

BEFORE THE BOARD OF COUNTY COMMISSIONERS

MULTNOMAH COUNTY, OREGON

Ordinance No. 104

An ordinance amending Ordinance No. 100 by revising Section 8.00, except for 8.60 through 8.618 which shall be renumbered 12.60 through 12.618 and by revising Section 12.00, to establish a Hearings Council and to prescribe new administrative procedures.

Multnomah County ordains as follows:

Section 1. Policy.

- A. The Board of County Commissioners of Multnomah County, Oregon recognizes that the zoning ordinance is in need of periodic revision and amendment, and in the interest of the public health, safety and general welfare of Multnomah County citizens, the Board does hereby determine the necessity of amending the zoning ordinance as herein-after more particularly described.
- B. The Board further determines and takes public notice that the Planning Commission of Multnomah County, Oregon has initiated and proposed these changes, by resolution dated June` 24, 1975, has held public hearings and has recommended to the Board of County Commissioners the changes be enacted.

Section 2. Amendment to Section 8.00.

Section 8.00 is amended to read, except as provided by Section 3 hereof, as follows:

"8.00 COUNTY HEARINGS COUNCIL

8.10 Establishment: There is hereby established a County Hearings Council which shall act as the hearings board for land use regulations and decisions, as set forth in Section 8.16b, advise the Board, and exercise such powers and duties as are described in this Ordinance.

a. The Director of Planning and Development or his designated representatives shall serve as staff for the Council and shall provide such administrative and technical assistance as may be required.

8.11 Membership: There shall be seven (7) members of the Council consisting of five (5) Councilors appointed by the Board of County Commissioners and two (2) Members of the Planning Commission to be appointed by the Planning Commission Chairman.

a. The Councilors appointed by the Board of County Commissioners shall be residents of various geographic areas of the County, and shall serve without compensation, except for reimbursement for duly authorized expenses.

b. No more than two voting members of the Council shall be engaged principally in the buying, selling or

developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of business, trade or profession.

- c. At the request of the Council Chairman the Planning Commission Chairman may appoint one additional Planning Commission member to serve temporarily on the Council during the excused absence of a Councilor.

8.12 Term of Office:

- a. Terms of office of Councilors appointed by the Board shall be four (4) years or until their respective successors are appointed and qualified. Terms of the initial Councilors shall be staggered for one (1), two (2), three (3) and four (4) years. No Councilor shall serve more than two (2) consecutive terms. Term limits shall not apply to Planning Commission members serving on the Council.
- b. Terms of office of Planning Commission members serving on the Council shall be as designated by the Chairman of the Planning Commission. Appointments shall be staggered, rotated at regular intervals and may include the designation of one or more alternates. The Chairman shall announce the appointment at least thirty (30) days prior to the service by any member

on the Council.

8.13 Vacancies and Removal:

- a. Upon the resignation, permanent disqualification or removal of any Councilor or Member, the Board or the Chairman of the Planning Commission, as the case may be, may appoint a successor to fill the remainder of the term.
- b. After hearing, the Board may remove any Councilor for cause, which may include misconduct or non-performance of duty.
- c. The unexcused absence of any Councilor from three (3) consecutive regular Council meetings shall be deemed a resignation from the Council.

8.14 Officers:

- a. The Board shall appoint one of the Councilors to serve as Chairman during his term of office on the Council.
- b. At or before its first meeting in July of each year, the Council shall elect and install one Councilor to serve as Vice-Chairman and one Councilor to serve as Secretary.
- c. The Secretary shall be responsible for keeping an accurate, permanent and complete record of all proceedings had before the Council.

8.15 Committees:

- a. The Chairman of the Council may appoint not less than three (3) Council members to serve as a Board of

Adjustment, with such powers and duties and for such terms as may be designated by order.

- b. The Chairman of the Council may appoint advisory and other committees as he deems appropriate or as the Council may direct.

8.16 Powers and Duties:

The Council shall:

- a. Exercise the authority of hearings officers as specified by ORS 215.406;
- b. Conduct quasi-judicial hearings as authorized by the zoning, land division, subdivision or other ordinances or regulations of Multnomah County adopted pursuant to ORS 215.010 to 215.233 and 215.402 to 215.422, and pursuant to rules and regulations adopted by the Board, determine if a permit shall be granted or denied, and determine contested cases;
- c. Pursuant to ORS 215.110(2), recommend to the Board ordinances renaming public thoroughfares and the numbering of property;
- d. Grant approval of the creation of a street or road for the purpose of partitioning an area or tract of land pursuant to ORS 92.014;
- e. Hear and act upon appeals from administrative rulings when authorized by ordinance;
- f. Request, when appropriate, advisory opinions from the Planning Commission on the application of the

Comprehensive Plan to any pending application or on other matters within the jurisdiction of the Planning Commission.

