

FILED IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

AT.....O'CLOCK.....M

NOV 7 1985
ORDINANCE NO. 9-85

County Clerk
For Lane County, Oregon
BY *Patricia Bitter*
DEPUTY

) IN THE MATTER OF AMENDING LANE CODE
) SECTION 5.035(5) TO ALLOW
) PERSONS SENTENCED TO PAY A FINE TO
) WORK OFF THE FINE ONLY IN THE CASE
) OF A FIRST OFFENSE AND DECLARING
) AN EMERGENCY

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

Chapter 5 of Lane Code is hereby amended by removing and substituting the following page:

REMOVE THIS PAGE

INSERT THIS PAGE

5.034(4) - 5.045(2)
i.e. 5-5
(a total of one page)

5.034(4) - 5.045(2)
i.e. 5-5
(a total of one page)

Said page is attached hereto and incorporated herein by reference. The purpose of this substitution is to amend Lane Code section 5.035(5) to allow persons sentenced to pay a fine to work off the fine only in the case of a first offense.

An emergency is hereby declared to exist and this ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately.

Enacted this 6th day of November, 1985.

Robt G. McFay
Chair, Lane County Board of Commissioners

Dorothy E. Moore
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM
DATE 10/17/85 lane county
W.A. Hoag
OFFICE OF LEGAL COUNSEL

1 - IN THE MATTER OF AMENDING LANE CODE SECTION 5.035(5) TO ALLOW PERSONS SENTENCED TO PAY A FINE TO WORK OFF THE FINE ONLY IN THE CASE OF A FIRST OFFENSE AND DECLARING AN EMERGENCY

CNBJ0251

5.035(4)

Lane Code

5.045(2)

(4) All infractions unless specified otherwise herein shall be Class A Infractions.

(5) Any person who on the person's first conviction for an infraction is sentenced to pay a fine under this section or who owes fees for boarding an animal at the Animal Regulation Authority, may elect to work for Lane County in an area which the County will designate, credited at a rate as set forth in the Lane Manual for such work, providing that if Lane County determines that the person's work performance is not adequate or that the person has not worked enough to pay off the full amount of the fine within one month of the date of the Order of forfeiture, then the person shall be liable for the full amount of said fine unless the Hearings Officer determines that extenuating circumstances warrant giving the person credit for the work actually done. If Lane County determines that the person's work performance is inadequate, the person should not be given credit for work performed and Lane County shall immediately notify the person of that in writing or this section of inadequacy shall be deemed waived. Any person performing said labor will be subject to the direction of the delegated County employee. The County will provide for coverage under the State Workers' Compensation Law for accident and liability insurance for each person performing labor under this section.

5.040 Representation by Counsel. The County shall not be represented in court by an attorney unless the defendant is represented by an attorney, but County Counsel may assist in case preparation. A person charged with a County Infraction may be represented by his or her retained attorney, provided that one day's written notice of the intention to be represented by an attorney is received by the section so the County may have the opportunity to arrange for its own legal representation, if desired. The Hearings Officer may waive this notice requirement in individual cases or reset the hearing for a later date.

5.045 Review.

(1) Except as limited by LC 5.045(2), a defendant may appeal a final adverse ruling by Writ of Review as provided by ORS 34.010 through 34.100.

(2) If an Order is entered requiring in part that a dog be destroyed, that part of said Order will be final unless a written notice of intent to file a Writ of Review is filed in the Infractions Section within 72 hours after the Order is entered requiring the dog to be destroyed.

19-72; 10.13.72
 16-75; 12.26.75
 15-80; 7.23.80
 2-82; 4.9.82
 21-83; 11.29.83
 4-85; 6.26.85

5-5

WP 33220-LC12-19

NOV 21 1985

County Clerk
For Lane County, Oregon
BY *Patricia Miller*
DEPUTY

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE 7-85

-) IN THE MATTER OF AMENDING -
-) CHAPTER 16 OF LANE CODE
-) REGARDING THE LIGHT
-) INDUSTRIAL (M-2,RCP) ZONING
-) DISTRICT (LC 16.255), TO
-) INCLUDE WRECKING YARDS IN
-) THE LIST OF USES SUBJECT TO
-) HEARINGS OFFICIAL APPROVAL
-) AND TO ADOPT A SEVERABILITY
-) CLAUSE

WHEREAS, the Board of County Commissioners by Ordinance No. 1-84 adopted Lane Code Chapter 16 to implement the ultimate policy choices of Lane County's Rural Comprehensive Plan; and

WHEREAS, the Board of County Commissioners has received a recommendation from the Lane County Hearings Official in the attached report (Exhibit "A") recommending that wrecking yards be allowed conditionally within Light Industrial (M-2,RCP) Zoning District; and

