

ORDINANCE NO: 2018-2

AN ORDINANCE AMENDING CHAPTER 29 THE CITY OF BALMORHEA CODE OF ORDINANCES;; AMENDING ORDINANCE _____, REPEALING _____, AND _____, ESTABLISHING DEFINITIONS, ESTABLISHING REGULATIONS FOR THE PLACEMENT OF HUD-CODE MANUFACTURED HOMES, AND MULTI-UNITS, PROHIBITING THE PLACMENT OF MOBILE HOMES (MANUFACTURED PRIOR TO JUNE 15, 1976) IN THE CITY, PROVIDING FOR LICENSES FOR MANUFACTURED HOUSING, RV, MULTI-UNIT, AND MODULAR INDUSTRIALIZED COMMUNITIES, ESTABLISHING INFRASTRUCTURE REQUIREMENTS, PROVIDING FOR ENFORCEMENT AND PENALTIES INCLUDING FINES NOT LESS THAT \$100.00 AND NOT TO EXCEED \$2000.00 REPEALING ALL ORDINACE IN CONFLICT HEREWITH.

WHEREAS, the astonishing lack of new site-built housing, desirable residential land held ‘off-the-market’, and chronic lack of developer-interest in generous City Council-incentive packages, causes the urgent, compelling need to accommodate more temporary housing such as RV Parks, Manufactured Home Parks, Modular Industrialized Housing and Multi-units; and

WHEREAS, pursuant to Texas Occupations Code Section 1201.008 the City has authority to regulate the use of HUD-Code Manufactured Housing and the authority to limit the use of Mobile Homes for residential purpose; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001 and 211.001, the City has general authority to adopt an ordinance or police regulations that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

NOW, THEREFORE, BE IT ORDAINED by the City of Balmorhea:

SECTION 1. ENACTMENT PROVISIONS

This Chapter provides standard for the use, placement, abandonment, and removal of manufacture homes, as defined below. This Chapter prohibits the use of mobile homes. This Chapter applies to all property within the incorporated municipal boundaries (i.e., “city limits”) and the extraterritorial jurisdiction (“ETJ”). This Chapter applies to all manufactured and mobile homes installed and/or put into use after the Effective Date.

SECTION 2. DEFINITIONS

Rules of Interpretation: Words and phrases used in this Chapter shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinances shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinance shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in masculine gender shall

include the feminine gender (and vice versa). The word “shall” is always mandatory, while the word “may” is merely directory. Headings and captions are for reference purposes only.

HUD-Code Manufactured Home: A structure, constructed on or after June 15, 1976, according to the rules of the U.S. Department of Housing and Urban Development, transportable in one (1) or more sections, which in the traveling mode, is eight (8) feet or more in width or forty (40) body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

Modular (Industrialized) Home (TxIHB Code): A modular home or industrialized home is a factory-built home designed for long-term residential use, and which is transported to a site and installed as a permanent structure that is not designed to be moved again after it is installed on its permanent foundation. Multi-section units are typically transported to the site and installed. Sections may include windows, doors, wiring, plumbing, and outside siding, and are transport to the site and assembled.

Multi-Unit Manufactured Home: One or more multi-unit manufactured homes with two or more dwellings attached together, having no kitchen facilities, constructed in a factory and built to the federal Manufactured Home Construction and Safety Standards. No multi-unit manufactured Home may be used for non-residential purposes.

Lot or Space: A plot of ground designed for the placement of (1) manufactured unit.

Manufactured Housing Community: Hereinafter “Community”: A subdivision, lot, or parcel of land containing spaces with improvements and utilities that are sold or leased for short or long-term occupancy and placement of HUD-Code Manufactured Homes, RV’s modular industrialized homes, or multi-units that includes services and facilities for the residents.

Mobile Home: A structure that was **constructed before June 15, 1976**; transportable in one (1) or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

SECTION 3. FUTURE MOBILE HOMES PROHIBITED: Mobile Homes are not permitted to be installed or replaced with another Mobile Home for use as a residence within the City. A Mobile Home may only be placed or replaced with HUD-Code Manufactured Home; AND if it is within a District that is zoned R2, or within a Manufactured Housing Community.