- g. Recommend to the Board the institution of injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the existing or proposed unlawful location, construction, maintenance, repair, alteration or use of any building or structure or the existing or proposed unlawful subdivision or other unlawful partitioning or use of any land;
- h. Enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon, as required to perform its functions;
- i. Advise the Planning Commission and the Board concerning any problem comprehended within the powers and duties of the Council;
- j. Consult with each advisory committee established under ORS 215.046(1) in regard to any matter within the powers and duties of the Council; and
- k. Exercise such other powers and perform such other duties as may be given to the Council by this or other ordinance or by the Board.

8.17 Meetings, Notice:

- a. The Council shall hold at least one (1) public meeting each month. Additional meetings and the time and

place of all meetings shall be as determined by the Chairman or request of a majority of the entire Council.

b. Before any meeting of the Council for the conduct of business, notice shall be given in the following manner:

- (1) By posting in a conspicuous place in the Multnomah County Courthouse not less than seven days prior to the meeting,
- (2) By publishing a notice of the date, time and place of the meeting at least once in a newspaper of general circulation in Multnomah County not less than seven days before the meeting; provided, however, that publication of the notice of a meeting will not be necessary if the meeting is a regularly scheduled meeting held in accordance with the regularly adopted policy of the Council.
- (3) Other such notice and in other such manner as the Board or the Council may direct.

c. The Council shall, jointly with the Planning Commission, hold a public meeting at least once each four months to consider such matters as the Commission and the Council individually may propose.

- (1) Notice of each joint meeting shall be given as required in 8.17 b.

(2) The Chairman of the Planning Commission or the Chairman of the Hearings Council or their designated alternates shall preside at such joint meeting, the chairmanship to alternate from meeting to meeting.

8.18 Rules of Procedure:

- a. The conduct of hearings of the Council shall be according to procedures prescribed by order of the Board. The procedure shall be applicable to all requests for permits and to the determination of contested cases.
- b. Four members of the Council shall constitute a quorum for the conduct of business.
- c. A member of the Council shall not participate in any council proceeding or action in which any of the following has a direct or substantial financial interest:
The member or his spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner in any business in which he is then serving or has served within the previous two years, or any business with which he is negotiating or has an arrangement or understanding concerning prospective partnership or employment or any other basis for disqualification as determined by the Board. Any actual or potential financial or other interest which would lead to bias or partiality shall be disclosed at the meeting of the

Council where the action is being taken.

8.19 Coordination:

- a. The Council shall advise and cooperate with the Planning Commission and with other planning commissions and hearings officers or bodies within the State, and shall upon request, or on its own initiative, furnish advice or reports to any city, county, officer or department on any problem comprehended within its powers and duties.
- b. All County officials, departments and agencies, having information, maps and data deemed by the Council pertinent to its powers and duties shall make such information available for the use of the Council."

Section 3. Amendment.

Subsections 8.60 through and including 8.618 are renumbered to read 12.60 through 12.618.

Section 4. Amendment to Section 12.00.

Section 12.00 is amended to read as follows:

"12.00 GENERAL PROVISIONS

12.10 PLANNING DIRECTOR

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

- a. Schedule and assign cases for hearing and review;
- b. Conduct all correspondence of the Hearings Council, Board of Adjustment, and Planning Commission;

- c. Give notice as required by this Ordinance;
- 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 summary of all actions taken by the Planning Commission, Hearings Council or Board of Adjustment;
- g. Record the decision of each matter heard and the vote of each member of the Planning Commission, Hearings Council or Board of Adjustment, members absent or failing to vote and the reasons for the decision;
- h. Mail copies of written orders to any party requesting the same upon the payment of a reasonable fee therefor;
- i. Reduce orders and decisions of the Planning Commission, Hearings Council or Board of Adjustment to writing and file the same within a reasonable time with the Clerk of the Board.
- j. Perform such other functions as may be assigned by the Board.

