



**BEFORE THE BOARD OF COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON**

In the Matter of Uniform Procedure for)
Setting Fees Charged by County:)
Planning;)
Adopting Fee Schedule)

ORDER 2012 - 052

WHEREAS, at the May 16, 2000 election, the voters of Josephine County approved County Measure 17.73 (Board of County Commissioners Order No. 2000-25 dated March 13, 2000) establishing a uniform procedure for setting fees charged by Josephine County in compliance with the Josephine County Charter; and

WHEREAS, the Board of Commissioners, by Order 2012-046, set a time and place for a hearing to allow public comment prior to adopting fee schedules for certain county programs; and

WHEREAS, following due and proper notice, the Board of Commissioners, having heard this matter at 9:00 a.m. on Wednesday, November 21, 2012 at a public hearing on the proposed fees does make the following FINDINGS:

(1) The proposed fee, as set out in Exhibit "A," attached hereto, for the following county program: a) Planning is consistent with the intent of the measure establishing a uniform procedure for setting fees charged by the county; the provision of the services will be borne by the users of the services and not by the taxpayers and general fund of Josephine County; and

(2) The cost of the proposed fee is calculated to cover the cost of providing the services and administration of the programs directly related to the proposed fee.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1) The Board of Commissioners declares its approval of the fee schedule, as set out in Exhibit "A," attached hereto, for the following county program:

a) Planning

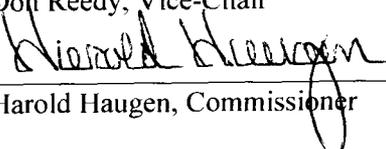
2) The fees established hereunder shall be effective January 1, 2013

DATED this 28th day of November 2012

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS


Simon G. Hare, Chair


Don Reedy, Vice-Chair


Harold Haugen, Commissioner

**Summary of
Fee Amendments**

Fee Description	Current Fee	Cost of Service	Proposed Fee	Current Revenue	Estimated New Revenue
Home Occupation (CUP)	\$ 2,000	\$ 2,000.00	\$ -	\$ 10,000.00	
Home Occupation renewal	\$ 125	\$ 125.00	\$ -	\$ 9,875.00	\$ -
Home Occupation - Type I	\$ -	\$ 375.00	\$ 375.00	\$ -	\$ 3,750.00
Home Occupation - Type II	\$ -	\$ 650.00	\$ 650.00	\$ -	\$ 3,250.00
Home Occupation - Type III*	\$ -	\$ 2,000.00	\$ 2,000.00	\$ -	\$ 2,000.00
* (Same as former CUP)					
TOTAL					\$9,000

EXHIBIT A

JOSEPHINE COUNTY - PLANNING DEPARTMENT

Permit Fee Amendments for the 2012-2013 Fiscal year

The Planning Department makes periodic adjustment of permit fees charged for planning services pursuant to Oregon Revised Statutes 215.416 and 215.422 in order to maintain revenue support to cover the cost of land use permit administration, long range planning tasks, ordinance review and updates to the Rural Land Development Code. As allowed by statute, the Department proposes fees that recover the *average cost* of permit services.

BACKGROUND INFORMATION

Statutory Authority. The Oregon laws cited above require counties to “. . . establish fees charged for processing permits at an amount no more than the actual or average cost of providing the that service.” There are two choices a county can make in charging fees. The first is to charge the *actual cost* of processing each specific permit. This involves cash deposits and detailed time records by staff, along with posting and billing procedures. The second choice is to charge the *average cost* of permit services and collect this amount with the application. This approach requires individual fees to reflect the average cost of providing the kind of permit service obtained. Josephine County has always used the average cost approach in setting planning permit fees. Averaged fees are easier to administer, but require the county to consider a number of important factors when setting specific fees.

