

ORDINANCE No. 184288

Allow Bureau of Planning and Sustainability to charge a fee to any party that, with standing under PCC Chapter 17.102, appeals BPS decision regarding solid waste or recycling to the Code Hearings Officer. (Ordinance; amend Code Section 17.102)

The City of Portland Ordains:

Section 1. The Council Finds:

1. PCC 17.102.030 grants the Bureau of Planning and Sustainability the authority to adopt rules, procedures, and forms to implement the provisions of Chapter 17.102.
2. Four sections of Chapter 17.102 allow people to appeal decisions / actions by the Bureau of Planning and Sustainability regarding solid waste and recycling issues to the City's Code Hearings Office in accordance with Title 22 of the City Code.
 - a. PCC 17.102.100 allows any person to appeal to the Code Hearings Office if they receive:
 - i. A Notice of Assessment;
 - ii. A written denial of an application for a commercial collection permit (also listed in 17.102.230);
 - iii. Any written suspension or revocation of a commercial collection permit (also listed in 17.102.240).
 - b. PCC 17.102.290 allows a property or business owner to appeal to the Code Hearings Office if they receive a denial of a request for exemption for extreme economic hardship from Containers in the Right of Way requirements.
 - c. PCC 17.102.330 allows a food vendor or food packager to appeal to the Code Hearings Office if they receive a finding of a violation of the PSF ban.
3. The Bureau of Planning and Sustainability is charged a fee by the City Auditor's Office for every Code Hearing that is conducted at the request of the Bureau. This fee is paid for out of the Bureau's Solid Waste Management Fund.
4. The Bureau of Planning and Sustainability wishes to recover some of the cost of hearing fees in order to mitigate their impact on the Solid Waste Management Fund.

NOW, THEREFORE, the Council directs:

- a. Portland City Code 17.102.100 is amended to read as follows:

17.102.100 Right of Appeal and Payment of Assessments.

A. Any person receiving a Notice of Assessment shall, within ten days of issuance of the notice either pay to the City the stated amount of the assessment or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of the City Code. The filing of an appeal request shall stay the effective date of the assessment until the appeal is determined by the Code Hearings

Officer. If, pursuant to said appeal hearing, payment of the assessment is ordered, such payment must be received by the Director or postmarked within 15 calendar days after the order becomes final.

B. A person may appeal to the Code Hearings Office in accordance with Title 22 of the City Code if the person receives:

1. A written denial of an application for a commercial collection permit;
2. Any written suspension or revocation of a commercial collection permit.

C. A business or property owner may appeal to the Code Hearings Office in accordance with Title 22 of the City Code if they receive a written denial of an application for a limited term extreme economic hardship exemption from the Containers in the Right of Way rules.

D. Any person requesting an appeal to the Code Hearings Office in accordance with procedures set forth in Chapter 22.10 of the City Code may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.

1. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.230 Applications for Commercial Collecton Permits, Issuance, Denial.

Subsections A through I remain unchanged.

J. Denial of an application may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.

2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.240 Revocation or Suspension of Commercial Collection Permits.

Subsections A and B remain unchanged.

C. Revocation or suspension of a permit may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.

2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.290 Storing Solid Waste, Recycling or Compostable Containers in the Right of Way Prohibited.

Subsections A, B and C remain unchanged.

D. The Bureau of Planning and Sustainability may charge fees to business and property owners who apply for an extreme economic hardship exemption to recover costs of administering the exemption program. All fees are stated in the Fee Schedule adopted by City Council. Fees will be updated on an as needed basis. The approved Fee Schedule is available through the Bureau of Planning and Sustainability.

~~D~~E. Denial of a request for exemption for extreme economic hardship may be appealed to the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10.

1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.

2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.330 Enforcement and Notice of Violations for PSF Ban.

Subsection A remains unchanged.

B. The food vendor or food packager shall, upon receipt of notice of violation, pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer in accordance with the procedures set forth in Chapter 22.10 for a hearing within 15 days of receipt of the notice.

1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.

2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

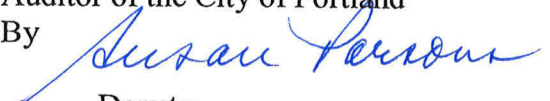
Passed by the Council,

DEC 08 2010

Mayor Sam Adams
Kevin Veaudry Casuas
November 8, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By


Deputy

1548 1580

140

Agenda No. **ORDINANCE NO. 184288**
Title

Code ✓

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INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>NOV 23 2010</u>
COMMISSIONER APPROVAL <i>[Signature]</i> Mayor—Finance and Administration - Adams	LaVonne Griffin-Valade Auditor of the City of Portland
Position 1/Utilities - Fritz	By: <u><i>[Signature]</i></u> Deputy
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>[Signature]</i>	ACTION TAKEN: DEC 01 2010 PASSED TO SECOND READING DEC 08 2010 9:30 A.M.
Prepared by: Kevin Veaudry Casaus Date Prepared: 11/8/10	
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date 12/1/10	
City Attorney Approval <i>[Signature]</i>	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 10 Min (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA <i>DEC 08 2010</i>	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	