12.15 ENFORCEMENT

The Director of Environmental Services and his designated representatives shall enforce the provisions of this Ordinance.

12.20 ADMINISTRATIVE ACTION

12.21 Definition; Application of this Section;

Initiation of Action

12.211 An "administrative action" or "action"

means a proceeding in which the legal rights, duties or privileges of specific parties are determined only after a hearing in which such parties are entitled to appear and be heard, including requests for:

- a. Change of Zone Classifications,
- b. Community Service Uses,
- c. Conditional Uses,
- d. Variances, except as otherwise provided herein,
- e. Temporary Permits, and
- f. Other requests to determine permissible uses of specific property.

12.212 An administrative action, unless otherwise specifically provided by this Ordinance, may only be initiated by order of the Board or a majority of the whole Planning Commission or by the petition of the owner of the property which is the subject of the application.

12.213 Action initiated by a property owner shall be filed with the Planning Director on forms

provided by the Director and shall contain information necessary to describe the requested action.

- a. The Planning Director may require submission of a land survey performed by a professional land surveyor or professional engineer, as part of the application.

12.214 A property owner who initiates action, or his authorized representative, shall confer with the Planning Director in a pre-application conference to discuss the requisites of formal application and the feasibility of approval.

12.22 Notice of Hearings

12.221 Notice of the hearing before the Hearings Council or Board of Adjustment shall contain the following information:

- a. The date, time and place of the hearing;
- b. A legal description of the subject property in a form sufficient to convey title;
- c. The nature of the proposed action;
- d. A statement that all interested parties may appear and be heard;
- e. A statement that the hearing shall be held pursuant to the Rules of Procedure adopted by the Board.

- 12.222 When the proposed action is for a change of zone classification, the Planning Director may include within the notice of hearing a statement that the Hearings Council may consider classifications other than that for which the action is initiated.
- 12.223 Notice shall be mailed at least ten days prior to the hearing to the following persons:
- a. The applicant; and
 - b. All record owners of property within 250 feet of the subject property on matters coming before the Hearings Council and within 100 feet of the subject property for matters coming before the Board of Adjustment.
- 12.224 The records of the Department of Administrative Services shall be used to determine who receives mailed notice and persons whose names and addresses are not on file at the time of the initiation of the proposed action need not be notified of the hearing. 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 entitled to mailed notice.

- 12.225 Notice shall also be posted in three conspicuous places in the vicinity of the subject property at least ten days prior to the date of hearing for actions pertaining to change of zone classification, community service requests and conditional use requests.
- 12.226 The hearing may be continued from time to time as necessary. If the hearing be adjourned to a date certain, no additional notice need be given, unless so ordered by the Hearings Council or Board of Adjustment.
- 12.23 Hearings, Evidence, Burden of Proof, and Orders
Hearings on proposed actions shall be in accordance with the Rules of Procedure adopted by the Board.
- 12.231 A majority of the Hearings Council or Board of Adjustment shall conduct a hearing and take action on the proposal within 60 days of receipt thereof unless such time be extended with the consent of the one initiating the action.
- 12.232 The Hearings Council or Board of Adjustment may approve the proposal as submitted, deny the proposal, or approve the proposal with such modifications or conditions as may be necessary to carry out the Comprehensive Plan

and as provided by Section 12.2313. The Hearings Council and Board of Adjustment shall render a decision upon the close of the hearing or at the time to which the matter is continued. All decisions shall be reduced to writing not later than five business days from the date the decision is announced and shall be filed with the Planning Director.

- a. Alternative districts may be substituted by the Hearings Council for the proposed action if the alternative district is in the same general classification (i.e. Residential, Commercial, Industrial), and the hearing notice included notification of additional consideration as required by Section 12.222.
- b. The burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in an area, the greater is the burden upon the proponent. That burden may be met by the proponent by showing that:
 - (1) The proposal conforms with the Comprehensive Plan and county ordinances; or
 - (2) Where appropriate, there was a

mistake in the comprehensive plan
or there has occurred a change in
the character of the neighborhood,
and

- (3) There is a public need for the
proposal;
- (4) The public need will be best served
by granting the proposal;
- (5) If other areas have been previously
designated for a use or development
submitted in the proposal, then
the necessity for introducing the
proposal into an area not previously
contemplated and why the property
owners there should bear the burden,
if any, of introducing that proposal
into their area.

c. The Hearings Council and Board of
Adjustment shall cause written findings
to be filed with all decisions.

