

ORDINANCE NO. 05-92

AN ORDINANCE OF THE COUNTY OF PINELLAS ESTABLISHING THE MOBILE HOME TRANSITION PROGRAM; PROVIDING FOR QUALIFYING GOVERNMENTAL ACTION; PROVIDING FOR APPLICANT RESPONSIBILITIES; PROVIDING FOR STATUTORILY REQUIRED BOARD ACTION; PROVIDING FOR CONDITIONAL FINAL DECISION; PROVIDING FOR SUPPLEMENTAL RENTAL ASSISTANCE PAYMENT FUND; PROVIDING FOR AN ALTERNATIVE MITIGATION OPTION; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT THE PUBLIC HEARINGS AND WITH RESPONSIBLE AUTHORITIES.

WHEREAS, Chapter 723, Florida Statutes, regulates mobile home park tenancies and intends to balance the basic property rights of park owners with the housing needs of mobile home owners renting sites within mobile home parks; and

WHEREAS, the Pinellas County Board of County Commissioners (Board) is empowered under Chapter 125, Florida Statutes, to enact ordinances for the benefit of the safety, health and welfare of the people of the County; and

WHEREAS, in an attempt to strike an appropriate balance, Section 723.083, Florida Statutes, specifically restricts the ability of a local government to take any official action, including rezoning, that would result in the removal or relocation of mobile home owners residing in a mobile home park without first making an affirmative finding that there exists adequate mobile home parks or other suitable facilities for the relocation of mobile home owners; and

WHEREAS, the Department of Legal Affairs, Office of the Attorney General, specifically found that a finding of adequate or suitable facilities per Section 723.083, Florida Statutes, “be appropriate to the financial and other needs of the specific population of mobile home owners”; and

WHEREAS, the Board finds there is a scarcity of affordable housing in Pinellas County, which limits the amount of affordable mobile home parks or other suitable facilities available to mobile home owners subject to removal or relocation as a result of a mobile home park rezoning; and

WHEREAS, the Board finds that rezoning applicants often lack sufficient information about the financial capacity of individual mobile home owners within the park needed to allow the Board to determine the existence of adequate or suitable facilities for the relocation of eligible displaced mobile home owners; and

WHEREAS, the failure of a rezoning applicant to provide competent substantial evidence sufficient to support the Board's requisite finding under Section 723.083, Florida Statutes, of available adequate or suitable facilities within the financial means of mobile home owners removed or relocated as the result of a rezoning, standing alone, represents a justification for denial of rezoning; and

WHEREAS, the recent widespread conversion of mobile home parks to other uses, and the resulting potential removal and relocation of mobile home owners, present separate and immediate short-term needs that must be assessed under Section 723.083, Florida Statutes; and

WHEREAS, the Board finds that there exists an essential nexus between the legitimate County interest of complying with the statutory requirement of ensuring adequate affordable housing for mobile home owners under Section 723.083, Florida Statutes, and the voluntary rental assistance payment option set forth in this mobile home transition program; and

WHEREAS, the Board further finds that there exists the required degree of connection between the voluntary rental assistance payment option and the ability to ensure adequate or suitable facilities for mobile home owners impacted as a result of a park rezoning; and

WHEREAS, pursuant to Section 723.083, Florida Statutes, the absence of adequate or suitable facilities for the relocation of eligible mobile home owners displaced as a result of a rezoning requires denial of rezoning; and

WHEREAS, the mobile home transition program, as proposed and implemented herein, is intended to supplement the existing methods by which a rezoning applicant can meet its statutory burden under Section 723.083, Florida Statutes, and this additional voluntary method will simultaneously assist eligible mobile home owners to secure adequate or suitable facilities; and

WHEREAS, offering a voluntary rental assistance payment option to the rezoning applicant is specifically designed to address, and substantially relates to, the need to assure the affordability of adequate or suitable facilities for those mobile home owners who might be removed or relocated as a result of the governmental action; and

