

ORDINANCE NO. 20387

AN ORDINANCE CONCERNING MANUFACTURED DWELLING PARK CLOSURES; AND AMENDING SECTIONS 2.1060 AND 2.1086 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

**Section 1.** The caption and first sentence of Section 2.1060 of the Eugene Code, 1971, and the caption preceding it are amended; the definitions contained therein of "Affected tenant," "Disabled person," "Elderly person," "Hearings officer," "Low income person," "Moving expenses," "Permit," and "Rental agreement" are amended; and the definitions of "Alternative housing," "Conversion (manufactured dwelling park)," "Manufactured dwelling," "Manufactured dwelling park," "Manufactured dwelling park owner or park owner," and "Tenant (manufactured dwelling park)" are deleted therefrom, to provide as follows:

Condominium Conversion

**2.1060** **Condominium Conversion - Definitions.** In sections 2.1060 to 2.1084 of this code, the following words and phrases mean:

**Affected tenant.** Any tenant who resides in a building to be converted at the time of notice of planned conversion.

**Disabled person.** A person who has, at the time of issuance of a condominium conversion permit, a mental, emotional or physical disability or illness of more than a temporary duration that:

- (a) Substantially impairs his or her ability to move about to find or maintain a housing unit without the use of external aids (e.g., wheelchair, cane, walker, guide dog) or without another person's assistance, or without pain; or
- (b) Involves the loss of sight or hearing ability, prevents normal walking or climbing of stairs, or requires a special life support system; or
- (c) Affects his or her ability to make decisions or manage his or her own financial affairs without assistance.

A disability must prevent or make it difficult for the person to carry out regular activities of daily living (e.g., housework, shopping, laundry, meal preparation, personal care such as bathing and dressing). Evidence that would determine the status of disability would include a doctor's certificate, a statement from a health care specialist attesting to the above criteria, a governmental determination of disability, or a worker's compensation determination of greater than 50 percent disability.

**Elderly person.** A person who is 70 years of age or over at the time of the notice of planned conversion.

**Hearings officer.** A person appointed by the city manager to decide contested issues arising under sections 2.1060 to 2.1084 of this code.

**Low income person.** A person who, at the time of notice of planned conversion, has a current income equal to or less than 80% of the median income on a yearly basis determined for Lane County by the Department of Housing and Urban Development or its successor.

**Moving expenses.** A fixed sum of money based on the number of rooms of furniture that is intended to cover the cost of moving the tenant's possessions to another location within the urban growth boundary exclusive of expenses attributable to packing and unpacking. For elderly or disabled tenants moving expenses include an additional fixed sum of money intended to cover the costs of packing and unpacking. The amount of moving expenses shall be set by administrative rules issued hereunder.

**Permit.** A condominium conversion permit issued by the city manager under section 2.1066 of this code.

**Rental agreement.** All written or oral agreements.

**Section 2.** A caption is hereby added, and Section 2.1086 of the Eugene Code,

1971, is amended to provide:

## **MANUFACTURED DWELLING PARK CLOSURES**

### **2.1086 Manufactured Dwelling Park Closures.**

(1) **Definitions.** As used in this section 2.1086, the following words and phrases mean:

**Affected tenant.** A person who owns and occupies a manufactured dwelling in a manufactured dwelling park and is entitled under a rental

agreement to occupy, to the exclusion of others, a manufactured dwelling space in a manufactured dwelling park at the time notice of park closure is given. A person who rents, but does not own the manufactured dwelling located in a manufactured dwelling park is not an "affected tenant" for purposes of this section.

**Alternative housing.** A manufactured dwelling or other housing which is reasonably similar to the manufactured dwelling owned and occupied by the affected tenant, or a manufactured dwelling space which is reasonably similar to the space then occupied by the affected tenant in terms of location, price, proximity to services, general amenities, and any other factors identified in administrative rules issued hereunder. Housing, or a manufactured dwelling space, is not reasonably similar if it is located in a manufactured dwelling park for which a notice of park closure has been given or for which reasonable evidence exists that the owner is contemplating conversion to other uses.