SECTION 3. ADMINISTRATION

4.0 Standard Requirements

(a) **Commercial Utility Rates- Housing Communities, and two or more units on a single water meter shall be charged commercial water and sewer rates, without exception.**

(b) **Tie-Downs-** All HUD-Code Manufactured Homes, Man-Camps and Mobile Homes shall have adequate tie-downs as required by Texas Insurance Regulations.

(c) **Skirting-** All HUD-Code Manufactured Homes, Mobile Homes and Multi-units shall have permanent, skirting around the base of the home. The skirting shall be maintained intact to prevent the accumulation of flammable materials beneath the home. Skirting must be affixed to the home. Skirting material shall be approved by the City Staff prior to installation. No units shall be 'Grandfathered' under this provision.

4.1 Prohibited Parking:

It shall be unlawful for any person to even temporarily park any HUD-Code Manufactured Homes within the limits of the city for any of the following purposes: Human occupancy at any time; Storage for more than twenty-four (24) hours; or any other purposes for more than forty-eight (48) hours. Occupancy with no utility services is prohibited anywhere.

4.2 PLACEMENT OF INDIVIDUAL UNITS OUTSIDE OF A HOUSING COMMUNITY; GRANDFATHERING:

(a) **Individual multi-unit structures are prohibited everywhere except approved housing communities, C-2 Zones and Industrial Zones.**

(b) Individual HUD-Code manufactured homes shall not be permitted on any space, lot, or tract of land of other than an approved Housing Community, or in an area that is zoned for Manufactured Housing (R2), C-2 or Industrial (I-1), nor shall any private or public utilities be connected or extended, except in any one or more of the following circumstances:

(1) The HUD-Code Manufactured Home or Mobile Home was legally in existence at such location as of the effective date of this ordinance in which case the home shall be considered to be grandfathered and shall be permitted to be used at such place and in such manner. If a grandfathered HUD-Code Manufactured Home or Mobile Home is abandoned, removed, or replaced for any reason; a special use permit as prescribed in this ordinance must be obtained before another HUD-Code Manufactured Home may be used on the site.

SECTION 4.3 PLACEMENT INSIDE AN APPROVED HOUSING COMMUNITY

(a) **Permit Requires:** If a person wants to improve or subdivide a lot for the purpose of creating a Housing Community, the person must apply for a permit from the City.

(b) **Location:** Such Communities must be on sites of an acre or more and are allowed in Zones R-2, C-1, C-2, or I-1, in accordance with Ordinance _____ for Special Use Permits, Multi-Unit communities are not allowed in R-2, except for an existing multi-unit community expanding onto adjacent, contiguous R-2 land.

The Community shall not be placed within 200 feet of any currently operating School, Church, or Day Care Center. "Currently operating" shall mean open for business at least once each week during the preceding 6 months of Community submittal. Distance shall be measured from project property line to

nearest operating structure, including intervening streets and other rights of way. The distance may be reduced to 100 feet if the subject boundary between the stated conflicting uses is delineated by a solid, 6 foot tall masonry fence with pilasters every 16 feet.

4.4 Application for Permin:

Applications for a Housing Community permit can be obtained from and shall be filed with the City Permit Clerk. The applicant will be charged a non-refundable \$250.00 fee in order to submit an application for a permit. Applications shall be in writing, and signed by the applicant, and shall be accompanied by the following:

- (a) The name and address of the applicant and required \$250 fee
- (b) The location/legal description of the Housing Community, with site map
- (c) A Community Plan as required by this Chapter.
- (d) Plans and specifications of all buildings and other improvements to be constructed within the in accordance with all existing applicable State laws and City Ordinances.
- (e) Such further information as may be requested by the City to determine if the Community will comply with the legal requirements.

4.5 Community Plan: The Community shall be constructed in accordance with a Plan that conforms to the following requirements.

- (a) The Community shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water that is zoned for HUD-Code Manufactured Homes.
- (b) Spaces shall be provided, consisting of a minimum of one thousand (1,000) square feet for each space, which shall be at least (25 feet) wide and clearly defined. Units shall be placed on each space so that there shall be at least twenty feet (20 feet) clearance between homes; provided, however, that for units parked end to end, clearance between homes may be less than twenty feet (20 feet) but shall not be less than fifteen feet (15 feet) from any building within the Community or from any property line bounding the Community.
- (c) The Community Plan must be submitted to the City prior to the installation of any units and shall comply with the City's Subdivision Ordinance, where applicable. The Community plan shall provide a legal description and map clearly setting out the following information:
 - 1. Identification of areas to be used for all residents of the community;
 - 2. Identification of driveways at entrances, exits, roadways, and walkways; to include a second emergency exit/entrance for Communities over 20 units in capacity.