12.233 No action shall be taken unless a staff
report is completed and available at the
office of the Planning Director at least
three days prior to hearing. A copy of such
report shall be mailed, upon completion, to
the one initiating the action, to the

Hearings Council or Board of Adjustment and to such other persons who request the same and who agree to pay a reasonable fee for duplication, mailing and administrative overhead. Such report shall be a public record. The staff report may be supplemented only at the hearing.

- 12.234 If the proposal be denied, either initially and no review taken, or by the Board or by the courts, no new proposal for the same or substantially similar action shall be filed for at least six months from the date of the final action denying the proposal.
- 12.235 Any person wishing to subpoena witnesses to a hearing may do so by application to the Planning Director not less than seven days prior to the hearing by showing that the witness resides in Oregon, is unlikely to appear and that the requested testimony is material and relevant. Such subpoenas shall, to be enforceable, include fees applicable to Oregon Circuit Court cases.
- 12.236 Admission of evidence shall be determined in accordance with Board rules. Evidence received at any hearing shall be of the quality that reasonable persons rely upon

in the conduct of their everyday affairs.

Evidence shall be received and notice may be taken of facts in a manner similar to that provided by ORS 183.450 except as follows:

- a. The rules of evidence as applied in equity cases in the circuit courts of this state shall be followed. The Hearings Council or Board of Adjustment shall provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence but erroneous admission of evidence shall not preclude action on the record unless shown to have substantially prejudiced the rights of a party.
- b. Effect shall be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. When a hearing will be expedited, any part of the evidence may be received in written form.
- c. All evidence shall be offered and made a part of record in the case, and except for matters stipulated to and except as provided in subsection 12.236e no other factual information of evidence

shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

- d. Every party shall have, subject to appropriate rules of procedure, the right of cross-examination of witnesses and to submit rebuttal evidence. Participants permitted to intervene by the Hearings Council or Board of Adjustment shall have such rights as determined by the Hearings Council or Board of Adjustment by rule or otherwise.
- e. Notice of judicially cognizable facts, may be taken as may notice of general, technical or scientific facts within the specialized knowledge of a member or members of the Hearings Council or Board of Adjustment. Parties shall be notified at any time during the proceeding but in any event prior to the final decision of the material so noticed and shall be afforded an opportunity to contest the facts so noticed. The Hearings Council or Board of Adjust-

ment may utilize their experience, technical competence and specialized knowledge in evaluation of the evidence presented to them.

- f. The Hearings Council or Board of Adjustment may be represented at hearings by counsel.

12.237 The Hearings Council or Board of Adjustment shall place each person submitting testimony under oath or affirmation.

12.238 The following persons only are hereby defined as "parties" and shall be entitled either themselves or through counsel to make an appearance of record at a hearing before the Hearings Council or Board of Adjustment and to seek review by the Board and the courts:

- a. Those persons entitled to mailed notice pursuant to Section 12.223;
- b. Those persons who are within reasonably close proximity such as within sight or sound of the subject property; and
- c. Other persons who demonstrate to the Hearings Council or Board of Adjustment that the outcome of the hearing may injure some substantial right of those persons.

d. "Appearance of record" shall mean either:

- (1) Testimony by a party or his counsel at the hearing; or
- (2) A written statement giving the name and address of the person making the appearance, signed by him or by his attorney, and filed with the Planning Director, at or prior to the hearing.

12.239 A verbatim record of the proceeding shall be made which record need not be transcribed except upon review on the record.

12.2310 The Hearings Council or Board of Adjustment may set reasonable time limits for oral presentations, cross-examination and rebuttal. Parties shall submit as much evidence as possible in writing prior to the hearing.

12.2311 All exhibits received shall be marked to provide identification upon review. Such exhibits shall be returned, upon request, when the period for review has expired, but shall otherwise be preserved by the Planning Director.

12.2312 Members of the Hearings Council or Board of Adjustment shall not:

- a. Communicate with any party or his representatives in connection with any application except upon notice and opportunity for all known parties to participate; nor
- b. Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with a particular case unless the parties are afforded an opportunity to contest the material so noticed.