LUBA Case Law. Ordinarily county exactions are considered fiscal matters that are exempt from review by the Land Conservation and Development Commission (LCDC) or the Land Use Board of Appeals (LUBA). This is not true, however, for land use planning fees charged pursuant to ORS 215.416 and 215.422. Because excessively expensive permits may inhibit certain kinds of land uses or procedures otherwise promoted under Oregon laws and planning goals, LUBA has jurisdiction to review new or adjusted permit fees. *Landwatch v. Lane County*, ___ Or LUBA ___ (No. 2006-039, June 26, 2006)

FACTORS IN SETTING AVERAGED FEES

[1] Total Cost to the County for Processing Permits. Oregon law says the governing body is authorized to charge land use permit fees based upon the cost to the county for processing those permits. The term “permit” means the “approval of a proposed development of land.” Because costs are those incurred by the county, permit fees are not necessarily limited to the cost of running the planning office. Fees can also account for costs incurred by other departments in reviewing or processing of land developments, such as the public works and building and safety departments, and legal counsel and the county board. The planning office budget contains general inter-fund charges for essential support services, such as, finance, human resources, communications, computers, GIS, building operations and maintenance, etc. The planning office budget is attached as Exhibit B.

[2] The Amount of Time Spent. Fees need to be based on estimates of time spent for specific permits. Because the county uses the averaging approach the estimate does not need to be based upon actual time spent. According to LUBA's opinion in the *Landwatch* case, evidence regarding average costs do not require "extensive evidentiary detail" or "extensive findings." Instead, LUBA held that "rough estimates" of staff time and other significant costs that are typical or average for processing specific permits will suffice.

[3] The Number of Permits Processed. It is important to predict the number of applications one might expect as accurately as possible. It is also important to allocate these numbers realistically between the various permits, since individual permits produce different revenues. Obviously this estimate will never be precise, as permit applications are voluntary from the citizens seeking Home Occupations. However, the more planning fees are used to support the planning program, the more important it is to capture likely permit numbers.

As the planning program strives to remain primarily fee-supported, it is important to make sure permit numbers and/or amounts contain a reasonable margin or 'cushion' to prevent premature layoffs or shut-downs resulting from a temporary permit slow-down. Answering inquiries from prospective (or existing) permit holders are assumed as part of the cost of service.

SETTING FEES

Land use permits generally fall into four categories: (1) Simple, (2) Simple Complex, (3) Complex, and (4) Extremely Complex. Fees are therefore assigned within these four ranges based upon complexity. The Planning Department's last proposed fee amendment occurred at the beginning of the 2007-08 fiscal year. The request at this time is limited to Home Occupation fees, which are proposed to be set at rates already established for similar permit reviews, in response to new ordinance changes that denote 'tiered levels' of permit review and likely public involvement.

There are a number of factors that affect complexity of applications:

- Are the criteria used to judge the permit simple or complex? Some criteria are clear and objective and therefore easy to ascertain, while others call for careful legal interpretations or policy judgments and fact gathering. Complex criteria usually require extensive investigation of conditions at the site or the area, research of maps, records, data sources and other public records.
- Do the criteria involve state statutes and/or administrative rules? This is especially true for uses in resource zones, but many other zones are also affected by a complex array of ever-changing state rules from multiple regulatory authorities.

- Does the use involve serious health and safety issues? These kinds of concerns always require closer scrutiny. Health and safety issues can result from flooding, wildfire, traffic conflicts, erosion, pollution and other impacts.
- How many other agencies or departments must be coordinated through local review? The interplay between municipal, county and state agencies are often sensitive and involve important safety and environmental issues. County Planning plays a central role in assuring other department or agency interests are coordinated and acknowledged in the local permit process.
- How extensive is the required review process? Ministerial land use actions that do not require landowner notice are usually simple. At the next level of review, land use notice to surrounding land owners or other agencies or departments not only involve costs in preparing and mailing notices, but they also invariably require planners to pay a lot more attention to participants. Noticed land use decisions often require extensive written documentation, called findings. Certain applications require public hearings, sometimes multiple hearings. Public hearings require published staff reports and other preparations for the hearing to include presentation exhibits, recorded minutes and findings of fact.
- How much follow-up is required to assure performance of permits? Conditions are often attached to permits to assure compliance with important mitigating measures during the course of operation. These kind of conditions relate to on and off site noise, traffic and special environmental or safety concerns. Neighbors and land use watch groups are likely to monitor critical conditions, for performance. It is not unusual for permits to require periodic assessment or response to complaints by the Code Administrator.
- How controversial is the land use activity? Not all land uses are born equal. Experience teaches that home occupations and conditional uses that involve outside activities, unusual volumes of traffic or noise in areas of mixed zoning attract much opposition.
- How much supervision is required to assure competent outcomes? When some or all of the foregoing complications are present, the review process might demand the involvement of more experienced planners. The need for supervision may require the department manager, or consulting County Legal Counsel. The involvement of higher level, or inter-departmental staff adds additional cost.