WHEREAS, the Lane County Planning Commission and the West Lane Planning Commission on 10/23/85 have each on 10/22/85 held a public hearing on this matter and resolved to recommend to the Lane County Board of Commissioners that it approve the proposed amendment to the M-2, RCP Zone; and

WHEREAS, based upon the above recommendations; and

WHEREAS, the Board of County Commissioners has held a public hearing on November 20, 1985 and desires to amend Lane Code Chapter 16.255; NOW

THEREFORE, BE IT ORDERED that the Board of Commissioners of Lane County Ordains as follows:

Chapter 16 of Lane Code is hereby amended by removing and inserting the following pages:

Remove This Page	Insert This Page
16.225(2)-16.225(5)	16.225(2)-16.225(5)
16-118	16-118
(a total of one page)	(a total of one page)

Said pages are attached hereto and incorporated herein by reference.

The zoning districts repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

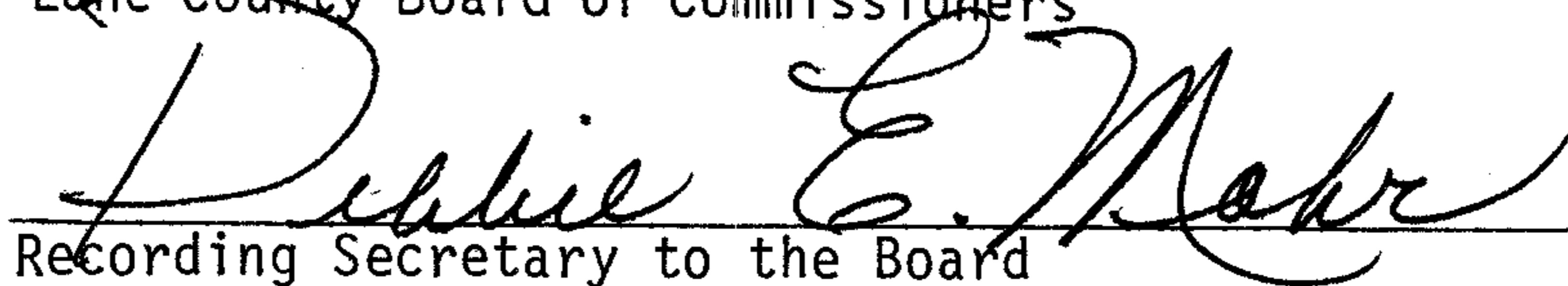
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of, the remaining portions hereof.

While not part of this Ordinance, we adopt the attached Exhibit "B" as Findings in support of this decision.


DATED this 20th day of November, 1985.



Peter De Fazio
Lane County Board of Commissioners



Recording Secretary to the Board

APPROVED AS TO FORM
DATE 10/30/85 lane county

OFFICE OF LEGAL COUNSEL

16.225(2)

Lane Code

16.225(5)

which shall not have any different or more detrimental effect upon the adjoining areas than the items specifically listed, and otherwise not anymore unsightly, obnoxious, hazardous or offensive by reason of appearance, emission of odor, dust, smoke, gas, noise, vibration, radioactivity, glare and electrical interference.

(3) Uses Subject to Hearings Official Approval. The following uses are permitted subject to submittal of an application pursuant to LC 14.050, review of the application by the Hearings Official pursuant to LC 14.300 and subject to compliance with the criteria and standards specified in this Chapter of Lane Code:

(a) Any of the special uses allowed in the M-1, RCP Zone (LC 16.224(3).)

(b) Wrecking yards, if completely enclosed by an approved type of fence, wall or hedge.

(4) Special Use Approval Criteria. Uses allowed under LC 16.225(2) above shall comply with the following criteria:

(a) Conformity with the Rural Comprehensive Plan for Lane County.

(b) The location, size, design and operating characteristics of the proposed use:

(i) Will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity, and

(ii) Will not be adversely affected by the development of abutting properties and the surrounding vicinity. (Consideration may be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character, to the generation of traffic and the capacity of surrounding streets and roads; and to any other relevant impact of the use.)

(iii) Will not be adversely affected by known natural hazards, such as floods, slides, erosion.

(iv) Will not create a hazardous natural condition such as erosion, landslide, flooding.

(5) Setback Requirements. (Also see LC 16.250 and LC Chapter 15.)

(a) Front Yard. No front yard will be required.

(b) Side Yard. Side yards will not be required, but if side yards are created, they shall be a minimum of three feet wide and three feet deep.

(c) Rear Yard. No structural improvements, except road surfacing will be allowed within 10 feet of the centerline of an existing alley.

