



ORDINANCE 2006-017

AN ORDINANCE AMENDING TITLE 15 OF THE SHERWOOD CITY CODE BY ADDING A NEW CHAPTER (15.10) RELATING TO THE CLOSURE OF MANUFACTURED DWELLING PARKS; DECLARING AN EMERGENCY.

WHEREAS, the rising value of land in the Portland metropolitan area has increasingly resulted in the sale, closure and conversion of Manufactured Dwelling Parks; and

WHEREAS, closure and conversion of Manufactured Dwelling Parks involves termination of the rental agreements manufactured dwelling owners have for spaces in the park and displacement of the park residents; and

WHEREAS, Manufactured Dwelling Parks provide affordable housing for low and moderate income persons and market forces suggest that when Manufactured Dwelling Parks are closed, that kind of affordable housing inventory is lost; and

WHEREAS, most Manufactured Dwelling Park residents own the manufactured dwelling in which they live and the closure of a park either forces some residents to abandon their manufactured dwelling at the park without recovery of the dwelling's value or, should they be able to move the dwelling from the park, they incur significant costs in doing so; and

WHEREAS, under the terms of ORS 90.630, landlords of Manufactured Dwelling Parks are required to give written notice to tenants of those Parks when their tenancy at the Manufactured Dwelling Park (Park) is terminated because the Park is to be closed and the land or leasehold converted to a different use. However, moving costs and set-up expenses are not owed if the landlord provides more than 365 days notice but only in the event when notice is provided between 180 and 365 days prior to termination, where ORS 90.630 requires a landlord pay the cost of moving and set-up expenses or \$3500, whichever is less; and

WHEREAS, under the terms of ORS 316.153, a "qualified owner" of a qualifying "Manufactured Dwelling" has a tax credit of up to \$10,000 if the Dwelling is "involuntarily moved" because of Park closure; and

WHEREAS, the Council finds:

- current state law does not adequately reflect the actual cost associated with moving and set-up occasioned by the forced relocation of a Manufactured dwelling
- state law does not adequately address the issues related to owners of Manufactured dwellings unable to relocate their homes and who, therefore, must abandon them in place

- state law does not require Park owners to provide relocation benefits or otherwise assist displaced residents with information about space availability in comparable Parks or compensate for the loss of home through forcible eviction and involuntary conversion; and

WHEREAS, the Council believes that in addition to the private costs assumed by displaced Park residents and their families, closure of Manufactured dwelling Parks involve substantial public costs, including increased utilization of tax-supported state and local housing assistance, and costs for welfare, medical and social services; and

WHEREAS, the Council wishes to mitigate the social and fiscal impacts of Manufactured Dwelling Park closures in ways not adequately addressed under current law; and

WHEREAS, the Council recognizes that the provisions of this ordinance place additional responsibilities on the owners of Manufactured Dwelling Parks and that it is appropriate for the regulations to contain provisions allowing for relief from its requirements under appropriate circumstances; and

WHEREAS, the Council believes that this ordinance comports with applicable law, is not preempted and does not constitute a land use regulation within the meaning of ORS 197.352 and otherwise promotes the public health, safety and welfare.

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

Section 1. The Council adopts as factual support the report by Sheehan and Colton entitled "*The Problem of Mass Evictions in Mobile Home Parks Subject to Conversion*" attached as Exhibit A.

Section 2. Sherwood Municipal Title 15 is amended by adding a new Chapter (15.10) to read as follows:

MANUFACTURED DWELLING PARK CLOSURES

- 15.10.005 Purpose.**
- 15.10.010 Applicability.**
- 15.10.015 Definitions.**
- 15.10.020 Manufactured Dwelling Park Closure Permit; Application.**
- 15.10.025 Closure Impact Report.**
- 15.10.030 Relocation Plan.**
- 15.10.035 Alternative Agreement.**
- 15.10.040 Required Notifications; Tenant Purchase Rights.**
- 15.10.045 Owner Relief.**
- 15.10.050 Private Right of Action.**

15.10.005 Purpose.

The provisions of this Chapter are intended to protect public health and safety and to mitigate any adverse impacts of Manufactured dwelling Park closures on tenants by requiring that said closures are preceded by adequate notice, that certain impacts of the involuntary relocation of tenants associated with the closure are adequately defined, and that relocation (and other) assistance is provided tenants. The provisions of this Chapter are intended to be remedial and to supplement state law.

As such, they are to be construed so as to not conflict with and operate concurrently with state law.

