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SEP 20 1979

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR THE COUNTY OF LINCOLN

Ordinance # 130

Lincoln County Legal Counsel

AN ORDINANCE AMENDING THE ZONE MAPS OF LINCOLN COUNTY ZONING ORDINANCE #34, 1974, and DECLARING AN EMERGENCY

WHEREAS, this Board has conducted a public hearing on August 30, 1979, and

WHEREAS, this Board adopts the proposed findings of fact and conclusions submitted by the applicant entitled "Proponents Proposed Findings of Fact and Conclusions in the Matter of: A Zone Change from A-2 to M-1, Paul and Elizabeth Smith Property",

The Lincoln County Board of Commissioners ORDAINS as follows:

1. That Lincoln County Ordinance No. 34 be amended to change the zoning of tax lots 200 and 600, 11-10-17CC in the Toledo area from A-2, Rural Residential, to M-1, Marine Industrial,
2. That the above zone change be limited to water dependent uses set for in the M-1 zone. Any other authorized use in the M-1 zone shall not be allowed unless the owner of the property apply for and obtain a conditional use permit.
3. That this ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance takes effect on its adoption.

DATED this 19<sup>th</sup> day of September, 1979.

LINCOLN COUNTY BOARD OF COMMISSIONERS  
*Albert R. Strand* Chairman  
*Robert Zepher*, Commissioner  
*W. O. D. D. D.*, Commissioner

Lincoln County Legal Counsel  
Lincoln County Courthouse, room 201  
225 W. Olive Street  
Newport, OR 97365  
Phone: 265-5341 ext. 265

Place on agenda  
This is from board

RECEIVED  
AUG 31 1979

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR THE COUNTY OF LINCOLN

Lincoln County Legal Counsel

Ordinance # ~~129~~  
AN ORDINANCE PROVIDING FEES FOR PERMITS, LICENSES, AND SERVICE FOR  
SUBSURFACE AND ALTERNATIVE SEWAGE SYSTEMS *and revising l.c.*  
Ordinance # 129, 1979

WHEREAS, ~~Enrolled House Bill #2111, chapter~~  
~~Oregon Laws, 1979 and OAR 340-72-005 to 340-72-20~~ require Lincoln  
County to adopt a fee schedule for sewage systems;

THE Lincoln County Board of Commissioners ORDAINS as  
follows:

SECTION I. FEES The following nonrefundable fees shall  
accompany applications submitted to the Lincoln County Environmental  
Manager for permits, licenses, and services provided for in  
ORS chapter 454:

- |      |   |                                       |
|------|---|---------------------------------------|
| (1)  | Site evaluation per lot                       | <del>\$ 50</del> \$100. <sup>es</sup> |
| (2)  | Construction installation permit              | <del>\$ 35</del> 40.00                |
| (3)  | Alteration permit                             | \$ 25                                 |
| (4)  | Repair permit                                 | \$ 25                                 |
| (5)  | Extension permit                              | \$ 25                                 |
| (6)  | Sewage disposal service<br>business license   | \$100                                 |
| (7)  | Pumper truck inspection                       | \$ 25                                 |
| (8)  | Evaluation of existing system<br>adequacy     | \$ 40                                 |
| (9)  | Annual evaluation of alternative<br>system    | \$ 40                                 |
| (10) | Annual evaluation of temporary<br>mobile home | \$ 25                                 |

SECTION II. RENEWALS A nonrefundable fee of \$25 shall  
be collected by the Lincoln County Environmental Manager for re-  
newal of an expired permit issued pursuant to this ordinance and  
ORS chapter 454.

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## STATE OF OREGON

## INTEROFFICE MEMO

DEQ - WQ

DEPT.

229-6218

TELEPHONE

TO: All Contract County, Region Offices  
and Branch Offices

DATE: 7/6/79

FROM: *JS* Jack Osborne, Subsurface and Alternative Sewage Systems Section

SUBJECT: New Fee Schedules - Subsurface Program

House Bill 2111 has passed the Legislature and been signed by the Governor. That Bill became effective upon the Governor's signature.

In anticipation of the passage of H.B. 2111 the Environmental Quality Commission adopted temporary rules amending the Subsurface Fee Rules to become effective July 25, 1979.

Attached is a copy of the temporary rule adopted by the EQC as well as a copy of H.B. 2111.