12.2313 The following limitations shall be applicable to conditional approvals:

- a. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time be set forth, within a reasonable time.
- b. Conditions shall be reasonably designed to fulfill public needs emanating from the proposed land use as set forth in the proposal in either or both of the following respects:
 - (1) Protection of the public from the potentially deleterious effects of the proposed use; or
 - (2) Fulfillment of the need for public service demands created by the

proposed use.

- c. Changes or alterations of conditions shall be processed as a new administrative action.
- d. Failure to fulfill any conditions to the grant of a proposal within the time limitations provided may be grounds for initiation of administrative action.
- e. A bond, in a form acceptable to the Planning Director or a cash deposit from the property owner in such an amount as will assure compliance with the conditions imposed pursuant to this Section, may be required.

12.30 APPEALS

12.31 The decision of the Hearings Council or Board of Adjustment shall be final unless a notice of review from an aggrieved party is received by the Planning Director within ten days of his receipt of the written decision unless the Board, on its own motion, orders review.

- a. All written decisions and all notices of review shall be submitted to the Clerk of the Board by the Planning Director not later than three business days after his receipt for filing. The Clerk shall summarize each decision on the agenda

for the next succeeding regular Board meeting permissible by charter. A Board order for review must be made at the meeting for which the appropriate agenda was prepared, unless specifically continued, which continuance shall not be later than the next regular meeting.

- b. The Board, upon receipt of notice of review or upon its own action to grant review, shall, at the appropriate meeting, set the time and place for hearing which shall not be later than 45 days from the date of the Board action.

12.32 Review by the Board shall be in accordance with its adopted Rules of Procedure. The Board may continue its hearing from time to time to gather additional evidence or to consider the proposal fully. Unless otherwise provided by the Board no additional notice need be given of continued hearings if the matter is continued to a time certain.

12.33 Notice of hearing and record of the proceeding shall be the same as required for hearings on proposed actions.

12.34 Notices of review shall contain:

- a. A reference to the proposal sought to be reviewed;
- b. A statement of the interest of the petitioner to determine his party status;

c. The specific grounds relied upon in the petition request for review;

d. The date of the decision of the action.

12.341 The notice shall be accompanied by the required fee plus a deposit to cover the estimated costs of the transcript as specified by the Planning Director, which deposit shall be paid within five days of such estimate. Within ten days of such notice of completion of a required transcript, the party seeking review shall transmit the balance due, if any, of any required transcript fee. Failure to comply with this subsection shall be a jurisdictional defect. Notice of review shall be a condition precedent to judicial review of final orders.

12.35 Unless otherwise provided by the Board under Section 12.36 or 12.37 the review of the action shall be confined to the record of the proceeding below, which shall include:

- a. All materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered by the Hearings Council or Board of Adjustment as evidence;
- b. All materials submitted by the Planning Director with respect to the proposal;
- c. The transcript of the hearing below;

- d. The findings and decision of the Hearings Council or Board of Adjustment and the notice of review when applicable; and, where permitted by the Board,
- e. Argument by the parties or their legal representatives at the time of review before the Board.

12.36 Review by the Board, if upon notice of review by an aggrieved party, shall be limited to the grounds relied upon in the petition or request for review provided by Section 12.34(c) of this Ordinance.

12.37 The Board may admit additional testimony and other evidence without holding a de novo hearing or hear the entire matter de novo if it is satisfied that the testimony or other evidence could not reasonably have been presented at the prior hearing. The Board shall, in making such decision, consider:

- a. Prejudice to parties;
- b. Convenience or availability of evidence at the time of the initial hearing;
- c. Surprise to opposing parties;
- d. When notice was given to other parties of an attempt to admit; and
- e. The competency, relevancy and materiality of the proposed testimony or other evidence.

12.371 Upon decision to admit additional testimony or other evidence, or to hear the entire matter de novo, the presentation of such testimony and

evidence shall be governed by the procedures applicable to the presentation of such matters at the prior hearing.

12.38 The Board may affirm, reverse or amend the action of the Hearings Council or Board of Adjustment and may grant approval subject to conditions necessary to carry out the Comprehensive Plan and as provided by Section 12.236. The Board may also remand the matter to the Hearings Council or Board of Adjustment for additional proceedings.

- a. The Board shall cause written findings to be filed with all decisions.
- b. The Board shall state all decisions upon the close of its hearing or upon continuance of the matter to a time certain.

12.39 Action of the Board pursuant to Section 12.38 shall not become final until the first succeeding business day following the next regular Board meeting.

