

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 944

Amending Multnomah County Code 11.05 Land Use General Provisions, 11.15 Zoning, 11.45 Land Division, and Chapter 29 Building Regulations to Establish Fees and Charges by Resolution.

(Stricken language is deleted; double-underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. The flat fee method of recovering costs for land use permitting is consistent with adjacent jurisdictions.
- b. The flat fee schedule is a predictable cost for applicants.
- c. The recommendation of the February, 1999 report by the Permits Process Improvement Team that the Land Use Planning Division convert from a deposit fee system to a traditional flat fee schedule for all land development actions should be implemented to improve customer satisfaction with the planning process.
- d. It is appropriate to establish fees by resolution of the Board.

The Multnomah County Board of Commissioners Ordains as follows:

Section 1. MCC § 11.05.160 is amended as follows:

11.05.160. Staff reports required.

- (A) The commission shall hear no proposed plan revision unless a staff report is completed and available at the office of the director of planning and development at least five calendar days prior to the date fixed for hearing. A copy of the report shall be mailed to the person initiating the revision and to the commission. In addition, a copy shall be furnished to any other person who requests the same upon payment of the appropriate fee ~~provided under subsection (C) of MCC 11.05.410~~. The staff report may be supplemented only at the hearing.

Section 2. MCC § 11.05.330 is amended as follows:

11.05.330. Notice of review; cost of transcript.

- (A) A notice of review shall contain:
 - (1) An identification of the recommendation sought to be reviewed, including the date of the recommendation;
 - (2) A statement of the interest of the person filing the notice of the review; and
 - (3) The specific grounds relied upon for review.
- (B) If review by additional testimony and other evidence or de novo review is requested, a statement relating the request to the factors listed in subsections (F) and (G) of MCC 11.05.350, as appropriate, shall be included in the notice of review.
- (C) A notice of review shall be accompanied by the required fee ~~under subsection (B) of MCC 11.05.410.~~
- (D) Upon receipt of a notice of review, the director of planning and development shall inform the person filing the notice of the estimated cost of a transcript of the commission hearing, which cost shall be paid by the person within ten days of the estimate.
- (E) Within ten days after notice from the director of planning and development of completion of a transcript, the party seeking review shall transmit the balance due, if any, of the actual cost of preparing the transcript.
- (F) If a party has been overcharged for a transcript under subsection (D) of this section, the over charged amount shall be refunded promptly by the director of planning and development.
- (G) Failure to pay the costs under subsections (D) and (E) of this section shall be a jurisdictional defect and shall preclude review by the board.
- (H) Notice of review shall be a condition precedent to judicial review of final orders.

Section 3. MCC § 11.05.410 is amended as follows:

11.05.410. Fees.

Fees are imposed under this Chapter for the items listed below. The amount of the fees will be set by Board resolution.

(A) Plan Revisions. ~~The following f~~E~~ees shall will~~ be paid by the applicant at the time of filing under subsection (B) of MCC 11.05.140 for:

- (1) Legislative plan revisions: ~~\$2,010.00~~
- (2) Legislative zoning map amendment: ~~\$2,010.00~~
- (3) Quasi-judicial plan revision: ~~\$2,010.00~~
- (4) Quasi-judicial plan revision in conjunction with other action as defined under MCC 11.15.8205: ~~\$1,060.00~~

(a) The fee for an action, as defined under MCC 11.15.8205, shall be as required under MCC ~~15.9005 to 11.15.9040.~~

(b) The fee for a subdivision application shall be as required under MCC ~~11.45.810.~~

(B) (B) Miscellaneous Charges.

(1) Notice of Review. A fee of ~~\$530.00 shall will~~ be charged for the filing of a Notice of Review unless the action is in conjunction with another action under MCC 11.15.8205 in which case the fee ~~shall will~~ be ~~that as~~ set out in MCC 11.15.9020(B). The person filing the notice ~~shall will~~ pay for the cost of a transcript of the commission hearing under subsections (D) and (E) of MCC 11.05.330 ~~at a rate of \$3.70 per minute of hearing time.~~

(~~2G~~) A fee of ~~\$0.30 per page shall be charged for s~~Staff ~~r~~Reports.