3. Location and number of proposed sanitary conveniences, including proposed washrooms, laundries, laundry drying space and utility rooms; Communities with capacity for ten or more units shall provide on-site laundry facilities consisting of one washer/dryer per ten units.
 4. Method and plan of sewage disposal;
 5. Method and plan of garbage removal;
 6. Plan of water supply; to include fire hydrants within 400 feet of all proposed unity
 7. Plan of electric lighting, and electric
 8. Plan of parking requirements; and
- (d) Every Community shall have City water connections furnishing an ample an adequate supply of water, shall have connection to electricity, and shall either be connected with the sanitary sewer in accordance with the Community plan required above.

4.6 Required Improvements (Includes new RV Parks)- The Community shall furnish the same infrastructure as a new subdivision; except for privately owned interior roadways and utilities, adjoining, existing city streets shall have curb and gutter installed on the 'project side'.

One paved 10'x24' parking space shall be furnished PER BEDROOM, with a payed guest space of the same size per 5 units. All interior access isles shall be paved. All paving shall be double pen chip seal on 6" caliche base or equivalent. Untreated millings or gravel is unacceptable. All paving shall be maintained free of pot holes and loos surfacing.

Irrigated/landscaping/trees/or approved equal' in accordance with the subdivision ordinance shall be provided to cover at least 5% of the community area, as well as minimum 5' height approved visual buffer around entire project perimeter. Chain link or sheet metal 'fencing' is not acceptable.

Communities with capacity for ten units or more triggers ONE of the listed, required roadway improvements to the primary off-site public access street, to include asphalt resurfacing-or-curb & gutter -or- sidewalk on both sides, not to exceed 600 feet on each side of the street.

(f) RESTRICTIONS- Trucks over 10,000# GVW not over two axles shall be prohibited to be parked within the project, or in any Residential Zone.

4.7 Issuance of Permit

If the applicant and the application are in compliance with all provisions of this Chapter and all other applicable ordinances or Statutes, the City Permit Clerk shall issue the permit after the application has been approved by the City Manager. The permit shall be made contingent upon completion of the community according to the plans and specifications submitted with the application.

The City may revoke a permit to construct a Housing Community, and may issue a stop work order, for any violation of this Chapter. After such revocation and order, the permit may be reissued if the City Manager determines that the circumstances leading to the revocation have been remedied and the community is being constructed in full compliance with the law and the provisions of this Chapter.

SECTION 5. ENFORCEMENT

5.1 Civil & Criminal Penalties:

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

5.2 Criminal Prosecution

Any person, firm, or corporation that, with criminal negligence, violates any part of this Ordinance shall be guilty of a misdemeanor. If a person is convicted of violating this Ordinance shall be guilty of a misdemeanor. If a person is convicted of violating this Ordinance the person shall be fined not less than one hundred fifty dollars (\$150.00 not more than two thousand dollars (\$2,000.00), plus court costs.

5.3 Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited the following:

- (a) **Injunctive relief** to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- (b) **Stop Work Order.** In the event work is not being performed in accordance with this Ordinance, the City shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.
- (c) **Discontinue Utilities.** No permanent water, sewer, electrical or gas utility connections shall be made to the land; building or structure, until and after certificate of occupancy and compliance has been issued by the building official. The city also reserves the right to discontinue utility services for noncompliance with this ordinance.

REPEALED

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

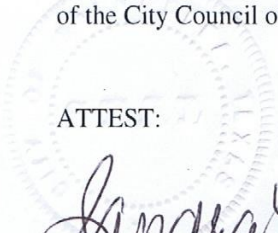
SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

EFFECTIVE DATE- This Ordinance shall be effective immediately upon passage and publication as provided by law.

PASSED & APPROVED this 12 day of February, 2018 by a vote of 4 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of the City of Balmorhea, Balmorhea, Texas.

ATTEST:



Sandra Navarrete
Sandra Navarrete, City Clerk

CITY OF BALMORHEA

John L. Davis
John L. Davis, Mayor

1st Reading: February 12, 2018

2nd Reading: March 12, 2018