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BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 55

NURSING HOMES AND HOMES FOR AGED PERSONS

An Ordinance requiring permits to operate nursing homes and homes for aged persons in Multnomah County, Oregon, and providing for remedies and enforcement.

Multnomah County ordains as follows:

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SECTION 1. DEFINITIONS.

Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

A. "NURSING HOME" means any home, place or institution which:

(1) Operates and maintains facilities providing convalescent or chronic care, or both, for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to the procedures commonly employed in nursing and caring for the sick;

(2) Excludes all persons who are acutely ill or are surgical or maternity cases;

(3) Has qualified personnel and a consulting physician available at all times; and

(4) Has isolation facilities.

B. "AGED PERSON" means a person of the age of sixty-five (65) years or more or a person of less than sixty-five (65) years who by reason of infirmity requires domiciliary care.

C. "HOME" means any home or other institution that maintains facilities for rendering board and domiciliary care for compensation to three (3) or more aged persons not related to the operator by blood or marriage.

D. "DULY LICENSED" when applied to a person means that the person to whom the term is applied has been duly and regularly licensed by the proper authority to follow his or her profession or vocation within the State of Oregon; when applied to a nursing home or home for aged persons means that the same has been issued a permit to operate by the Department of Medical Services, and a license by the Division.

E. "REGISTERED NURSE" means a person graduated from any accredited school of nursing and currently registered through the Oregon State Board of Nursing.

F. "LICENSED PRACTICAL NURSE", abbreviated "L.P.N.", means a person licensed through the Oregon State Board of Nursing as a practical nurse.

G. "DEPARTMENT OF MEDICAL SERVICES" means the Department of Medical Services, Multnomah County, Oregon.

H. "DIRECTOR" means Director, Department of Medical Services, Multnomah County, Oregon.

I. "DIVISION" means the Health Division of the Oregon State Department of Human Resources.

J. "LOCAL HEALTH OFFICER", used in Rules and Regulations of the Division, as hereinafter adopted, filed and made a part of this ordinance, means the Director, Department of Medical Services, or his duly authorized representative.

SECTION 2. RECORDS.

Any and all records required by Rules and Regulations of the Division, as hereinafter adopted, filed and made a part of this ordinance, shall be available for inspection at reasonable times by the Director, Department of Medical Services, or his duly authorized representative.

SECTION 3. PERMITS REQUIRED.

It is unlawful, and it shall constitute an offense in violation of this ordinance for any person to establish, maintain, or conduct in Multnomah County any nursing home or home for aged persons as hereinbefore defined, without first having obtained a permit in writing therefor, from the Director, Department of Medical Services. Such permit shall be granted only upon compliance with the provisions of this ordinance applicable thereto. Except as may be otherwise specifically provided herein, all permits issued pursuant to this ordinance expire on June 30 following the date of issue.

SECTION 4. APPLICATION FOR PERMITS.

Every person desiring to establish, maintain or conduct a nursing home or home for aged persons in Multnomah County shall make a written application for a permit so to do upon a form supplied by and addressed to the Director, Department of Medical Services. The application shall contain a statement giving an intelligible description of the property or place in or upon which the applicant proposes to establish, maintain or conduct such nursing home or home for aged persons; the number of patients or inmates which can be taken care of; the number of floors to be occupied; the number of beds on each floor and such references as to character, reputation and professional standing of the applicant as shall be required by the Director, Department of Medical Services.

SECTION 5. GRANTING OF PERMITS.

A permit shall be issued by the Director, Department of Medical Services for the establishment and maintenance of a nursing home or home for aged persons upon a satisfactory showing by the applicant that such nursing home or home for aged persons is to be established and maintained in a building conforming to the

requirements of all zoning, building, or other State and County ordinances, statutes, codes, rules and regulations applicable thereto and that its management and control will at all times also be in strict accord with County ordinances, rules and regulations applicable thereto and the ethical practices common to the profession involved therein.

SECTION 6. INFORMATION ON PERMITS.

Every such permit shall state the name of the permittee; the particular premises in which the nursing home or home for aged persons shall be carried on; the number of beds that may be maintained on each designated floor and in toto at any one time for the accommodation and care of patients or inmates; the number of persons employed or engaged in taking care of patients or inmates, and such other information as the Director, Department of Medical Services, may require.

SECTION 7. PERMITS NOT TRANSFERRABLE.

No permit which has been issued for the operation of a nursing home or home for aged persons to any person for a given location shall be valid for use by any other person or at any location other than that for which it was issued.

SECTION 8. LIMITATION ON NUMBER OF PATIENTS.

It is unlawful, and an offense in violation of this ordinance for any nursing home or home for aged persons to receive, keep or care for any number of patients, inmates or wards beyond the number of beds specified in the permit for such nursing home or home for aged persons. All limitations and restrictions set forth in any permit shall be construed as necessary precautionary requirements necessitating the strictest observance.

SECTION 9. REVOCATION OF PERMITS.

The Director, Department of Medical Services, shall have authority to revoke any permit for a nursing home or home for aged persons under the following circumstances:

(a) When it is evident that any of the conditions set forth herein as prerequisites for the issuance of such permit no longer obtain.

