

W. G. O.

## **AGENDA COVER MEMO**

**DATE:** November 3, 2004, First Reading  
NOVEMBER 23, 2004, Second Reading/Public Hearing

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM :** KENT HOWE, PLANNING DIRECTOR  
LAND MANAGEMENT DIVISION

**AGENDA ITEM TITLE:** Ordinance No. 4-04: IN THE MATTER OF AMENDING  
CHAPTERS 10 and 16 OF THE LANE CODE TO ADD  
PROVISIONS PERTAINING TO UNAUTHORIZED WORK  
WITHOUT A PERMIT AND DOUBLE PERMIT FEES  
(LC 10.900-16 and LC16.262)

### **I. MOTION:**

Approve the Ordinance to double permit fees for certain Compliance actions.

### **II. ISSUE OR PROBLEM**

On April 9, 2003, the Board received the recommendation from the Land Management Task Force to assess twice the fees for Planning and Sanitation permits when associated with a compliance action. On June 24, 2003, the Board of Commissioners directed Staff to prepare an Ordinance to double the Planning and Sanitation fees when a violation is found that requires obtaining a Building Permit when connected with a Compliance action. On August 26, 2003, the Finance and Audit Committee was presented with the recommendation and supported the proposal.

### **III. DISCUSSION**

#### **A. BACKGROUND**

The Uniform Building Code authorizes a penalty on permit fees deemed in violation of the code (primarily construction without a permit). Each year, about \$12,000 is generated by doubling fees, about \$7,000 of which is related to compliance cases.

The Land Management Division Task Force recommended doubling the permit fees when a Planning Action or Sanitation Permit is required as the result of a Compliance action. The Lane Code does not currently authorize a penalty on these types of Planning Actions required to remedy a violation of Lane Code.

A companion to this proposal is an amendment to Lane Manual to double the permit fees when a Sanitation Permit is required as the result of a Compliance action.

## **B. ANALYSIS**

The revenue stream is not expected to generate a significant sum. The revenue that these additional fees would generate is expected to range between \$5,000 and \$10,000 per year. These additional revenues would lessen the subsidy provided to compliance cases by other paying customers.

## **C. ALTERNATIVE/OPTIONS**

1. Approve the Ordinance
2. Do not approve the Ordinance
3. Modify the Ordinance

## **D. RECOMMENDATION**

Staff recommend approval of the motion.

## **E. FOLLOW UP / IMPLEMENTATION**

Upon adoption of the Ordinance the fees will be revised.

**ATTACHMENT:**

1. Ordinance No.
2. Lane Code 10.900 Revisions
3. Lane Code 16.262 Revisions
4. Minutes of August 26<sup>th</sup> Finance and Audit Meeting

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 4-04

IN THE MATTER OF AMENDING CHAPTERS 10  
AND 16 OF LANE CODE TO ADD PROVISIONS  
PERTAINING TO UNAUTHORIZED WORK WITHOUT  
A PERMIT AND DOUBLE PERMIT FEES  
(LC 10.900-16; 16.262)

The Board of County Commissioners of Lane County ordains as follows:

Chapter 6 of Lane Code is hereby amended by removing, substituting and adding new sections as follows:

**REMOVE THESE SECTIONS**

NONE

16.262  
as located on pages 16-453 through 16-454  
(a total of 2 pages)

**INSERT THESE SECTIONS**

10.900-16  
as located on pages 10-523  
(a total of 1 page)

16.262  
as located on pages 16-454 through 16-455  
(a total of 2 pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of these substitutions and additions is to add provisions pertaining to unauthorized work without a permit and double permit fees (LC 10.900-16; 16.262).