The following are important as far as your subsurface program is concerned:

1. The fee schedule is expanded to include new categories such as pumper truck inspections.
2. The site evaluation fee and the construction permit fee are now separate fees; not tied to each other as they have been in the past. If the individual has an approved site evaluation, the most you may charge him for a permit is \$40.
3. Each contract county is required to adopt a new fee schedule not to exceed the maximums listed in the attached rule. You must send a copy to Jack Osborne with a copy to the appropriate DEQ Region Office. You may commence to charge the new fees as soon as the County Board of Commissioners adopts the schedule. The EQC is no longer required to set your fee schedule by Administrative Rule (see No. 6 below).
4. DEQ direct service offices should institute the new fee schedule and services immediately, at the maximums shown in the Rule. Any application forms showing fees should be altered to reflect the new fees.
5. Note that the permit renewal fee of \$25 now applies only if field work is performed in the renewal process, otherwise a \$10 fee is to be charged for renewal.
6. H.B. 2111 requires a more comprehensive reporting of fees collected, program costs, etc. We will be developing a more detailed reporting mechanism to accomplish this.

New Fee Schedules - Subsurface Program  
July 6, 1979  
Page 2

On page 2 of the Bill please note lines 34 to 39 inclusive. This provision allows an increase above the established maximum fees effective July 1, 1980. Such an increase must be by rule of the EQC. Increases above the established maximums shall be based upon actual costs of "efficiently conducted minimum services" as developed by the Director or contract county. In this process we will be expecting detailed accounting of program costs and documentation of services provided in order to support a rule to increase fees.

7. Note also that a contract county may adopt fees for services related to this program which are not specifically listed in the H.B. 2111 fee schedule. A fee schedule of this type must be approved by the EQC. Submit to Jack Osborne for review and submission to the EQC.
8. Refunds are provided for also, under certain conditions. Please note those carefully.
9. DEQ offices note the new fee schedule for evaluation reports for "Sewerage Systems".

If you have any questions call Jack Osborne at 229-6218.

TJO:em  
Attachment

*Osborne*

**B-Engrossed**  
**House Bill 2111**

Ordered by the House June 22  
(Including Amendments by House February 28 and June 22)

Ordered printed by the Speaker pursuant to House Rule 12.01 (at the request of Department of Environmental Quality)  
Pre-session filed

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies fees for subsurface sewage system permits and for variances. Increases nonrefundable fee accompanying application for variance to \$225 per application. Provides certain exceptions for payment of nonrefundable fee. Permits department to refund a fee if the applicant withdraws application before the department has commenced field work or other substantial work. Reduces construction installation permit fee to \$40 with favorable evaluation report. Establishes fees for certain services, permits and licenses for sewage facilities. In reference to Department of Environmental Quality power to authorize local governments to perform certain department functions; prohibits contracts to perform these functions when fees collected by local governments exceed costs of services provided; authorizes increased fees when costs of services increase; authorizes fee refunds if application withdrawn before services undertaken. Prohibits county performing variance services from charging fees which exceed costs of services performed. Requires Environmental Quality Commission to adopt rules for granting variances pertaining to subsurface sewage disposal systems in cases of extreme or unusual hardship. Specifies certain factors to be considered in such rules.

**A BILL FOR AN ACT**

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Relating to subsurface sewage permits; amending ORS 454.657, 454.662, 454.725 and 454.745; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 454.662 is amended to read:

454.662. (1) Except as provided in subsection (2) of this section, each application for a variance submitted pursuant to ORS 454.657 must be accompanied by a nonrefundable fee, the amount of which shall be determined by a fee structure adopted by rule of the Environmental Quality Commission but not to exceed [~~\$150~~] \$225 per application. The moneys received are continuously appropriated to meet administrative expenses of the hearings.

(2) Notwithstanding subsection (1) of this section, an applicant for a variance under this section is not required to pay the nonrefundable fee specified in subsection (1) of this section if, at the time of filing the application, the applicant:

- (a) Is 65 years of age or older;
- (b) Is a resident of this state; and
- (c) Has an annual household income, as defined in ORS 310.630, of \$15,000 or less.

(3) Notwithstanding subsection (1) of this section, the department or its contract agent may refund a fee collected under subsection (1) of this section if the applicant withdraws the application before the department or its contract agent has commenced field work or any other substantial work associated with the application.

Section 2. ORS 454.745 is amended to read:

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] existing law to be omitted; complete new sections begin with SECTION.

