

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. 908

An Ordinance amending the Violation and Enforcement regulations contained in MCC 11.15.9052 which was previously amended on April 23, 1998 by Ordinance 905.

Underlined sections are new replacements; ~~{bracketed}~~ sections are deleted.

Multnomah County ordains as follows:

Section I. Findings.

(A) The current text of 11.15.9052 should be clarified to ensure efficient implementation of its provisions.

(B) The proposed clarifications do not change current zoning code enforcement procedures.

Section II. Amendment of the Violations and Enforcement Ordinance Section MCC 11.15.9052.

MCC 11.15.9052 Violations and Enforcement.

Any use of land in violation of any provision of MCC 11.15, MCC 11.45, MCC 9.10 and MCC 9.40 or the terms and conditions of any ~~[development]~~ permit issued under those code provisions by a person shall be ~~[punishable]~~ subject to penalties as provided by MCC 11.15.9053 ~~[-9052(D)(E) & (F)]~~.

A. Definitions.

1. "County Ordinance" means all ordinances duly enacted by Multnomah County, including but not limited to zoning, planning, and building ordinances, as specified above.

- 1 2. “Notice of Violation”: A written notice [mailed] given to [operator or property
2 ~~owner]~~ a person or persons whose action, conduct or omission constitutes
3 ~~[when] a [Code Enforcement Planner identifies]~~ violation[s] of any provision of the
4 Multnomah County Code or the terms and conditions of a development permit. A
5 stop work order constitutes a Notice of Violation, notwithstanding any subsequent
6 notice or letter given to a person or persons. A Notice of Violation does not
7 constitute a “land use decision” under ORS Ch. 197.
- 8 3. “Violator” means any person who has admitted violation of a County Ordinance
9 or a person who has been found to have violated a County Ordinance.
- 10 4. “Person” includes:
- 11 ~~[b)]~~ (a) The owner, title holder, contract seller, ~~[or]~~ contract buyer,
12 possessor or user of the land upon which the violation is occurring; ~~is~~
13 ~~equally responsible for the violation of County Ordinance, as is the~~
14 ~~possessor of the land, user of the land,]~~ or, the person ~~[who is]~~ taking the
15 action, or responsible for the conduct or omission which constitutes a
16 violation of any County Ordinance[-]; and
- 17 ~~[a)]~~ (b) The United States or agencies thereof, any state, public or private
18 corporation, local governmental unit, public agency, individual,
19 partnership, association, firm, trust, estate or any other legal entity,
20 contractor, subcontractor or combination thereof. For the purposes of this
21 ordinance, “person” also includes those residing in or conducting
22 business or activities in the unincorporated areas of Multnomah County. ~~;~~
23 ~~and]~~

1 5. "Decision of Appeal": The decision of the Planning Director in the appeal of the
2 Notice of Violation. A Decision of Appeal does not constitute a land use decision
3 under ORS Ch. 197.

4 6. "Grace Period": Time allotted to a ~~[property owner]~~ person by the Code
5 Enforcement Planner to correct a ~~[zoning]~~ violation without assessment of
6 additional penalties, ~~[additional code enforcement inspections]~~ or legal action
7 being taken for the cited violation during that assigned time period. A grace
8 period begins from the date the written Notice of Violation is mailed or given ~~[sent~~
9 ~~or posted]~~. Unless otherwise specified by the Code Enforcement Planner, the
10 grace period for a Notice of Violation shall be 30 days and the grace period for a
11 stop work order shall be 15 days. If notice is mailed, the grace period shall be
12 extended by an additional three days. A grace period for a noticed violation does
13 not grant a property owner the right to continue a use for the time period
4 specified or prevent inspection or citation of new or other land use violations.

15 B. Compliance Required.

16 No application for use or development ~~[a land use permit or division]~~ of land shall be
17 approved for a site[-] which is subject to an enforcement action pursuant to the provisions of this
18 section. A ~~[land use] permit [or division of land]~~ for the use or development of land may only be
19 issued if it is necessary to correct[s] the land use violation contained in the Notice of Violation.

20 C. Code Enforcement Planner.

21 The Planning Director shall appoint one or more persons to act as the code enforcement
22 planner(s) for purposes of issuing Notices of Violation(s), and for the enforcement of MCC
23 11.15, MCC 11.45, MCC 9.10 and MCC 9.40 or the terms and conditions of any ~~[development]~~
24 permit ~~[by an operator or property owner]~~ issued under those code provisions.

