



**TO:** Mayor and Councilmembers  
**FROM:** Daniel Singer, City Manager  
**CONTACT:** Brian A. Pierik, Assistant City Attorney  
**SUBJECT:** Moratorium on Approval of Conversion of Mobilehome Rental Parks to Resident Ownership

**RECOMMENDATION:**

- A. Receive this report as a record of the actions taken to date to address the issues that made enacting the Interim Urgency Ordinance Moratorium necessary; and
- B. Enact an interim ordinance extending Ordinance No. 07-10 for a period of one year; and
- C. Direct staff to prepare the necessary additional studies and continue processing of current applications.

**BACKGROUND:**

*Prior Legislative Action by Goleta*

On July 16, 2007 the City Council adopted an Interim Urgency Ordinance No. 07-08 that imposed a temporary 45-day moratorium on the conversion of mobilehome parks to resident ownership in order to allow time to reconcile state law and the City's subdivision regulations. On August 6, 2007, the City Council adopted an Interim Urgency Ordinance No. 07-10 to extend the moratorium for an additional 10 months and 15 days. The ordinances were prepared in accord with the requirements of Government Code § 65858. It was anticipated that the study time might exceed the time frame authorized by Ordinances 07-08 and 07-10, and that, consistent with Government Code § 65858, an additional one year might be required. The purpose of the public hearing on June 3, 2008 is to consider such an extension.

*Substantial Legislative and Judicial Activity Justify an Extension of the Moratorium*

The City's current subdivision regulations, which prohibit conversion of rental mobilehome parks to residential ownership, are currently in conflict with existing California law with regard to such action. The difficulty is that California law is unclear with respect to the

regulation of mobilehome parks. However, legislative and judicial actions are expected to clarify the law in the coming year.

The California Legislature is currently processing and considering changes to laws affecting conversion of rental mobilehome parks to resident ownership that could result in either confirming preemption or validating the City's current ordinance on this issue. For example, the California Legislature is actively processing and considering SB 900. If enacted, SB 900 would repeal Government Code § 66427.5 which currently establishes predominantly ministerial procedures for approval of rental mobilehome park conversions to resident ownership when such conversions are initiated by the park owner. It is expected that by the end of 2008, it will be known whether the legislature will adopt SB 900 or another bill regarding mobilehome conversions. The extension of the moratorium will provide the necessary time for the City to determine which legal standards will apply.

Additionally, numerous municipalities, such as the counties of Sonoma, Ventura and Santa Cruz, and numerous cities, including those of East Palo Alto, Palm Springs, Thousand Oaks and Rohnert Park have recently adopted ordinances regarding conversions of mobilehome parks. As recently as March 16, 2008, Ventura County adopted its conversion ordinance. On or about May 16, 2008, residents of the City of Thousand Oaks submitted an initiative relating to mobilehome conversions.

In addition to legislation at the state and local level, there is also pending litigation which is expected to provide further insight into the legally permissible scope of ordinances regarding conversion of mobilehome parks. For example, on October 17, 2007, in *Sequoia Park Associates v. County of Sonoma*, case number SCV-240003, a trial court upheld Sonoma County's Ordinance 5725 relating to mobilehome park conversions. However, that decision was appealed, and a decision is not expected until late 2008 or early 2009.<sup>1</sup> When this decision is issued, it is expected that the decision will resolve many of the legal issues relating to the regulation of mobilehome park conversions. By extending the proposed moratorium, the City would grant itself the needed additional time to await the results of that litigation, and similar litigation in other jurisdictions, to thereby afford the City increased legal certainty regarding the scope of its legal authority relating to conversions of mobilehome parks.

In addition to tracking the judicial developments and the legislative actions on the state level, City staff and the City Attorney's office continue to monitor and review the various legislative actions on the local level. By extending the interim moratorium period, staff would have the necessary additional time to evaluate which of the various local legislative actions have been successful and whether it would be appropriate for Goleta to similarly adopt such ordinances.

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<sup>1</sup> The opening brief was due on May 15, 2008; the subsequent briefs are due in June and August of 2008. The hearing has not yet been set.

*The Need for and Effect of the Proposed Ordinance*

The uncertain state of the law on the issue of conversion of mobilehome parks, coupled with the numerous genuine health and safety concerns identified in Ordinance 07-08 relating to park owner initiated conversions, has put the City in a difficult situation. Since adoption of Ordinances 07-08 and 07-10, the Planning Department staff continues to work with the City Attorney's office and the League of California Cities on any State legislative changes that would affect local regulations.

To assure that the City proceeds with any action relating to conversion of rental mobilehome parks to resident ownership in a manner that conforms to current state policy and the health and safety interests of the community, the City Council has directed that staff prepare an interim urgency ordinance, in accord with the provisions of Government Code § 65858, establishing a moratorium on approval of such conversions pending action by the State Legislature on legislation affecting this issue and action by the City, if necessary, to bring its ordinances into conformity with State law once that law has been determined by the Legislature and the courts.

