

ORDINANCE NO. 603

AN ORDINANCE AMENDING WILSONVILLE CODE SECTIONS 6.230 AND 6.340 RELATING TO MOBILE HOME PARK CLOSURE PERMITS, DEFINING THE SCOPE OF ACTIONS REQUIRING A PERMIT, MODIFYING THE METHOD OF MOBILE HOME VALUATION, AND DECLARING AN EMERGENCY

WHEREAS, the City Council adopted Ordinance No. 600 on October 17, 2005. This ordinance added code sections 6.300 through 6.400, requiring the mitigation of public health and welfare impacts of forced evictions associated with closure of mobile home parks; and,

WHEREAS, the purpose of Ordinance 600 was to mitigate the social and fiscal impact of mobile home park closures in a way not adequately provided for in existing state law which, in council's view, did not sufficiently compensate owners of mobile homes who are forced to relocate or abandon their homes as a result of park closure. Council's intent was to supplement the requirements of state law by requiring that the owner of the facility reimburse a tenant's actual relocation expenses or offer to purchase mobile homes that could not be relocated under the ordinance; and,

WHEREAS, application of the ordinance was envisioned to apply to mobile home park closures that have been initiated under state statute. ORS 90.630 (5) requires landlords to give mobile home park tenants a minimum of 180 or 360 days notice of lease termination, depending upon whether the facility owner pays certain moving and set up expenses. Council intended the mitigation obligations under Ordinance 600 to "fill in" perceived deficiencies of state law (e.g., requiring payment of actual reasonable relocation expenses, which often exceed moving costs allowed under statute) without displacing state law requirements (e.g., relocation costs under the ordinance must be off set by relocation assistance received from the state); and,

WHEREAS, notwithstanding Council's intention, the terms of the ordinance have been read to interfere with the operation of state law (i.e., requiring a closure permit prior to sale or before statutory notice is given); and,

WHEREAS, the public is well served by the addition of clarifying language that is true to legislative intent and assists in the construction and application of the ordinance; and

WHEREAS, the ordinance provides that homes that cannot be relocated under the ordinance are to be appraised based on artificial constructs and assumptions that frustrate, rather than facilitate, a fair and expeditious purchase of non-relocatable homes by the owner, a circumstance that may be achieved by utilizing County Assessor's data for the valuation;

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1. Findings. The Council adopts the foregoing and the staff report in this matter, attached hereto as Exhibit A, as findings of fact and conclusions of law.

Section 2. Wilsonville Code section 6.320 is amended to read as follows:

6.320 Mobile Home Park Closure Permit.

(1) Permit Required. No person may close a mobile home park unless a mobile home park closure permit has been obtained. Provided however, that nothing in this section is intended to limit a person's ability to 1) apply for and obtain a plan amendment, zone change, or other land use decision pursuant to the City's Comprehensive Plan or Zoning Ordinance, 2) **sell, convey or transfer a mobile home park, or 3) provide notification under ORS 90.630 (5).**

(2) Scope of Permit Requirement, **Construction.** These provisions shall apply to all closures commenced after October 17, 2005, and to those closures and/or closure activities that follow notice under ORS 90.630 (5), provided the associated eviction or surrender dates occur more than 120 days from October 17, 2005. **These provisions shall be construed as not to conflict with state law, and shall be applied in a manner such that the provisions and state law operate concurrently.**

(3) Application Filing. Applications for closure permits shall include the following and any additional relevant information as may be necessarily required by this chapter and the City Manager or City Manager's designee:

- (a) A detailed narrative description of and timetable for the proposed closure.
- (b) A report on the impact of the closure of the mobile home park on its residents pursuant to section 6.330.
- (c) The Relocation Plan pursuant to section 6.340.
- (d) Notice pursuant to 6.350.
- (e) The application filing fee in an amount established by the City Council.

(4) Application processing. Upon receipt of a complete application, the City Manager or Designee shall review the application and forward a recommendation in the permit to City Council for final action. The Permit shall require a public hearing following the procedures set forth in W.C. 2.560.

Section 3. That section 6.340 is amended to read as follows:

6.340. Relocation Plan.

(1) A Relocation Plan for tenants of the mobile home park shall be submitted for review and approval as part of the application for a Closure Permit. The Relocation Plan shall provide, at a minimum, for the following:

- (a) The Relocation Plan shall provide for the owner to pay all reasonable relocation costs to a comparable mobile home park space within 100 miles to any tenant who relocates from the park after City approval of the Closure Permit. When any tenant has given notice of their intent to move prior to City approval of the Use Permit, eligibility to receive moving expenses shall be forfeited.

(b) The relocation plan shall identify those mobile homes that cannot be relocated to a comparable mobile home park space within 100 miles. The owner shall be required to offer to purchase any mobile home that cannot be relocated in conformance with this chapter. The offer to purchase the mobile home will be made at **the real market value of the home as reported on the most recent property tax assessment roll.** ~~its in-place market value. Such value shall be determined after consideration of relevant factors, including the value of the mobile home in its current location including the blocks and any garage, skirting, siding, porches, decks, storage sheds, cabanas, and awnings, and assuming the continuation of the mobile home park in a safe, sanitary and well-maintained condition, and not considering the effect of the change of use on the value of the mobile home. If a dispute arises as to the in-place value of a mobile home, the applicant and the homeowner shall have appraisals prepared by separate state-certified appraisers with experience in establishing the value of mobile homes. The in-place value in disputed cases shall be based upon the average of the appraisals submitted by the applicant and mobile home owner, or, at either party's written request within 7 days receipt of the last appraisal, the two appraisers shall agree upon a third appraiser whose determination shall be final and binding.~~

(c) In order to facilitate a proposed closure, the tenants and owner(s) may agree to mutually satisfactory conditions. To be valid, however, such an agreement shall be in writing, shall include a provision stating that the tenant is aware of the provisions of this ordinance, shall include a copy of this ordinance as an attachment, shall include a provision in at least twelve-point type which clearly informs the tenants that they have the right to seek the advice of an attorney of their choice prior to signing the agreement with regard to their rights under such agreement

and shall be drafted in the form and content otherwise required by applicable state law.

Should the owner provide evidence demonstrating to the City that two-thirds of the tenants have executed such agreements, and that the balance of tenants have been offered comparable agreement terms, the provisions of this Chapter shall not apply to the closure involving all tenants. Such evidence may include an agreement with or a sale to a tenant association or tenant non-profit corporation representing two-thirds or more of the tenants.

Section 4. Emergency Clause. Because the above provisions may materially affect ongoing or imminent actions with respect to mobile home parks, an emergency is declared to exist and the ordinance shall be effective upon enactment.

SUBMITTED to the Wilsonville City Council and read for the first and second time at regular meeting thereof on the 26th day of January, 2006, at the hour of 7 p.m. at the Wilsonville Community Center, 7965 SW Wilsonville Road, Wilsonville, Oregon.

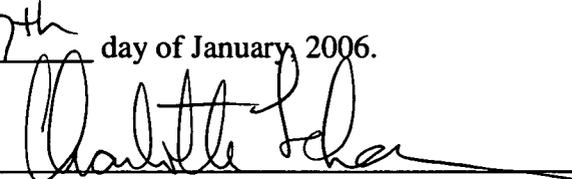

Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 26th day of January, 2006, by the following votes:

YEAS: -5- NAYS: -0-


Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this 27th day of January, 2006.


Charlotte Lehan, Mayor

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Holt	<u>Yes</u>
Councilor Knapp	<u>Yes</u>
Councilor Ripple	<u>Yes</u>