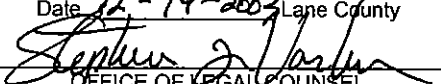
ENACTED this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

\_\_\_\_\_  
Chair, Lane County Board of Commissioners

\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 12-19-2003 Lane County

  
OFFICE OF LEGAL COUNSEL

(2) All fees are nonrefundable except in cases when the processing of an application was terminated prior to the incurring of any substantial administrative expenses. Refunds shall be made for the amount of the fee remaining after the subtraction of processing expenses incurred by the Department. *(Revised by Ordinance No. 15-72, Effective 9.8.72; 9-75, 7.2.75; 11-80; 7.24.80; 16-83; 9.14.83)*

## **ENFORCEMENT REQUIREMENTS**

### **10.900-05 Title, Purpose, and Applicability.**

The provisions of this section shall be known as the Enforcement Requirements. The purpose of these requirements is to ensure compliance with the zoning requirements. These provisions shall apply to the enforcement of the zoning requirements, but shall not be deemed exclusive. *(Revised by Ordinance No. 15-72, Effective 9.8.72)*

### **10.900-10 Official Action.**

All officials, Departments, and employees of Lane County vested with authority to issue permits, certificates, or licenses, shall adhere to and require conformance with the zoning requirements. *(Revised by Ordinance No. 15-72, Effective 9.8.72)*

### **10.900-15 Inspection and Right of Entry.**

Whenever they shall have cause to suspect any failure to comply with any provision of the zoning requirements, or when necessary to investigation of an application for or revocation of any zoning approval under any of the procedures prescribed in this chapter, officials responsible for enforcement or administration of this chapter, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant. *(Revised by Ordinance No. 15-72, Effective 9.8.72; 1-00, 4.12.00)*

### **10.900-16 Unauthorized Work.**

If the Director discovers any person doing or causing to be done any work without the permit required by this chapter, the Director shall notify the person to cease the act or acts, and such person shall cease such acts until a permit is secured, and shall pay for such permit twice the amount of the fee otherwise required.

||At right margin indicates changes  
**Bold** indicates material being added  
~~Strikethrough~~ indicates material being deleted  
10.900-05 Lane Code

**LEGISLATIVE  
FORMAT**  
10.900-16

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## ENFORCEMENT REQUIREMENTS RURAL COMPREHENSIVE PLAN

### 16.262 Enforcement Requirements.

(1) Title, Purpose and Applicability. The provisions of this section shall be known as the Enforcement Requirements. The purpose of these requirements is to ensure compliance with the zoning requirements. These provisions shall apply to the enforcement of the zoning requirements, but shall not be deemed exclusive.

(2) Official Action. All officials, Departments and employees of Lane County vested with authority to issue permits, certificates or licenses, shall adhere to and require conformance with the zoning requirements.

(3) Inspection and Right of Entry. Whenever they shall have cause to suspect a violation of any provision of the zoning requirements, or when necessary to investigation of an application for or revocation of any zoning approval under any of the procedures prescribed in this chapter, officials responsible for enforcement or administration of this chapter, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation; provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant, unless under authority of a lawful warrant.

(4) Unauthorized Work. If the Director discovers any person doing or causing to be done any work without the permit required by this chapter, the Director shall notify the person to cease the act or acts, and such person shall cease such acts until a permit is secured, and shall pay for such permit twice the amount of the fee otherwise required.

(5) Stop Work Orders. Whenever any work is being done contrary to provisions of this chapter or an approved Special Use application or other discretionary permit issued pursuant to the requirements of any of the sections of this chapter, or the Director has probable cause to believe that any other provision of the Lane Code is being violated in connection with the project of which the work being performed is a part, the Director may order the work stopped by notice in writing, posted on the project, or served on any person engaged in the doing or causing of such work to be done. Upon the posting or service of notice, all persons engaged in doing or causing the work to be done shall immediately stop such work until authorized by the Director to proceed.

(6) Abatement. Any use which is established, operated, erected, moved, altered, enlarged, painted or maintained contrary to the zoning requirements shall be, and is hereby declared to be, unlawful and a public nuisance and may be abated as such.

(7) Enforcement Official. It shall be the duty of the Director of the Lane County Land Management Division, or said Director's duly authorized representative, to enforce the provisions of this chapter pertaining to land use and to the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures in the County. The enactment of this chapter shall not invalidate any prior existing or future prosecutions for violation of the zoning requirements committed under previous applicable County ordinances then in effect.

(8) Legal Proceedings by District Attorney. In addition to the enforcement provisions of this chapter, upon request of the Building Official, the District Attorney or County Counsel may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this chapter.