WHEREAS, the availability of such rental assistance option in the manner and by the procedures provided in this ordinance addresses the needs of the specific population of mobile home owners who will be removed or relocated by a rezoning approval that triggers the provisions of Section 723.083, Florida Statutes; and

WHEREAS, the Board deems it appropriate for the rezoning applicant to set aside an amount sufficient to ensure the ability of eligible mobile home owners to secure affordable facilities and maintain affordability for a period of up to two years; and

WHEREAS, less administrative fees, all funds provided by the rezoning applicant and not used to provide rental assistance to individual mobile home owners should be returned to the applicant; and

WHEREAS, the Board's specific intent is that, regardless of the source of the funding, any voluntary monies paid to support a Section 723.083, Florida Statutes, finding are to be paid directly to the County or its designee and not to the individual mobile home owners, and no funds from the program are to be construed as a payment by the rezoning applicant that would otherwise disqualify the mobile home owner for payment by the Mobile Home Relocation Corporation provided for under Section 723.0612, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY that:

Section 1. Legislative Findings.

The foregoing "Whereas" clauses are hereby incorporated as legislative findings in support of this Ordinance.

Section 2. Qualifying Official Governmental Action (QOGA).

For purposes of this Ordinance, official government action is a determination of an application for rezoning or any other official action that would result in the removal or relocation of mobile home owners residing in a mobile home park other than a resident-owned park.

Section 3. Applicant Defined and Responsibilities of the Applicant.

3.1 For purposes of this ordinance, "Applicant" is defined as an applicant for a QOGA with respect to a property currently used as a mobile home park under Chapter 723, Florida Statutes. The owner of record of the subject property shall sign such application. Resident-owned parks involved in legally sanctioned and voluntary applications for changes of zoning are specifically excluded from the provisions of this ordinance.

3.2 Applicant's 723.083, Florida Statutes, Responsibilities.

3.2.1 Consistent with Section 138-077(7) of the Pinellas County Land Development Code, the application shall provide information in support of the necessary 723.083 Florida Statute determination that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners, hereinafter referred to as the DETERMINATION.

3.2.2 Supplement after Preliminary Staff Review: If upon initial review by County staff, it is determined that additional information is required to make the

requisite 723.083 finding, the Applicant may have an additional 30 days to supplement the record.

3.3 Applicant will provide information specified in Section 5 of this ordinance to establish a replacement housing profile for the mobile home owners residing in the park and determine if adequate mobile home parks or other suitable facilities are available for the relocation of mobile home owners affected by governmental action as required by statute. For purposes of this ordinance, "Mobile Home Owners" shall be defined as those persons who own their coach but rent a lot space within the subject property and are subject to the provisions and protections provided for in Chapter 723, Florida Statutes.

3.4 Applicant will deposit with the County the Supplemental Rental Assistance Payment funds as specified in this ordinance to assure that the identified mobile home parks or other suitable facilities are affordable to mobile home owners within the subject property.

3.5 For each mobile home owner within the subject property who requests rental assistance payments, Applicant will identify a replacement unit in a mobile home park or other suitable facility located within ten (10) miles of the subject property. Replacement units must be decent, safe, and sanitary, and meet Pinellas County's Housing Quality Standards. Nothing herein shall prevent a mobile home owner from accepting a replacement unit outside the ten-mile radius if the mobile home owner so chooses.

3.6 No notice of eviction for change of use of property shall be given or effective unless the mobile home park owner shall have first paid to the County an amount equal to the County's actual out-of-pocket cost to qualify mobile home owners and provide initial counseling times the number of owner-occupied mobile homes located in the mobile home park. Such sum shall be used by the County or its designee in determining whether mobile home owners qualify for rental assistance payments hereunder and shall be fully creditable against any sums payable pursuant to Sections 5 and 6 hereof. No later than the date the notice of eviction for change of use is given to mobile home owners, the Applicant will notify mobile home owners of their rights under this ordinance, including possible eligibility for rental assistance payments if affordable replacement or relocation facilities cannot be identified.