(b) When the permit was issued under fraudulent or untrue representation.

(c) When the owner or operator has failed to comply with rules, regulations and standards duly and regularly required for

the safe operation of such nursing home or home for aged persons, or in any case where there has been a substantial failure to comply with applicable state statutory provisions, or the rules, regulations and standards promulgated by the Division.

(d) When the owner or operator has been convicted in a court of competent jurisdiction for a violation of any of the provisions of this ordinance, or any state or federal law by which moral turpitude is disclosed.

SECTION 10. APPEALS.

Any permittee aggrieved by any decision of the Director, Department of Medical Services, may appeal to the Board of County Commissioners by filing notice of appeal with the Director within ten (10) days of the serving or mailing of the decision from which the appeal is taken. The Director shall promptly transmit the notice of appeal, together with the file of said appealed matter, to the Chairman of the Board of County Commissioners, who shall fix a time and place for hearing such appeal from the decision of the Director. The Chairman shall give the appellant not less than ten (10) days written notice of the time and place of hearing of said appealed matter. Action by the Board of County Commissioners on appeals shall be decided by a majority of the members present at the meeting where such appeal is considered.

SECTION 11. OPERATION AND MAINTENANCE OF HOMES.

(a) The operation and maintenance of nursing homes shall be in accordance with the RULES, REGULATIONS AND STANDARDS FOR NURSING HOMES IN OREGON, dated May 1, 1972, as promulgated by the Health Division, Oregon State Department of Human Resources, a copy of which shall be filed with the Multnomah County Auditor, and the applicable provisions of which are hereby made a part of this ordinance.

(b) The operation and maintenance of homes for aged persons shall be in accordance with Rules and Regulations governing the operation of homes for the aged in Oregon dated 1970 as promulgated by the Oregon State Board of Health, a copy of which shall be filed with the Multnomah County Auditor, and applicable provisions of the Rules and Regulations governing the operation of homes for the aged in Oregon hereby are made a part of this ordinance.

SECTION 12. RESTRAINT OF PATIENTS OR INMATES RESTRICTED.

(a) No patient, inmate or ward of any nursing home or home for the aged who is bedridden, crippled, or for any reason deprived of his ability to walk or escape from his place of confinement in case of fire or other emergency, shall be permitted to occupy space on any floor other than the ground or first floor

unless such nursing home or home for aged persons shall have first obtained a permit to do so from the fire marshal of the Multnomah County fire district within which the home is located. This shall not apply to nursing homes and homes for aged persons where an attendant or special police guard shall be constantly on duty in or near the room where such patient, inmate or ward is confined.

(b) No patient, inmate or ward of any nursing home or home for aged persons shall be placed under bodily restraint by the erection of any barrier or obstruction over any window or door unless such nursing home or home for aged persons shall have a permit to do so from the cognizant fire marshal or constantly maintains an attendant or special police guard in or near the room where such patient, inmate or ward is restrained.

(c) No lock or bar shall be permitted on any door of any room where patients, inmates or wards are confined or housed unless such lock or bar shall be of a type approved by the cognizant fire marshal which can be readily and easily opened from the corridor side without the use of a key and does not require any special knowledge to operate.

SECTION 13. INFLAMMABLE MATERIAL NOT TO BE STORED.

The storage of paints, oils, thinners, lacquers or volatile flammable liquids or bases not otherwise specifically provided for in any nursing home or home for aged persons is strictly prohibited.

SECTION 14. FIRE PROTECTION REQUIRED.

Every building occupied in whole or in part as a nursing home or home for aged persons shall have such fire protection and shall be provided with such fire gongs, fire extinguishers, sprinklers, fire escapes, means of egress or ingress, and other equipment and facilities for the protection of the patients or inmates against fire as shall be required by the cognizant fire marshal.

SECTION 15. ELECTRIC APPLIANCES TO BE APPROVED.

Electric heating pads and blankets must be of a type approved by the Director, Department of Medical Services, or his duly authorized representative, who may consider the recommendations of the National Board of Fire Underwriters. They shall not be used by or applied to a patient, inmate or ward unless an attendant shall be present during the time of such use or application.

SECTION 16. HEATING AND COOKING DEVICES.

All boilers, furnaces, stoves, ranges or other cooking or heating devices or appliances, or apparatus requiring special circuiting or using high voltage must be placed or installed in accordance with applicable provisions of County and State building, fire and electrical codes and regulations.

SECTION 17. CURTAINS IN DOORWAYS.

Doorways of rooms or compartments used by any patients or inmates in any nursing home or home for aged persons shall not be hung with draperies or other textile fabrics in lieu of a door.

SECTION 18. INSPECTIONS REQUIRED.

To the full extent permitted by law, the Director, Department of Medical Services, or his representative shall have full authority to enter and to inspect the permit, license, register and the sanitary conditions, and to question the patients, inmates or wards of any nursing home or home for aged persons.

SECTION 19. REPORTS TO DEPARTMENT OF PUBLIC SAFETY.