Section 4. MCC § 11.15.6888 is amended as follows:

11.15.6888 Application Contents

An application for a solar access permit shall contain the following information:

- (A) A legal description of the applicant's lot and a legal description, owners' names, and owners' addresses for lots all or a portion of which are within 150 feet of the applicant's lot and 54 degrees east and west of true south measured from the east and west corners of the applicant's south lot line. The records of the County Tax Assessor shall be used to determine who owns property for purposes of an application. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may be affected.
- (B) A scaled plan of the applicant's property showing:
 - (1) Vegetation in the ground as of the date of the application if, when mature, that vegetation could shade the solar feature.
 - (2) The approximate height above grade of the solar feature, its location, and its orientation relative to true south.
- (C) A scaled plan of the properties on the list required in Subsection (A) above showing:
 - (1) Their approximate dimensions; and
 - (2) The approximate location of all existing vegetation on each property that could shade the solar feature(s) on the applicant's property.
- (D) For each affected lot, the requested solar access height limit. The solar access height limit is a series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit (see *Figure 11*). The contour lines begin at the bottom edge of a solar feature for which a permit is requested and rise in five foot increments at an angle to the south not less than 21.3 degrees from the horizon and extend not more than 54 degrees east and west of true south. Notwithstanding the preceding, the solar access height limit at the northern lot line of any lot burdened by a solar access permit shall allow non-exempt vegetation on that lot whose height causes not more shade on the benefited property than could be caused by a structure that complies with the Solar Balance Point Provisions for existing lots.

- (E) The appropriate fee. A fee as required by 11.15.9015.
- (F) If available, a statement signed by the owner(s) of some or all of the property(ies) to which the permit will apply if granted verifying that the vegetation shown on the plan submitted pursuant to Section .6888(C) above accurately represents vegetation in the ground on the date of the application. The county shall provide a form for that purpose. The signed statements provided for herein are permitted but not required for a complete application.

Section 5. MCC § 11.15.6890 is amended as follows:

11.15.6890 Application Review Process

- (A) Unless waived by the Planning Director, prior to filing an application for a solar access permit, an applicant or applicant's representative ~~shall~~ will pay the required fee ~~required in Section 11.15.9015~~ and meet with the Planning Director or his/her designate to discuss the proposal and the requirements for an application. If a meeting is held, the Planning Director shall convey a written summary of the meeting to the applicant by mail within 7 calendar days of the meeting.

Section 6. MCC § 11.15.7010 is amended as follows:

11.15.7010 General Provisions

- (A) Application for approval of a Community Service use shall be made in the manner provided in MCC .8205 through .8280.
- (B) Except as provided in MCC .7022(F) and (G), the Approval Authority shall hold a public hearing on each application for a Community Service Use, modification thereof, or time extension.
- (C) The approval of a Community Service Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:
 - (1) The project is completed as approved, or
 - (2) The Approval Authority establishes an expiration date in excess of the two year period, or

- (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
 - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
 - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
 - (i) Final Design Review approval has been granted under MCC .7845 on the total project; and
 - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined in accordance with the Uniform Building Code, or as otherwise determined by the Planning Director by MCC .9025(A) or .9027(A).
 - (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.
 - (d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.
- (D) A Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.
- (E) In granting approval of a Community Service Use, the approval authority may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval.
- (F) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC .7805 through .7865.