The effect of the interim urgency ordinance is to suspend the approval of any request for a mobile home park conversion for a limited period of time so that Planning staff may adequately study all of the City's regulations to assure that they conform to State law as it is now or as it may be amended in the immediate future. Once this study is completed and the Legislature has determined State policy on this issue, changes may be made to the General Plan and/or the Zoning Ordinance to assure that State policies relating to such conversions are followed and that the health, safety and general welfare of the community are protected within the City.

It is important to note that all current applications for conversion of mobilehome rental parks in the City will continue to be processed during the period of the interim urgency ordinance. The interim urgency ordinance affects only final approval of such conversions. It also works to deter any new applications for conversion. Additionally, if extended, the interim urgency ordinance may be repealed at any time that the necessary studies and other actions have been completed.

**GOLETA STRATEGIC PLAN:**

Enacting the interim ordinance extending Ordinance No. 07-10 is consistent with the Objective in the Goleta Strategic Plan entitled "Promote Comprehensive Housing Programs and Solutions," and more specifically the Goal entitled "Defend Mobile Home Ordinance" and moves the City closer towards realizing its vision as defined within the City's Strategic Plan.

**ALTERNATIVES:**

The City Council could take no action, thereby allowing the current moratoria ordinance to expire on July 15, 2008.

**FISCAL IMPACT:**

None.

Submitted By:

Reviewed By:

Approved By:

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Brian A. Pierik  
Assistant City Attorney

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Michelle Greene  
Admin. Svcs. Director

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Daniel Singer  
City Manager

**ATTACHMENTS:**

1. "An Interim Urgency Ordinance of the City of Goleta extending Interim Urgency Ordinance No. 07-08 for a period of 1 year beyond that originally authorized pursuant to Interim Urgency Ordinance No. 07-10, Adopting and Imposing a Temporary Moratorium on the Conversion of Mobilehome Parks to Resident Ownership"

**ORDINANCE NO. 08-\_\_\_**

**"AN INTERIM URGENCY ORDINANCE OF THE CITY OF GOLETA, CALIFORNIA EXTENDING INTERIM URGENCY ORDINANCE NO. 07-08 FOR A PERIOD OF 1 YEAR BEYOND THAT ORIGINALLY AUTHORIZED PURSUANT TO INTERIM URGENCY ORDINANCE NO. 07-10, ADOPTING AND IMPOSING A TEMPORARY MORATORIUM ON THE CONVERSION OF MOBILEHOME PARKS TO RESIDENT OWNERSHIP"**

The City Council of the City of Goleta ("the City") finds, determines and declares that:

WHEREAS, on July 16, 2007, the City Council adopted Ordinance No. 07-08 entitled "AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, ADOPTING AND IMPOSING A TEMPORARY MORATORIUM ON THE CONVERSION OF MOBILEHOME PARKS TO RESIDENT OWNERSHIP" ("Ordinance No. 07-08"); and

WHEREAS, on August 6, 2007, City Council adopted Ordinance No. 07-10 entitled "AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, EXTENDING INTERIM URGENCY ORDINANCE NO 07-08 FOR A PERIOD OF 10 MONTHS AND 15 DAYS ADOPTING AND IMPOSING A TEMPORARY MORATIORIUM ON THE CONVERSION OF MOBILEHOME PARKS TO RESIDENT OWNERSHIP" ("Ordinance 07-10"); and

WHEREAS, consistent with California Government Code 65858, Ordinance 07-10, expires and is no further force and effect July 15, 2008, unless prematurely terminated; and

WHEREAS, on May 23, 2008, the City issued a staff report, adopted and incorporated by this reference, which states that since the adoption of Ordinance 07-08 and 07-10, the City has taken steps to study the contemplated revisions to the City's Municipal Code relating to its conversion of mobilehome rental parks to resident ownership including work with the City Attorney's office and the League of California Cities on any State legislative changes that would affect local regulations; and

WHEREAS, on June 3, 2008, the City Council held a duly noticed public hearing to consider extending Interim Urgency Ordinance No. 07-10 for an additional year from and after July 15, 2008, that being the date that the 10 month and 15 day moratorium will expire unless extended; and

WHEREAS, the City Council considered all of the written and oral testimony offered at the public hearing held on June 3, 2008 concerning whether to extend the moratorium for an additional period of time; and

WHEREAS, the City Council has directed that review of all subdivision ordinances and the effect of enactment of any pending legislation be pursued as expeditiously as is practicable, so that the study of revisions to the City's Municipal Code may be completed as soon as possible and all provisions relating to mobilehome rental park conversions may be brought into compliance with applicable law; and

WHEREAS, in order to assure full compliance with applicable law relating to the conversion of mobilehome parks to resident ownership under the City's subdivision laws the public interest, health, safety and welfare require the immediate enactment of this Ordinance. The absence of this Ordinance would create a serious threat to the orderly and effective processing of any conversion of a mobilehome park to resident ownership; and

WHEREAS, there is an immediate threat to the public health, safety and welfare, and Government Code Section 65858 authorizes the City Council to extend as an urgency measure Ordinance No. 07-10 prohibiting approval of mobilehome rental park conversions to resident ownership within the city of Goleta to allow the City Council time; and

WHEREAS, the City Council further finds that this is a matter of City-wide importance and is not directed towards nor targeting any particular parcel of property or proposed use.

