

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE,
OREGON AMENDING TITLE 1 OF THE MILWAUKIE MUNICIPAL CODE, BY
ADDING A NEW CHAPTER 1.10, STOP WORK ORDERS.**

WHEREAS, the City of Milwaukie desires to protect neighborhoods and sensitive resources from adverse impacts of unauthorized construction and development activities; and

WHEREAS, the City of Milwaukie desires to strengthen existing code compliance methods by creating the authority to stop unauthorized construction and development related activities; and

WHEREAS, a public hearing was held on December 5, 2000 with public notice having been provided; and

**NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS
FOLLOWS:**

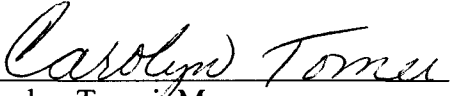
Section 1. The City Council adopts the above recitals as findings of fact.

Section 2. The Milwaukie Municipal Code is hereby amended by adding a new Chapter 1.10, Stop Work Orders, in the form of Exhibit A attached hereto and incorporated by this reference.

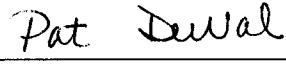
Read for the first time on 12/5/00 and moved to a second reading by 5 - 0 vote of the City Council.

Read the second time and adopted by the City Council on 12/5/00.

Signed by the Mayor on 12/5/00.


Carolyn Tomei, Mayor

ATTEST


Pat Duval
City Recorder

APPROVED AS TO FORM
Ramis, Crew, Corrigan & Bachrach, LLP

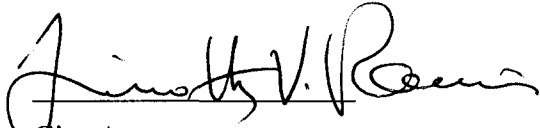

City Attorney

EXHIBIT A

**Milwaukie Municipal Code
New Chapter 1.10
Stop Work Orders**

1.10.010 Authority to Issue Stop Work Orders

When necessary to obtain compliance with any provision of or any approval granted under the Municipal Code other than Chapter 15 or with any provision of or any approval granted under the Zoning Ordinance or Subdivision Ordinance, code enforcement officers as defined by Section 1.08.030 may issue stop work orders requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. The stop work order shall be in writing and shall include:

- a. Date of the order;
- b. Permit number, where applicable;
- c. Site address, legal description or project location;
- d. A description of all violations; and
- e. The conditions, if any, under which the work may resume.

1.10.020 Scope of Stop Work Orders

- a. A stop work order issued under Section 1.10.010 shall be effective when posted in a conspicuous location at the site of the work. A copy of the stop work order shall be mailed by certified mail or hand delivered to the owner of the property. The stop work order shall be effective until:
 1. The necessary permit is obtained,
 2. The Assistant City Manager for Community Development issues a written approval for work to continue based on a finding that the violation has been cured; or
 3. The stop work order is withdrawn on appeal.

Except as provided in subsection (b) and (c) of this section, no person may engage in any activity covered by the stop work order while the stop work order is in effect.

- b. With the written approval of the Assistant City Manager for Community Development or designee, any person may undertake work that is necessary to avoid a threat or hazard to persons or property that would result if work is left unfinished.

- c. If an appeal is filed with the City Manager, the work may continue if a bond is provided in a sufficient amount to pay for the removal of any work and the return of the property to its previous condition and the Assistant City Manager for Community Development determines that continuation of the work will not result in irreparable harm. If the stop work order is upheld by the City Manager and City Council as provided in section 1.10.030, all work performed under this subsection shall be removed by appellant within 15 days of the final decision by the City on the appeal except as otherwise permitted in writing by the Assistant City Manager for Community Development.
- d. When an emergency condition exists, a code enforcement officer may issue a stop work order orally. A written notice confirming the oral stop work order must then be issued, posted and mailed within 24 hours.

1.10.030 Appeal

The owner of the property where the work was performed and any other person affected by a stop work order may appeal the stop work order by filing a written appeal with the City Manager at any time while the stop work order is still in effect. The City Manager shall decide the appeal within two business days of receiving the written appeal by issuing a written decision and providing copies of the decision to the appellant, the property owner if different, and the code enforcement officer who issued the stop work order. The appellant may appeal the City Manager's decision to the City Council by filing a written request for hearing within 10 days of the City Manager's decision. On receipt of the written request for hearing, the City Manager shall set the matter for hearing before the City Council at the next City Council meeting.

1.10.040 Appeal Procedures and Standards

If the matter is appealed to the City Council, the City Council shall decide the matter after a public hearing at which the appellant and any other person may give evidence and provide argument. The City Council shall decide the issue by motion. In deciding the appeal, the issues to be considered by the City Manager or the City Council are whether work was performed, whether a City permit or approval was required for that work, whether required permit or approvals were issued, and whether the order violated any constitutional, statutory, code, or common law requirements. Failure of an appellant to raise an issue shall be a waiver of the issue.

1.10.050 Judicial Review of the City Council Decision

The City Council decision on an appeal of a stop work order is a quasi-judicial decision and is subject to judicial review on the record as a quasi-judicial decision.

1.10.060 Non-compliance

- a. Failure to comply with a stop work order is civil infraction punishable by a civil penalty of \$1,000 per day for each day during which work continues after a stop work order is issued. Work performed as authorized under 1.10.020(2) and 1.10.020(3) is not a failure to comply with a stop work order.

- b. It is a civil infraction to intentionally remove, obscure, mutilate or otherwise damage a posted stop work order while the order remains in effect.
- c. The remedies provided by this Chapter are cumulative and are in addition to any other remedies provided by common law, statute or ordinance. Any work performed in violation of this Chapter is a nuisance that may be abated as provided in Chapter 8 of this Code.