- (G) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

Section 7. MCC § 11.15.7060 is amended as follows:

11.15.7060 Application Requirements

- (A) An application for a Community Service Use permit under these provisions shall be filed on forms made available for that purpose. Information, maps, and reports submitted shall be deemed by the Planning Director to be necessary to determine compliance with the criteria.
- ~~(B) The base fee shall be \$2,000 payable at the time of application. An additional fee of not more than \$20,000 may be charged to cover the cost of any technical review and analysis required to evaluate the application, as determined by the Planning Director. Additionally, the Board of County Commissioners may, by order, provide that the fee for technical review and analysis be increased to a total of \$30,000 if the Board determines that such an increase is justified by the complexity of issues raised on a particular application. If charged, the additional fee shall be used to hire technical consultants to supplement the staff. This subsection's fees supersedes any conflicting fee required in MCC 11.15.9010.~~
- (C) The applicant shall determine that the proposed landfill is the most appropriate method of disposing of solid waste.

Section 8. MCC § 11.15.7830 is amended as follows:

11.15.7830 Design Review Plan Contents and Procedure

- (A) Any preliminary or final design review plan shall be filed on forms provided by the Planning Director and shall be accompanied by such drawings, sketches and descriptions as are necessary to describe the proposed development. A plan shall not be deemed complete unless all information requested is provided.
- (B) Prior to filing a design review plan, the applicant shall confer with the Planning Director concerning the requisites of formal application.
- (C) Following the pre-application meeting, the applicant shall file with the Planning Director a preliminary design review plan, which shall contain the items listed in subsection (D) through (G) below:

(D) Contents:

- (1) Preliminary Site Development Plan;
- (2) Preliminary Site Analysis Diagram;
- (3) Preliminary Architectural Drawings, indicating floor plans and elevations;
- (4) Preliminary Landscape Plan;
- (5) Proposed minor exceptions from yard, parking, and sign requirements;
and
- (6) The Design Review Application Fee, ~~as required under MCC 9025;~~

Section 9. MCC § 11.15.8005 is amended as follows:

11.15.8005 Planning Director

Subject to the direction of the Board, the Planning Director or the Director's delegate shall perform the following duties:

- (A) Schedule and assign proposed actions for hearings and review;
- (B) Conduct all correspondence of the Planning Commission and Hearings Officer;
- (C) Give notices as required by law and by this Chapter;
- (D) Maintain dockets and minutes of all hearings;
- (E) Compile and maintain all necessary records, files and indexes;
- (F) Record all continuances, postponements, dates of giving notices and minutes and summaries of all actions taken by the Planning Commission;
- (G) Record the decision of the Planning Commission and the Hearings Officer on each matter heard and the vote of each member of the Planning Commission, members absent or failing to vote, and the reasons for the decision;
- (H) Provide copies of records to any party requesting the same upon the payment of a fee therefor established by the Director of the Department of Environmental

Services and approved ~~adopted~~ by resolution of the Board of County Commissioners;

Section 10. MCC § 11.15.8230 is amended as follows:

11.15.8230 Hearings

- (A) The Hearings Officer or a quorum of at least three members of the Planning Commission, as is appropriate, shall conduct a hearing on the application within 90 days of the initiation thereof, under MCC .8210(B), unless such time is extended with the written consent of the one initiating the action.
- (B) Three members of the Planning Commission shall constitute a quorum in acting on applications under MCC .8115(B).
- (C) No action shall be heard unless a Staff Report is completed and available at the office of the Planning Director at least seven days prior to the date fixed for hearing. A copy of the Report shall be mailed, upon completion, to the one initiating the action and to the Planning Commission or Hearings Officer, as appropriate. In addition, a copy shall be furnished to other persons who request the same upon payment of the appropriate ~~fee provided for under MCC .9020~~. The Staff Report may be supplemented only at the hearing.

Section 11. MCC § 11.15.8290 is amended as follows:

11.15.8290 Appeal of Administrative Decision by the Planning Director

- (A) A decision by the Planning Director on an administrative matter made appealable under this Section by ordinance provision, shall be final at the close of business on the tenth calendar day following the filing of the written Decision, Findings and Conclusions with the Director or the Department of Environmental Services, unless prior thereto, the applicant files a Notice of Appeal with the Department, under subsections (B) and (C).
- (B) A Notice of Appeal shall contain:
 - (1) The name, address and telephone number of the person filing the Notice;
 - (2) An identification of the decision sought to be reviewed, including the date such decision was filed with the Director of the Department of Environmental Services; and
 - (3) The specific grounds relied on for reversal or modification of the decision.

