

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO 415

An Ordinance amending Multnomah County Code 11.15 by adding Sections .6070 through .6086, Noise Impact, NI; amending Section .0010, Definitions; adding to Section .1005, Classification of Districts; and amending the Zoning Map.

Multnomah County ordains as follows:

SECTION 1. FINDINGS

1. The land surrounding the Portland International Airport are subject to noise impacts from the flight of aircraft to, from and in the vicinity of the airport, which results in a condition warranting concern for the health and welfare of the public.
2. Studies conducted by federal and state agencies (EPA, FAA, DEQ and Oregon Aeronautics Division) establish that exposure to noise levels of 65 Ldn or more may have potential adverse psychological or physiological effects. Such studies were extensive, formed the basis for federal and state agency promulgated standards and can be relied upon by the County. Federal and state agencies recommend the achievement of interior noise levels of 45 dBA in residential units in the vicinity of airports, so as to eliminate risks from noise associated with airport operations. This ordinance is necessary in order to require that new dwelling units be constructed to achieve interior noise levels not in excess of 45 dBA.
3. These health concerns are caused by the annual average level of noise generated by the flight of aircraft and the proximity of residences, work places and other places of human habitation, to the source or sources of that noise.
4. The County can mitigate the impact of noise and foster better airport-community relations by providing a zoning mechanism that puts the owners of new structures on notice about aircraft noise levels, and that requires soundproofing of structures.

5. Comprehensive Framework Plan Policy 13, Air and Water Quality and Noise levels, directs the County to "...discourage noise-sensitive uses", and "...to adopt a noise impact overlay zone for areas within the 65 Ldn noise contour." Because this Plan Policy has been acknowledged by the Land Conservation and Development Commission to be in compliance with State Goals, no Goal findings are necessary.
6. The Port of Portland's 1983 PIA Noise Abatement Plan requests the County to adopt a noise impact overlay zone as one component of the Plan.
7. Achieving an interior noise level of 45 dBA will, in those land areas within the 65 Ldn contour, generally require only compliance with the weatherization requirements of the Uniform Building Code. In areas exposed to greater noise levels, some additional noise attenuation techniques may have to be employed, but the cost of such techniques is not anticipated to be significant relative to the cost of such dwelling unit.
8. In order to provide protection from noise impact, identify specifically the area of impact, and to address Federal and State guidelines for the control of noise-sensitive uses in noise impact areas, it is appropriate and in the public interest, to protect the health, safety and welfare of County citizens, that the following amendments to Chapter 11.15 be enacted.

SECTION 2. AMENDMENT

MCC 11.15 is hereby amended to add:

NOISE IMPACT DISTRICT NI

11.15.6070 Purposes

The purpose of this zoning district is to put the owners of proposed new structures on notice that specific levels of aircraft noise can be expected over their property. It is also designed to reduce noise impact within noise-sensitive structures by the provision of sound insulation. The Noise Impact District establishes and defines the boundary of the district, and is established to promote sound land use planning noise impact areas through the consideration of Federal and State guidelines, Comprehensive Plan policies, and past County actions affecting land use near the airport.

11.15.6072 Area Affected

- (A) MCC .6070 through .6086 shall apply to those lands designated NI on the Multnomah County Zoning Map. The initial boundaries of the NI zoning district shall coincide with the 1983 65 Ldn noise contour as determined by the 1983 PIA Noise Abatement Plan, and as may be updated pursuant to MCC .6086.
- (B) Large scale maps of the NI zoning district boundaries shall be maintained by the County Division of Planning and Development for reference.
- (C) For those lots or parcels partially within the NI zoning district boundary, the exact building site shall be determined using the large scale maps. If the building site is outside the NI zoning district boundary the provisions of this district do not apply.

11.15.6074 Application

The NI district is established in combination with underlying zoning districts, and is applicable as defined in MCC .6072 through .6086.

11.15.6076 Uses

- (A) All uses allowed in the underlying zoning districts are allowed within the NI district, subject to MCC .6076 through .6086.
- (B) Exception: No new residential zoning shall be allowed in excess of that existing as of the date of adoption of this district.
- (C) Exception: Structures used in manufacturing or industrial processing and structures that are incidental (garages, storage buildings, etc.) to the primary use are exempt from the provisions of this district.

11.15.6078 Performance Standard

- (A) On land within the 65 Ldn noise contour: All new or replacement structures, additions (when the addition is a minimum of 10% of the size of the original structure), and reconstructed structures (when the cost of reconstruction exceeds 75% of the value of

the original structure) shall be constructed with sound insulation or other means to achieve a day/night average interior noise level of 45 dBA.

(1) An Oregon registered engineer knowledgeable in acoustical engineering shall certify that the building plans comply with the above (A) performance standard.

(a) The engineer must take into account the construction materials, type of foundation, soil type and other physical factors of the site in his/her evaluation.

(b) The engineer must use the ANSI, ISO, ASTM or another nationally accepted standard for the transmission coefficients of various materials. Assume all openings (doors and windows) are closed for calculation purposes.

