

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 428

An Ordinance amending the Zoning Code by deleting building story limitations in each of the Zoning Districts.

SECTION 1. FINDINGS

- A. The Multnomah County Zoning Ordinance has historically contained references to both building height and building story limitations in each of its residential, commercial and industrial districts.
- B. The definitions for building story and building height in the Zoning Code were originally congruent with those same definitions in the Uniform Building Code. However, the Uniform Building Code definitions have been revised several times so that they are no longer comparable to those of the Zoning Code.
- C. Construction has occurred within the constraints of the building story and building height limitations in Multnomah County for nearly twenty-five years. Throughout that time there have been limited requests for building height variances, but there has never been a request for a building story variance.
- D. Recent constraints on the building industry, accompanied by concerns about energy efficiency, have led to proposals for structures which attempt to minimize construction and subsequent heating costs by increasing the number of building stories. Several of those proposals do not exceed the applicable building height limitation, but do exceed the allowable number of building stories in the Zoning Code.
- E. It is found that it is the building envelope that impacts the area in which a structure is built, not the number of stories within that envelope. It is currently possible to build a one-story residence that is thirty-five feet in height, but it is not possible to build a three-story residence of equal height.
- F. The Uniform Building Code places a limitation on the number of allowable building stories based on occupancy type and construction materials. It is appropriate that the Zoning Code regulates the visual impact of a structure based on compatibility with the surrounding area, and that the Uniform Building Code controls the interior configuration of that building envelope based on fire, life and safety considerations.
- G. Removal of the building story limitation will comply with LCDC Statewide Planning Goals and Guidelines No. 10 (Housing) and No. 13 (Energy Conservation) by allowing design flexibility within a fixed building height limitation.

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SECTION 2. AMENDMENT

A. MCC 11.15.2016(C); .2058(C); .2096(G); .2138(C); .2178(C); .2218(C); .2258(C); .2286(E); .2412(C); .2392(C); .2512(F); .2532(F); .2552(F); .2572(F); .2592(F); .2616(H); .2634(H); .2752(J); .2772(K); .2834(E); .2844(E); .2854(E); .2864(E); .2874(E); .2884(E); .2916(D) and .2894(E) are amended by deleting reference to building height limitation of 2-1/2 stories.

B. MCC 11.15.2884(E) is amended to read:

Maximum height of any structure shall be [2-1/2 stories or] 35 feet[, whichever is less]. Maximum height of any structure in a dwelling group permitted under MCC .2882(C) shall be [one story] 25 feet, unless the Planning Director shall determine that a greater height is in harmony with the neighborhood.

C. MCC 11.15. 2916(D) and .2894(E) are amended to read:

Maximum height of any structure shall be [2-1/2 stories or] 35 feet[, whichever is less]. All structures exceeding 35 feet[, or 2-1/2 stories,] may be permitted if in harmony with the neighborhood after a public hearing before the [Hearings Officer] approval authority.

D. MCC 11.15.2592(F)(3), .2616(H)(4) and .2634(H)(4) are amended to read:

The maximum height for a single-family, duplex, or multiplex dwelling on a flag lot or a lot having sole access from an accessway, private drive or easement shall be [1-1/2 stories or] 25 feet, [whichever is less,] except that the maximum height may be [2-1/2 stories or] 35 feet[, whichever is less,] provided:

- (a) The proposed dwelling otherwise complies with the applicable dimensional requirements,
- (b) A residential structure on any abutting lot either is located 50 feet or more from the nearest point of the subject dwelling, or exceeds [1-1/2 stories or] 25 feet in height, and
- (c) Windows 15 feet or more above grade shall not face dwelling unit windows or patios on any abutting lot unless the proposal includes a commitment to plant trees capable of mitigating direct views without loss of useful solar access to any dwelling unit, or that such trees exist and will be preserved.

E. MCC 11.15.2792(E) is amended to read:

The minimum lot size for a garden apartment of [2-1/2 stories] 35 feet or less in height shall be 2,400 square feet for each dwelling unit.

