

AFFIDAVIT OF POSTING
ORDINANCE CB-0-139-90

STATE OF OREGON)
)
COUNTIES OF CLACKAMAS)
AND WASHINGTON)
)
CITY OF WILSONVILLE)

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:

On the 30th day of May, 1990, I caused to be posted copies of the attached Ordinance CB-0-139-90, an Ordinance of the City of Wilsonville Amending Chapter 6, Nuisances to Define Disruptive Activity, to Declare Disruptive Activity Unlawful, and to Provide for Remedies, in the following five public and conspicuous places of the City, to wit:

WILSONVILLE CITY HALL


WILSONVILLE POST OFFICE

LOWRIE'S FOOD MARKET

KOPPER KITCHEN

WILSONVILLE PUBLIC LIBRARY

The notice remained posted for more than five (5) consecutive days prior to the time for said public hearing on the 4th day of June, 1990.


VERA A. ROJAS, CMC, City Recorder

Subscribed and sworn to before me
this 12th day of June, 1990.


NOTARY PUBLIC, STATE OF OREGON

My Commission expires: 8-23-93

ORDINANCE NO. 370

AN ORDINANCE AMENDING CHAPTER 6, NUISANCES TO DEFINE DISRUPTIVE ACTIVITY, TO DECLARE DISRUPTIVE ACTIVITY UNLAWFUL, AND TO PROVIDE FOR REMEDIES AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Wilsonville finds that it is in the best interests of the public's general benefit, safety, health and welfare to adopt reasonable time, place and manner regulations of business which engender a pattern of disruptive activities constituting a nuisance; and

WHEREAS, the City Council recognizes the provision of such reasonable regulations, has been prompted both in this community and state-wide by concern with the secondary effects associated with so-called "adult" businesses and the City Council has received testimony in the past in various hearings concerning secondary effects by "adult" businesses; nevertheless, the City Council's intention and purpose in adopting of this ordinance is to regulate any business, "adult" or otherwise, which engenders a nuisance to the public through a pattern of disruptive activities.

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

1. Section 6.200 "Definitions" shall be amended to include the following by adding:
 - (1) "Business" includes any sole proprietorship, partnership, corporation, business trust, unincorporated association, and any legal entity created for the purposes of engaging in commercial activity.
 - (2) "Business premises" includes all real property on which the business is located and any buildings erected on such property.
 - (3) "Employee" includes any officer, director, agent, or employee of a business. The term "employee" also includes independent contractors who work on the business premises.
 - (4) "Customer" includes any person who patronizes a business. The term "customer" also includes those persons who are going to the business premises to patronize the business or coming from the business premises.
 - (5) "Disruptive activity" means any act or acts that constitute a violation of one of the following statutes or ordinances:
 - (a) ORS 163.160, ORS 163.165, ORS 163.175, ORS 163.185 or ORS 163.190, relating to assault and menacing;

- (b) ORS 163.415, ORS 163.425, ORS 163.435, or ORS 163.445, relating to sexual abuse, contributing to the delinquency of a minor, and sexual misconduct;
 - (c) ORS 163.465, relating to public indecency;
 - (d) ORS 166.025, relating to disorderly conduct;
 - (e) ORS 166.065, relating to harassment;
 - (f) ORS 164.345, ORS 164.354, or ORS 164.365, relating to criminal mischief;
 - (g) ORS 164.425 or 164.255, relating to criminal trespass;
 - (h) ORS 164.805, relating to littering;
 - (i) ORS 467.020, relating to noise limits; and
 - (j) ORS 471.405, ORS 471.410, and ORS 471.412, relating to alcoholic liquor violations.
- (6) "Pattern of disruptive activity" means three or more incidents of disruptive activity within a period of a year. No relationship or similarity among the incidents need be shown to establish a pattern.

2. Section 6.200 "Definitions" shall be further amended by renumbering the existing definitional subsections now enumerated (1) through (3) as (7) through (9).

