

ORDINANCE NO. 309

A SPECIAL ORDINANCE ADOPTING BY REFERENCE THE PROVISIONS OF COUNTY ORDINANCE NO. 86-265, PROVIDING FOR THE REGISTRATION AND ACCESS FOR INSPECTION OF ADULT CARE HOMES, ESTABLISHING FEES FOR CERTIFICATES OF REGISTRATION, REQUIRING THE POSTING OF THE RESIDENT'S BILL OF RIGHTS, ESTABLISHING PENALTIES, AND AUTHORIZING CIVIL ACTION; AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH CLACKAMAS COUNTY FOR COUNTY ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS OF COUNTY ORDINANCE NO. 86-265 FOR ADULT CARE HOMES WHICH ARE LOCATED WITHIN THE CITY OF WILSONVILLE; AND DECLARING AN EMERGENCY.

WHEREAS, the Wilsonville City Council finds:

1. Unknown numbers of dependent adults who have specialized housing needs, including the elderly, the mentally and physically handicapped, alcoholic and drug dependent persons, live in unregulated Adult Care Homes in the City and County.

2. Such facilities have historically been located in the City and County.

3. Newspaper and other accounts have documented cases of abuse and exploitation occurring in unregulated facilities.

4. State regulations have historically applied to only selected Adult Care Homes.

5. The Board of County Commissioners has determined that as a result of the conditions stated above and in the interest of public health, safety and welfare, there is a need for registration and access for inspection of Adult Care Homes

(including adult foster homes) and has passed Ordinance No. 86-265, adopted on March 20, 1986 to address the problems as set forth above.

6. "Adult Care Home" as defined by County Ordinance No. 86-265, means any home or other facility which provides room and board for compensation to one or more elderly, handicapped, or dependent persons over the age of 18 not related to the owner or operator by blood or marriage. Adult Foster Homes include room and board homes where assistance with major life activities is provided.

7. It is the stated intent of the County Ordinance No. 86-265 that information gained from registration and inspection of Adult Care Homes shall be made available to the public to assist in its selection of an Adult Care Home, providing a basis for data referral for special needs people.

8. The Legislative Assembly of the State of Oregon with similar intent has passed Enrolled Senate Bill 22, (Oregon Laws 1983, Chapter 629) which the Governor has duly signed, requiring the registration of all "adult foster homes" throughout the State by January 1, 1984.

9. "Adult Care Home" as defined by Enrolled Senate Bill 22, means any family home or facility in which 24-hour care is provided for five or fewer adults who are not related to the provider by blood or marriage.

10. The relationship between the need for safe and sound structures and providing quality care in Adult Care Homes is closely linked, and it is desirable to coordinate the administration and responsibility for registering such facilities to insure uniformity of treatment throughout the County.

11. The County is already authorized to enforce regulation of Public Health and Sanitation Codes within the City.

12. The County has requested authority to administer and enforce the provisions of the Clackamas County Adult Care Home Registration Ordinance No. 86-265 within the City.

13. The City wishes to grant the County's request, relying on the County's allocation of resources, to protect the interests of elderly, handicapped, and dependent adults in the City in need of care, to the benefit of all City residents.

14. It is in the public interest to provide for uniform administration of Clackamas County Adult Care Home Registration Ordinance No. 86-265 within the City and County.,

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

Section 1. The following Special Ordinance shall be added to the Code of the City of Wilsonville, Oregon, as follows:

ADULT CARE HOMES

Scope. (1) The provisions of Clackamas County

Adult Care Home Registration Ordinance No. 86-265, three copies of which are on file at the City Hall, hereby are adopted by reference and made a part of this title. Such provisions shall apply within the City of Wilsonville and shall be administered and enforced by the Director of Human Resources of Clackamas County, Oregon, or his or her designee.

Intergovernmental Agreement. (1) The Mayor is authorized to execute an Intergovernmental Agreement with Clackamas County substantially similar to the agreement attached as Exhibit "A", providing for the administration and enforcement of Clackamas County Adult Care Home Registration Ordinance No. 86-265 within the City of Wilsonville.

Section 2. The Council declares that an emergency exists because Clackamas County Adult Care Home Registration Ordinance No. 86-265 became effective March 20, 1986 and enforcement of this ordinance within the City and County should be uniform insofar as possible; therefore this Ordinance shall be in full force and effect from and after its date of passage.

SUBMITTED to the Council and read for the first time at a

regular meeting thereof on the 5th day of January, 1987 and adopted on second reading at a regular meeting of the City Council on the 5th day of January, 1987, commencing at the hour of 7:30 p.m. at the Wilsonville City Hall.

Vera A. Rojas

VERA A. ROJAS, City Recorder

ENACTED by the Council on the 5th day of January, 1987, by the following votes: YEAS: 5 NAYS: 0.

Vera A. Rojas

VERA A. ROJAS, City Recorder

DATED and signed by the Mayor this 7th day of January, 1987.

William E. Stark

WILLIAM E. STARK, Mayor

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: DEE THOM *Dee Thom*
SUBJECT: ADULT FOSTER HOME CARE
DATE: DECEMBER 30, 1987

Attached, for Council's consideration and action, is a copy of Ordinance CB-0-73-87 and an Intergovernmental Agreement between Clackamas County and the City of Wilsonville authorizing the county to regulate adult foster homes that operate within the city limits.

History: This request was brought before the Councils of all the cities in Clackamas County in 1983. Since that time, the cities and the county met on numerous occasions and helped draft the County's Ordinance 86-265 (A copy is included in your packet). Upon the adoption of this ordinance by the county officials, the cities independently wrote intergovernmental agreements to be brought before the respective Councils addressing the cities' needs.