**R E C E I V E D**  
JUN 25 1979

Amend 340-75-040 as follows:

340-75-040(1) To meet administrative expenses of hearings; except as provided in ORS 454.745(5), a nonrefundable fee of [one hundred and fifty (150)] two hundred twenty-five (225) dollars shall accompany each application for a variance to be acted upon by the Department. The Department shall disburse [twenty-five (25)] forty (40) dollars of the variance fee per granted variance to counties under agreement pursuant to ORS 454.725. Such counties shall issue construction permits, perform final inspection of installed systems and issue Certificates of Satisfactory Completion in cases where variances are granted. Fees submitted with applications to counties under agreement to perform variance duties shall be in accordance with the fee schedule established by the county, not to exceed [one hundred and fifty (150)] two hundred twenty-five (225) dollars per application. Fees collected by a county with a variance agreement may be retained by that county to meet administrative expenses of hearings. A variance fee collected by a county under this rule shall not exceed the county's cost of performing variance duties of the Department.

(2) Notwithstanding subsection (1) of this rule, an applicant for a variance under this rule is not required to pay the nonrefundable fee specified in subsection (1) of this section if, at the time of filing the application, the applicant:

- (a) Is 65 years of age or older;
- (b) Is a resident of this state; and
- (c) Has an annual household income, as defined in ORS 310.630, of \$15,000 or less.

(3) Notwithstanding subsection (1) of this section, the Department or its contract agent may refund a fee collected under subsection (1) of this section if the applicant withdraws the application before the Department or its contract agent has commenced field work or any other substantive work associated with the application.

NOTE: Underlined material is new.  
Bracketed [ ] material is deleted.

TJO:em  
6/21/79

AMENDMENTS TO OAR 340-72-005 to 72-020  
AND 340-75-040

FEEs FOR PERMITS, LICENSES AND EVALUATION REPORTS

Definitions

340-72-005 The definitions contained in ORS 454.605 and Section 340-71-010 shall apply as applicable.

Amend 340-72-010 as follows:

Fees for Permits and Licenses

340-72-010(1) Except as provided in Subsections (4) and (5) of this Section, the following nonrefundable fees are required to accompany applications for permits, ~~and~~ licenses and services ~~issued under~~ in accordance with ORS ~~[454.655 and 454.695:]~~ 454.745:

Subsurface or Alternative Sewage Disposal System	Maximum Fee
① <u>New site evaluations</u> <sup>per lot</sup> <del>first lot</del> <del>and</del> <del>each additional lot evaluated</del> -----	\$120 <sup>50</sup>
<u>while on site</u> -----	\$100 <sup>50</sup>
(2) <u>Construction installation permit</u> -----	[ <del>\$100</del> ] \$40 <sup>35</sup>
<u>(with favorable evaluation report)</u> -----	
③ <u>Alteration Permit</u> -----	\$25
④ <u>Repair Permit</u> -----	\$25
⑤ <u>Extension Permit</u> -----	\$25
⑥ <u>Sewage Disposal Service Business License</u> -----	\$100
⑦ <u>Pumper Truck Inspection</u> -----	\$25
⑧ <u>Evaluation of Existing System Adequacy</u> -----	\$40
⑨ <u>Annual Evaluation of Alternative</u> -----	
<u>System (where required)</u> -----	\$40
⑩ <u>Annual Evaluation of Temporary</u> -----	
<u>Mobile Home</u> -----	\$25

Amend 340-72-010(2) as follows:

(2) A twenty-five dollar (\$25) fee shall be charged for renewal of an expired permit issued under ORS 454.655 in the event a field visit is required prior to renewal; otherwise a ten dollar (\$10) fee shall be charged.

Rescind 340-72-010(3) in its entirety and substitute the following:

(3) Each county having an agreement with the Department under ORS 454.725 shall adopt a fee schedule for services rendered and permits and licenses to be issued. Fees shall not exceed the maximums established in subsection (1) of this section. A copy of the fee schedule and any subsequent amendments to the schedule will be forwarded to the Department.

The Department shall not enter into an agreement, nor continue any agreement as provided for in ORS 454.725, with any county where the total amount of fees collected by that county exceeds the total cost of the program for providing the services rendered and permits and licenses issued under this Division. Each agreement county shall provide to the Department, an accounting of all fees collected and all expenses for the program on a quarterly basis. In the event fees collected exceed costs of the program for any quarter the agreement will be reevaluated and appropriate fee adjustments made.

Rescind 340-72-010(4) in its entirety and substitute the following:

(4) In addition to the fees listed in Subsection (1) of this section with approval of the Environmental Quality Commission, any agreement county may adopt fee schedules for services related to this program which are not specifically listed in Subsection (1) of this section.