F. MCC 11.15.2792(F) is amended to read:

The minimum lot size for a garden apartment of [three or 3-1/2 stories] 45 feet or less in height shall be 2,100 feet for each dwelling unit.

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G. MCC 11.15.2792(J) is amended to read:

For any permitted or approved use except a garden apartment [of three or 3-1/2 stories] over 35 feet in height:

| | Minimum Yard Dimensions in Feet | | | | Maximum Structure Height |
|--------------|---------------------------------|------|-------------|------|--------------------------|
| | Front | Side | Street Side | Rear | |
| Interior Lot | 20 | 5 | N/A | 15 | 35 feet |
| Corner Lot | 20 | 5 | 10 | 15 | 35 feet |

(1) In the event a front yard less than the minimum has been legally established on one or both of the adjacent lots, the minimum front yard for a single family detached or two-unit dwelling on an interior lot may be reduced to the average of the established or required adjoining front yards.

(2) The rear yard of a corner lot may be reduced to five feet, provided that the front yard is not less than 20 feet, the street side yard is not less than 10 feet, and the interior side yard is not less than 15 feet.

H. MCC 11.15.2792(K) is amended to read:

For a garden apartment [of three or 3-1/2 stories] over 35 feet in height:

| | Minimum Yard Dimensions in Feet | | | | Maximum Structure Height |
|--------------|---------------------------------|------|-------------|------|--------------------------|
| | Front | Side | Street Side | Rear | |
| Interior Lot | 20 | 7 | N/A | 15 | 45 feet |
| Corner Lot | 20 | 7 | 10 | 15 | 45 feet |

(1) A garden apartment shall not exceed [2-1/2 stories or] 35 feet in height, if located within 50 feet of a residential district other than HR-2 or HR-1.

I. MCC 11.15.2812(E) is amended to read:

The minimum lot size for a garden apartment of [2-1/2 stories] 35 feet or less in height shall be 2,400 square feet for each dwelling unit.

J. MCC 11.15.2812(F) is amended to read:

The minimum lot size for a garden apartment [of three or 3-1/2 stories] over 35 feet in height shall be 1,800 square feet for each dwelling unit.

K. MCC 11.15.2812(G) is amended to read:

The minimum lot size for an apartment structure [of four or more stories] over 45 feet in height shall be 1,000 square feet for each dwelling unit.

- (1) The minimum lot size for an apartment structure may be 750 square feet for each dwelling unit when approved under the provisions of MCC .2814.

L. MCC 11.15.2812(K) is amended to read:

For any permitted or approved use except a garden apartment [of three or 3-1/2 stories] over 35 feet in height and an apartment structure [of four or more stories] over 45 feet in height:

| | Minimum Yard Dimensions in Feet | | | | Maximum Structure Height |
|--------------|---------------------------------|------|-------------|------|-----------------------------|
| | Front | Side | Street Side | Rear | |
| Interior Lot | 20 | 5 | N/A | 15 | 35 feet |
| Corner Lot | 20 | 5 | 10 | 15 | 35 feet |

- (1) In the event a front yard less than the minimum has been legally established on one or both of the adjacent lots, the minimum front yard for a single family detached or two-unit dwelling on an interior lot may be reduced to the average of the established or required adjoining front yards.
- (2) The rear yard of a corner lot may be reduced to five feet, provided that the front yard is not less than 20 feet, the street side yard is not less than 10 feet, and the interior side yard is not less than 15 feet.

M. MCC 11.15.2812(L) is amended to read:

For a garden apartment [of three or 3-1/2 stories] over 35 feet in height:

| | Minimum Yard Dimensions in Feet | | | | Maximum Structure Height |
|--------------|---------------------------------|------|-------------|------|-----------------------------|
| | Front | Side | Street Side | Rear | |
| Interior Lot | 20 | 7 | N/A | 15 | 45 feet |
| Corner Lot | 20 | 7 | 10 | 15 | 45 feet |

- (1) A garden apartment shall not exceed [2-1/2 stories or] 35 feet in height, if located within 50 feet of a residential district other than HR-2 or HR-1.