- (C) A Notice of Appeal shall be accompanied by the required fee, ~~pursuant to MCC .9020.~~

Section 12. MCC § 11.15.8405 is amended as follows:

11.15.8405 Initiation

- (A) Amendments of the text of this Chapter may be initiated by:

- (1) Order of the Board; or
- (2) Resolution of a majority of the entire Planning Commission; or
- (3) Request of the Planning Director.

- (B) Fees will be imposed under this Chapter in amounts set by Board resolution.

~~The establishment of any fees authorized in MCC .9005 through .9040, and amendments thereof, shall be prescribed by the Board of County Commissioners, acting in accordance with Chapter V of the Charter of Multnomah County and not MCC .8405 through .8420.~~

Section 13. MCC § 11.15.8515 is amended as follows:

11.15.8515 Variance Classification

- (A) A Major Variance is one that is in excess of 25 percent of an applicable dimensional requirement. A Major Variance must be found to comply with MCC .8505(A).

- (1) A Major Variance must be approved by the Hearing Authority at a public hearing except when:
 - (a) All owners of record of property within 100 feet of the subject property grant their consent to the variance according to the procedures of MCC .8515(B)(1) and (2).
 - (b) The Planning Director shall make findings and a tentative decision within ten business days of the application filing. Notice of the findings and decision, and information describing the appeals process shall be mailed by First Class mail to the applicant and to

the record owners of all property within 100 feet of the property under application.

- (c) The tentative decision shall be final at the close of business on the tenth day after notice is mailed, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written notice of appeal. Such notice of appeal and the decision shall be subject to the applicable provisions of MCC .8290 and .8295, except that subsection MCC .8290(C) shall apply only to a notice of appeal filed by the applicant. The persons entitled to notice under subsection (b) of this section shall be given the same notice of appeal hearing as is given the applicant.
- (B) A Minor Variance is one that is within 25 percent of an applicable dimensional requirement. The Planning Director is authorized to grant a Minor Variance in accordance with the following procedures and conditions:
- (1) Application shall be made on forms provided by the Planning Director and shall be accompanied by the written consent of the owner or owners of each lot adjoining and across any street from the subject property;
 - (2) The form to be presented to each owner must include the zoning requirement, the amount of relief requested by the applicant and a declaration by the owner that the granting of the variance shall not harm the value and livability of his property.
 - (3) The filing fee for the variance shall ~~will~~ be as required ~~set~~ by Board resolution ~~of the Board of County Commissioners this Ordinance~~;

Section 14. MCC § 11.15.8505 is amended as follows:

11.15.8505 Variance Approval Criteria

- (A) The Approval Authority may permit and authorize a variance from the requirements of this Chapter only when there are practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met. A Minor Variance shall meet criteria (3) and (4).
- (1) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or district. The circumstance or condition may relate to the size, shape, natural features and topography of the property or the location or size of

physical improvements on the site or the nature of the use compared to surrounding uses.

- (2) The zoning requirement would restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district.
 - (3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.
 - (4) The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use that is not listed in the underlying zone.
- (B) A variance shall be void if the Planning Director finds that no substantial construction or substantial expenditure of funds has occurred on the affected property within two years after the variance is granted. That determination shall be processed as follows:
- (1) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
 - (2) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
 - (a) Final Design Review approval has been granted under MCC .7845 on the total project, if appropriate; and
 - (b) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined in accordance with the Uniform Building Code, or as otherwise determined by the Planning Director. by MCC .9025(A) or .9027(A).