Rescind 340-72-010(5) in its entirety and substitute the following:

(5) Notwithstanding the requirements of Subsection (3) of ORS 454.655, the Department or its contract agent may refund a fee accompanying an application for a permit pursuant to ORS 454.655 or for a report pursuant to ORS 454.755 if the applicant withdraws his application before the Department or its contract agent has done any field work or other substantial review of the application..

Amend 340-72-020 as follows:

Fees for Evaluation Reports

340-72-020(1) Except as provided in Subsection ~~[(4)]~~ (3) of Section 340-72-010, the following nonrefundable fees are required for evaluation reports submitted pursuant to ORS 454.755:

<u>Method</u>	<u>Fee</u>
Sewerage System	<del>[\$5]</del> \$10 first lot <del>[\$10]</del> \$30 maximum <del>([two (2)]</del> three (3) or more lots)
Subsurface Sewage Disposal	<del>[\$75 per lot]</del> \$120 first lot, \$100 each additional lot evaluated while <u>on site.</u>

(2) No fee shall be charged for the conduct of an evaluation and issuance of a report requested by any person on any repair, alteration, connection or extension of an existing subsurface or alternative sewage disposal system or part thereof.

1 454.745. (1) Fees, [*in amounts established by rule of the Environmental Quality Commission and*]not  
 2 exceeding the following amounts, are [*required*] established for services rendered and for permits and licenses  
 3 issued under ORS 454.655 and 454.695 in accordance with the following schedule:

4 Subsurface or Alternative	Maximum Fee
5 Sewage Disposal System	
6 New Site Evaluation; first lot .....	\$120
7 Each additional lot evaluated while on site.....	\$100
8 Construction Installation Permit	
9 (with favorable evaluation report).....	[\$100] \$40
10 Alteration Permit .....	\$25
11 Repair Permit .....	\$25
12 Extension Permit .....	\$25
13 Sewage Disposal Service Business License.....	\$100
14 Pumper Truck Inspection .....	\$25
15 Evaluation of Existing System Adequacy.....	\$40
16 Annual Evaluation of Alternative System (where required) .....	\$40
17 Annual Evaluation of Temporary Mobile Home .....	\$25

18 (2) [*A fee, in amount established by rule of the Environmental Quality Commission and not exceeding \$75,*  
 19 *is required for any evaluation report issued under ORS 454.755, except that no such*] No fee shall be charged for  
 20 an evaluation report requested on any proposed repair, alteration or extension of an existing subsurface sewage  
 21 disposal system, alternative sewage disposal system or part thereof.

22 [(3) *Each fee received pursuant to subsection (2) of this section shall be deducted from the amount of the fee*  
 23 *otherwise required for the subsequent issuance of a permit for the installation or construction of the facility or*  
 24 *system for which the site evaluation was conducted.*]

25 [(4) *Notwithstanding the requirements of subsections (1) and (2) of this section, the Environmental Quality*  
 26 *Commission, upon the request of any county which pursuant to ORS 454.725 has entered into an agreement with*  
 27 *the Department of Environmental Quality, may by rule require or permit fees in that county which are lower than*  
 28 *those required under subsections (1) and (2) of this section if that county can show to the satisfaction of the*  
 29 *Environmental Quality Commission that with the requested lower fees it can otherwise finance the duties*  
 30 *required of it by the agreement with the Department of Environmental Quality.*]

31 (3) Notwithstanding any other provision of this section, no contract provided for under ORS 454.725 shall be  
 32 entered into or continued when the total amount of fees collected by the local unit of government exceeds the total  
 33 cost of the program for providing the services rendered and permits and licenses issued under this section.

34 (4) Notwithstanding the maximum fees established in subsection (1) of this section, the Environmental Quality  
 35 Commission, upon request of the director or of any county which pursuant to ORS 454.725 has entered into an  
 36 agreement with the Department of Environmental Quality, may by rule increase maximum fees effective July 1,  
 37 1980, above the maximum levels established in subsection (1) of this section. Fee increases permitted by the  
 38 commission shall be based upon actual costs for efficiently conducted minimum services as developed by the  
 39 director or contract county. In addition to the fees listed in subsection (1) of this section, with approval of the  
 40 Environmental Quality Commission, any agreement county may adopt fee schedules for services related to this  
 41 program which are not specifically listed in subsection (1) of this section.