(c) Certification may also be accomplished by a study of existing structures located within the same Ldn Noise Contour and vicinity (block, subdivision, park or moorage) to determine the expected noise level of a proposed structure(s).

11.15.6080 Noise Easement Required

As a condition of a building, or land use permit, the applicant shall sign and record a noise easement to the Port of Portland. Such easement shall authorize noise at levels established by the undated Ldn noise contour over the grantors property. Any increase of the Ldn noise level above that stated on the easement will not void nor be protected by such easement.

11.15.6082 Disclosure Statement Required

As a condition of a building or land use permit for land within the 65 Ldn noise contour, the applicant shall sign and record a disclosure statement. Such statement shall provide notice to all prospective purchasers or tenants of the property that the premises may be impacted by noise from the Portland International Airport. A signed and recorded copy of such statement must be presented to the County prior to permit issuance.

11.15.6084 Appeals

Any property owner or owners affected by the 65 Ldn noise contour line may appeal the validity or location of that line as it applies to their property, to the County Building Code Board of Appeals. The burden is on the appellant to prove that the 65 Ldn noise contour is misplaced or invalid as it applies to their property. In meeting this burden, the property owner shall provide a study prepared by a certified acoustical engineer which establishes the estimated Ldn for such property. This study need not be based on long term monitoring of noise levels, and can be based on either existing noise data or brief periods of on-site monitoring or both, so long as the report is prepared in accordance with the standards and normal procedures of the acoustical engineering profession.

11.15.6086 Review and Modification

- (A) The Planning Commission may reconsider the Noise Impact Zoning District should the 65 Ldn noise contour expand beyond its 1983 boundary. It is recognized that minor fluctuations within the 65 Ldn noise contour are projected during the next 20 years.
- (B) Irrespective of Subsection (A), the Planning Commission shall review the NI zoning district every five (5) years. The purpose of the review will be to evaluate, and, if necessary, update the provisions of the district.

SECTION 3. AMENDMENT

MCC 11.15.0010, Definitions, is amended to add the following:

Ldn, Annual Average Day/Night Sound Level. The "Ldn, Day/Night Sound Level", in decibels, is the 24-hour average sound level, from midnight to midnight, obtained after adding ten decibels to sound levels in the night from midnight to 7:00 a.m., and from 10:00 p.m. to midnight (0000 to 0700, and 2200 to 2400 hours), and then averaged day to day over a 12 month period.

Noise Contour. A "Noise Contour" is the graphic depiction of the extent to which an average noise level affects the area surrounding a source of noise.

Noise Contour, 65 Ldn. The most current 65 Ldn Noise Contour, as annually updated by the Port of Portland and approved by FAA.

Noise Impact. "Noise Impact" is the extent to which a level of noise interferes with the full utilization of land. The Oregon Department of Transportation, Aeronautics Division, identifies two (2) levels of noise impact:

- (a) Moderate noise impact occurs in areas subject to noise levels of from Ldn 55 to Ldn 65.
- (b) Substantial noise impact occurs in areas subject to noise levels of from Ldn 65 and upwards.

SECTION 4. AMENDMENT

MCC 11.15.1005, Classification of Districts, is amended to add the following (under subsection (B), Special Districts, between the LF and OP districts):

NI Noise Impact District

SECTION 5. AMENDMENT OF SECTIONAL ZONING MAPS

The following Sectional Zoning Maps, as adopted November 15, 1962, including all subsequent amendments thereto as of the effective date of this Ordinance, are hereby amended by substituting therefore those Sectional Zoning Maps contained in a book marked Exhibit A - "Proposed Zoning Map Amendments for the Noise Impact District", consisting of 63 pages of sectional zoning maps, and on file with the Multnomah County Department of Environmental Services, Division of Planning and Development:

Numbers: 199, 200, 201, 207, 208, 209, 216, 217, 218,
227, 228, 229, 230, 242, 243, 244, 254, 255,
258, 287, 292, 293, 298, 299, 300, 301, 307,
308, 309, 310, 311, 312, 313, 316, 317, 322,
323, 324, 325, 328, 329, 330, 331, 332, 333,
334, 336, 337, 344, 345, 452, 453, 454, 455,
456, 457, 458, 459, 460, 464, 465, 466, 467.

SECTION 6. ADOPTION

This Ordinance being necessary for the health, safety, and general welfare of the people of Multnomah County, shall take effect on the thirtieth (30th) day after its adoption, pursuant to Section 5.50 of the Charter of Multnomah County.

SECTION 7. CODIFICATION

This Ordinance shall be codified in the Multnomah County Code Chapter 11.15 and adopted as part of that Code.

Adopted this 17th day of April, 1984, being the date of its Second Reading before the Board of County Commissioners of Multnomah County.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By Arnold Biskar
Arnold Biskar
Presiding Officer

AUTHENTICATED by the County Executive on the 19th day of April,
19 84

Dennis Buchanan
Dennis Buchanan
County Executive

APPROVED AS TO FORM:

(SEAL)

JOHN B. LEAHY, County Counsel
for Multnomah County, Oregon

By Peter Kastig
Peter Kastig
Assistant County Counsel