Section 15. MCC § 11.15.9010-11.15.9025 are deleted and §11.15.9005 is amended as follows:

11.15.9005 Fees Payment

Fees are imposed under this chapter for the items listed below. The amount of the fees will be set by Board resolution. All-Application-Deposit fees are payable at the time of application. ~~The difference between the actual costs and the deposit will be paid prior to the issuance of an Land Use permit(s) and/or Land Use decision(s), or will be refunded to the applicant.~~

~~11.15.9010~~ Action Proceedings

(A) Change of zone classification

~~(1) Rural, Urban Future and Urban Low and Medium Density Residential:
\$1,550.00~~

(B) Planned Developments: ~~\$1,865.00~~

(C) Community Service

~~(1) Regional Sanitary Landfill [see MCC .7060(B)]
(2) All Others: \$1,550.00~~

(D) Conditional Use: ~~\$1,550.00~~

(E) Appeal of administrative decision by Planning Director: ~~\$100.00~~
~~(Refundable if appellant prevails at initial or subsequent appeal hearing)~~

(F) Variance: ~~\$510.00~~

(G) Modification of conditions on a prior contested case requiring a rehearing: Full fee for Action

(H) Lots of Exception: ~~\$740.00~~

(I) Other contested cases: ~~\$530.00~~

(J) Zoning code interpretation by the Planning Commission: ~~\$425.00~~

(K) Columbia River Gorge National Scenic Area Site Review: ~~\$1,550.00~~

~~11.15.9015~~ Administrative Actions. The following matters decided by the Planning Director as provided in this subchapter:

- (A) Health hardship permit: ~~\$160.00~~
Health hardship permit renewal: ~~\$80.00~~
- (B) Land Use permit: ~~\$80.00~~
- (C) Non-hearing variance: ~~\$235.00~~
- (D) Use Under Prescribed Conditions: ~~\$235.00~~
- (E) Administrative Exceptions and Lots of Exception: ~~\$110.00~~
- (F) Administrative decision by Planning Director: ~~\$235.00~~
- (G) Willamette River Greenway Permit: ~~\$585.00~~
- (H) Significant Environmental Concern Permit: ~~\$585.00~~
- (I) Administrative modification of conditions established in prior contested cases: ~~\$160.00~~
- (J) Hillside Development Permit: ~~\$425.00~~
- (K) Type B Home Occupation
- ~~(K) Grading and Erosion Control Permit: \$320.00~~
- (L) Columbia River Gorge National Scenic Area Site Review: ~~\$320.00~~
- (M) Temporary Permit: ~~\$160.00~~
- (N) Design Review

~~11.15.9020~~ **Miscellaneous Charges**

- (A) Notice Sign: ~~\$8.00~~
- (B) Notice of Review or Appeal: ~~\$530.00~~
Transcript cost per minute of hearing time: ~~\$3.70~~

(C) Records and reports (per page): ~~\$0.30~~

(D) Pre-Initiation Conference: ~~\$285.00~~

(E) Rescheduled Hearing

(F) Design Review

~~(E) Flood Plain Review (one and two family dwellings): \$25.00~~

~~(F) Flood Plain Review (all other uses): \$55.00~~

11.15.9025 Design Review

~~(A) Project Value~~

~~\$0 — \$49,999: \$160.00~~

~~\$50,000 and greater: \$1,665.00~~

~~Project value shall be determined in accordance with the Uniform Building Code, or as otherwise determined by the Director.~~

~~(B) The fee required for Design Review revisions submitted after a permit is issued shall be the actual costs required to process the application which includes the hourly cost of employee time, overhead, and other related costs.~~

~~(C) For Design Review of on-premise advertising signs:~~

~~Single Sign: \$25.00~~

Section 16. MCC § 11.15.9030 is amended as follows:

11.15.9030 Rescheduling of Hearing

In the case of any hearing required under this Ordinance which must be rescheduled at the request of, or due to the neglect of the applicant, a rescheduling fee of \$200.00 shall will be assessed against the applicant. Said fee may be waived in whole or part by the Director of the Department of Environmental Services if the Director determines that the necessity for the requested rescheduling was unavoidable or that the applicant proceeded with all possible diligence to give adequate advance notice of the request for rescheduling.

