

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 717

Ordinance adding new Chapter 8.75 to the Multnomah County Code in order to regulate refuse hauling, dumping and littering.

Multnomah County ordains as follows:

Section I. Provisions.

Multnomah County Code Chapter 8.75 is adopted to read as follows:

8.75.050 Title and Area of Application

This ordinance shall be known as the County Illegal Dumping Ordinance, may be so pleaded and referred to and shall apply to the unincorporated areas of Multnomah County.

8.75.100 Refuse Hauling Regulations

No person, firm or corporation shall transport or carry, or direct another person, firm or corporation to transport or carry, any rubbish, trash, garbage, debris or other refuse, or recyclable material, in or on a motor vehicle or trailer, upon a public road in the County, unless such refuse or recyclable material is either:

- (a) Completely covered on all sides and on the top and bottom thereof and such cover is either a part of or securely

As Amended 4/2/92

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1 fastened to the body of such motor vehicle or trailer; or
2 (b) Contained in the body of the motor vehicle or trailer in
3 such a way as not to cause any part of the hauled refuse or
4 recyclable material to be deposited upon any private or public
5 roadway or driveway in the County.

6
7 8.75.110 Penalty

8 Any person, firm or corporation violating Section 8.75.100
9 shall be subject to a civil fine of not less than \$100 and no more
10 than \$500 for each violation. The County may prosecute any
11 violation of Section 8.75.100 before a Hearings Officer, pursuant
12 to this Chapter.

13
14 8.75.200 Dumping and Littering Prohibited

15 No person, firm or corporation shall throw or place, or direct
16 another person, firm or corporation to throw or place, other than
17 in receptacles provided therefor, upon the private land or waters
18 of another person, firm or corporation without the permission of
19 the owner, or upon public lands or waters, or upon any public
20 place, any rubbish, trash, garbage, debris or other refuse or
21 recyclable material. Nothing in this ordinance shall be construed
22 to limit the effect of the prohibition in MCC 10.10.080, relating
23 to county parks.

24
25 8.75.210 Penalty

26 Any person, firm or corporation violating Section 8.75.200

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1 shall be subject to

2 (a) A civil fine of not less than \$500 and no more than \$999
3 for each violation; and

4 (b) An award of costs to reimburse the County for the actual
5 expenses of clean-up and disposal caused by the violation.

6 The County may prosecute any violation of Section 8.75.200
7 before a Hearings Officer, pursuant to this Chapter, or the County
8 may prosecute a violation as a criminal or civil offense to the
9 extent permitted under state law.

10
11 8.75.300 Reward

12 Any person who provides information leading to the imposition
13 and collection of a fine under Sections 8.75.110 or 8.75.210 shall
14 receive a reward of up to fifty-one percent (51%) of the amount of
15 the fine collected by the County; provided, however, that no County
16 officer, no county employee, and no agent of the County who is
17 charged with the enforcement of this ordinance, shall be eligible
18 for this reward.

19
20 8.75.400 Departmental Enforcement

21 (A) Enforcement of the regulatory enactments and policies set
22 forth in this Chapter shall be the responsibility of the Department
23 of Health.

24 (B) The Department shall:

25 (1) Investigate refuse hauling, dumping and littering
26 violations;

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1 (2) Issue complaints;

2 (3) Reach settlements;

3 (4) Represent the County before the Hearings Officer,
4 except where counsel is necessary; and

5 (5) Collect fines and costs.

6
7 8.75.500 Hearings Officer

8 (A) The office of Chapter 8.75 Hearings Officer is hereby
9 created.

10 (B) The Officer shall be appointed by and serve at the will
11 of the Department. The County may enter into an intergovernmental
12 agreement to share an Officer with other jurisdictions.

13 (C) The Officer shall have jurisdiction over all cases
14 submitted in accordance with the procedures and under the
15 conditions set forth in this Chapter.

16 (D) The Officer may promulgate reasonable rules and
17 regulations, not inconsistent with this Chapter, concerning
18 procedure and the conduct of hearings.

19
20 8.75.510 Complaint

21 (A) A proceeding before the Chapter 8.75 Hearings Officer may
22 be initiated only as specifically authorized in this Chapter.

23 (B) A proceeding shall be initiated only by the Department
24 filing a complaint with the Hearings Officer in substantially the
25 following form:

26 COMPLAINT REGARDING MULTNOMAH COUNTY CODE

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CHAPTER 8.75 VIOLATION

Multnomah County, Petitioner,

v.

Respondent(s)

1. Address of respondent(s).

2. Address or location of the alleged
violation.

3. Nature of violation including Chapter
section violated.

4. Relief sought.

Dated: _____

Signed

Department of
Title

8.75.520 Notice of Hearing

The Hearings Officer shall cause notice of the hearing to be given to the respondent(s) either personally or by certified or registered United States mail. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the complaint shall be attached to the notice.

8.75.530 Answer; Default

(A) A respondent who is sent a complaint and notice of hearing for a Chapter violation shall answer such complaint and

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1 notice of hearing by (1) personally appearing to answer at the
2 time and place specified therein, or (2) mailing or otherwise
3 delivering to the place specified on or before the assigned
4 appearance date, a signed copy of the complaint and notice of
5 hearing, together with a check or money order in the amount of the
6 scheduled fine listed therein. If the violation is denied, a
7 hearing will be held on the date assigned in the notice of
8 hearing.