3. Section 6.226 "General Nuisance" shall be amended so it is enumerated 6.228 and it shall be amended as follows:

- (1) In addition to those nuisances specifically enumerated and defined in Sections 6.200 - 6.226, every other thing, substance or act which is determined to be injurious or detrimental to the public health, safety or welfare, is declared to be a nuisance and may be abated by the non-exclusive remedies as provided in Section 6.230 to 6.244, 6.250, and 6.260.
- (2) The acts, conditions, or objects specifically enumerated and defined in Sections 6.200 to 6.228(1) are declared to be public nuisances and may be abated by the non-exclusive remedies as provided in Sections 6.230 - 6.244, 6.250, and 6.260.
- (3) Nothing contained in Sections 6.200 to 6.228 shall be construed as permitting any activity otherwise prescribed or regulated by this Code or Ordinance or Resolution of the City.

4. A new Section 6.226 shall be added as follows:

6.226. Disruptive Activity.

If a business's owner, customers, employees or person in charge of property engages in a pattern of disruptive activity either on the business premises or within 400 feet of the business premises, then the business shall be deemed a public nuisance.

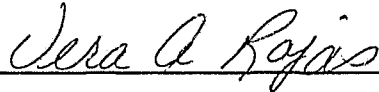
5. The title to Section 6.260 shall be amended to read "Violation - Civil".
6. Section 6.260 is amended to read as follows:
 - (1) The abatement procedures provided in other sections of this Code or any other ordinance of the City are not exclusive remedies of the City in order to abate a nuisance. The City Council may authorize the City Attorney or District Attorney to institute and prosecute on behalf of the City and in its name, an appropriate suit in a state court of this state to enjoin and abate the creation, maintenance of continuance or continuance of any nuisance as defined by Sections 6.202 to 6.228, resolution of the City Council; and for the recovery of the City's costs of suit and the City's reasonable attorneys fee as may be allowed by the trial court and appellate court on appeal.
 - (2) Any person injured by a business operating in violation of Section 6.226 may institute civil proceedings in circuit court to enjoin or abate the nuisance and to recover damages, if any, caused by the pattern of disruptive activities. such person need not have suffered a unique injury in order to seek injunctive or monetary relief. If a final decree or judgement is entered in favor of such person, that person shall be entitled to recover all attorney fees and costs reasonably incurred.
 - (3) On proof by a preponderance of the evidence that a business is operating in violation of Section 6.226 or is highly likely to do so and after entry of specific findings that the business as operated or is highly likely to operate in violation of Section 6.226, the judgements, including but not limited to:
 - (a) enjoining and abating the nuisance. The order of abatement may direct the effectual closing of the business, business premises, building or place against its use for any purpose, and

so keeping it closed for a period of one year, unless sooner released.

(b) awarding plaintiffs suing pursuant to subsection 2, all damages resulting from the operation of a business in violation of Section 6.226, together with costs and attorney fees reasonably incurred.

7. It is necessary for the publics health and welfare to curb disruptive activity immediately; therefore the Wilsonville City Council determines an emergency exists, and this Ordinance shall take effect immediately upon final reading and passage by the Wilsonville City Council.

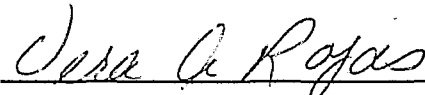
SUBMITTED to the Wilsonville City Council and read the first time at a regular meeting thereof on the 7th day of May, 1990, and scheduled for second reading at a regular meeting of the City Council on the 4th day of June, 1990, commencing at the hour of 7:30 o'clock p.m. at the Wilsonville City Hall.



VERA A. ROJAS, CMC, City Recorder

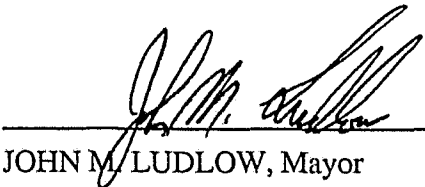
ENACTED by the City Council on the 4th day of June, 1990, by the following votes:

YEAS: 4 NAYS: 0



VERA A. ROJAS, CMC, City Recorder

DATED and signed by the Mayor this 5th day of June, 1990.



JOHN M. LUDLOW, Mayor

SUMMARY of Votes:

Mayor Ludlow	<u>Aye</u>
Councilor Edwards	<u>Aye</u>
Councilor Chandler	<u>Absent</u>
Councilor Clarke	<u>Aye</u>
Councilor Dant	<u>Aye</u>