Section 17. MCC § 11.15.9040 is amended as follows:

11.15.9040 Application of Fees Schedule

Fees ~~adopted by Board resolution provided in MCC 11.15.9005 to 11.15.9030~~ shall ~~will~~ apply to all actions specified herein, regardless of applicant, unless waived in whole or in part by the Board of County Commissioners ~~or the Planning Commission~~.

Section 18. MCC § 11.15.9052 is amended as follows:

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 Chapter 29~~ or the terms and conditions of any permit issued under those code provisions by a person shall be subject to penalties as provided by MCC 11.15.9053.

(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.
- (2) "Notice of Violation": A written notice given to a person or persons whose action, conduct or omission constitutes a violation of any provision of the Multnomah County Code or the terms and conditions of a development permit. A stop work order constitutes a Notice of Violation, notwithstanding any subsequent notice or letter given to a person or persons. A Notice of Violation does not constitute a "land use decision" under ORS Chapter 197.
- (3) "Violator" means any person who has admitted violation of a County Ordinance or a person who has been found to have violated a County Ordinance.
- (4) "Person" includes:
 - (a) The owner, title holder, contract seller, contract buyer, possessor or user of the land upon which the violation is occurring; or, the person

taking the action, or responsible for the conduct or omission which constitutes a violation of any County Ordinance; and]

- (b) The United States or agencies thereof, any state, public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof. For the purposes of this ordinance, "person" also includes those residing in or conducting business or activities in the unincorporated areas of Multnomah County.
- (5) "Decision of Appeal": The decision of the Planning Director in the appeal of the Notice of Violation. A Decision of Appeal does not constitute a land use decision under ORS Chapter 197.
- (6) "Grace Period": Time allotted to a person by the Code Enforcement Planner to correct a violation without assessment of additional penalties, or legal action being taken for the cited violation during that assigned time period. A Grace Period begins from the date the written Notice of Violation is mailed or given. Unless otherwise specified by the Code Enforcement Planner, the grace period for a Notice of Violation shall be 30 days and the grace period for a stop work order shall be 15 days. If notice is mailed, the grace period shall be extended by an additional three days. A grace period for a noticed violation does not grant a property owner the right to continue a use for the time period specified or prevent inspection or citation of new or other land use violations.

(B) Compliance Required

No application for use or development of land shall be approved for a site that is subject to an enforcement action pursuant to the provisions of this section. A permit for the use or development of land may only be issued if it is necessary to correct the land use violation contained in the Notice of Violation.

(C) Code Enforcement Planner

The Planning Director shall appoint one or more persons to act as the code enforcement planner(s) for purposes of issuing Notices of Violation, and for the enforcement of MCC 11.15, MCC 11.45, MCC 9.10 and MCC 9.40 or the terms and conditions of any permit issued under those code provisions.

(D) Enforcement Action

- (1) An enforcement action may be initiated by the Code Enforcement Planner(s) on their own action, when the Division of Transportation and Land Use Planning receives a complaint, known or anonymous or receives a directive from the Board of County Commissioners. All complaints are 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 provide a written Notice of Violation to the person(s) suspected of committing a violation and the property owner if different. 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) Notify the property owner and the operator/tenant that failure to comply with the Ordinance within the grace period 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) 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.
- (3) If the person(s) notified fails to correct the violation within the grace period, the Code Enforcement Planner may impose a penalty in accordance with MCC 11.15.9053. 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) A person who receives a notice of violation may file a written appeal of the Notice of Violation with the Land Use Planning section to the Planning Director within the grace period as stipulated in the Notice of Violation. The following procedures apply to the appeal of the Planning Director:
 - (a) The appellant has 45 days from the date of filing the written appeal to provide written documentation to the Planning Director in support of the appeal;

