

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 351

An ordinance amending the Zoning Ordinance regarding the number of Planning Commission members who can act in the place of the Hearings Officer in action proceedings.

SECTION 1. FINDINGS.

A. History of County Land Use Decision-Making.

- (1) Decisions in which the legal rights, duties or privileges of specific parties are rendered by applying discretionary zoning standards in a public hearing to determine the permissible use of specific property are defined as "action proceedings" under MCC 11.15.8205.
- (2) Following the adoption of the Zoning Ordinance in 1953, the Planning Commission assumed responsibility for making the majority of these decisions, subject to appeal to the Board of County Commissioners. The Board of Adjustment made decisions concerning variances and changes in non-conforming uses, subject to the same appeal rights.
- (3) In 1975, the Planning and Zoning Hearings Council was created to render decisions on the majority of those cases previously decided by the Planning Commission. The Planning Commission remained responsible for advising the Board of County Commissioners concerning planning legislation and Comprehensive Plan Map amendments.
- (4) In 1979, the Board of Adjustment and the Hearings Council were eliminated. In their place was established the Hearings Officer. See MCC 11.15.8105-.8130. The Hearings Officer was a paid professional. The Officer approach was adopted in part to reduce scheduling and management problems stemming from coordination of multi-member boards, to increase consistency in land use decision-making, and to improve the quality and legal defensibility of land use decisions.
 - (a) The Hearings Officer is appointed by the Board of County Commissioners and serves at the pleasure of the Board.
 - (b) The Zoning Ordinance provides that a minimum of five members of the Planning Commission may serve in place of the Hearings Officer if the Officer is not appointed or is absent for any reason.
- (5) While the Hearings Officer approach has worked well and the County has been benefited by the conscientious performance of that role by four

Officers since 1979, the Hearings Officer has not been free. The Hearings Officers have been paid \$40 to \$54 per hour for the time they served, at an annual cost of about \$14,000.

B. Reasons for a Change in Land Use Decision-Making Roles.

- (1) Since 1979, the budget for the Division of Planning and Development has been reduced, and staffing levels have suffered accordingly. This trend appears likely to continue for the foreseeable future.
- (2) Executive Order No. 154 directs County administrators to prepare reductions of budgets for each section by four percent in fiscal year 1982-83. To aid in reaching this goal, the Planning Director recommends, and the Planning Commission concurs that the Hearings Officer role should be suspended until fiscal conditions warrant reinstatement of a paid Hearings Officer.

C. An Amended Decision-Making Role for the Planning Commission.

- (1) The Planning Commission is empowered to act in place of the Hearings Officer (see, MCC 11.15.8110(B)).
- (2) Five members of the Commission constitutes a quorum (see, MCC 11.05.080(D)) except when acting on applications for variances, (see, MCC 11.15.8230(B)). When acting on variance applications, three Commission members constitute a quorum. A decision can be made by a majority of a quorum of the Planning Commission concerning all matters brought before them except those concerning a proposed Comprehensive Plan or part thereof or amendment thereto. In the case of a Comprehensive Plan, part or amendment, five members of the Commission must vote for it if it is to be approved (see , MCC 11.05.190(B)).
- (3) Although there are nine Planning Commission members, seldom do all attend a hearing. The average attendance is five commissioners. This reflects the fact that commissioners' time is frequently committed to other obligations. On several occasions, a quorum could not be obtained for regularly scheduled Commission meetings. This causes citizen involvement problems, impedes the efficient processing of development applications, and adds to costs of administration.
- (4) To make it easier to create a quorum for purposes of acting on applications heretofore considered by the Hearings Officer, and thereby to reduce the likelihood of occurrence of the problems described in "(3)" above, a smaller number of Planning Commission members should be required to constitute a quorum for those applications. The size of the quorum for other matters should remain five, since those other matters typically involve more complex matters, having wider geographic impact.

SECTION 2. AMENDMENT.

A. MCC 11.15.8110(B) is amended to read:

"(B) In the event a Hearings Officer is not available to conduct an action proceedings, whether due to non-appointment, conflict of interest, absence, or other reason, the Planning Commission shall assume the powers and duties of the Hearings Officer. For the purposes of this section, three members of the Planning Commission shall constitute a quorum. All decisions shall be made by a majority of those members present and voting."

B. MCC 11.15.8230(A) is amended to read:

"(A) The Hearings Officer or a quorum of at least three members of the Planning Commission, as is appropriate"

C. MCC 11.05.080(D) is amended to read:

"(D) Five members of the Commission shall constitute a quorum for the conduct of business; provided, however, that three members shall constitute a quorum when the Commission acts as Planning and Zoning Hearings Officer, under MCC 11.15.8110 and MCC 11.15.8230.

ADOPTION

This ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, shall take effect on December 30, 1982, according to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 30th day of November, 1982, being the date of its second reading before the Board of County Commissioners of Multnomah County,

(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

By *Carolyn Miller*
Presiding Officer

Authenticated by the County Executive on the 2nd day of December, 1982.

Donald E. Clark
DONALD E. CLARK, County Executive

APPROVED AS TO FORM:

JOHN B. LEAHY
County Counsel for
Multnomah County, Oregon

By *Laurence Kressel*
Laurence Kressel
Deputy County Counsel