Section 4. Board Action on Section 723.083 Finding.

4.1 The Board shall make its DETERMINATION regarding Florida Statute 723.083 during the same public hearing where the rezoning/Future Land Use Map amendment is considered.

4.2 The Board may continue the hearing should it request supplemental information to assist in making the requisite DETERMINATION.

4.3 Final Decision:

- 4.3.1 The Board shall review all information provided and shall make its decision based on substantial and competent evidence.
- 4.3.2 Approval: If the Board is satisfied that the evidence indicates that adequate mobile home parks or other suitable facilities exist for the relocation of the eligible displaced mobile home owners, it shall make a finding of such and may move to approve the QOGA.
- 4.3.3 Denial: If the Board is not satisfied that the evidence indicates the existence of adequate mobile home parks or other suitable facilities for the relocation of the eligible displaced mobile home owners, the finding shall state such and the QOGA may not be approved with reference to Florida Statutes 723.083, except as provided for within Section 5 herein.
- 4.3.4 The Board may grant a conditional approval of the QOGA pursuant to Section 5.
- 4.4 The granting of such conditional approval pursuant to Section 4.3.4 above will provide a presumption that the provisions of Florida Statutes, Chapter 723.083 have been satisfied.

Section 5. Conditional Final Decision.

- 5.1 Upon determining that there is a lack of competent substantial evidence to support an affirmative finding under Section 723.083, Florida Mobile Home Act, the Board may condition approval upon the Applicant's willingness to deposit monies into a Supplemental Rental Assistance Payment Fund for purposes of assuring that rental assistance is available for all eligible mobile home owners for whom affordable mobile home parks or other suitable facilities cannot be identified.
- 5.2 Any Supplemental Rental Assistance Payment funds deposited by the Applicant that remain unused will be returned to the Applicant as stated in Section 5 of this Ordinance.
- 5.3 To determine if the Applicant qualifies for a conditional final approval, the Applicant shall be required to provide sufficient information to establish a replacement housing profile for the mobile home owners residing in the park. Required information must include, but is not limited to, the following:
 - 5.3.1 The total number of mobile homes in the park that are owned by mobile home owners; and
 - 5.3.2 Monthly rent charged for each space occupied by a mobile home owner; and

5.3.3 A list of the names and mailing addresses of the present mobile home owners within the subject property. This list should identify those units that are suitable for moving and for which only vacant replacement lots will be identified in Section 5.3.5; and

5.3.4 Household profile for each owner-occupied mobile home within the park, including number of adults, number of children, and whether pets have been allowed in the park. Replacement units identified per Section 5.3.5 should be suitable for similar household profiles; and

5.3.5 A list of other mobile home parks or other suitable facilities with vacant units available at the time of application and that are of a similar cost profile to which owners residing in the subject property could reasonably expect to relocate. This list will include, at a minimum, name and address of the park, park contact name and phone number, the number of vacant spaces available and the cost of those spaces, park guidelines on age and condition of acceptable units, number of rental units available and the cost of those rentals. All parks or other suitable facilities must be located within a ten-mile radius of the subject property and serve the same age, household, and occupancy profiles as the subject property.

Section 6. Supplemental Rental Assistance Payment Fund.

The Supplemental Rental Assistance Payment Fund is intended as a resource to assure that affordable mobile home parks or other suitable facilities will be available for mobile home owners who are removed or relocated as a result of a QOGA. Payments from this Fund do not provide a relocation payment or any other form of compensation to mobile home owners. If the Applicant for rezoning cannot identify adequate mobile home parks or other suitable facilities that are affordable to the impacted mobile home owners, the payment will be used to provide temporary rental assistance to qualified mobile home owners.

