

**ORDINANCE NO. 183793**

\*Amend Enforcement Priorities and Remedies in the Administration Code, Fees and Penalties in both the Sign and Property Maintenance Regulations Code to reflect changes in application and policy, correct and clarify code language (Ordinance; amend Code Chapters 3.30, 29.70, 29.80, 32.66)

The City of Portland Ordains:

Section 1. The Council Finds:

1. Portland City Code (PCC) 3.30.010 gives the Bureau of Development Services (BDS) responsibility for the administration and enforcement of Portland City Codes Title 29, Property Maintenance Regulations and Title 32, Signs and Related Regulations.
2. Recent and proposed changes to the BDS Enforcement Fee Schedule require amendments to PCC 3.30, 29.70 and 29.80 to assure consistent regulation with respect to fees and fines and to avoid enforcement confusion.
3. Due to recent budget reductions in BDS, the Enforcement Section has taken on additional duties of responding to Sign Complaints which requires amendments to PCC 32.66 to assess fees or penalties as per the BDS Enforcement Fee Schedule to avoid enforcement confusion, provide consistency and encourage compliance.
4. Due to recent budget reductions in BDS, new administrative fees have been proposed and other fees increased to cover the costs of providing services.
5. Due to recent budget reductions in BDS, Nuisance Abatement Funding in the Enforcement Program was reduced substantially and only the most extreme Fire Life Safety or Health/Sanitation cases are abated. In order to encourage greater compliance, Nuisance cases that are still in non-compliance would be billed monthly until the violations are corrected.
6. Allow additional, alternative lien collection methods, i.e. filing of lawsuits for a judgment against the property owner, as recommended by the February 9, 2010 Quality Rental Housing Workgroup Lien Collections Task Force Report, in order to increase lien collection rates and enforcement program revenue.
7. PCC 3 and 29 are periodically reviewed in an effort to correct and update code language to insure consistency, and to clarify code requirements so that the language maybe clearly understood by the public and the city employees who are charged with enforcement responsibility.

NOW, THEREFORE, the Council Directs:

- a. Amend Subsection 3.30.040 A. Establishment of Enforcement Priorities and Remedies as follows:
  - A. Adopt written policies and procedures for the enforcement of applicable Code provisions and laws, and Establish enforcement fees or penalties for non-compliance. ~~e~~Establish enforcement priorities based on the number of budgeted

enforcement personnel, public safety and welfare factors, and any priorities established by the City Council.

- b. Amend Subsection 3.30.040 C. Establishment of Enforcement Priorities and Remedies as follows:

- C. Impose fees or penalties for non-compliance, provide notification, and allow for appeals by:

1. Initiating the notification procedures provided in Section 29.60.050 of this Code;
2. Imposing monthly enforcement fees or penalties for each property that meets the following conditions:
  - a. The property is the subject of a notice of violation by the Bureau of Development Services;
  - b. A response period of 30 days has passed since the effective date of the initial notice of violation; and
  - c. The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
3. Doubling the fees/penalties if the violations are not corrected within sixthree months from the initial notice of violation.
4. Imposing an additional penalty of \$200.00as set forth in the Enforcement Fee and Penalty Schedule against any property for which a code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.
5. All required fees or penalties are statedlisted in the Enforcement Fee and Penalty Schedule adopted by City Council. Fees or penalties willmay be updated annually on an as needed basis. The approved Enforcement Fee and Penalty Schedule will be available at the Bureau of Development Services Center and on the bureau's Web site.
6. Providing for administrative procedures as set forth in Section 29.70.010 C. through E.
7. Providing for administrative review and the opportunity for appeal to the Code Hearings Officer ~~for enforcement penalties imposed by the Bureau of Development Services as set forth described in Chapter~~Section 29.80.010 of this Code.
8. Allowing exceptions to the ~~penalties as provided in Section 29.60.100 for low income households and allowing the Director to approve short term suspension of penalties in cases where a property owner is awaiting decision from another department or bureau or is delayed by events beyond his/her/its control.~~