**City manager.** The city manager or the manager's designee.

**Conversion.** The termination of a rental agreement for a manufactured dwelling and/or manufactured dwelling space by the manufactured dwelling park owner for the purpose of ending manufactured dwelling residential uses of the park and either beginning different land uses or selling the property, which conversion is not required by the exercise of eminent domain or by order of state or local agencies; or, the obtaining of a building permit for a structure located on a site previously used as a manufactured dwelling park within the past two years.

**Hearings officer.** A person appointed by the city manager to decide contested issues arising under this section 2.1086.

**Manufactured dwelling.** Includes: a manufactured home constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction; a residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and was constructed before January 1, 1962; a mobile home meeting the above requirements that was constructed between January 1, 1962 and June 15, 1976 and met the construction requirements of Oregon mobile home law in effect at the time of construction, and a manufactured home meeting the above requirements. A "manufactured dwelling" does not mean any building or structure constructed to conform to the

State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer.

**Manufactured dwelling park.** Any place where 4 or more manufactured dwellings or manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than 1 manufactured dwelling per lot if the subdivision was approved by the city, but does include a "manufactured home park."

**Manufactured dwelling park closure.** The termination of rental agreements by the park owner so that the park owner can either close the park or convert the park to a different use.

**Manufactured dwelling park owner or park owner.** The owner, lessor, sub-lessor or manager of a manufactured dwelling park.

**Moving/relocation expenses.** A sum of money as established in subsection (8) of this section and administrative rules issued hereunder that is intended to compensate affected tenants for losses incurred as a result of a manufactured dwelling park conversion or closure.

**Permit.** A manufactured dwelling park closure permit issued by the city manager under this section 2.1086.

**Rental agreement.** All written or oral agreements, and valid rules and regulations adopted under ORS 90.262 embodying the terms and conditions concerning the use and occupancy of a manufactured dwelling or manufactured dwelling space.

- (2) **Intent.** It is the intent of these provisions to mitigate the adverse effects of displacement on affected tenants of manufactured dwelling parks that will close or convert to a different use.
- (3) **Scope of Regulations.** This section 2.1086 shall be applicable to manufactured dwelling park closures and conversions.
- (4) **Limitations.** Notwithstanding any other provision of law, no person may close or convert, nor shall the city permit the closure or conversion of, any manufactured dwelling park to a different use unless a manufactured dwelling park closure permit has been obtained and a fee paid in the amount set by the city manager under section 2.020 of this

code.

(5) Closure Permit Process.

(a) Notice of Park Closure.

1. The park owner shall provide a written notice of park closure to affected tenants of the manufactured dwelling park prior to any closure or conversion of the manufactured dwelling park. The notice shall be given not less than 365 days before the closure date designated in the notice. The notice shall contain the date of park closure, date of termination of tenancy, information on tenant rights and benefits and park owner duties under state and local law, and any other information required by state law, this code, or administrative rules issued hereunder.
2. After the notice of park closure has been given to affected tenants, all prospective tenants of the manufactured dwelling park shall be given written notice of the park closure prior to entering into a rental agreement. The notice shall disclose the estimated date of park closure and that relocation benefits will not be available for such prospective tenants under this code.
3. The written notice of park closure shall be delivered to the city in the manner prescribed by administrative rule at the same time the notice is provided to affected tenants.

(b) Application. No later than 60 days after the filing of notice of closure, the park owner, or the park owner's agent (the "applicant") shall apply for a park closure permit on a form prescribed by the city manager. The application shall include all information and documents required by administrative rule issued hereunder and shall include an application fee in an amount set by the city manager. The applicant shall promptly post a copy of the entire application in a conspicuous place within the manufactured dwelling park.

(c) Staff review. Within 30 days from the receipt of a completed application the city shall issue a staff report on the applicant's compliance with conditions for approval of the permit. The staff report shall be sent to the applicant who shall have 7 days after receipt to submit additional information or material. The applicant shall promptly post a copy of the staff report in a conspicuous place within the manufactured dwelling park.