- (b) All enforcement actions, except for emergency actions taken under MCC .9052(E), shall be stayed until the Planning Director decides the appeal. In the event that the Planning Director finds in the favor of the appellant, the Notice of Violation will be rescinded.
- (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
 - (2) 250 feet of the subject property where the subject property is outside the Urban Growth Boundary and not within a farm or forest resource zone; or
 - (3) 500 feet of the subject property where the subject property is within a farm or forest resource zone.
- (d) The Planning Director shall consider any other written testimony submitted in support of and in opposition to the Notice of Violation;
- (e) The Planning Director shall review all written evidence and determine by a preponderance of the evidence whether a violation has occurred;
- (f) After review of the written testimony, the Planning Director shall serve the appellant and anyone who submitted evidence with a Decision of Appeal;
- (g) If the Notice of Violation is upheld, penalties as provided in MCC.9053 shall be assessed by the Planning Director;
- (h) The Planning Director may delay additional penalties at the time of the Decision of Appeal by specifying an additional grace period to allow the property owner to remove the violation from the property. If an additional grace period is granted, it shall not be less than five days; and
- (i) 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

notifying of the property owner and violator of the issuance of the penalty.

- (5) If the property owner chooses to correct the violation by applying for a required permit, penalties shall accrue during the application process time period as provided in MCC .9053.
 - (a) Penalties assessed from the date of application, not including any Pre-Initiation Conference, for a required permit to completion of the project, including final inspection, may be waived by the Planning Director provided the property owner completes the application process within 180 days of filing and complies with all timelines established as conditions of approval of the project and if no additional violations occur during the completion of the conditions of approval.
 - (b) Timelines for compliance with the land use permit shall be included as a condition of approval of the land use permit and, if possible, shall not extend past a single construction season.

(E) Emergency Enforcement

- (1) If the Code Enforcement Planner determines, as a result of a site visit by the Code Enforcement Planner or Code Enforcement Inspector, that the violation is such that irreparable harm will result, will be difficult to correct if allowed to continue, or presents an immediate health and safety danger, the Code Enforcement Planner may, without notice, issue a Stop Work Order which shall also serve as the Notice of Violation.
- (2) The Stop Work Order shall require the property owner to immediately discontinue the use and shall impose a fine as provided in MCC .9053 pursuant to which the property owner must cease all uses listed in the Stop Work Order. Penalties may be imposed pursuant to MCC .9053 for each 24-hour period in which work continues in violation of the Stop Work Order. 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 notifying the property owner and violator of the issuance of the penalty.
- (3) The property owner shall submit an application or correct the violation within the grace period. If the property owner fails to submit an application or correct the violation within the grace period, the Code Enforcement Planner may impose a penalty in accordance with MCC 11.15.9053. 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 notifying the property owner and violator of the issuance of the penalty.

- (4) If the property owner files an appeal under MCC .9052(D)(4), the property owner shall not resume the use(s) subject to the stop work order until such time as a Decision of Appeal has been issued and the Stop Work Order is removed from the property by the Planning Director.
- (5) The Planning Director or Code Enforcement Planner may require the placement of erosion and sediment control devices and/or other health and safety corrections to occur at his discretion.

(F) Notice of Violation; Occurrence; Other Remedies

- (1) Except as otherwise specifically provided in this ordinance, a Notice of Violation shall be used for violation of MCC 11.15, 11.45, 9.10 and 9.40.
- (2) Each day (24-hour period) a violation exists shall be a separate citable offense.
- (3) The remedies and procedures provided in this ordinance shall be in addition to any other remedy or procedure provided by any applicable law. In addition to any other remedy provided by law to the County, the County shall be entitled to its reasonable administrative costs and attorney fees.

(G) Judicial Review

Review of the Decision of Appeal of the Planning Director under this section by any aggrieved party, including the County of Multnomah, shall be by writ of review as provided in ORS 34.010 - 34.100 [1998].

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

If the Notice of Violation involves a Comprehensive Framework Plan, Zoning or Land Division Ordinance interpretation by the Planning Staff, not previously decided by the Planning Commission or the Board of County Commissioners, in order to appeal Planning staff's interpretation, the property owner must include the request for interpretation by the Planning Commission in the appeal of the Notice of Violation. The property owner shall deposit with the Land Use Planning section at the time of appeal, the fee established under ~~MCC 11.15.9010~~ for a

Planning Commission Interpretation. The Planning Director shall initiate an action for an interpretation per MCC 11.15.9045 prior to the Decision of the Appeal. An interpretation by the Planning Commission shall be rendered within 45 days of initial Planning Commission meeting in which the item was presented. The Planning Director shall utilize the Planning Commission's Interpretation in making the determination of the Decision of Appeal.