(d) The Class I Stream and Riparian Vegetation requirements of LC 16.229(7)(b) and (c) shall apply to development of property in the M-2, RCP Zone.

LANE COUNTY HEARINGS OFFICIAL STATUS REPORT
May 10, 1984-May 9, 1985

CASE LOAD ANALYSIS

During this period of time, 73 land use permit requests were heard by the hearings official. Of these requests, 69 were processed and three remain open. Sixty-one of these requests were approved, eight denied and there was one permit withdrawn. On the average, the hearings official took 9.1 calendar days to decide a case and spent 4.3 hours during his decision.

Of the 69 decisions rendered during this period, five were appealed to the Lane County Board of Commissioners. The Commissioners elected to hear three of these appeals; upholding the hearings official in two instances and remanding the third for another hearing on selective issues. One of the two remaining appeals was reconsidered by the hearings officer.

The following section of this report will analyze the disposition of hearings official cases by permit type, with information provided regarding average calendar days for final decision and average hours charged per permit request:

CONDITIONAL USE PERMIT

<u>Cases Heard:</u>	13
<u>Cases Denied:</u>	1
<u>Cases Approved:</u>	12
<u>Ave. Days Dec.:</u>	11
<u>Range Days Dec.:</u>	0-20
<u>Ave. Hrs/Case:</u>	4.6
<u>Range Hrs/Case:</u>	2.25-10.0

GREENWAY DEVELOPMENT PERMIT

<u>Cases Heard:</u>	7
<u>Cases Denied:</u>	1
<u>Cases Approved:</u>	6
<u>Ave. Days Dec.:</u>	7.3
<u>Range Days Dec.:</u>	2-26
<u>Ave. Hrs/Case:</u>	3.6
<u>Range Hrs/Case:</u>	1.0-8.75

NONCONFORMING USE (VERIFICATION)

<u>Cases Heard:</u>	2
<u>Cases Approved:</u>	2
<u>Ave. Days Dec.:</u>	34
<u>Range Days Dec.:</u>	26-42
<u>Ave. Hrs/Case:</u>	2.8
<u>Range Hrs/Case:</u>	2.0-3.6

PARTITION

<u>Cases Heard:</u>	1
<u>Cases Approved:</u>	1
<u>Ave. Days Dec.:</u>	4
<u>Ave. Hrs/Case:</u>	2.75

SITE REVIEW

<u>Cases Heard:</u>	2
<u>Cases Denied:</u>	1
<u>Cases Approved:</u>	1
<u>Ave. Days Dec.:</u>	11.5
<u>Range Days Dec.:</u>	9-14
<u>Ave. Hrs/Case:</u>	5.6
<u>Range Hrs/Case:</u>	5.25-6.0

SPECIAL USE PERMIT

<u>Cases Heard:</u>	34
<u>Cases Denied:</u>	3
<u>Cases Approved:</u>	29
<u>Cases Open:</u>	2
<u>Ave. Days Dec.:</u>	8.7
<u>Range Days Dec.:</u>	1-42
<u>Ave. Hrs/Case:</u>	4.4
<u>Range Hrs/Case:</u>	2.0-10.5

TEMPORARY USE PERMIT

<u>Cases Heard:</u>	3
<u>Cases Approved:</u>	3
<u>Ave. Days Dec.:</u>	4.3
<u>Range Days Dec.:</u>	1-8
<u>Ave. Hrs/Case:</u>	4.8
<u>Range Hrs/Case:</u>	3.5-7.0

VARIANCE

<u>Cases Heard:</u>	3
<u>Cases Approved:</u>	1
<u>Cases Withdrawn:</u>	1
<u>Cases Open:</u>	1
<u>Ave. Days Dec.:</u>	23
<u>Range Days Dec.:</u>	5-42
<u>Ave. Hrs/Case:</u>	3.2
<u>Range Hrs/Case:</u>	2.75-3.60

ZONE CHANGE

<u>Cases Heard:</u>	7
<u>Cases Denied:</u>	1
<u>Cases Approved:</u>	6
<u>Ave. Days Dec.:</u>	9.6
<u>Range Days Dec.:</u>	0-9
<u>Ave. Hrs/Case:</u>	4.5
<u>Range Hrs/Case:</u>	3.0-5.5

Hearings on the above-listed cases were conducted in Florence (6) and Eugene. Twelve of the cases concerned land within the urban growth boundary of the Eugene-Springfield Metropolitan Area General Plan.