(d) Permit approval. Within 14 days after the issuance of the staff report the city manager shall approve or deny the permit. Within five days of the decision the city shall notify the applicant in writing of the decision. The applicant shall promptly notify each affected tenant in writing of the decision of the city manager on the permit application. In addition, the city manager shall mail, by first class mail, a notice of the decision and of the opportunity to appeal to

owners and occupants of property located within 100 feet of the property on which the subject manufactured dwelling park is located and to persons who have requested notification. The city manager shall issue a manufactured dwelling park closure permit if the manager finds that the park owner has completed or is contractually obligated to the city to complete the obligations imposed by this section 2.1086. No permit shall be transferred or sold unless such transfer or sale is first approved by the city manager. Unless appealed, the city manager's decision is effective on the eleventh day after notice of the decision is mailed.

(e) Appeal of permit decision.

1. Within ten days of the date that notice of the permit decision is mailed by the city manager, it may be appealed to the hearings official by the owner, applicant, a party, an affected tenant, or a person entitled to notice from the city under subsection (5)(c) of this section. Such appeal shall be instituted by filing a notice of appeal on a form to be provided by the city.
2. Within 45 days of the notice of appeal, the hearings officer shall conduct a public evidentiary hearing on the permit approval or disapproval action of the city manager. The hearing notice and procedures shall conform with the requirements for quasi-judicial hearings provided in sections 9.7065 to 9.7095 of this code. At least 20 days prior to the hearing, the city shall mail notice thereof to the applicant, appellant, persons who requested notice of the city manager's decision, and to persons entitled to notice from the city under subsection (5)(c) of this section.
3. Such appeal shall be limited to the issues of whether the applicant has satisfied the conditions and obligations of the permit approval, whether approval or denial of the permit was an abuse of discretion by the city manager, and whether the information supplied by the applicant in connection with the application is true and correct.

(f) Revocation of closure permit. A permit may be revoked after notice and a contested case hearing before a hearings officer upon a written finding of fact that the park owner has:

1. Failed to comply with the terms of a cease and desist order;
2. Been convicted in any court subsequent to the filing of the permit application for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;
3. Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of affected tenants;
4. Intentionally or repeatedly failed to perform any stipulation or agreement made with the city as an inducement to

- grant or reinstate any permit;
- 5. Made intentional misrepresentations or concealed material facts in an application for a permit; or,
- 6. Intentionally or repeatedly violated any provision of this section 2.1086.

Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A determination of a hearings officer on a revocation of a permit shall be final.

- (6) Provision of Housing Information. After notice of park closure to affected tenants, a park owner shall create, maintain, and make available to all affected tenants a current survey showing the total number of manufactured dwelling spaces, the number of vacant manufactured dwelling spaces, rent schedules, and available manufactured dwellings for sale in manufactured dwelling parks located within the urban growth boundary shown on the Metropolitan Area General Plan. The park owner shall update this information at least every four months, or at such intervals as required in administrative rules issued hereunder. The survey shall contain such information as required by the administrative rules issued hereunder.
- (7) Relocation Costs. After the notice of park closure is given, a park owner shall compensate affected tenants for their losses and relocation costs incurred due to the park closure as follows:
  - (a) If the manufactured home can be moved from the park, the park owner shall pay the affected tenant, at the affected tenant's option, and subject to subsection (c), either:
    - 1. The affected tenant's actual costs incurred for moving the manufactured home to a location within 60 miles from its present location, using the most direct and economical route. Payment will be made within 10 days of receipt by the park owner of a statement reflecting the amount of the costs incurred; or
    - 2. A flat dollar amount, to be paid prior to the park closure and removal of the manufactured home from the park of:
      - a. \$11,000 for a single wide home;
      - b. \$17,000 for a double wide home; and
      - c. \$21,000 for a triple wide home.The amounts established in this subsection shall be periodically adjusted by administrative order of the city manager to reflect changes in the Consumer Price Index.
  - (b) If for any reason the manufactured home cannot be moved, prior to the park's closure the park owner shall pay to the affected tenant, at the affected tenant's option, and subject to subsection (c) either:
    - 1. A payment equal to the real market value of the manufactured home as determined by the Lane County Assessor, plus a flat dollar amount to be established by administrative order of the