Simple Permits Simple permits do not require notice. They are often performed by planning technicians or beginning planners with minimal supervision because they involve clear standards, although almost all levels of technicians and planners issue these permits. Examples of simple permits currently reviewed are development permits (\$275), medical hardship dwellings (\$325), medical

hardship dwelling and home occupation renewals (\$35/\$125), manufactured dwelling storage (\$350), and land use information responses (\$125).

While the issuance of a development permit is usually a quick activity performed at the front counter, the permit requires maintenance of several connected data bases through the County's GIS and Paradox permit tracking system that generates the permit, and then ties it to the subject parcel for future reference. The "background maintenance" of these systems are considered in estimating the cost of service for this permit. All of these permits require customer contact. Questions must be asked and answered, application materials reviewed for completeness, corrections made, and sometimes correspondence is involved, especially for first-time applicants. The average time spent varies in this category as reflected by range of fees, but one can expect involvement to run from 10-20 minutes for issuing the development permit, 3-4 hours for review and write-up of a Type I Home Occupation permit (as defined by the new ordinance). Administrative support of 1-1.5 hour (estimated) usually involves telephone calls, bookkeeping, document tracking (computer entries), copying, scanning and filing.

A Type I home occupation fits into this category of permits – proposed fee of \$375 (includes Development permit)

Simple-Complex Permits Simple-complex permits may or may not require notice and the standards for review are more demanding. These permits often involve health and safety issues that require special attention. Some examples in this group are authorized lot determinations (\$500), determinations of development (\$400), approval of final plats (\$600), standards only site plan review (\$650), various midrange pre-application reviews (\$375-\$600), review of technical plans (\$650), flood hazard reviews (\$600), Measure 37 claims (\$950), and property line adjustments (\$1200). These actions require specialized knowledge and frequently include research, analysis, and interpretation of local and state laws. These reviews almost always involve a field visit to verify compliance and involve some level of site development. They frequently involve one or more conferences with applicants, and collaboration with other agencies. The permit itself almost always results in a two or three page (or longer) written decision that highlights issues, the applicability of code and conditions of approval. Decisions and correspondence in this group must be reviewed by a supervisor. The time spent on applications in this category vary greatly, running anywhere from 10 to 50 (or more) hours.

A Type II home occupation fits into this category of permits – proposed fee of \$650 (includes Development permit)

Complex Permits This category of applications requires notice to surrounding property owners. Many are decided by the planning director without a public hearing, but others go to hearings because the code requires it. The planning director sometimes refers applications to a hearing because of controversy or degree of potential impact to neighboring properties. Hearings almost always involve multiple sessions because state law requires at least one continuance if any participant asks for a chance to present more evidence at the end of the initial hearing. When the director makes a decision without a

hearing, an appeal to the board of county commissioners (\$250, refundable fee) is likely when issues are not fully settled. These permits require well-trained planners. Almost all go through team review and involve constant supervision, so multiple staff are involved. The criteria are more complex and subjective. Impacts are harder to mitigate. The potential for conflict between applicants and neighbors is ever present and difficult to resolve. When one of these applications blows up, the sky is the limit on staff time. Written decisions are many-paged documents with carefully crafted conditions of operation. Staff reports can be inches thick and contain reports and work from multiple experts. These applications also frequently involve staff from public works, building and safety, legal counsel and the county board. Examples of complex permits are conditional uses (\$2000-\$2500), home occupations (\$2,000-\$2750), non-conforming uses (\$2,000-\$2500), land partitions and subdivisions (\$2,750-\$3,750), remand hearings (\$2,500), large site reviews (\$2,000-\$3750), and variances (\$2,000-\$2750). The time spent on applications in this category vary radically, running anywhere from 30 to 100 or more hours of collective time.