15.10.010 Applicability.

Chapter 15.10 applies to all closures of Manufactured dwelling Parks that occur on or after _____, 2006.

15.10.015 Definitions.

The following words, terms and phrases have the meaning given them in this section, except where the context clearly indicates a different meaning:

1. "City" means the City of Sherwood, Oregon.
2. "City Manager" or "Manager" includes the Sherwood City Manager and any person designated by him/her to perform the duties imposed by this Chapter on the Manager.
3. "Closure of a Manufactured Dwelling Park" or "Closure" means to stop or otherwise cease the leasing of spaces in a Park, to terminate Manufactured Dwelling space rental agreements for all or a portion of the Park's spaces, otherwise effect termination of rental agreement(s) or lease(s), or to evict Tenants. Termination of tenancies pursuant to ORS 90.630(9) or as a result of the exercise of eminent domain authority or as a result of an order of a State or other public agency exercising its regulatory or plenary powers shall not constitute a Closure.
4. "Closure Impact Report" or "Report" is that document described in Section 15.10.040.
5. "Closure Date" means the day designated in the notice of termination required by ORS 90.630(5)(a). In the event that notices to different tenants reflect different dates, the last date shall be deemed to be the Closure Date.
6. "Comparable Manufactured Dwelling Space" means any space, lot or parcel of land within the Relocation Zone that is:
 - a. decent, safe, and sanitary;
 - b. adequate in size to accommodate the Manufactured dwelling;
 - c. within the market price range;
 - d. equivalent in terms of amenities; and
 - e. within reasonable commuting distance of the displaced tenant's place of employment (if applicable).
7. "Council" or "City Council" means the Sherwood City Council.
8. "Manufactured Dwelling" or "Dwelling" has the same meaning as the phrase defined in ORS 446.003(22) (2005).
9. "Manufactured Dwelling Park" or "Park" has the same meaning as the phrase defined in ORS 446.003(23) (2005).
10. "Occupies" means resides or otherwise domiciled in a Manufactured Dwelling within a Manufactured Dwelling Park.
11. "Owner" means any person with all or part of the legal title to a Manufactured Dwelling Park or all or part of the beneficial ownership of same. The term "Owner" includes any mortgagee in possession or contract purchaser as well as an Owner's authorized representative.
12. "Relocation Costs" are those costs (other than as limited below) actually incurred by a Tenant in moving a Manufactured dwelling (and personal possessions) to a Comparable Manufactured Dwelling Space. Such expenses include:
 - a. Removal and reinstallation of skirting;

- b. Disconnecting utilities;
- c. Disconnecting and removing awning(s) and deck(s) from the Manufactured dwelling;
- d. Trip permit and public inspection fees;
- e. Transportation costs;
- f. Set up charges;
- g. Utility connection expenses and fees; and
- h. Temporary housing and meals for the tenant and permanent occupants during unit relocation and set up.

Notwithstanding the above, Relocation Costs do not include (and any amount due from an owner under the terms of 15.10.050 shall be set off or credited by) monies received by Tenant(s) to assist in relocation of Tenant(s) from a public or private entity.

- 13. "Relocation Plan" or "Plan" is the information and obligations described in Section 15.10.050.
- 14. "Relocation Zone" means the area of 50 miles surrounding the city which contains sufficient comparable Manufactured dwelling space to allow relocation of tenants from the Park.
- 15. "Tenant" means a person who owns and occupies a Manufactured Dwelling in a Manufactured Dwelling Park the day before the notice of termination.

15.10.020 Manufactured Dwelling Park Closure Permit; Application.

- 1. No Owner shall effect a Closure of a Manufactured Dwelling Park unless a Manufactured Dwelling Park Closure permit has first been obtained from the City.
- 2. Nothing in this Chapter is intended to limit or otherwise prevent an Owner's ability to:
 - a. apply for and obtain a plan amendment, zone change, or other land use decision pursuant to the City's Comprehensive Plan or Title 16 of this Code;
 - b. encumber by trust deed, mortgage, loan or other financial security their ownership interest in the Manufactured Dwelling Park; or
 - c. provide notification under ORS 90.630(5).
- 3. Applications for closure permits shall be filed in the office of the City Manager and include the following:
 - a. A detailed narrative description of and timetable for the proposed closure;
 - b. A Closure Impact Report;
 - c. A Relocation Plan;
 - d. Notice pursuant to 15.10.040; and
 - e. Payment of any application fee as established by City Council.