- a. The Board may rehear a matter before it either on its own motion or upon a petition for rehearing submitted within ten days of its action by an aggrieved party in the manner provided by Section 12.34 for notices of review; provided, however, no fee need accompany such petition.
- b. Upon a petition for rehearing or on its own motion, the Board shall at its next regular

meeting following its original action summarily decide whether the same should be granted; provided, however, that all petitions or motions for rehearing shall receive the consent of three Board members.

- c. If rehearing be granted, the proposal shall be heard as a new review except that all testimony and evidence theretofore received shall be included in the record.
- d. No action shall be reheard more than once.
- e. The petition for rehearing shall be a jurisdictional requirement for judicial review of final orders.

12.40 AMENDMENTS

12.41 Initiation

12.411 Amendments of the text of this Ordinance may be initiated by:

- a. Order of the Board; or
- b. Resolution by a majority of the whole Planning Commission; or
- c. The request of the Planning Director.

12.42 Procedure for amendment of text.

12.421 A public hearing shall be held by a majority of the whole Planning Commission on all proposed amendments to this Ordinance.

- a. The Planning Commission may continue any

hearing in order to obtain additional information.

- b. A recommendation to approve an amendment must be by majority vote of the entire Commission. All recommendations, together with relevant information, shall be referred within a reasonable time to the Board.
- c. Amendments initiated by the Board shall be referred to the Planning Commission for report and recommendation within 45 days. If no report is made by the Planning Commission and no extension granted by the Board, the Board may deem the proposals approved by the Planning Commission and may proceed to act upon the same.

12.422 Notice of the time, place and purpose of the Planning Commission's hearing shall be given:

- a. By publication of one notice in a newspaper of general circulation in Multnomah County not less than ten (10) days prior to the date of hearing; and
- b. By posting public notices in three (3) conspicuous places in the County at least fifteen days prior to the date of hearing.

12.423 The Board shall conduct a hearing and take action on the recommendation in accordance with

the County Charter and rules of the Board.

12.50 VARIANCES

12.51 The Board of Adjustment may permit and authorize a variance from the requirements of this Ordinance only when unusual circumstances cause practical difficulties in the application of it. The granting of such a variance shall be in the public interest. A variance shall be made only when substantially all of the following conditions and facts exist:

- a. Unusual circumstances or conditions applying to the property or to the intended use that do not apply generally to other property in the same vicinity or district.
- b. The variance is necessary for the preservation and enjoyment of substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.
- c. 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.
- d. The granting of the variance will not adversely affect the realization of the comprehensive plan.

12.511 A variance so authorized shall become void after the expiration of eighteen months if no substantial construction or substantial expenditure

of funds occurs in reliance thereon.

12.512 The Board of Adjustment may impose reasonable conditions necessary to fulfill the requirements of this Section and the ordinance.

12.52 Variances Under Certain Conditions

12.521 In lieu of the provisions of Section 12.51, the Planning Director is authorized to grant variances in the setback, yard, height, coverage, lot size, width or depth requirements of this Ordinance in accordance with the following procedures and conditions:

- a. 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.
- b. The filing fee for such variance shall be as required by this Ordinance.
- c. The Planning Director may without notice or hearing grant the variance for which the application is made and may attach reasonable conditions thereto; provided, however, that the Planning Director shall not grant a variance in excess of twenty-five percent (25%) of the applicable requirements. The Planning Director must find and file a state-

ment with the application that the requirements of Section 12.51 of this Ordinance have been met but that the size, shape, topography or location of the site or the location of existing buildings or other conditions, cause compliance with the applicable requirements impossible without practical difficulty or hardship.

- d. In the event the Planning Director declines to grant a variance requested pursuant to this Section, he shall notify the applicant stating the reasons therefor, and the applicant may within 20 days after receipt of notice, file an application for such variance pursuant to any other provisions of this Ordinance. The balance of the required fee shall be charged for such second application.

12.70 PERMITS AND CERTIFICATES

12.71 Temporary Permits

- 12.711 Notwithstanding the limitations of use as established by this Ordinance in each of the several districts, the Board of Adjustment may issue temporary permits, valid for a period of not more than one year after issuance, for structures, or uses which are of a temporary

nature, such as:

- a. Storage of equipment during the building of roads or developments;
- b. Real estate office used for the sale of lots or housing in subdivisions;
- c. Temporary storage of structures or equipment, including boats and trailers;
- d. Sheds used in conjunction with the building of a structure;
- e. Temporary housing; or
- f. Other uses of a temporary nature when approved by the Board of Adjustment.

