

ORDINANCE NO. **150091**

An Ordinance amending Title 33, Planning and Zoning, of the Code of the City of Portland, Oregon, by amending Section 33.98.025 (b) in order to facilitate the processing of an applicant's appeal of an administrative decision on a major variance request, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Title 33, Planning and Zoning, of the Code of the City of Portland, Oregon, at subsection (b) of Section 33.98.025 provides the procedures to be followed for the processing of a major variance request.
2. The procedures provide that if no request has been received for a public hearing from the owners of properties notified in the affected area, the offered hearing shall be cancelled and the Director or delegate may by administrative action grant, grant with conditions, modify, or deny the variance request.
3. The procedures further provide that an appeal by the applicant who finds the administrative action as unacceptable must wait until another meeting is scheduled before the variance committee although the applicant is aware of the administrative decision prior to the date set for the original offered hearing.
4. Therefore, it appears desirable to amend the code in order that the applicant, who finds the administrative action as unacceptable, may request the original offered hearing before the variance committee not be cancelled.

NOW, THEREFORE, the Council directs:

- a. Section 33.98.025 (b) of Title 33, Planning and Zoning, is hereby amended to read as follows:

33.98.025

First two paragraphs: XXX No change.

(a) Minor Variance: XXX No change.

(b) Major Variance. When a variance request meets the criteria as specified for a major variance in Section 33.98.015(b), the procedures shall be as follows:

- (1) Application shall be made on the standard variance forms and the filing fee shall be paid.

- (2) Notification shall be mailed by the City Auditor to the owners of the property in the affected area fourteen (14) days prior to a specified date at which time all written comments shall be received for consideration and twenty-one (21) days prior to a specified date at which a public hearing before the variance committee is offered. If any property owner so notified objects in writing to the requested variance and requests the opportunity to testify in person or by a representative at such public hearing, said hearing shall be held as scheduled. Should no such request to testify be received, the offered hearing may be cancelled without further notice.
- (3) If no request for a public hearing has been received, the Planning Director or designated agent, after consultation with the Bureau of Buildings, may be administrative action grant, grant with conditions, modify or deny the variance request with consideration to any written comments received; and the decision and findings shall be made in writing within ten (10) working days of the date specified in item (2) above for written comments to be received. However, if the administrative action is so conditioned or modified to be unacceptable to the applicant or such action is for denial, the variance request shall be considered by the variance committee at the public hearing, originally scheduled in subsection (2) above. The findings of the administrative action shall include the conclusions and the basic facts upon which the decision is based, although such findings need not be transmitted along with the decision but shall be on file in the office of the Bureau of Planning unless such decision has been appealed; then such findings shall accompany the decision to the appeal body for their consideration. Such decision shall be transmitted within five (5) days after rendering the written decision to the applicant, to the City Auditor, to the Bureau of Buildings, and to any party of record in the case requesting the same. The decision shall be final unless an appeal, by a person as defined in 33.12.600 who has an interest in the action, to the variance committee has been filed in writing with the City Auditor and copy with the Bureau of Planning within fourteen (14) days of filing of the written decision with the City Auditor.
- (4) If there has been an appeal of the administrative decision, the variance request shall be placed for

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public hearing on the variance committee agenda within thirty (30) days of such appeal, and the standard notification shall be mailed by the City Auditor fourteen (14) days prior to the said public hearing.

(5) Upon review at the public hearing, the committee, considering all written and oral testimony, may affirm, reverse, or modify in whole or in part any administrative decision; or if an initial action, the committee may grant, grant with conditions, modify or deny the variance request. The committee shall accompany its decision with a statement setting forth its findings and the reasons for the decision it reached; and such decisions shall be made in writing. The findings shall include the conclusions and the basic facts upon which the decision is based, although such findings need not be transmitted along with the decision but shall be on file in the office of the Bureau of Planning unless such decision has been appealed; then such findings shall accompany the decision to the appeal body for their consideration. Such decision shall be transmitted within five (5) days after rendering the decision at the public hearing to the applicant, to the City Auditor, to the Bureau of Buildings, and to any party of record in the case requesting same. The decision shall be final unless an appeal to the City Council has been filed in writing with the City Auditor and a copy with the Bureau of Planning within fourteen (14) days of the filing of the written decision of the variance committee with the City Auditor.

(c) Special Variance. XXX No change.

Section 2. The Council declares that an emergency exists because this amendment is needed to facilitate the processing of major variance requests without delay; therefore, this Ordinance shall be in full force and effect and after its date of passage by the Council.

Passed by the Council, JUL 24 1980

Connie McCready, Mayor
R. Austin/cl
June 10, 1980

Attest:

George J. Johnson
Auditor of the City of Portland

Calendar No. 2688

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Title

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THURSDAY

Filed JUL 18 1980

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *George Yerkovich*
Deputy

| THE COMMISSIONERS VOTED AS FOLLOWS: | | |
|-------------------------------------|------|------|
| | Yeas | Nays |
| Ivancie | 1 | |
| Jordan | 1 | |
| Lindberg | 1 | |
| Schwab | 1 | |
| McCready | 1 | |

| FOUR-FIFTHS CALENDAR | |
|----------------------|--|
| Ivancie | |
| Jordan | |
| Lindberg | |
| Schwab | |
| McCready | |

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| INTRODUCED BY |
| Connie McCready, Mayor |

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| NOTED BY THE COMMISSIONER |
| Affairs |
| Finance and Administration <i>CM</i> |
| Safety |
| Utilities |
| Works |

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|---|---------------|
| BUREAU APPROVAL | |
| Bureau: | |
| Bureau of Planning: | |
| Prepared By: R. Austin/cl | Date: 6/10/80 |
| Budget Impact Review: | |
| <input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required | |
| Bureau Head: | |
| Frank N. Frost <i>FM Frost</i> | |

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| NOTED BY |
| City Attorney <i>RSM</i> |
| City Auditor |
| City Engineer |
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