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

**SECTION 1: Extension**

The City Council finds and determines that Ordinance No. 07-08, as extended by Ordinance No. 07-10, is hereby further extended for one year. Ordinance No. 07-08 was adopted on July 16, 2007, and subsequently extended by Ordinance No. 07-10 and is set to expire on July 15, 2008; and accordingly, by this extension that period of time is extended for an avdditional year until July 15, 2009 unless sooner terminated by the City Council of the City of Goleta.

**SECTION 2: Report Issuance**

The City Council adopts and issues as its own the staff report dated June 3, 2008 and finds that that report adequately describes the measures taken to alleviate the condition which lead to the adoption of Ordinance No. 07-08 and Ordinance No. 07-10 pursuant to the requirements of Government Code § 65858(d).

### **SECTION 3: Imposition of Moratorium**

The City Council hereby declares a moratorium on approval of any conversion of any mobilehome rental park to resident ownership for the duration that this Interim Urgency Ordinance remains in effect.

### **SECTION 4: Processing of Pending Applications**

Applications that have been received by the City and those that may be submitted shall be processed in accord with existing City regulations and procedures, but no such application shall be submitted to the Planning Commission or the City Council for approval until such time as this Interim Urgency Ordinance is repealed or expires as a matter of law.

### **SECTION 5: Duration**

All the terms and recitals set forth in Ordinance 07-08 and 07-10, except those relating only to AB 1542, are incorporated herein by reference as though set out in full and the moratorium established by Ordinance 07-08 as continued by Ordinance 07-10 and further extended by this Interim Urgency Ordinance shall remain in effect for a period of 1 year from the date Ordinance 07-08 as extended by Ordinance 07-10 would have otherwise expired, and shall expire on July 15, 2009.

### **SECTION 6: Definitions**

A. For the purposes of this Interim Urgency Ordinance, "conversion of a mobilehome park to resident ownership" shall mean a subdivision of a mobilehome park for the purposes of sale, lease or finance of one or more mobilehome spaces or lots pursuant to Government Code Section 66427.5 or 66428.1.

B. "Subdivision" shall mean subdivision as defined in Government Code Section 66424.

### **SECTION 7: Hardship Exception**

For the duration of this Interim Urgency Ordinance, the City shall have on a case-by-case basis, the authority, upon a showing of good cause by an applicant to waive the interim prohibition/moratorium imposed by this Interim Urgency Ordinance and allow for the granting of permits to such applicant. Good cause shall mean a factual and evidentiary showing by the applicant that the interim moratorium, if not waived, will deprive the applicant of substantially all reasonable use of his or her property. All such applications for waiver shall be filed with the City Planning Department. Fees for waiver applications and associated appeals shall be the same as those charged for a Conditional Use Permit.

**SECTION 8: Conflicting Regulations**

During the period that this Interim Urgency Ordinance remains in effect, the provisions of this Interim Urgency Ordinance shall govern. If there is any conflict between the provisions of this Interim Urgency Ordinance and any provision of the Goleta City Code, or any City Interim Urgency Ordinance, resolution, or policy, the provisions of this Interim Urgency Ordinance shall control.

**SECTION 9: Severability.**

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

**SECTION 10: Publication**

The City Clerk shall certify to the passage of this Ordinance and cause the same to be published in the manner prescribed by law.

**SECTION 11: Urgency Measure.**

This Ordinance shall be introduced, passed and adopted at one and the same meeting and shall become effective immediately providing an extension from July 15, 2008 to July 15, 2009. The reasons for this urgency are as set forth in this Ordinance and Ordinance No. 07-08 and Ordinance 07-10 in their entirety.

**PASSED, APPROVED AND ADOPTED** this 3rd day of June, 2008.

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Michael T. Bennett, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Deborah Constantino  
City Clerk

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Brian A. Pierik  
City Attorney



STATE OF CALIFORNIA            )  
COUNTY OF SANTA BARBARA )  
CITY OF GOLETA                 )

I, DEBORAH CONSTANTINO, City Clerk of the City of Goleta, do hereby certify that the foregoing Interim Urgency Ordinance No. 08-\_\_\_ was regularly introduced and approved on the 3rd day of June, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

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DEBORAH CONSTANTINO  
CITY CLERK