This material has been reviewed by city attorney, Mike Kohlhoff.

Recommendation

Adopt Ordinance CB-0-73-87 and the Intergovernmental Agreement between the city and Clackamas County.

dt:vr

AGREEMENT FOR INTERGOVERNMENTAL RELATIONS
PURSUANT TO ADULT FOSTER HOME COUNTY ORDINANCE 86-265
AND CITY OF WILSONVILLE ORDINANCE NO. ____

I. Parties to the contract

- A. City of Wilsonville:
Hereinafter referred to as the City
- B. County of Clackamas, Department of Human Resources
Hereinafter referred to as the County

II. Recitals

- A. The parties to this contract have consented to County enforcement, within Wilsonville city limits, of Ordinance 86-265, its Administrative Rules and any amendments to the Ordinance or Rules.

The Ordinance regulates adult foster homes by means of annual licensure and inspection and makes information gained from these regulatory procedures available to the public. By this means, the public will be assisted to select foster homes, the operation of unsafe, undesirable homes will be prohibited and the interests of elderly, handicapped and dependent adults in Wilsonville will be protected.

- B. The parties to this contract agree that:

- 1. The Tualatin Rural Fire District is authorized to act as the County's duly authorized technical representative in performing inspections under the provisions described in Clackamas County Administrative rules for Adult Foster Homes. Inspections shall only be performed by trained personnel designated by the County. The Fire District may impose fees to the provider, in an amount approved by the County, for fire inspections performed by the Fire District personnel representing the County.

2. In the event the Fire District cannot perform these inspections as a representative of the County or the City decides not to have the Fire District perform the inspection, the County shall undertake to designate and contract with an alternate trained fire inspector to conduct inspections in adult foster homes within city limits, under the provisions described in Clackamas County Administrative Rules for Adult Homes. The designee may impose fees to provider at a rate approved by the County, for fire inspections performed under contract with the County.
3. The County agrees to provide training and copies of written standards, upon request by the City and at no cost to the City, to the Fire District, Fire District employees or to other inspectors who are designated to act as the County's technical representatives in performing inspections required under the County Ordinance No. 86-265, its Amendments and duly adopted Administrative Rules.

III. In order to implement the administration and enforcement of County Ordinance 86-265, its Amendments and Administrative Rules within these City limits, the County agrees to:

- A. Require that applicants for adult foster home licenses meet City health, housing, fire safety and business license code and requirements and to cooperate with City and/or Fire District in enforcing those City regulatory requirements.
- B. Provide information to the public about the requirement for licensure and procedures for filing complaints.
- C. Designate an individual to coordinate implementation of the Ordinance and its Amendments and Administrative Rules and Amendments and act as a liaison to the City.
- D. Provide, upon request, listings of licensed foster homes in the City, listing of homes in the City which conditions have been attached, reports or inspections of foster homes within the City and any other pertinent information as may be requested by the City.

- E. Provide to the City copies of proposed amendments to the Ordinance and Administrative Rules at least 30 days prior to the first official action on them and to provide the City copies of all such amendments as they are adopted.
- IV. In order to facilitate the administration and enforcement of County Ordinance 86-265, its Amendments and Administrative Rules and Amendments by the County within the City limits, the City agrees to:
- A. Cooperate with the County in providing information to the public about the Ordinance and Administrative Rules.
 - B. Cooperate with the County in enforcing conformance with building, fire or other local codes as they apply to adult foster homes located within City limits. The City shall notify the County of any inspection or enforcement activities undertaken by the City related to adult foster homes located within City limits.
 - C. Designate an individual to act as a liaison between the City and the County, to monitor and expedite implementation of this agreement.
- V. Nothing contained in this agreement shall prevent the County from entering into any agreement with any State, City or federal government, or any agency of any such government, respecting regulation of adult foster homes, subject to the provisions contained in this agreement.
- VI. Should any section or portion of this agreement be held unlawful or unenforceable by any court or administrative agency with jurisdiction in this subject matter, such decision shall apply only to the specific section or portions directly specified in the decision. All other portions of this agreement, and the agreement as a whole, shall continue without interruption.
- VII. The County agrees to indemnify, defend and hold harmless the City, its officers, employees and agents for any and all claims, settlements, liabilities, loss or damage it, they or any of them may incur arising out of or resulting from the County's performance of, or failure to perform, its duties and obligations under this agreement.

The County's liability to indemnify, defend and/or hold harmless under this agreement shall extend only to claims arising from the enforcement of the provisions of Clackamas County Ordinance 86-265 and its amendments and Rules and shall not extend to any other claim, suit or obligation. As used herein, "defend" includes the payment of all costs, including attorney's fees associated with the defense of the claim or action, whether or not the claim or suit is successful and whether the claim or suit is rightfully or wrongfully brought.

VIII. This agreement shall take effect _____, 1986, or upon execution by both parties, whichever comes sooner, and shall continue thereafter perpetually unless modified or terminated. This agreement may also be amended by mutual agreement in writing of both parties and may be terminated on 60 days written notice by either party.

Dated this _____ day of _____, 1987.

BOARD OF COUNTY COMMISSIONERS

CITY OF WILSONVILLE

Chairman Dale Harlan



William E. Stark, Mayor

Commissioner Ed Lindquist

Commissioner Robert Schumacher

Jono Hildner, Administrator
Department of Human Resources

APPROVED AS TO FORM:

County Counsel