Section 19. MCC § 11.45.295 is amended as follows:

11.45.295 Rescheduled Hearings

In the case of any hearing required under this Chapter which must be rescheduled at the request of or due to the neglect of the applicant, a rescheduling fee in accordance with subsection (K) of MCC 11.45.810 shall will be assessed against the applicant. Said fee may be waived in whole or part by the Planning Director if it is determined that the requested rescheduling was due to unavoidable circumstances or that the applicant proceeded with all possible diligence to give adequate advance notice of the request for rescheduling.

Section 20. MCC § 11.45.810 is amended as follows:

11.45.810 Fees Schedule

Fees are imposed under this Chapter for the items listed below. The amount of the fees will be set by Board resolution and apply to all actions specified in this Chapter regardless of applicant.

- (A) Pre-filing Conference.....\$285.00
- (B) Type 1 Tentative Plan.
 - (1) ~~20 lots or less.....\$1,365.00~~
 - (2) ~~More than 20 lots ... \$1,365.00~~
~~plus \$25.00 for each lot over 20.~~
 - (3) ~~[Deleted 1997, Ord. 889 § III]~~
- (C) Type 2 Tentative Plan.....\$720.00
- (D) Type 3 Tentative Plan.....\$465.00
- (E) Type 4 Tentative Plan.....\$210.00

- (F) Property Line Adjustment..... \$170.00
- (G) Variance.....\$510.00
- (H) Notice Sign\$8.00
- (I) Time Limit Extension\$80.00
- (J) Appeals
 - ~~(1) From administrative decisions.....\$100.00~~
~~(Refundable if appellant prevails at initial or subsequent appeal hearing)~~
 - ~~(2) From decisions of the Hearings Officer or Planning Commission~~
~~.....\$530.00~~
~~.....Plus transcript cost per minute of hearing time \$3.70~~
- (K) Records and Reports, per page\$0.30
- (L) Rescheduled Hearing.....\$210.00
- ~~(M) The fees required under MCC 11.45.810 shall apply to all actions specified in this Chapter regardless of applicant.~~

Section 21. MCC § 11.45.830 is amended as follows:

11.45.830 Initiation of Amendment

- (A) An amendment of this Chapter may be initiated by:
 - (1) Order of the Board;
 - (2) Vote of a majority of the entire Planning Commission; or
 - (3) Request of the Planning Director.
- (B) The provisions of this section or any other provision of this Chapter that relates to procedures for amendment hereof shall not apply to any amendment that relates to fees. ~~The establishment of any such fees, and the amendment thereof, shall be prescribed by the Board of County Commissioners acting in accordance with Chapter V of the Charter.~~

Fees will be imposed under this Chapter in amounts set by resolution of the Board of County Commissioners.

Section 22. MCC Chapter 29 is amended to add a section to the Grading and Erosion Control Code as follows:

§ 29.306 PERMIT FEE

A fee for a grading and erosion control permit is imposed and the amount will be set by Board resolution.

Section 23. MCC Chapter 29 is amended to add a section to the Flood Hazard Regulations as follows:

§ 29.611 REVIEW AND APPROVAL FEE

A fee for a flood plain review is imposed and the amount will be set by Board resolution.

FIRST READING:

____ April 6, 2000 ____

SECOND READING AND ADOPTION:

____ April 13, 2000 ____



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

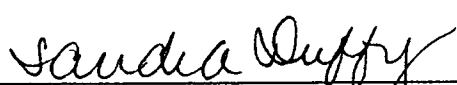


Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Attorney
For Multnomah County, Oregon

By



Sandra N. Duffy, Deputy County Attorney