- city manager, based on the recommendation of the Housing Policy Board, for the costs of moving the affected tenant's personal property; or
2. A flat dollar amount to be established by administrative order of the city manager, that is equivalent to the amount determined by the federal government for relocation compensation, with a single wide manufactured home considered the equivalent of a two room home; a double wide manufactured home equivalent to a three room home; and a triple wide manufactured home equivalent to a four room home.
  3. From the amounts determined due under either 1. or 2. above, the park owner shall first deduct a portion of the park owner's costs incurred in disposing of the abandoned manufactured home consisting of \$1,000 for disposing of a single wide manufactured home, \$2,000 for disposing of a double wide manufactured home, and \$3,000 for disposing of a triple wide manufactured home. The disposal allowances provided herein may be periodically adjusted by administrative order of the city manager to reflect changes in the Consumer Price Index.
- (c) The net amount to be paid by the park owner to an affected tenant under subparagraphs (a) or (b) of this section may be subject to an adjustment if:
1. There is a state subsidy payment available to an affected tenant at the time notice of park closure is given, the amount of the subsidy shall be deducted from the amount determined due the affected tenant under subparagraphs (a) and (b) of this section in arriving at the net amount due.
  2. The manufactured dwelling park for which the notice of closure is given is located in an industrial or commercial zone or flood plain, the amount determined due shall be reduced by 50%.
- (8) Housing Counselor. The park owner shall hire a person or entity as a housing counselor for affected tenants who shall assist affected tenants with moving and relocation assistance claims. In addition to any other duties that may be assigned, the housing counselor shall:
- (a) Explain moving and relocation benefits to affected tenants.
  - (b) Act as a housing referral resource by providing affected tenants with a list of alternative manufactured dwelling parks and other available housing.
  - (c) Provide assistance in locating and securing alternative housing.
  - (d) Assist affected tenants in viewing spaces in parks or alternative housing.
  - (e) Assist affected tenants in understanding rental agreements.
  - (f) Assist affected tenants with arrangements for moving. After notice of park closure is given, no affected tenant shall be evicted for a reason not specified in ORS 90.630 from the manufactured dwelling park or required to pay more rent than the rent charged

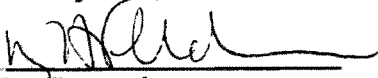
for a comparable manufactured dwelling or space in the manufactured dwelling park.

- (9) Retaliation Prohibited. If an owner has as his or her dominant purpose retaliation against an affected tenant because of the exercise by the affected tenant of rights under this section 2.1086, because the tenant has expressed an opinion on any matter relating thereto, and the tenant is not in default in payment of his or her rent or otherwise in breach of the rental agreement, the owner may not recover possession of the manufactured dwelling park space in any action or proceeding, cause the tenant to quit involuntarily, or increase the rent or decrease any services to that tenant.
- (10) Enforcement. If it appears that a person has engaged in or is about to engage in an act or practice constituting a violation of any provision of this section 2.1086, or rule, regulation or order thereunder, or failed to faithfully perform any stipulation of agreement made with the city as an inducement to grant or reinstate any permit, the city, with or without any prior administrative proceedings, may bring an action in the Circuit Court for Lane County to enjoin the acts or practices and to enforce compliance with this section 2.1086 or any rule, regulation, order, or contract thereunder. Any person who converts a manufactured dwelling park without a permit shall be guilty of a violation. Any person who willfully makes an untrue or misleading statement of material fact or willfully omits to provide required data on any document prepared pursuant to this section of the code shall be guilty of a violation. The penalty for any such violation shall be as provided in section 2.1990(5) of this code.
- (11) Rulemaking Authority. The city manager is authorized to promulgate any rules necessary for the implementation of this section of the code. These rules shall be adopted in the manner provided for in section 2.019 of this code.

**Section 3.** The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

**Passed by the City Council this**

**9<sup>th</sup> day of July 2007**

  
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**City Recorder**

**Approved by the Mayor this**

\_\_\_\_ **day of July, 2007**

  
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**Mayor**