Every person conducting, maintaining or having charge of any nursing home or home for aged persons, on receiving any person at such home who cannot be identified or who is suffering from poisoning, administered by himself or another, or from any bullet or knife wound, or from any other physical injury, or traumatism inflicted with probable criminal intent, shall report the same immediately to the Detective Division, Department of Public Safety. Any authorized representative of the Department of Public Safety or Department of Medical Services may visit such person and seek such information as may be necessary in determining the cause of poisoning, wounding or other injuries. In the event of the death of any such person, the same shall be reported to the Department of Public Safety immediately following such death.

SECTION 20. GENERAL SAFETY REQUIREMENTS.

All nursing homes and homes for aged persons, and those in charge thereof, shall be required to familiarize themselves with and particularly enforce all provisions of applicable fire, housing, building, plumbing and electrical codes, laws and regulations. All such homes shall have at least one (1) telephone, not including pay telephones, on each floor of the building, so located as to be easily accessible to anyone on the floor for the purpose of summoning help in case of fire or other emergency.

SECTION 21. EXAMINATION FOR TUBERCULOSIS.

(a) All personnel employed in any nursing home or home for the aged shall at the time of employment and annually thereafter submit to an examination to exclude communicable tuberculosis. Such examination shall include either:

(1) A satisfactory negative reaction to an intradermal tuberculin test containing at least 0.0001 (Intermediate Test Strength P.P.D.) mgm of purified protein derivative or 0.05 mgm of old tuberculin; or

(2) A technically satisfactory chest X-ray film certified by a physician licensed by the State Board of Medical Examiners as showing no evidence suggestive of active pulmonary tuberculosis. Reports of such examination shall be retained in the files of the home or institution and made available on request of any authorized representative of the Multnomah County Department of Medical Services, Division of Public Health.

(b) All persons admitted to any nursing home or home for the aged shall have an examination to exclude communicable tuberculosis. Such examination shall have been performed within three (3) months immediately prior to admission and shall include either a satisfactory negative reaction to an intradermal tuberculin test containing at least 0.0001 mgm (Intermediate Test Strength) of purified protein derivative or 0.05 mgm of old tuberculin, or a technically satisfactory chest X-ray film interpreted by a physician licensed by the State Board of Medical Examiners as showing no evidence of active pulmonary tuberculosis. Any person admitted on an emergency basis on whom the above examination has not been completed must have such examination completed within thirty (30) days, and such person who reacts to tuberculin may have sputum specimens (three (3) consecutive twenty-four (24) hour specimens are recommended) submitted to the Multnomah County Department of Medical Services, Division of Public Health Laboratory, for examination for tubercule bacilli in lieu of a chest X-ray.

(c) Any person residing in a nursing home or home for the aged who has a productive cough is to have a specimen (three (3) consecutive twenty-four (24) hour specimens are recommended) submitted to the Multnomah County Department of Medical Services, Division of Public Health Laboratory, for examination for tubercule bacilli unless he currently exhibits a negative reaction to intradermal tuberculin test containing at least 0.0001 mgm P.P.D. or 0.05 mgm O.T., or a negative chest X-ray.

(d) Chest X-ray or sputum examination will be repeated annually for all asymptomatic persons having a positive tuberculin test.

(e) Persons having a negative tuberculin reaction shall have this test or a chest X-ray repeated annually.

(f) Records of these examinations shall be kept as part of the person's permanent record, and be made available on request of any authorized representative of the Multnomah County Department of Medical Services, Division of Public Health.

SECTION 22. ADMINISTRATION AND ENFORCEMENT.

Subject to the supervision of the Board of County Commissioners, the Director, Department of Medical Services, shall be responsible for the administration and enforcement of this ordinance. In order to carry out such duties, he shall have authority to promulgate such rules and orders as may be required, to administer oaths, audit records, certify to all official acts, subpoena and require attendance of witnesses at department meetings or other hearings to determine compliance with this ordinance; he may require the production of relevant documents at such hearings, swear witnesses, and take testimony of witnesses in person or by deposition and do and perform all other acts and things necessary or incident to carrying out his duties set forth in this section.

SECTION 23. VIOLATIONS.

Any person who shall commit any offense against or violation of Section 3, 8 or 12 of this ordinance shall be punished by a fine in an amount to be fixed by the cognizant court, not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year or both.

SECTION 24. SEPARABILITY.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a 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 of this ordinance.

SECTION 25. NONAPPLICABILITY TO INCORPORATED HOME RULE CITIES OR TOWNS.

This ordinance shall not be applicable to those areas within the limits of any incorporated city or town in Multnomah County which has adopted a Home Rule Charter, unless such charter shall specifically provide that this ordinance shall be effective therein.

SECTION 26. EFFECTIVE DATE.

This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect upon its passage.

DATE OF PASSAGE: March 5, 1977 .

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By James H. Hagan
Chairman

APPROVED AS TO FORM:

DESMOND D. CONNALL
District Attorney for
Multnomah County, Oregon

By Howard Bergman
Howard Bergman
Deputy District Attorney