- c. Amend Section 29.70.010 Enforcement Fees for Housing and Dangerous and Derelict Buildings as follows:

**29.70.010 Enforcement Fees or Penalties for Nuisance, Housing and Dangerous and Derelict Buildings.**

- A. The City may charge a penalty in the form of a monthly enforcement fee for each property found in violation of Chapters 29.20, 29.30, 29.35 or 29.40 of this Title that meets the following conditions:
1. The property is a subject of a notice of violation of this Title as described in Section 29.60.050; and
  2. A response period of 30 days has passed since the effective date of the initial notice of violation; and
  3. The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
- B. The amount of the monthly enforcement fee shall be charged ~~according to as set forth in the Property Maintenance Regulations~~ Enforcement Fee and Penalty Schedule as approved by ~~the~~ City Council. If all violations are not corrected within ~~six~~ three months from the initial notice of violation, subsequent enforcement fees or penalties shall be twice the amount ~~stated~~ listed in the ~~Property Maintenance Regulations~~ Enforcement Fee and Penalty Schedule as approved by ~~the~~ City Council.
- C. Whenever the property owner believes that all violations ~~listed in the first or any subsequent notice of violation~~ have been corrected, ~~they~~ the property owner shall so notify the Director. Upon receipt of such notice, the Director shall promptly schedule an inspection of the property and shall notify the property owner if any violations remain uncorrected.
- D. Once monthly enforcement fees or penalties begin, they shall continue until all violations ~~listed in the first or any subsequent notice of violation~~ have been corrected, inspected and approved.
- E. When a property meets the conditions for charging an enforcement fee as ~~described in the Section~~ or penalty, the Director shall file a statement with the City Auditor that identifies the property, the amount of the monthly fee or penalty, and the date from which the charges are to begin. The City Auditor shall then:
1. Notify the property owner(s) of the assessment of enforcement fees or penalties and the 10 percent City Auditor charge; and
  2. Record a property lien in the Docket of City Liens; and
  3. Bill the property owner(s) monthly for the full amount of enforcement fees or penalties owing, plus additional charges to cover administrative costs of the City Auditor; and
  4. Maintain lien records until:
    - a. The lien and all associated interest, penalties, charges and costs are paid in full; and

- b. The Director certifies that all violations listed in the original or any subsequent notice of violation have been corrected.
- F. When a property meets the conditions for assessment of fees or penalties as described in this Title, the Director may also cause appropriate collection measures, including legal action in a court of competent jurisdiction, to be instituted against the property owner in order to collect the assessed fees or penalties.
- d. Amend Section 29.70.020 Costs and Penalties for Abatement of Nuisances, Disable Vehicles, and Re-occupancy in Violation as follows:
- A. Nuisances.
1. Whenever a nuisance is abated by the City, the Director shall keep an accurate account of all expenses incurred for each nuisance abated including but not limited to abatement costs, civil penalties, fees, administrative costs, recorders fees and title report charges ~~according to the Property Maintenance Regulations~~ as set forth in the Enforcement Fee and Penalty Schedule as approved by City Council.
  2. When the City has abated a nuisance maintained by any owner of real property, for each subsequent nuisance which is abated by the City within 2 consecutive calendar years concerning real property, owned by the same person, an additional civil penalty ~~according to the Property Maintenance Regulations~~ as set forth in the Enforcement Fee and Penalty Schedule shall be added to the cost, charges and civil penalties ~~provided for in subsection A. of this Section.~~ The additional civil penalty shall be imposed without regard to whether the nuisance abated by the City involved the same real property or are of the same character.

The remainder of this Subsection A. is unchanged.