(9) Enforcement by Department of Public Safety. The Director of the Department of Public Safety, or said Director's authorized representatives, shall have the power, upon request of the Building Official, District Attorney or County Counsel, to assist in the enforcement of the provisions of this chapter.

(10) Remedies Cumulative. It is the intent of this chapter that the remedies provided be cumulative and not mutually exclusive. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 1-93, 4.16.93)*

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16.261

Lane Code

**LEGISLATIVE**

**FORMAT**

16.262

(i) A single living unit shall be considered to be a single-family dwelling, a mobile or one living unit with kitchen facilities and designed for the occupancy of one family, but sharing a common foundation, walls and roof with one or more other units in a duplex or multiple-family dwelling.

(ii) The ultimate number of living units permitted in a cluster subdivision shall be determined by multiplying the number of lots permitted for dwellings or mobile homes by:

(aa) Two, if the zone permits duplexes;

or

(bb) One, if only single-family dwelling or mobile homes are permitted by the zone.

(iii) A cluster subdivision lot shall be limited to one of the following living units:

(aa) A mobile home.

(bb) A single-family dwelling.

(cc) A two-family dwelling or duplex.

(dd) A multiple-family dwelling.

(c) Setbacks and Lot Coverage.

(i) Except for the setback requirements of the zone for the exterior boundaries of the cluster subdivision, the setback and lot coverage requirements of the zone shall not apply.

(ii) Where cluster subdivision lots intended for dwellings or mobile homes abut a zone which does not permit a cluster subdivision, a special building setback may be established for one or more lots. Special building setback requirements shall be established only for the purposes of reducing potential conflicts relating to fire, traffic, noise or similar human-made or natural hazards, nuisances and for protection of natural resources and open space. The special building setback requirement may consist of, but is not limited to, the setback requirements of the abutting zone which does not permit cluster subdivisions.

(5) Application and Additional Requirements. Cluster subdivisions shall be processed in the same manner and conform to the applicable provisions, standards and procedures as required for subdivisions as provided in LC Chapter 13. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

## **AUTHORITY TO CHARGE FEES RURAL COMPREHENSIVE PLAN**

### **16.261 Authority to Charge Fees.**

(1) The Department shall have the authority to charge fees for the purposes of defraying expenses involved in processing applications required by this chapter.

(2) All fees are nonrefundable, except in cases when the processing of an application was terminated prior to the incurring of any substantial administrative expenses. Refunds shall be made for the amount of the fee remaining after the subtraction of processing expenses incurred by the Department. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

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*Approved 10/19/04*

Finance & Audit  
August 24, 2004  
1:30 p.m.  
Commissioners Conference Room

Members Present: Bill Dwyer and Jim Gangle. Anna Morrison was excused.

Staff Present David Suchart, Bill Van Vactor, Teresa Wilson; Dave Garnick, Anette Spickard, Kay Blackburn and Melissa Zimmer, Recording Secretary

**1. Approval of Minutes**

July 27, 2004

MOTION: to approve the minutes of July 27, 2004.

Gangle MOVED, Dwyer SECONDED.

VOTE: 2-0.

**2. In the Matter of Amending Chapter 3 of Lane Code  
Regarding Regulation of and Reporting by Used  
Merchandise Dealers and Eliminating the Secondhand  
Business License Requirement (LC 3.600-3.990)**

Randy Berger, City of Eugene Police Department, explained they had a system in Lane County where the detectives from the Eugene Police Department would go to pawn dealers for them to fill out pawn slips and then they would enter the information into the data base. He noted with that process the information gets lost in the translation. He indicated the database doesn't contain all information for stolen property. He noted the City of Eugene embarked on a pilot project where the used merchandise dealers participated by placing data directly into a computer database so the information inputted is timely. He said this benefited public safety because the information is entered right away. He said in order to do that, they were going to charge a fee for entering information into the system. He said it would be a one-dollar fee per transaction. He explained the used merchandise dealer would keep \$50 cents and the other \$50 cents would go for hardware and systems upgrades to maintain the database. He added there would have to be some manual entries for people who don't want to participate in the program. He indicated those fees would cost \$3.00 per transaction. He noted with this program, the used merchandise dealers get a built in information management system and it is good for public safety. He noted in 2003 the system they had was able to recover over \$22,000 in stolen merchandise from used merchandise dealers.