DISCUSSION OF PROBLEMS

During the last year, the quality of the interaction between planning staff and the hearings official improved. Problems with notification have been reduced although still occur (especially in regard to post-hearing notice). Information meetings between staff and the hearings official improved the quality and consistency of staff reports. Both of these factors reduce the amount of time required by the hearings official to render a decision. It is hoped that during the next fiscal year additional joint, educational sessions will further improve the quality of staff reports and shorten not only the hours spent per case but also the days necessary to render a decision.

RECOMMENDATIONS

The hearings official is charged with the duty to implement applicable sections of the Lane Code, the Rural Comprehensive Plan and the Eugene-Springfield Metropolitan Area General Plan. During this implementation process, the hearings official sometimes encounters code or plan policy provisions which, because of ambiguity or vagueness, are difficult to apply fairly. The process of implementation also provides the opportunity to analyze actions to determine if they could be administered more efficiently at some other level of Lane County government. The following issues have been identified by the hearings official as appropriate for investigation for legislative revision:

1. Beachfront Protective Structures-The hearings official currently has jurisdiction to approve rip rap through a special use permit process. Since, in most cases, the applicant has already received State permission and has erected the structure, the special use permit issuance and the public hearing which it requires is pointless. Since the rip rap structure is primarily approved on the basis of a Development Hazards Checklist, an administrative decision, it is recommended by the hearings official that the decision to approve rip rap structure also be made at the administrative level, with provisions of appeal to the hearings official.
2. Wrecking Yards-It has come to the attention of the hearings official that wrecking yards are allowed only within M-3 Heavy Industrial Zoning Districts in rural Lane County. Since there are very few vacant M-3 zoned parcels in rural Lane County, a person wanting to develop a wrecking yard must request a zone change. In processing such a case, the hearings official was confronted with the impossible requirement of making findings that the zone change would be compatible with the neighboring uses. This

situation exists because of the extremely permissive nature of the M-3 zone which allows as permitted uses those uses which "are unsightly, obnoxious, hazardous or offensive by reason of appearance, emission of odor, dust, smoke, gas, noise, vibration, radioactivity, glare and electrical interference." Therefore, the hearings official recommends that wrecking yards be allowed conditionally within M-2 Light Industrial Districts.

3. Mineral & Aggregate Resources-In processing a request for a quarry within an F-2 District, the hearings official was confronted with Rural Plan policy language which was unclear as to whether a Statewide Planning Goal #5 ESEE analysis should be applied to mineral sites not identified as being significant. It is recommended that the Mineral and Aggregate Resource policies be revised to more clearly reflect the County's intent in these instances.
4. Public Service Brochure-It is recommended that the Land Management Division develop a public service brochure which will explain the role, duties and operating procedures of the hearings official. This document will provide the public with a better idea how the decision-making process of the hearings official operates and will explain the time frames and appeal rights associated with this process.

clgdrprt

EXHIBIT "B"

Findings for Ordinance No. 7-85

1. Lane Code Chapter 16.226, the Heavy Industrial (M-3, RCP) Zone, serves a dual purpose as stated in subsection (1), "to provide areas for the location of primary processing industries and to provide for other industrial uses *unsuitable for location in other zones*". The highlighted portion has been added for emphasis in these findings. Consistent with this dual purpose, various processing industrial uses are permitted in the M-3 zone and, a second category of uses *unsuitable for location in other zones* are also permitted in the M-3 zone, as follows:
 - d) "Other uses similar to the above, and those uses which are unsightly, obnoxious, hazardous or offensive by reason of appearance, emission of odor, dust, smoke, gas, noise, vibration, radioactivity, glare and electrical interference.
 - e) Wrecking yards, if completely enclosed by an approved type of fence, wall or hedge."

Wrecking yards, although explicitly identified as a permitted use, are also one of those general uses described as "unsightly, obnoxious, hazardous... or offensive by reason of appearance....". The degree of offensiveness of wrecking yards may vary greatly depending upon circumstances such as length of time in operation, location and operational methods of the owner.

2. The Lane County General Plan Policies document provides direction for the application of industrial zoning to specific sites in Lane County.
 - a) Goal Nine Policy #3 requires that most of the industrial zoning and development in Lane County shall occur in urban growth boundaries:

"Most industrial and commercial development shall be concentrated within the urban growth boundaries of the various cities throughout the County. The County shall work closely with city governments to improve economic conditions within their areas. During County review and adoption of city plans, particular attention shall be given to the identification and protection of industrial and commercial sites, both large and small scale."
 - b) A number of exceptions to the above policy are provided in other plan policies as described below:

Goal Nine, Policy #7

"New industrial development shall normally take place within adopted Urban Growth Boundaries, unless such development:

 - a. Is clearly rural oriented (e.g., canneries, logging operations, processing of resource material);
 - b. Is necessary for the continuation of existing industrial operations, including plan or site expansion;