B. Disabled Vehicles.

1. Whenever a vehicle is removed from real property by the City, the Director shall keep an accurate account of all expenses ~~and penalties~~ incurred for each disabled vehicle removed including but not limited to abatement costs, civil penalties, administrative costs, inspection fees, recording fees, and title report charges ~~according to the Property Maintenance Regulations~~ as set forth in the Enforcement Fee and Penalty Schedule as approved by ~~the~~ City Council.
2. Whenever a ~~disabled~~ vehicle, which has been tagged by the City of Portland, is removed from real property and placed on the public right-of-way, the owner of the real property shall be responsible for that vehicle. The Director shall remove the ~~disabled~~ vehicle from the right-of-way and keep an accurate account of all expenses ~~and penalties~~ incurred for each disabled vehicle removed including but not limited to abatement costs, civil penalties, administrative costs, fees, recording fees and title report charges ~~according to~~

~~the Property Maintenance Regulations as set forth in the Enforcement Fee and Penalty Schedule as approved by the City Council.~~

The remainder of Subsection B. is unchanged.

C. Occupancy of Property After Notice of Violation.

1. ~~Whenever a property owner causes or permits a vacant structure or portion thereof to be occupied in violation of this Title, a penalty according to the Property Maintenance as set forth in the Enforcement Fee and Penalty Schedule as approved by the City Council shall be imposed per structure or portion thereof.~~

The remainder of Subsection C is unchanged.

- D. ~~When a property meets the conditions for assessment of costs and fees or penalties as described in sections A., B., or C., above, the Bureau of Development Services shall file a statement of such costs and fees or penalties with the City Auditor. Upon receipt of the statement, the City Auditor shall mail an assessment notice to the property owner. The notice shall include the amount due plus 10 percent charges to cover the administrative costs of the City Auditor. At the same time the notice is mailed by the City Auditor, the City Auditor shall enter the amount due or the amount of the unpaid balance, plus charges to cover the administrative cost of the City Auditor, in the Docket of City Liens which shall thereafter constitute a lien against the property. The property owner is responsible for paying all liens assessed against the property.~~

- E. When a property meets the conditions for assessment of fees or penalties as described in this Title, the Director may also cause appropriate collection measures, including legal action in a court of competent jurisdiction, to be instituted against the property owner in order to collect the assessed fees or penalties.

e. Amend Section 29.70.030 Building Demolition Costs and Penalties as follows:

- A. ~~Whenever a building is demolished by the City, the Director shall keep an accurate account of all expenses incurred for each building demolished, including but not limited to abatement costs, civil penalties, plus administrative costs, recorders fees and title report charges according to the Property Maintenance Regulations as set forth in the Enforcement Fee and Penalty Schedule as approved by the City Council.~~
- B. ~~Costs and penalties resulting from demolition by the City of any structure pursuant to this Title plus 10 percent charges to cover the administrative costs of the City Auditor shall be assessed as a lien upon the real property on which the structure was located pursuant to the provisions of Chapter 22.06 of City code.~~

C. When a property meets the conditions for assessment of fees or penalties as described in this Title, the Director may also cause appropriate collection measures, including legal action in a court of competent jurisdiction, to be instituted against the property owner in order to collect the assessed fees or penalties.

f. Amend Section 29.80.020 Appeals to the Code Hearings Officer as follows:

A determination issued pursuant to 29.80.010 may be appealed to the Code Hearings Officer along with the payment of a fee as set forth in the Enforcement Fee and Penalty Schedule, as provided for in Chapter 22.10 of City code.

g. Amend Subsection 32.66.020 B. Administrative enforcement fees as follows:

1. In addition to other penalties and fines, the Director may charge a penalty in the form of a monthly enforcement fee or penalty for any violation that meets the following conditions:
  - a. Either a citation, as described in Section 32.66.030, Citations, or a stop work order, as described in Section 32.66.040, Stop Work Orders, has been issued; and
  - b. A response period of at least 30 days has passed since the citation or stop work order became final; and
  - c. The violation, as described in the initial citation of violation or stop work order or any subsequent citation or stop work order, has not been corrected, inspected and approved.
2. The amount of the monthly enforcement fee is \$150 per violation or penalty shall be charged as set forth in the Enforcement and Penalty Fee Schedule as approved by City Council. If the responsible party does not have all violations corrected, inspected and approved within ~~six~~three months from the date of the initial notice of citation or stop work order then monthly enforcement fees or penalties will subsequently be \$300 per violation twice the amount as stated in the Enforcement Fee and Penalty Schedule as approved by City Council.
3. Once the monthly enforcement fees or penalties begin, they will continue until all violations identified in the initial citation or stop work order, or any subsequent citations or stop work orders, have been corrected, inspected and approved.
4. The responsible party must notify the Director when the responsible party believes that all violation in the initial citation or stop work order, or any subsequent citations or stop work orders have been corrected. Upon confirmed receipt of such notice, the Director will promptly schedule an inspection of the violation and will notify the responsible party if any violations remain uncorrected.
5. When a violation meets the conditions for charging an enforcement fee or penalty as described in this Section, the Director will file a statement with the

City Auditor that identifies the property, the amount of the monthly fee or penalty, the amount of citation fines, and the date from which the charges are to begin. The City Auditor will then:

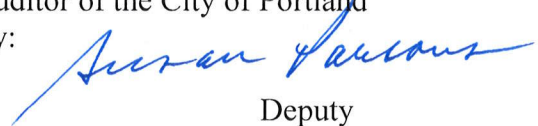
- a. Notify the responsible party of fines and enforcement fees and penalties;
- b. Record a property lien in the docket of City Liens;
- c. Bill the responsible party monthly for the full amount of the accumulated fines and enforcement fee or penalty owing, plus additional 10 percent charges to cover the administrative costs of the City Auditor; and
- d. Maintain lien records until:
  - (1) The lien and all associated interest, fines, penalties, charges, and costs are paid in full; and
  - (2) The Director certifies that all violations listed in the initial and any subsequent citations or stop work orders have been corrected, inspected and approved.

Section 2. The Council declares that an emergency exists because the immediate implementation of these changes will provide BDS a new compliance tool (monthly penalties) to address the busy season spike, starting in May, in nuisance cases and to a lesser degree in sign code violation cases that would otherwise be closed due to a lack of resources to abate or issue citations; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by Council, MAY 19 2010

Commissioner Randy Leonard  
Ed Marihart, BDS  
May 19, 2010

LaVonne Griffin-Valade  
Auditor of the City of Portland  
By:

  
Deputy

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Agenda No.  
**ORDINANCE NO. 183793**  
 Title

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<p style="text-align: center;"><b>INTRODUCED BY</b>          Commissioner/Auditor:  <b>Commissioner Randy Leonard</b></p>	<p style="text-align: right;">CLERK USE: DATE FILED <u>MAY 14 2010</u></p>
<p style="text-align: center;"><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard <i>Randy Leonard</i></p>	<p style="text-align: center;">LaVonne Griffin-Valade          Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p style="text-align: center;"><b>BUREAU APPROVAL</b></p> <p>Bureau: Bureau of Development Services          Bureau Head: Paul L. Scarlett  <i>[Signature]</i></p> <p>Prepared by: Leanne Torgerson          Date Prepared: 5/12/10</p> <p>Financial Impact Statement          Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>          Not Required <input type="checkbox"/></p> <p>Portland Policy Document          If "Yes" requires City Policy paragraph stated in document.          Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date  <b>5/19/10</b></p>	<p><b>ACTION TAKEN:</b></p>
<p><b>City Attorney Approval</b> <i>[Signature]</i></p>	

**AGENDA**

**TIME CERTAIN**   
**Start time:**

**Total amount of time needed:**  
 (for presentation, testimony and discussion)

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**CONSENT**

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**REGULAR**   
**Total amount of time needed:**  
 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	