The permit application may be submitted before or after the notice required by ORS 90.630(5).

- 4. Upon receipt of the application, the City Manager shall review it for completeness and, if deemed complete by the Manager, thereafter be forwarded along with a written recommendation as to the granting or denial of the permit to the Council for its consideration and action. An application shall not be deemed complete without the receipt of the Closure Impact Report.
- 5. At the first regular Council meeting after receipt of the written recommendation from the City Manager, the Council shall set a hearing date (which date shall be not more than sixty (60) days beyond the time of its receipt of the recommendation) to consider an Owner's request for a permit.

6. At the time set for the hearing on the Permit and in addition to considering the recommendation of the City Manager described at subsection (4) above, the Council may take such additional evidence as it deems necessary, relevant and appropriate from the Owner, Tenants and other interested parties.
7. In considering the Permit Application for a Manufactured Dwelling Park Closure, the Council shall consider the following:
 - a. whether the Tenants of the Park have been adequately notified of the proposed closure, including information pertaining to the anticipated timing of the proposed closure;
 - b. the age, type, size and style of Manufactured Dwellings affected by the proposed closure and whether any, some or all may be relocated to other comparable Manufactured Dwelling Parks within the Relocation Zone;
 - c. whether the Owner has agreed to purchase any Manufactured Dwelling incapable of being relocated at its real market value;
 - d. whether the tenants eligible for the Relocation Costs described at 15.10.030 will be compensated; and
 - e. whether adequate funds have been placed in escrow to meet the commitment to pay the Relocation Cost and/or purchase described in 15.10.030.

15.10.025 Closure Impact Report.

Concomitant with the Application under 15.10.030, an Owner shall file their Closure Impact Report with the City Manager. The Report shall include information as to the following:

1. A description of the Manufactured Dwelling spaces within the Park, including:
 - a. The total number of Manufactured Dwelling spaces in the Park;
 - b. The number of spaces occupied as of the date of the application;
 - c. The length of time each space has been occupied by the Tenant;
 - d. The age, size, and type of Manufactured Dwelling occupying each space.
 - e. The monthly rent currently charged for each space, including any utilities or other costs paid by the Tenant(s) thereof.
 - f. Name and mailing address of the Tenant (and Owner if different) of each Manufactured Dwelling in the Park.
2. A list of Manufactured Dwelling Parks within the relocation zone. This list shall include a schedule of rents for each Park listed, a listing of the vacancies (to the extent known) at the Parks listed, and the criteria used by each Park for acceptance of new Tenants and Manufactured Dwellings.
3. A written comparison of rents paid at the Park to be closed with those at the listed comparable Manufactured Dwelling Park(s).
4. The estimated average relocation cost(s) for Tenants.

15.10.030 Relocation Plan.

1. A Relocation Plan for Tenants of the Manufactured Dwelling Park shall be submitted for review and approval as part of the application for a Closure Permit.
2. The Relocation Plan shall provide for the following:
 - a. payment by the Owner to each eligible Tenant, relocation costs to a comparable Manufactured Dwelling Park within the relocation zone after the Owner provides notice of termination under ORS 90.630(5) in an amount not to exceed \$15,000.00.
 - i. Tenants giving notice of their intent to move prior to the Owner's provision of the notice under ORS 90.630(5) shall not be eligible for relocation benefits.

- ii. No Owner shall be liable for payment to a Tenant of any sum under subsection (a) above if:
 - 1. the Tenant became such after the Owner applied for the closure permit under 15.10.030; and
 - 2. the Owner gave the Tenant a copy of the closure permit application prior to the commencement of their tenancy.
- b. Identify those Manufactured Dwellings that cannot be relocated to a comparable Park space within the Zone.
 - i. In the event a Dwelling cannot be relocated, the Owner shall be required to purchase the Dwelling at its real market value as the same is shown on the most recent County property tax records.
 - ii. To the extent an Owner believes the most recent assessment does not reflect the fair market value of the Dwelling, they may submit additional written evidence to the City Manager. Said information shall be included with the Plan.
 - iii. The City Manager shall evaluate the evidence submitted and provide his conclusion as to the fair market value in writing to the Council at or before the time set for the hearing on the Permit. The decision of the Manager shall be conclusive.