25 D. Enforcement Action.

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- (1) An enforcement action may be initiated by the ~~[Land Use Planning]~~ Code Enforcement Planner(s) ~~[staff]~~ on ~~[its]~~ their own action, when the Division of Transportation and Land Use Planning ~~[Division]~~ receives a complaint, known or anonymous or receives a directive from the Board of County Commissioners. All complaints are ~~[to be kept]~~ confidential, until such time as the violation is closed.
- (2) If the Code Enforcement Planner determines the existence of a violation, the Code Enforcement Planner shall ~~[send a]~~ provide a written Notice of Violation to the ~~[property owner and if known, the operator/tenant]~~ person(s) suspected of committing a violation and the property owner if different. The notice shall:
- (a) ~~[The notice shall a]~~ Outline the nature of the violation(s), including cites to the applicable county code sections, and set forth options to correct the violation(s)~~[-]~~ ;
 - (b) ~~[The notice shall n]~~ Notify the property owner and the operator/tenant that failure to comply with the Ordinance within ~~[thirty days]~~ the grace period ~~[of the date of the Notice of Violation]~~ will result in enforcement under MCC 11.15.9052(D)(3) and that a penalty of up to \$500.00 per day may be assessed per MCC 11.15.9053~~[-]~~ and
 - (c) ~~[A statement shall also n]~~ Notify the property owner and the operator/tenant of the right to appeal the determination of a land use violation and the time limits established by this section.
 - ~~[(d) If notice is mailed, the compliance time shall be extended by an additional three days.]~~
- (3) If the ~~[property owner and operator/tenant]~~ person(s) notified fails to correct the violation within the ~~[time given]~~ grace period, the Code Enforcement Planner may ~~[issue]~~ impose a penalty in accordance with MCC 11.15.9053. ~~[Said]~~ The

penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notification of the property owner and operator/tenant of the issuance of the penalty.

- (4) ~~[The property owner or his representative]~~ A person who receives a notice of violation may file a ~~[n]~~ written appeal of the Notice of Violation with the Land Use Planning section to the Planning Director within the ~~[initial 30-day]~~ grace period as stipulated in the Notice of Violation. The following procedures apply to the appeal to the Planning Director:

(a) The appellant has 45 days from the date of filing the written appeal to provide written documentation to the ~~[Code Enforcement Planner]~~ Planning Director in support of the appeal; ~~[.]~~

(b) All enforcement actions, except for emergency actions taken under .9052(E), ~~[will]~~ shall be stayed until the Planning Director ~~[reviews the written testimony and determines by a preponderance of the evidence that a violation has occurred.]~~ decides the appeal. In the event that the Planning Director finds in the favor of the appellant, the Notice of Violation will be rescinded.

~~[(a)]~~ (c) Upon filing of an appeal by the property owner, written notice and opportunity to comment on the appeal of the Notice of Violation shall be provided to the complainant, if known, and the surrounding property owners within:

- (1) 100 feet of the subject property when inside the Urban Growth Boundary; or

1 (2) 250 feet of the subject property where the subject property is
2 outside the Urban Growth Boundary and not within a farm or
3 forest resource zone; or

4 (3) 500 feet of the subject property where the subject property is
5 within a farm or forest resource zone.

6 ~~[(b)]~~ (d) The Planning Director ~~[may]~~ shall consider any other written
7 testimony submitted in support of and in opposition to the Notice of
8 Violation;

9 (e) The Planning Director shall review all the written evidence and determine
10 by a preponderance of the evidence whether a violation has occurred;

11 ~~[(e)]~~ (f) After review of the written testimony, the Planning director shall
12 serve the ~~[property owner]~~ appellant and anyone who submitted evidence
13 with a Decision of Appeal; [and]

14 ~~[(d)]~~ (g) If the Notice of Violation is upheld, penalties as provided in .9053
15 shall be assessed by the Planning Director;

16 ~~[(e)]~~ (h) The Planning Director may delay additional penalties at the time of
17 the Decision of Appeal by specifying an additional grace period to allow
18 the property owner to remove the violation from the property. If an
19 additional grace period is granted, it shall not be less than five days; and

20 ~~[(f)]~~ (i) ~~[Said]~~ The penalty shall be recorded as a lien against real property in the
21 Office of the County Recorder if not paid within sixty days of ~~[notification~~
22 ~~of the property owner and operator/tenant]~~ notifying the property owner
23 and violator of the issuance of the penalty.

1 (5) If the property owner chooses to correct the violation by applying for a [land-use]
2 required permit, penalties shall accrue during the application process time period
3 as provided in MCC .9053.

4 (a) Penalties assessed from the date of [~~formal~~] application, not including any
5 Pre-Initiation Conference, for a [~~land-use~~] required permit to completion
6 of the project, [~~through~~] including final inspection, may be waived by the
7 Planning Director provided the property owner completes the application
8 process within 180 days of filing and complies with [~~the~~] all timelines
9 established as [a] conditions of approval of the project and if no additional
10 violations occur during the completion of the conditions of approval.

11 (b) [~~A~~] [~~the~~] Timelines for compliance with the land use permit shall be included
12 as a condition of approval of the land use permit and, if possible, shall not
13 extend past a single construction season.

