGSTAFF



To: The Honorable Mayor and Council
From: Walt Miller, Deputy Chief
Date: 04/23/2014
Meeting Date: 04/29/2014

TITLE:

Discussion of Coconino County Ordinance No. 2014 -03: Ban of Portable Communication Devices and Texting While Operating a Motor Vehicle

DESIRED OUTCOME:

The City Council may approve by resolution the application or enforcement of such ordinance within the boundaries of the city or may choose to adopt our own ordinance. Staff will receive direction from Council regarding these options.

INFORMATION:

On April 22, 2014 the Coconino County Board of Supervisors unanimously approved County Ordinance 2014-03 which states that; A person shall not drive a motor vehicle while using a portable communications device to engage in a call unless that device is specifically designed and configured to allow hands-free listening and talking. and is used exclusively in that manner while driving. Texting and typing are banned while operating a motor vehicle.

This Ordinance is effective 30 days after adoption by the Coconino County Board of Supervisors. However, for the purpose of informing and educating persons who operate motor vehicles and motor driven cycles any law enforcement office may only issue verbal warnings to persons who would be violating this Coconino County Ordinance for a six (6) month period after the Ordinance is adopted.

Under this ordinance enforcement may apply to the unincorporated and incorporated areas in the county.

Enforcement and penalties under this ordinance are as follows; A law enforcement officer may stop a motor vehicle or motor driven cycle if the officer has reasonable cause to believe a violation of this Ordinance is occurring (primary offense).

A violation of this article is a civil traffic violation and a person found to be in violation of this Ordinance and not involved in a motor vehicle collision is subject to a civil penalty of \$100 dollars. A person found to be in violation of this Ordinance and involved in a motor vehicle collision is subject to a civil penalty of \$250 dollars.

The Ordinance does allow for exemptions such as when a driver has pulled off of the traveled portion of the roadway in a safe and legal location and placed the vehicle in park in order to operate a handheld portable communications device. (please refer to attachment for further exemptions)

Attachments: County Ordinance

COCONINO COUNTY ORDINANCE No. 2014 - 03

Ban of Portable Communication Devices and Texting While Operating a Motor Vehicle

WHEREAS, the Coconino County Board of Supervisors is authorized in A.R.S. 11-251(17) to adopt provisions necessary to preserve the health of the county, and in A.R.S. 11-251 (31) to make and enforce all local, police, sanitary and other regulations not in conflict with the general laws;

WHEREAS, A.R.S 28-626(B) and 11-251.05 authorize the adoption of additional traffic regulations that are not in conflict with other state traffic or transportation regulations;

WHEREAS, texting while driving a motor vehicle and the use of portable communication devices has increased in recent years;

WHEREAS, the use of portable communication devices and texting while driving a motor vehicle have contributed to the increase of injuries, deaths, property damage, health care costs and auto insurance rates;

WHEREAS, motorists who operate portable communication devices and/or text while driving a motor vehicle are statistically more likely to become involved in a traffic accident;

WHEREAS, it is the desire of the Coconino County Board of Supervisors to promote and encourage healthy and safe behaviors for all by regulating certain traffic behaviors.

THEREFORE, be it resolved, that the Coconino County Board of Supervisors adopt this Ordinance to be effective in the unincorporated and incorporated areas of Coconino County, excluding sovereign tribal

SECTION I (1): DEFINITIONS

“HANDS-FREE MOBILE DEVICE” shall mean:

- A device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such device, which is not held by the driver during motor vehicle use. The device must not obstruct the driver’s view of the front or sides of the motor vehicle or interfere with the safety or operating equipment of the motor vehicle.
- A device that is programmed before a person begins to drive or operate a motor vehicle such as a Global Positioning Device (GPS).

“PORTABLE COMMUNICATIONS DEVICE” shall mean any handheld mobile telephone, personal digital assistant (PDA), handheld device with mobile data access, laptop computer, pager, broadband personal communications device, two-way messaging device, electronic game, or portable computing device.

“MOTOR VEHICLE”, “DRIVE” and “DRIVER” have the same meaning as those terms are defined in Title 28, Chapter 1, Arizona Revised Statutes, Transportation.

“USE” means:

- Holding a portable communications device and performing the illegal activities sated in Section II (2)

SECTION II (2): ILLEGAL ACTIVITIES

Illegal motor vehicle driver activities include:

A person shall not drive a motor vehicle while using a portable communications device to engage in a call unless that device is specifically designed and configured to allow hands-free listening and talking, and is used exclusively in that manner while driving. Texting and typing are banned while operating a motor vehicle

SECTION III (3): EXEMPTIONS

This Ordinance does not apply to any of the following:

- When the driver uses a hands-free mobile device.
- When the purpose of the call is to communicate an emergency to a police or fire department, a hospital or physician’s office, or an ambulance corps.
- When operating an authorized law enforcement or emergency vehicle in the performance of official duties.
- When a person who holds a valid amateur radio operator license issued or any license issued by the Federal Communications Commission and is operating an amateur radio under the direction of authorized first responders in the event of an emergency.

- When a person is driving a motor vehicle on private property.
- When a driver has pulled off of the traveled portion of the roadway in a safe and legal location and placed the vehicle in park in order to operate a handheld portable communications device.

SECTION IV (4): ENFORCEMENT AND PENALTIES

Enforcement shall be the responsibility of city, county and state of Arizona law enforcement representatives.

A law enforcement officer may stop a motor vehicle or motor driven cycle if the officer has reasonable cause to believe a violation of this Ordinance is occurring.

A violation of this article is a civil traffic violation.

A person found to be in violation of this Ordinance and not involved in a motor vehicle crash is subject to a civil penalty of \$100 dollars plus any other penalty assessment authorized by law.

A person found to be in violation of this Ordinance and involved in a motor vehicle crash is subject to a civil penalty of \$250 dollars plus any other penalty assessments authorized by law.

Violations of this Ordinance shall be administered pursuant to the procedures for civil traffic violations as set out in A.R.S. 28-1591 through 28-1601.

SECTION V (5): EFFECTIVE DATE

This Ordinance is effective 30 days after adoption by the Coconino County Board of Supervisors.

SECTION VI (6): WARNING PERIOD

For the purpose of informing and educating persons who operate motor vehicles and motor driven cycles any law enforcement office may only issue verbal warnings to persons who would be violating this Coconino County Ordinance for a six (6) month period after the Ordinance is adopted.

SECTION VII (7): INTERPRETATION AND SEVERABILITY

In the interpretation of this Ordinance, the singular may be read as the plural, the masculine gender as the feminine or neuter, and the present tense as the past or future, where context so dictates. In the event any particular clause or section of this Ordinance should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect. Toward that end, the provisions of these regulations are declared to be severable

ORDAINED BY ACTION OF THE COCONINO COUNTY BOARD OF SUPERVISORS on
this _____ day of _____, 2014.

Matt Ryan, Chairman
Board of Supervisors

Approved as to form:

ATTEST:

Deputy County Attorney

Wendy Escoffier, Clerk of the Board