15.10.035 Alternative Agreement.

- 1. In order to facilitate a closure, Tenant(s) and Owner can agree to terms different than those set out in this Chapter.
- 2. To be valid, such an agreement shall be and include:
 - a. in writing;
 - b. a provision stating that the Tenant is aware of the provisions of this Chapter;
 - c. a copy of this Chapter as an attachment or exhibit;
 - d. a provision (in at least twelve-point type) clearly informing the Tenant(s) of their right to seek legal advice prior to signing the agreement; and
 - e. be drafted in a form otherwise required by law.
- 3. Should an Owner demonstrate to the satisfaction of the City Manager that at least two-thirds ($\frac{2}{3}$) of the Tenant(s) have executed an agreement consistent with this section (and the remaining Tenant(s) have been offered comparable terms), the duties imposed by this Chapter on the Owner shall not apply.

15.10.040 Required Notifications; Tenant Purchase Rights.

- 1. In the event an Owner has received either a written offer for the purchase thereof or has entered into a listing agreement for a Park's sale, Owner shall give written notice thereof (consistent with subsection 3 below) both to the Parks' Tenants and the City.
- 2. In the event an Owner intends to effect a Closure of a Manufactured Dwelling Park, Owner shall give written notice thereof (consistent with subsection 3) both to the Parks' Tenants and the City.
- 3. The notice shall briefly set out the circumstances of the offer, listing agreement of Closure and contain the name, address and phone number of the Owner and representative (if any) authorized to negotiate the sale of the Manufactured Dwelling Park.
- 4. Within 90 days of the delivery by or on behalf of the Owner of the notice required herein, a Tenant may notify the Owner by certified mail or personal service at the

address disclosed in the notice that the Tenant or a Tenant-supported nonprofit organization is interested in purchasing the Manufactured Dwelling Park.

5. Upon delivery of the notice required herein, the Owner shall negotiate in good faith with the Tenant or organization and provide the Tenant or organization an opportunity to purchase the Park. The Tenant or organization shall have the right to match any offer that the Owner deems acceptable. That right shall be exercised within 45 days of notice to the Tenant or organization by the Owner.
6. The section does not apply to those sales and transfers described in ORS 90.820(4), ORS 92.840 or to any offer or listing agreement made before this Chapter was adopted.
7. An Owner who subdivides a Manufactured Dwelling Park shall comply with the requirements imposed by the terms of ORS 92.830 to ORS 92.845 (2005).

15.10.045 Owner Relief.

1. An Owner may apply to the City Council for relief from any or all of the duties imposed on an Owner by this Chapter. If an Owner wishes to apply under the terms of this section, they must submit a written application with the City Manager (along with a fee established by the Council for the City's review thereof) setting out:
 - a. what provision(s) of this Chapter they believe impose a burden on the Owner;
 - b. what circumstances exist (or will exist) such that compliance with the identified provision(s) will be unduly burdensome, unlawful, unconstitutional or otherwise improper as applied; and
 - c. such other information which the Owner believes is relevant and will assist the City Council in acting on the Owner's application for relief.
 - d. upon receipt of an Owner's application for relief, the City Manager shall review the application, consult with the City Attorney and such others as he/she deems necessary and, thereafter, make a recommendation to the Council on the application. The City Manager shall provide a recommendation to the Council within thirty (30) days of his receipt of the information and fee and make a recommendation to the Council. The Council may in its discretion, after its receipt of the City Manager's recommendation, schedule and hold a public hearing. Any hearing shall be held within thirty (30) days of the Council's receipt of the City Manager's recommendation.

15.10.050 Private Right of Action.

1. Any affected Tenant or Owner of a Manufactured Dwelling in a Park subject to closure shall have a cause of action in a court of competent jurisdiction to enforce the terms of this Chapter and may be entitled to recover their reasonable attorney fees, expenses, costs and other disbursements reasonably incurred.
2. The foregoing is in addition to any other remedies that may exist at law or in equity.

Section 3. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. There is an immediate need to enact the foregoing provisions to address imminent Park closures, so as to protect the public health, safety and welfare, and an emergency is therefore declared. As such, this Ordinance shall take effect on the date of passage.

DULY PASSED BY THE CITY COUNCIL THIS 8 DAY OF NOVEMBER, 2006.

Keith Mays, Mayor

ATTEST:


Sylvia Murphy, City Recorder

	<u>AYE</u>	<u>NAY</u>
Luman	_____	_____✓
King	_____✓	_____
Henderson	_____✓	_____
Heironimus	_____✓	_____
Grant	_____Absent	_____
Durrell	_____	_____✓
Mays	_____	_____✓

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