9 (B) If the respondent alleged to have committed the violation
10 fails to answer the complaint and notice of hearing by the
11 appearance date indicated thereon, which shall be no sooner than
12 seven days from the date of the notice of hearing, or appear at a
13 hearing as provided herein, the Hearings Officer shall accept the
14 department's file as the entire record and shall deliver or mail
15 a final order declaring a default and making the fine and costs
16 identified in the complaint due and payable.

17
18 8.75.540 Hearing

19 (A) Unless precluded by law, informal disposition of any
20 proceeding may be made, with or without a hearing, by stipulation,
21 consent order, agreed settlement, or default.

22 (B) The County shall not be represented before the Hearings
23 Officer by County Counsel or hired counsel except in preparation
24 of the case or as provided below. A respondent charged with a
25 violation may be represented by a retained attorney provided that
26 five working day's written notice of such representation is

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1 received by County Counsel; in such cases the County may have
2 County Counsel or hired counsel represent it. The Hearings
3 Officer may waive this notice requirement in individual cases or
4 reset the hearing for a later date.

5 (C) The County must prove the violation occurred by a
6 preponderance of the admissible evidence.

7 (D) A name of a person, firm or corporation found on rubbish,
8 trash, garbage, debris or other refuse, or recyclable material, in
9 such a way that it denotes ownership of the items, constitutes
10 rebuttable evidence that the person, firm or corporation has
11 violated the refuse hauling, dumping and/or littering regulations.

12 (E) The Hearings Officer shall place on the record a
13 statement of the substance of any written or oral ex parte
14 communications made to the Officer on a fact in issue during the
15 pendency of the proceedings. The Officer shall notify the parties
16 of the communication and of their right to rebut such
17 communications.

18 (F) The Hearings Officer shall have the authority to
19 administer oaths and take testimony of witnesses. Upon the
20 request of the respondent, or upon his or her own motion, the
21 Hearings Officer may issue subpoenas in accordance with the Oregon
22 Rules of Civil Procedure, which shall apply to procedural
23 questions not otherwise addressed by this Chapter.

24 (1) If the respondent desires that witnesses be ordered
25 to appear by subpoena, respondent shall so request in writing at
26 any time before five days prior to the scheduled hearing. A \$15

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1 deposit for each witness shall accompany each request, such
2 deposit to be refunded as appropriate if the witness cost is less
3 than the amount deposited.

4 (2) Subject to the same five-day limitation, the County
5 may also request that certain witnesses be ordered to appear by
6 subpoena.

7 (3) The Hearings Officer may waive the five-day
8 limitation for good cause.

9 (4) Witnesses ordered to appear by subpoena shall be
10 allowed the same fees and mileage as allowed in civil cases.

11 (5) If a fine is declared in the final order, the order
12 shall also provide that the respondent shall also pay any witness
13 fees attributable to the hearing.

14 (G) The respondent shall have the right to cross-examine
15 witnesses who testify and shall have the right to submit evidence
16 on his, her or its own behalf.

17 (H) After due consideration of the evidence and arguments,
18 the Hearings Officer shall determine whether the violation alleged
19 in the complaint has been established.

20 (1) When the determination is that the violation has not
21 been established, an order dismissing the complaint shall be
22 entered.

23 (2) When the determination is that the violation has
24 been established, or if an answer admitting the infraction has
25 been received, an appropriate order shall be entered.

26 (3) The final order issued by the Hearings Officer shall

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1 set forth both findings of fact and conclusions of law and shall
2 contain the amount of the fine and costs imposed and instructions
3 regarding payment.

4 (4) A copy of the order shall be delivered to the
5 parties, or to their attorneys of record, personally or by mail.

6 (I) A tape recording shall be made of the hearing unless
7 waived by both parties. The tape shall be retained for at least
8 90 days following the hearing or final judgment on appeal.

9
10 8.75.550 Review

11 (A) Any motion to reconsider the order of the Hearings
12 Officer must be filed within 10 days of the original order or it
13 may not be heard.

14 (B) Any aggrieved party, including the County, may appeal a
15 final adverse ruling by Writ of Review as provided by ORS 34.010
16 through 34.100.

17
18 8.75.560 Enforcement of Fines and Costs

19 (A) Fines and costs are payable upon receipt of the written
20 settlement or final order declaring the fines and costs. Fines
21 and costs under this Chapter are a debt owing to the County and
22 may be collected in the same manner as any other debt allowed by
23 law.

24 (B) The County may institute appropriate suit or legal
25 action, in law or equity, in any court of competent jurisdiction
26 to enforce the provisions of any written settlement of the

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1 Department or final order of the Hearings Officer, including, but
2 not limited to, its suit or action to obtain judgment for any
3 civil penalty imposed by an order of the Hearings Officer pursuant
4 to Section 8.75.110 and/or Section 8.75.210(a) and/or any
5 assessment for costs imposed pursuant to Section 8.75.210(b).

6 (C) Fines and costs collected pursuant to the provisions of
7 this Chapter shall be credited to the general fund.

8 Section II. Effective Date.

9 This ordinance shall take effect July 1, 1992.

10 Adopted this 9th day of April, 1992, being the date of
11 its Second reading before the Board of County Commissioners of
12 Multnomah County, Oregon.



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14
15
16 By


GLADYS MCCOY, COUNTY CHAIR
MULTNOMAH COUNTY, OREGON

17
18 REVIEWED:


19
20 Laurence Kressel, County Counsel
21 of Multnomah County, Oregon

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