Dwyer wanted to know how many transactions took place from each jurisdiction. He didn't think it was the government's job to create a system whereby they allow the private sector to benefit by buying programs and having the government calling it a tax.

Burger commented that people who are victims of crime would benefit from the enhanced systems.

Dwyer stated this was about money, not about protecting the public. He thought Lane County should be running this program because it is part of what law enforcement does. He didn't like this and didn't think the people would want to pay fees either. He didn't support sending this forward.

Burger stated that everyone benefits with this and no one is a loser.

Dwyer thought the system could be designed better. He thought the fees could be collected in a business license.

Gangle was supportive of this but wanted more information on the scope and how many transactions there are. He asked if the dollar fee would be charged to every transaction.

Burger responded that it would apply to one transaction fee, but one fee could contain more than one item. He indicated the transaction fee is set up so the store could collect a dollar. He added the fee would never exceed one dollar and the store could opt out of the program with a 60-day notice. He stated the ordinance would not require them to participate in "Business Watch". He said if they did opt out, that there would be a fee for the manual system.

Burger indicated that 44% of people using the shops have a criminal arrest record. He thought that was a significant number versus the private sector using the shops.

Dwyer didn't see where this would protect the public.

Burger said they sent out RFP's and received two back. He noted that Minnesota has their own system they developed in house that pays for the systems and servers. He added there are other private systems available.

Dwyer requested Lane County's IS Department review systems to see what they entail so there could be an independent review in-house.

Burger said they were looking for compatibility with the AIRS system.

Burger said they could go back and do an analysis on what it would cost if they decided to start their own database without a user fee. He commented that they couldn't afford to do it for less.

Dwyer wanted to know the dollar value and tools they need without having a perpetual fee.

Van Vactor said if they have an evaluation of the different programs, he wanted Tony Black, Information Services, to be aware of it.

**3. In the Matter of Amending Chapter 60 of Lane Manual to Add a Fee to LM 60.851 to Become Effective September 16, 2004**

Jeff Towery, Land Management, reported this was follow-up information based on an earlier discussion. He noted under the analysis section, there is a reference to the standard amount used by the County to determine overhead costs. He stated it wasn't a completely accurate representation of the factor used in the method. He said they used Public Works Admin to generate an overhead factor that includes all overhead direct and indirect from the County and Public Works. He said they did analysis on the number of hours and the number of applications processed and they brought back the detailed information. He explained it was 188%, including everything.

Dwyer thought it wasn't fair to charge someone a lot of money if the permit only took a couple of hours to complete.

Towery noted there was a justification for moving to the kind of model he was discussing. He was opposed to doing that for this one fee. He said if that was the type of model they wanted to use, they would want to use it for all of the services they provide. He thought it would skew the fee schedule to pick legal lot determinations and charge based on actual time spent. He said they don't know which ones are complicated. He noted the Board gave them clear direction to recover the costs of providing the services. He said it would be a new service that the Board asked them to provide and he thought it was reasonable to charge a fee.

Dwyer commented the fee for extra services should be based upon how complicated it is and the amount of time that goes into it.

Gangle noted there were advantages to knowing up front what the costs would be.

Towery stated the customers want to know what their charges are going to be when they come in to go through the process. His concern to take the approach for one of the dozens of services they provide and not the others will not be a consistent business practice. He predicted there would be confusion and reaction to it.

Van Vactor asked if there could be a middle ground where they could have a base fee of \$450 and if it is determined the plan is complex it could cost more.

Dwyer indicated that is what he wanted to do. He said the permits are all different. He wanted to have a base because some are simple. He noted that Land Management requires the person who is applying to do all of the research. He said they are reviewing the material that is supplied by the person applying.

Towery said there were different ways to do this. He wanted them to design their business practices to serve the needs of most of their customers. He said if the committee wanted them to pursue a base fee and a cost, they would do some analysis to see how much time it takes to process 75% of their applications and use that to establish their base fee. He added they needed to figure out what to do with the 15% or 20% who take longer or less than that.