4 (E) Emergency Enforcement

15 (1) If the Code Enforcement Planner determines, as a result of a site visit by the
16 Code Enforcement Planner or Code Enforcement Inspector, that the violation is
17 such that irreparable harm will result, will be difficult to correct if allowed to
18 continue, or presents an immediate health and safety danger, the Code
19 Enforcement Planner may, without notice, issue a Stop Work Order which shall
20 also serve as the Notice of Violation.

21 (2) The Stop Work Order shall require the property owner to immediately discontinue
22 the use and shall impose a fine as provided in MCC .9053 pursuant to which the
23 property owner must cease all uses listed in the Stop Work Order. Penalties may
24 be imposed pursuant to MCC .9053 for each 24-hour period in which work
25 continues in violation of the Stop Work Order. [~~Said~~] The penalty shall be

1 recorded as a lien against real property in the Office of the County Recorder if
2 not paid within sixty days of ~~[notification of the property owner and~~
3 ~~operator/tenant]~~ notifying the property owner and violator of the issuance of the
4 penalty.

- 5 (3) The property owner shall ~~[make land use]~~ submit an application or correct the
6 violation within ~~[45 days]~~ the grace period ~~[of the Stop Work Order being issued]~~.
7 If the property owner fails to ~~[make land use]~~ submit an application or correct the
8 violation within the ~~[45-day time]~~ grace period, the Code Enforcement Planner
9 may ~~[issue]~~ impose a penalty in accordance with MCC 11.15.9053. ~~[Said]~~ The
10 penalty shall be recorded as a lien against real property in the Office of the
11 County Recorder if not paid within sixty days of ~~[notification of the property owner~~
12 ~~and operator/tenant]~~ notifying the property owner and violator of the issuance of
13 the penalty.

- 14 (4) If the property owner files an appeal under .9052(D)(4), the property owner shall
15 not resume the ~~[discontinued]~~ use(s) subject to the stop work order until such
16 time as a Decision of Appeal has been issued and the Planning Director removes
17 the Stop Work Order from the property.

- 18 (5) The Planning Director or Code Enforcement Planner may require the placement
19 of erosion and sediment control devices and/or other health and safety
20 corrections to occur at his discretion.

21 (F) Notice of Violation; Occurrence; Other Remedies.

- 22 (1) Except as otherwise specifically provided in this ordinance, a Notice of violation
23 shall be used for violation of MCC 11.15, 11.45, 9.10 and 9.40.
24 (2) Each day (24-hour period) a violation exists shall be a separate citable offense.
25

1 (3) The remedies and procedures provided in this ordinance shall be in addition to
2 any other remedy or procedure provided by any applicable law. ~~[(a)]~~ In
3 addition to any other remedy provided by law to the County, the County shall be
4 entitled to its reasonable administrative costs and attorney fees ~~[and costs]~~.

5 (G) Judicial Review.

6 Review of the Decision of Appeal of the Planning Director under this section by any
7 aggrieved party, including the County of Multnomah, shall be by writ of review as provided in
8 ORS 34.010-34.100.

9 (H) Comprehensive Framework Plan and Zoning or Land Division Ordinance Interpretations.

10 If the Notice of Violation involves a Comprehensive Framework Plan, Zoning or Land
11 Division Ordinance interpretation by the Planning Staff, not previously decided by the Planning
12 Commission or the Board of County Commissioners, in order to appeal Planning staff's
13 interpretation, the property owner must include the request for interpretation by the Planning
14 Commission in the appeal of the Notice of Violation. The property owner shall deposit with the
15 Land Use Planning section at the time of appeal, the fee established under MCC 11.15.9010 for
16 a Planning Commission Interpretation. The Planning Director shall initiate an action for an
17 interpretation per MCC 11.15.9045 prior to the Decision of the Appeal. An interpretation by the
18 Planning Commission shall be rendered within 45 days of initial Planning Commission meeting
19 in which the item was presented. The Planning Director shall utilize the Planning Commission's
20 Interpretation in making the determination of the Decision of Appeal.

1 (I) Reporting to the Planning Commission.

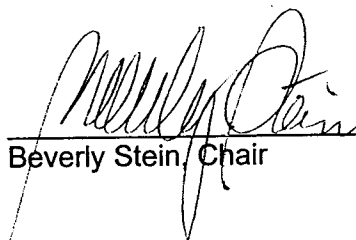
2 The Land Use Planning section shall report to the Planning Commission on code
3 enforcement activities every six months.

4 ADOPTED this 18th day of June, 1998, being the date of its second
5 reading before the Board of County Commissioners of Multnomah County.



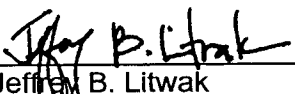
BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

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Beverly Stein, Chair

REVIEWED:

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H:Adv/Ord/146 MCC 11.15 Land Use Violation