A Type III home occupation will be processed as a Conditional Use Permit (CUP) – no change is proposed to fee: \$2,000 (plus Pre-application of \$375, and Development permit of \$275)

Extremely Complex Permits. This a small group. Applications here usually require public hearings by the planning commission and the county board. Home Occupations would not normally rise to this level of complexity or County-wide impact, so this level of review is not anticipated

Comparing Fees. It is difficult to compare fees between counties. The main reason is that some planning programs are supported by sources of revenue other than land use permit fees. Other jurisdictions may have one, two or more levels of permit categories which have varied levels of fees. Some we found require annual renewal (with fee), some do not. Table 1 shows a sample of home occupation permit fees in comparison Counties and area cities. These were selected based on proximity to Josephine County, or being comparison-Counties for other purposes, such as staff salaries.

Table 1 – Samples from other jurisdictions

HOME OCCUPATION PERMIT FEES*			
Grants Pass (Minor/major)	\$43 / 688	Ashland (Admin/I/II)	\$325 / 982 / 1970
Medford (I)**	\$60/year	Roseburg (I)**	\$130
Benton (I/CUP/CUP w-hrg)	\$115 / 955 / 1385	Jackson (I/II/CUP)	\$223 / 1665 / 3720
Linn	\$750	Klamath (II/CUP)**	\$637 / 1080
Douglas*	\$2,200	Yamhill (II)	\$1,117
Lane** (II)	\$2,660	Coos (I/CUP)**	\$100 / 1153

* The fees cited in Table 1 do not include pre-application, development permits, or annual renewals.

** Requires annual renewal.

Table 2 below shows the proposed fees for Home Occupations in Josephine County, by permit type.

Table 2 – Proposed Fee Comparisons

Permit Type	% of Fee Support	Pre-App Review	Home Occupation Permit	Public Hearing	Development Permit
Exempt	0%	---	---	---	---
Type I	100%	---	\$375*	---	---*
Type II	100%	\$375	\$650*	---	---*
Type III (CUP)	75%	\$375	\$2,000	\$750	\$275

* Development permit fee of \$275 is proposed to be included with Type I and II permits.

In public hearings before the Planning Commission and Board, these bodies emphasized that Home Occupations are a stimulus to the local economy, and while not individually creating many jobs, they are often a supplement to traditional wage-earning, or represent ‘incubator’ business ventures just getting started. Therefore, policy-makers sought to keep the permit fee for Home Occupations low, in order to provide an incentive for potential business owners to start their ventures while keeping start-up costs low.

The information below details the cost of service estimated for each type of Home Business permit authorized under the new ordinance, effective December 11, 2012. Note that no change is proposed to Home Occupations processed as a Conditional Use Permit (CUP). Previously, *all* Home Occupations were reviewed as a CUP. The new ordinance also includes an ‘exempt’ category, whereupon applicants complete a survey form to determine their level of Home Occupation – if exempt, no permit is processed nor fee charged. An average of \$50.18/hour for staff cost is applied to each category, to capture all associated costs (including overhead) of Planning Department operations to result in a per-hour cost of service. This figure is derived using the cost of salaries and overhead for the Department as a whole (\$521,900), per employee (5), and 2080 hours of work per year.