Dwyer thought it would be a good way of keeping track of time. He said there needs to be a system with a mean average and to charge that fee and have a fee that will cover the cost per hour. He added they have to tell people if it goes over and what that cost would be.

Towery indicated that these are going to be noticed land use decisions and the simplest of applications could turn complicated if the neighbors don't like it. He asked at what point do they tell the person with the simple application when there is an appeal process that they would pay the full and true cost. He added there is a possibility these could end up in appeal. He said the dilemma to him is the simple legal lot determination that only takes a couple of hours to process, that if it is a noticed decision and they go through appeals, how they would charge the applicant for the true costs of staff time.

Blackburn suggested having a higher fee and then refund it if it is less.

Dwyer wanted people to pay for the service they receive. He wanted Towery to figure out what the mean is and if it were less the people would receive a refund.

#### **4. SLGRP Pooling**

Van Vactor explained because of Lane County's normal cost rate being less than the state pool, he didn't recommend joining.

Dwyer agreed.

Van Vactor noted that for the membership class, police and fire are higher than other occupations. He added they blend that in with Lane County.

#### **5. Internal Auditor Work Plan**

Blackburn passed out her list of potential projects for developing her work plan for the next year. (Copy in file). She wanted this to go to the full Board for the commissioners to prioritize.

Dwyer asked how cash payments for juries would be disbursed.

Blackburn responded when the District Attorney's office is writing 300 or 400 checks per month for \$6 or \$10 for grand jury witness fees, it is expensive to do paper transactions in terms of administrative time. She added many checks don't get cashed.

Dwyer asked how they would satisfy the state's requirement of payment.

Blackburn stated as long as there are receipts issued, there is no difference in paying in cash. She added on any given day they are not paying more than \$200 of witness fees. She thought they could have \$200 in cash and as the witnesses leave they sign their statement and receipt and they wouldn't have to process the transactions. She noted that other counties were looking at the same option. She indicated in the Sheriff's Department when inmates come in, if they have a dollar when they are booked into the jail, it goes into the inmate trust account and when they leave, it is paid out in a check. She noted there is the same situation in that department with uncashed checks.

With regard to grants and contracts, Blackburn thought they could scan them online instead of paper files that are difficult to locate. She thought they needed to improve the process of employee health benefits with retiree and Cobra benefits. She wanted approval to spend more time on this matter.

With regard to the Public Safety System review, Blackburn noted this was suggested by a number of people to audit. She wanted to review the Public Safety System to see if there are ways to make it more efficient. She noted there were areas that could be looked at. She said there was a jail staffing report completed that could be followed up on the recommendations.

Dwyer stated the Sheriff is an elected official and they can't compel him to do anything. He thought to review this was premature.

Van Vactor thought there was value in reviewing the recommendations of the NIC Study to see which ones have been implemented. He thought that would be good information.

Dwyer agreed with that.

Blackburn said the road maintenance internal audit came up in a board meeting a few months ago. She thought she could work with Ollie Snowden to develop the scope of work for an external audit.

Dwyer asked if she could bill the road fund.

Gangle thought performance measure review with the Strategic Plan was important.

Blackburn asked if the complete list should go to the full Board for prioritization.

Dwyer approved of this going to the full Board with his comments. He commented Blackburn is the Board's auditor and her services needed to be directed by the Board.

Van Vactor commented that if they truly centralize a lot of their financial services that they would get efficiencies. He added the problem is they haven't been centralized and a

lot of the services are performed in the departments. He asked if Blackburn had been working on centralized efficiencies.

Blackburn replied she hadn't reviewed it because it was ranked a low priority.

Van Vactor commented if the Board wanted to pursue that and if Blackburn identifies substantial savings then it should be done.

Dwyer commented that her report would go to the full Board.

**6. Follow-up on Audit Reports**

- a) Purchasing**
- b) nVision Reporting**
- c) Banking**

~~This item was rolled and will be placed first on next month's agenda.~~

Adjourned 2:30 p.m.

Melissa Zimmer  
Recording Secretary