12.712 The Board of Adjustment may attach reasonable conditions relevant to the proposed use to carry out the intent and purpose of this Ordinance.

12.713 The Board of Adjustment may authorize an annual temporary permit, renewable for not to exceed five years, for occupancy of a mobile home on a lot with a single family residence where a finding of a health hardship is made.

- a. The Board of Adjustment may attach conditions relating to size, design, location, occupancy and neighborhood compatibility.
- b. The Planning Director shall review such permits annually, upon application and the payment of the required fee, and renew the

permit, if he determines that the factors of the hardship found by the Board of Adjustment continue and that conditions imposed are being met. The owner may apply to the Board of Adjustment if the Planning Director does not renew the permit.

12.72 Land Use Permits

12.721 Before any change in the use of land or a structure is made, the owner or his agent shall obtain a land use permit, which shall be issued only if the proposed use complies with the provisions of this Ordinance and any other applicable Ordinance, Code or Regulation.

12.722 Uses of land or structures existing at the effective date of this Section and which comply with the applicable provisions of this Ordinance shall be deemed to be in compliance with this Section and no permit shall be required unless a change in the use of land or a structure is to be made.

12.723 In cases where a building permit is required under the Building Code, such building permit shall be deemed to be a Land Use Permit.

12.724 The term "change in use of land or structure" is defined as any change from a specific use, as for example, a grocery store, to any other

specific use, as for example, a restaurant, if the specific uses are subject to different restrictions in whole or in part under this Ordinance.

12.73 Certificate of Occupancy

12.731 No building or structure except single family dwellings and duplex dwellings and no land shall be used or occupied, and no change in the existing occupancy of a building, structure or land or portion thereof shall be made until a Certificate of Occupancy has been issued therefor as provided herein.

12.732 Changes in the use of a building, structure or land shall not be made except in compliance with the provisions of this Ordinance.

12.733 When it is found that the building, structure or land complies with the provisions of this Ordinance, the Director of Environmental Services shall forthwith issue a Certificate of Occupancy which shall contain the following:

- a. Building Permit or Land Use Permit Number;
- b. The address of the building or premises;
- c. The name and address of the owner;
- d. A description of that portion of the building or land for which the Certificate is issued;
- e. A statement that the described portion of

the building or land complies with the requirements of this Ordinance;

f. The name of the Building Official; and

g. The date of issuance.

12.734 A Certificate of Occupancy as required herein may be the Certificate of Occupancy required under the Building Code when so indicated thereon.

12.735 A Temporary Certificate of Occupancy may be issued by the Director of Environmental Services for the use of a portion or portions of a building or land prior to the completion or occupation of the entire building or use.

12.736 The Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Director of Environmental Services.

12.80 NON-CONFORMING USES

12.81 A non-conforming structure or use may not be changed or altered in any manner except as otherwise provided herein, unless such change or alteration more nearly conforms with the regulations of the district in which it is located.

12.82 In case of destruction beyond reasonable repair, as determined by the Hearings Council, by fire or other causes, the non-conforming use shall not be rebuilt unless it conforms to all requirements of

the district in which it is located.

12.83 If a non-conforming use is abandoned or discontinued for any reason for more than one year, it shall not be re-established unless specifically approved by the Hearings Council.

12.84 Any structure or use for which a building permit or land use permit has been issued, may be started within four months after the effective date of this Ordinance, but not thereafter, though not conforming to these regulations.

12.85 Any non-conforming structure or use may be maintained with ordinary care."

Section 5. Transition.

- A. All proposals pending before the Planning Commission on the effective date of this ordinance shall be heard by the Hearings Council in accordance with the requirements previously in effect.
- B. Proposals initiated after the effective date of this ordinance shall be determined in accordance with the provisions of this ordinance.
- C. The Multnomah County Planning Commission shall exercise the functions prescribed for the Hearings Council until all members of the Council have been appointed, and have held an organizational meeting.

Section 6. Adoption.

This ordinance, being necessary for the health, safety and

welfare of the people of Multnomah County, shall take effect on the thirtieth day after its adoption pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 8th day of July, 1975, being the date of its 2nd reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

By



Chairman