Exempt

- Checklist covering standards to be completed by applicant
- Compliance agreement to be signed by applicant
- Record maintained in land use file and laserfiche
- Review is over the counter or within a day or two
- Time: 1.5 hr avg. (review and administrative)
- Cost to Planning: \$75
- Proposed fee: None

Type I Standards Only Review w/ Development Permit

- Ministerial application
- Checklist, statement of operations and plot plan
- Compliant with ORS 215.448
- Written decision with standard conditions
- Time: 3.5 - 4.5 hrs. of applicant contact and review; 1 - 1.5 hr. administrative
- Cost to Planning: \$225 - 300 (Development Permit fee \$275 included in cost of application)
- Proposed fee: \$375

Type II Standards-Only Site Plan Review w/ Development Permit

- Quasi-judicial review
- Public notice & site visit
- ORS 215.448 requires operations substantially in the dwelling or other buildings of resource zoned parcels
- Includes site plan review standards 42.050.A
- Mitigation for impacts
- Written decision with specific conditions
- Time approx. 8 - 16 hrs. (includes site visit and notice); 2 hr. administrative
- Cost to Planning: \$400 - 800 (Development Permit fee \$275 included in cost of application)
- Proposed fee: \$650

Type III Conditional Use Permit

- Listed businesses (92.070.A) to be reviewed as CUP (Article 45)
- All proposals exceeding allowed standards to be reviewed as CUP except those activities listed as prohibited
- Public notice, site visit, possible hearing
- Staff report, written decision with specific conditions
- Time 25 - 80 hrs. (includes pre-app, site visit, notice, decision); 3-4 hrs. administrative
- Cost to Planning: \$1,400 - 4,000

- Pre-application required \$375
- Current fee \$2000 / 2750 (w/ hearing)
- Development Permit \$275

(Note: no change to the Conditional Use permit fees for Home Occupations is proposed)

ESTIMATED REVENUE

The attached Fee Amendment Template – 2012 indicates current and estimated revenue. The Department looked at the past fiscal year, ending July 1, 2012, to garner a year’s worth of revenue figures, and looked at past trends of permits, assessing how they would be reviewed within the new categories established by the Home Occupation Ordinance. Based on the last 10 years of Home Occupation permit reviews, 17% would fall within the Type I category; 48% would be Type II; 34% would be Type III, and 1% would now be prohibited by the new ordinance.

Despite the break-down of historic permit ‘types’ (though all were reviewed as a single type) it is difficult to judge how many Home Occupation permits might be sought in the upcoming year. The existing \$2,000 fee likely ‘scared-off’ many prospective permit holders, so the annual number of applicants is historically low. What can be accurately shown is the projected loss of annual renewal revenue; there are currently 82 Home Occupation permit holders, who would be obliged under the old ordinance to pay an annual fee for renewal. The new ordinance was passed without this requirement.

The Board issued two Resolutions allowing permit fee vouchers in the past/current fiscal years: \$2,000 per voucher for up to 10 permits. That has swayed the data typically seen for home occupations, both in permit applications and revenue. Given the break-down of permit types, and the hope that lower fees will compel more permits (and the prospect of paying a violation surcharge of \$500 if doing business without a permit), Planning estimates the new ordinance and fee schedule for Home Occupations may result in 10 new Type I permits, 5 new Type II permits, and 1 new Type III permit in the forthcoming calendar year.

EXHIBITS

Josephine County Planning Office 2012-2013 Budget..... Exhibit A

Summary of Fee Amendments 2012 Exhibit B

JOSEPHINE COUNTY
Schedule B - Program Worksheet
Budget Submission
2012-13

Fund: General Fund (100)
Office/Division: Planning
Program: Admin
Cost Center #: 321110

<u>Resources:</u>	<u>Budget Amounts</u>	
	<u>FTE</u>	<u>Dollars</u>
Beginning Fund Balance		\$ -
Program Revenues (Schedule C)		355,100
Interfund Transfers (In) (Schedule C)		40,000
Total Resources - To Schedule A		\$ 395,100
 <u>Requirements:</u>		
Expenditures:		
Personal Services (Schedule D)	5.00	\$ 426,300
Materials and Services (Schedule E)		95,600
Interfund Transfers (Out) (Schedule E)		-
Capital Outlays directly from program (Schedule F)		-
Contingency		-
Ending Fund Balance		-
Total Requirements - To Schedule A	5.00	\$ 521,900

Purpose of Program:

JOSEPHINE COUNTY
Schedule C - Resources
Budget Submission
2012-13

Fund: General Fund (100)
Office/Division: Planning
Program: Admin
Cost Center #: 321110

	<u>Revenue Source Code</u>	<u>Budget Amount</u>
<u>Revenues:</u>		
30000	Property Taxes	\$ -
30100	Prior Year Taxes	-
30900	Other Taxes	-
31100	Licenses, Permits and Fees	26 PLNG 320,000
32100	Federal Grants	-
32200	State Grants	30,000
32300	Local Grants	-
32500	Private Grants	-
33100	Charges for Services	-
33200	Sales of Materials	-
33300	Rental Charges	5,100
34200	Fines and Forfeitures	-
35300	Interfund Payments	-
37100	Interest Earned	-
37200	Donations	-
37850	Equity Transfer In	-
37900	Miscellaneous	-
Total Revenues - To Schedule B		<u>\$ 355,100</u>

<u>Transfers from Other Funds (List sources):</u>		
35200	Economic Development (210)	\$ 40,000
35200		-
35200		-
Total Interfund Transfers (In) - To Schedule B		<u>\$ 40,000</u>

JOSEPHINE COUNTY
Schedule E - Other Requirements
Budget Submission
2012-13

Fund: General Fund (100)
Office/Division: Planning
Program: Admin
Cost Center #: 321110

	Budget Amount
<u>Materials and Services:</u>	
<u>Supplies:</u>	
43100 Office Supplies	\$ 5,000
43300 Operating Supplies	-
43328 Uniforms and Protective Gear	-
43770 Equipment (<\$5,000)	500
44910 Printing and Duplication	1,200
44929 Postage and Shipping	-
43340 Food and Related Supplies (CJ and Sheriff only)	-
43920 Ammunition (Sheriff only)	-
43740 Aviation Fuel (Airport only)	-
<u>Fees and Services:</u>	
44001 Contracted Services	50,000
44040 Advertising	1,000
44100 Professional Services	-
44922 Dues and Subscriptions	600
44990 Insurance	3,100
44463 Witness Fees (DA only)	-
<u>Training and Travel:</u>	
44410 Travel	1,200
44451 Education and Training	500
<u>Facilities and Utilities:</u>	
44600 Utilities	-
44661 Communications	600
44710 Rental - Land and Buildings	1,300
44720 Rental - Vehicles and Equipment	-
44810 Building Operation, Repairs and Maint (BOM)	30,100
44840 Equipment Operation, Repairs and Maint (Fleet)	500
<u>Intergovernmental Payments</u>	
45500 Intergovernmental Payments	-
<u>Miscellaneous</u>	
43010 Disability Awards/Settlements (Self Insurance Fund only)	-
44200 Medical Services (Self Insurance Fund only)	-
44992 Self Insurance Claims (Self Insurance Fund only)	-
44995 Miscellaneous	-
Total Materials and Services - To Schedule B	\$ 95,600
<u>Transfers to Other Funds (List recipients):</u>	
45210	\$ -
45210	-
45210	-
45210	-
Total Interfund Transfers (Out) - To Schedule B	\$ -

Josephine County
 Schedule D - Personal Services
 Planning
 2012-13

Cost Center	Job Title	Grade & Step	Union	FTE	Annual Wages no COLA	Total Taxes & Benefits	Total Wages & Benefits
321110	Planner II	A1710	AF	1.00	53,718	27,433	81,151
321110	Planner III	A1912	AF	1.00	64,575	30,884	95,459
321110	Planning Specialist	A1212	AF	1.00	41,926	23,035	64,961
321110	Planner I	A1407	AF	1.00	42,125	23,748	65,873
321110	Planning Director	N2110	NU	1.00	82,291	36,564	118,855
321110	Admin Secretary	A1112	AF	1.00	39,610	22,335	61,945
				6.00	324,244	163,999	488,243

Reductions:

321110	Admin Secretary	A1112	AF	1.00	39,610	22,335	61,945
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Rounded for Schedule B

5.00	284,600	141,700	426,300
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