6.1 Calculation of Deposits: The amount deposited into the Supplemental Rental Assistance Payment Fund will be calculated by the County or its designee using the following methodology:

6.1.1 Identify the units occupied by mobile home owners and unit size based on number of bedrooms; and

6.1.2 Identify the weighted average lot rent for owners in the subject mobile home park; and

6.1.3 Identify the weighted average rents for similarly sized rental units in Pinellas County; and

6.1.4 The per-unit amount to be deposited is based on the gap between the weighted average monthly lot rent and the weighted average monthly rent for similarly sized apartments in Pinellas County; and

6.1.5 The per-unit amount defined in 6.1.4 is multiplied by the number of owners in the subject property, who have not voluntarily signed a waiver

of their Chapter 723.083 protections, and by the 24-month maximum assistance period; and

6.1.6 To determine the total deposit required, the amount calculated in 6.1.5 above is multiplied by a factor of 1.15 to meet administrative fee requirements.

6.2 Administrative Fee: Funds deposited with the County to provide rental assistance payments are subject to a fifteen percent (15%) non-refundable fee to cover the cost of program administration.

6.3 Form of Payment: Deposits to the Supplemental Rental Assistance Payment Fund will be made payable to Pinellas County or its designee. The County or its designee will calculate the deposit amount required based on an economic profile derived from information provided by the Applicant as described in Section 5 of this ordinance and other housing cost data. The full Supplemental Rental Assistance Payment amount must be deposited prior to issuance of any permits for the site. The deposit may be cash or an irrevocable letter of credit issued by a major financial institution in favor of Pinellas County, in a form approved by the County or its designee and from which solely the County is authorized to draw upon for rental assistance as provided herein as needed. Any cash shall be deposited in an interest-bearing account, with the interest accruing to the benefit of the Applicant. Any letters of credit shall be for a period of one year provided, however, that the County may draw on such letter of credit if it is not renewed for an additional year not later than thirty (30) days prior to its expiration. The Applicant may substitute cash, in whole or in part, for the letter of credit from time to time. The letter of credit shall be reduced in amount to the extent that the Applicant substitutes cash therefor.

6.4 Supplemental Rental Assistance Payments: Rental assistance payments are available for qualified mobile home owners for whom affordable replacement housing has not been identified. The amount of the rental assistance payment shall be sufficient to cover the gap between the rent of the identified eligible unit and the mobile home owner's affordability. Affordability will be based on gross household income, adjusted for household size as defined by the State Housing Initiatives Partnership Program (SHIP), Section 420.907, Florida Statutes, using the rents published annually for the SHIP program, adjusted for utilities.

6.4.1 Applications for Supplemental Rental Assistance: Mobile home owners requesting rental assistance will be required to complete an Application for Rental Assistance in a form acceptable to the County or its designee within 90 days following receipt of notice to vacate the property or final approval of the zoning change, whichever is later. Information contained in the application will be used to determine household affordability and housing need, and should include, but is not limited to, the following:

- (1) Name, age, total gross household income, places of employment, sources of income, household assets, number of persons in the household, dates of birth, and social security numbers; and
- (2) Mailing address, residency status, number of bedrooms in the current mobile home; and
- (3) Documentation establishing the applicant as an owner of record for the mobile home per Chapter 723; and
- (4) Monthly or weekly costs of pad rental, park utility fees, and other charges collected by the park owner from the mobile home owner; and
- (5) Any special needs of the residents of the unit relating to handicapped accessibility; and
- (6) Signed forms authorizing verification of income/asset information provided.

6.4.2 Review of Application: Applications will be reviewed by County staff or its designee to determine the affordability and housing needs of the mobile home owners. Failure of mobile home owners to provide timely, accurate, and complete information will make it impossible to determine housing needs and affordability and may render them ineligible for rental assistance. All applications are subject to the Public Records Laws of the State of Florida.

