



# City of Portland

## Bureau of Development Services

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# PERMANENT RULE

**RELATING TO**  
Title 3 Administration and Enforcement

**FOR INFORMATION CONTACT**  
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**TOPIC: Recurring Environmental Violation Enforcement Process and Fines**

**AUTHORITY:**

The Bureau of Development Services (BDS) the authority for application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 and Subdivision Regulations Title 34 as delegated by the Director of Planning. Under Section 3.30.040 A, the Director of BDS has the authority to adopt written policies and procedures for the enforcement of applicable Code provisions and laws. Section 3.30.040, Establishment of Enforcement Priorities and Remedies provides the general framework for assessment of enforcement penalties for violations. The purpose of this Administrative Rule is to establish a process and method for evaluating and citing recurring environmental violations of Chapter 33.430.407 Environmental Zones, Recurring Violations.

**CITATION:**

**3.30.010 Duties of the Bureau of Development Services.**

The Bureau of Development Services shall be responsible for:

- B.** The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 and Subdivision Regulations, Title 34, as delegated by the Director of Planning.

**3.30.040 Establishment of Enforcement Priorities and Remedies.**

(Amended by Ordinance No. 175327, effective February 14, 2001.) In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

- A.** Adopt written policies and procedures for the enforcement of applicable Code provisions and laws and establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by the City Council.

**EFFECTIVE:** \_\_\_\_\_ **[P. Scarlett]** \_\_\_\_\_ December 5, 2005  
P. Scarlett, Interim Director

## **ADMINISTRATIVE RULE**

### **Administration and Enforcement – Title 3**

#### **A. Recurring Environmental Violation Process, General**

- 1. Purpose.** The purpose of this Administrative Rule is to establish a process and method for evaluating and citing recurring environmental violations of Chapter 33.430, Environmental Zones. A Recurring Environmental Violation is a site where more than one violation of the environmental zoning regulations are on record as having occurred while in the same ownership, or where a person or entity (e.g., business, agency, organization) is deemed to have violated the provisions of Zoning Code Chapter 33.430, Environmental Zones, more than once.
- 2. Receipt of Complaint.** The process will start when a complaint regarding the environmental zone is received.
- 3. Determination of Violations.** An inspection will be performed to verify the validity of the complaint.
- 4. Determination of Violator.** Where it has been determined that a violation exists, Compliance Services staff shall use Bureau resources to determine the name of the responsible party.
  - a.** The responsible party may be the third-party violator or the property owner.
  - b.** When no other responsible party can be identified, the property owner shall be determined to be the responsible party.

The property owner or third party violator names will be compared against the TRACS (BDS permit computer system) database to determine if a recurring violation situation exists.

- 5. Process.** If a recurring violation situation exists, the following process will be used:
  - a.** Notification: A Recurring Violation Notification will be sent out to the property owner or third-party violator and Compliance Advisory Assistance Committee members. The Recurring Violation Notification will contain the following information:
    - 1)** Section of Chapter 33.430, Environmental Zones violated;
    - 2)** The correction action required and timeline to correct; and
    - 3)** The Code Hearings Officer process by which additional fines may be requested.

- b. Fine Recommendation: Compliance Services staff will make a recommendation on the fines using section B below for guidance.
- c. Committee Meeting: Within two weeks of the notification letter, the Compliance Advisory Assistance Committee will convene to evaluate the case and staff fine recommendation.
- d. Hearing: Staff may make a request for a hearing with the Code Hearings Officer.
  - 1) The Code Hearings Officer will send out a Notice of Hearing to the responsible party(s) and the Committee members.
  - 2) All decisions of the Code Hearings Officer shall be binding and final.

**B. Fine Assessment Criteria**

1. **General.** The following criteria will be used as a guide by staff, with input from the Compliance Advisory Assistance Committee, to develop a fine request for the Code Hearings Officer’s consideration.

2. **Fine assessment chart.**

All fines shall be assessed using the following chart:

Recurring Violation Type	Offense		
	<u>2nd</u>	<u>3rd</u>	<u>&gt; 4th</u>
Base fine (escalates with each occurrence)	\$500	\$1000	\$2000
Additional fines may be assessed based on the following criteria:			
Violation of land use review conditions that occurred on the property	\$500	\$1000	\$2000
Violation of a building permit approved through a plan check process	\$250	\$500	\$1000
Area disturbed	\$1/sqft	\$2/sqft	\$4/sqft
Fill (grading and removal over 10 cubic yards)	\$100	\$200	\$400
Trees Cut	\$50”DBH	\$100”DBH	\$200”DBH
Trees Topped	\$50”DBH	\$100”DBH	\$200”DBH

3. **Fine Modification Criteria.** Compliance Services staff, taking into consideration the recommendations from the Compliance Advisory Assistance Committee may modify any fine recommendation for a variety of extenuating circumstances, such as the nature and occurrence of previous violations, previous interaction with City staff, and other codes or regulations violated.

**C. Compliance Advisory Assistance Committee\***

A Compliance Advisory Assistance Committee will be established for each recurring violation case. BDS will invite the following committee members:

1. Chair Member from Neighborhood Association or District Coalition where violation occurred.
2. One staff person familiar with environmental regulations from BES, BOP, and BDS LUS Section.
3. One member assigned by the City Land Use Forum-Administrative Committee
4. Compliance Services staff person(s) processing the case.

The committee will assist in evaluating case-specific circumstances and recommended fines. All Committee members will be appointed by the Director of BDS.

\* Committee members unable to respond or attend meetings will not prevent Compliance Services from proceeding with applicable enforcement procedures and processes to gain compliance.

**D. Monitor and Tracking Violations**

All confirmed environmental zone violations will be compared against the TRACS database to identify properties and individuals subject to Recurring Violations Administrative Rule.