N. MCC 11.15.2812(M) is amended to read:

For an apartment structure [of four or more stories] over 45 feet in height:

- (1) The minimum front yard shall be 20 feet;
- (2) The minimum interior side yard shall be one foot for each three feet of building height;

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- (3) The minimum street side yard and rear yard shall be 15 feet; and
 - (4) Maximum structure height shall be determined as an element of the Design Review Plan under Section MCC .7805 through .7865.

O. MCC 11.15.2948(J) is amended to read:

Maximum structure height shall be [three stories or] 45 feet, [whichever is less,] except that:

- (a) Structures within 50 feet of a district having a height limit less than [three stories] 45 feet shall be [2-1/2 stories or] 35 feet [, whichever is less]; and
- (b) The Planning Director may authorize a height of up to 76 feet [or six stories, whichever is less,] provided:
 - (1) The proposal otherwise complies with MCC .4018;
 - (2) Subpart (1) of this subsection does not apply; and
 - (3) The structure is set back from any residential district lot line by a distance equal to the height of the structure.

P. MCC 11.15.4114(G) and .4162(D) are amended to read:

Maximum structure height shall be 35 feet.

Q. MCC 11.15.4214(D), .4264(D) and .4314(D) are amended to read:

Maximum structure height shall be 45 feet.

R. MCC 11.15.4654(C) is amended to read:

Maximum height of any structure shall be 35 feet.

S. MCC 11.15.4704(B) and .4754(B) are amended to read:

Maximum height of any structure shall be 45 feet.

T. MCC 11.15.5135(B) and .5235(B) are amended to read:

Maximum height of any structure shall be 50 feet.

U. MCC 11.15.5335(B) is amended to read:

Maximum height of any structure shall be 60 feet.

V. MCC 11.15.5430(C) is amended to read:

The maximum height of any structure shall be [2-1/2 stories or] 35 feet[, whichever is less,] unless the [Hearings Officer] approval authority

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determines at a public hearing that a greater height is in keeping with the general character of this district and the surrounding area.

W. MCC 11.15.5480(B) and .5530(B) are amended to read:

The maximum height of any structure shall be [three stories or] 45 feet[, whichever is less,] unless the [Hearings Officer] approval authority determines at a public hearing that a greater height is in keeping with the general character of the neighborhood.

X. MCC 11.15.5580(B) is amended to read:

The maximum height of any structure shall be [four stories or] 60 feet[, whichever is less,] unless the [Hearings Officer] approval authority [holds] determines at a public hearing that a greater height is in keeping with the general character of the neighborhood.

Y. MCC 11.15.7025(2) is amended to read:

Side yards for [one-story] buildings 25 feet or less in height shall be 15 feet; for [two-story] buildings over 25 feet, 20 feet.

SECTION 3.

MCC 11.15.0010 is amended as follows:

A. Delete Basement.

B. Amend Building height. to read: The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade.
2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in Item 1 above is more than 10 feet above the lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building, or as amended by the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations.

C. Amend Grade (adjacent ground elevation). to read: The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building, or as

amended by the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations.

D. Amend Story. to read: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story, or as amended by the State of Oregon Structural Speciality Code and Fire and Life Safety Regulations.

E. Delete Story, half.

ADOPTION

This Ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, shall take effect on September 13, 1984, according to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 14th day of August, 1984, being the date of its 2nd reading before the Board of County Commissioners of Multnomah County, Oregon.

(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

By *Annalee Biskar*

Authenticated by the County Executive on the 14th day of August, 1984.

Dennis Buchanan / CO
Dennis Buchanan, County Executive

APPROVED AS TO FORM;

JOHN B. LEAHY
County Counsel for
Multnomah County, Oregon

By *Peter Kastberg*