6.4.3 Housing Counseling as a Prerequisite: Mobile home owners requesting rental assistance must agree to receive housing counseling services as a prerequisite. County or its designee will provide individual housing counseling services to determine the housing needs and level of affordability of the mobile home owner. Rental assistance payments will be used as a resource only when affordable mobile home parks or other suitable facilities have not been identified by other means. Affordable replacement housing may be located for the mobile home owner without the need for rental assistance. Every attempt will be made to place mobile home owners onto suitable waiting lists and identify other strategies that will remove them from the rental assistance program as expeditiously as practicable.

6.4.4 Rental Assistance Payments Are Made to the Lessor: Rental assistance payments will be made to the Lessor on behalf of the mobile home owner. No payment will be made directly to any mobile home owner, guardian, or family member of a mobile home owner.

6.4.5 Term of Rental Assistance Payments: The rental assistance payment benefit period must be consecutive and cannot exceed 24 months.

6.4.6 Eligibility for Rental Assistance Payments: In order to be eligible for rental assistance payments, mobile home owners must meet the following criteria.

- (1) Be an eligible owner of a mobile home as defined in Chapter 723, who was renting a space in the subject property prior to initiation of the rezoning request, and continuing to rent such space from such date to the filing of a complete application for assistance.
- (2) Has not been offered an affordable replacement unit, as defined herein, in another mobile home park or other suitable facility.
- (3) Has an affordability gap, using the criteria defined herein, between the cost of the identified replacement unit and the affordable rent as published by the State of Florida's State Housing Initiative Partnership Program for the mobile home owner 's household income category.
- (4) Is a full-time resident in good standing as evidenced by being current in rents and other fees due to the park owner, unless such rents and other fees are being withheld due to a bona fide Order by a Court of Law pending resolution of legal action.
- (5) Has provided complete and accurate information in the Application for Rental Assistance described herein.
- (6) Has completed the housing counseling prerequisite and complied with all recommendations provided by the housing counselors.

6.5 Advance of Rental Assistance Payments: If Applicant posts a letter of credit pursuant to Section 6.3 above, County shall provide Applicant with a good faith written estimate twenty (20) days prior to commencement of a calendar quarter of the total amount of rental assistance payments and administrative costs anticipated to be required for such quarter, less any funds remaining from prior payments by Applicant. The Applicant shall advance such estimate amount to the County within ten (10) days of receipt of such estimate, failing which the County may draw such amount under the letter of credit. If within the ten (10) day period, Applicant objects in writing to County's estimate, Applicant and County shall meet to try to resolve the matter within thirty (30) days after Applicant's objection, failing which the County may draw on the letter of credit.

6.6 Refund to Applicant: All rental assistance monies provided by the Applicant and any interest earned thereon and not used as rental assistance

payments will be returned to the Applicant within ninety (90) days following the end of the rental assistance period. The administrative fee is not refundable.

Section 7. Alternative Mitigation.

An Applicant may provide an alternative means of meeting the requirements of Section 723.083 by addressing in a manner acceptable to the Board any affordability gap, using the criteria defined herein, between the cost of the identified replacement unit and the affordable rent as published by the State of Florida's State Housing Initiative Partnership Program for the mobile home owner's household income category. Any such alternative means shall meet the spirit and intent of this ordinance.

Section 8. Areas Embraced.

The provisions of this Ordinance shall apply to land currently zoned for or grandfathered as mobile home park use and located in the unincorporated areas of Pinellas County. Adequate mobile home parks or other suitable facilities identified by Applicant, as described in Section 5 of this ordinance, may be located in any jurisdiction within a 10-mile radius of the subject property, or other such location as is acceptable by the mobile home owner.

Section 9. Severability.

If any section, subsection, sentence, clause, phrase or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

Section 10. Codification.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately numbered to conform to the uniform numbering system of the Pinellas County Code.

Section 11. Filing of Ordinance; Effective Date.

Pursuant to Section 125.66, Florida Statutes, the Clerk of the Board of County Commissioners shall file a certified copy of this Ordinance with the Department of State within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.