

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: April 13, 2021 **Approx. Start Time:** 2:30 pm **Approx. Length:** 30 minutes

Presentation Title: Wildfire Building Permit Fee Reduction

Departments: Transportation and Development

Presenters: Dan Johnson, DTD Director; Cheryl Bell, DTD Assistant Director

Other Invitees: Matt Rozzell, Building Codes Administrator; Elizabeth Bunga, Deputy Building Codes Administrator

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Direction on providing a reduction of building permit fees for those who suffered losses as a result of the September 2020 wildfires.

EXECUTIVE SUMMARY:

Immediately following the wildfire event in September 2020, Department of Transportation and Development (DTD) staff engaged the Board of County Commissioners to assess how the Department could help those who experienced structural losses due to the fires. At the time, staff presented a number of options to the Board and it was determined that our focus would be on establishing a community concierge and expedited permit review to ensure those who were displaced could have a direct point of contact to get information, and rapid permitting to get rebuilding underway as soon as possible.

With damage assessments to date suggesting approximately 62 residential structures (stick built and manufactured homes) and 200 accessory structures (garages, shops and outbuildings) were destroyed in Clackamas County, on March 9, 2021 staff brought forward a discussion on a partial or whole waiver of building permit fees for those impacted by the wildfires. A wide variety of options were considered by the Board, from a complete waiver of building permit fees for all structures, to a more focused approach to implement a fee reduction for those who may not have insurance to cover such costs.

Following this session, staff were asked to research if there is a method to determine if a customer has full or partial insurance coverage so a waiver could be tailored to assist those who are under insured, and to consider if payment of fees could be deferred.

Background

When considering this issue there are a number of things to consider:

- Within Oregon, jurisdictions impacted by the wildfires have taken varying approaches when considering fee waivers. Marion County decided to waive fees, while Jackson County did not.
- This proposal would be for building permit fees only. (Mechanical, electrical, plumbing and planning fees would not be waived)
- The Building Codes program collects pass through fees which we do not have the ability to waive. (Example: School Excise Tax for additional square footage)

- In the September 2020 conversation with the Board it was noted that building permit fees are covered in insurance settlements, and with the Building Codes program being a fee for service/dedicated fund, the impact could not be offset by other funds. This was the factor behind the Board not approving waivers at that time.
- Some people are already through the permitting process, so if fee waivers are approved, we would need to refund fees.
- For agriculturally zoned land, buildings related to the business of farming, forestry or equine uses can be exempt from building permits under the agricultural exemption provisions of ORS 455.315, so no building permit fees apply to rebuild these structures.

Delaying Fees

In the Board's discussion on March 9th the idea of delaying payment of fees was raised. When a customer submits for permit, only the plan review fees are required in order to begin review of the permit documents (typically around \$1,000-\$1,500 for a new single-family residence), with the total permit fees due at the time the permit is issued. If fees are delayed past issuance new systems would have to be developed to collect fees once construction has started, and if fees are not collected, it could create the situation where stop work orders are required or certificates of occupancy cannot be issued. These types of delays can be expensive as contractors bid work based upon estimated schedules, and certificates of occupancy are required prior to closing construction loans. With customers being able to submit for plan review with limited fees, and to avoid stopping construction or delaying occupancy, staff is not recommending delaying fee payment.

Validating Insurance

In conversations with the State of Oregon Wildfire Recovery Ombudsman, staff discussed the possibility of reviewing insurance documents in order to correlate a fee waiver to a customer's level of insurance coverage. In these discussions the State representative noted that insurance documents are difficult to review, and training staff to provide this level of oversight would be very time intensive. Additionally, insurance funds for dwelling rebuilding are fully determined after construction is well underway, so there would not be adequate information at permitting to determine how much of the costs will be covered by insurance.

Waiver Program Recommendation

In response the Board's request, and based upon staff research, we propose the following layered waiver system:

- **Uninsured Waiver:** In lieu of staff determining a customer's level of insurance, for those customers affirming they have no insurance coverage, we recommend the development of an affidavit. This affidavit would be signed and submitted by any individual requesting a waiver of fees due to them lacking insurance coverage, with the affidavit affirming that insurance coverage is not available. The affidavit provides some level of accountability, and with this document, staff recommend providing the customer with a full waiver of the building permit fees that are directed to Clackamas County. Fees collected by Clackamas County on behalf of other entities would still be paid.

While staff has no information to suggest how many impacted properties are uninsured, assuming approximately 10% of properties are in this category, the following would be the estimated financial impact to the Building Codes program.

Structure	# Estimated Uninsured	County Building Permit Fee	100% Waiver: Budget Impact
Single Family	5	\$2,600(based on a 2500 sq. ft. home)	\$13,000
Manufactured Homes	1	\$475	\$475
Outbuildings	20	\$475	\$9,500
Estimated Fee Impact			\$22,975

- **Insured Fee Reduction:** If the Board has interest in providing fee relief for those who are insured, staff would recommend a 50% reduction of Building Permit fees. The following would be the estimated impact to the Building Codes program.

Structure	# Estimated	County Building Permit Fees	50% Waiver: Budget Impact
Single Family	45	\$2,600 (based on 2500 sq. ft. home)	\$58,500
Manufactured Homes	11	\$475	\$2,612.50
Outbuildings (Non-Ag Exempt)	130	\$475	\$30,875
Outbuildings (Ag Exempt)	50	\$0	\$0
Estimated Fee Impact			\$91,987.50

Any project requesting either of the aforementioned fee waivers would need to show clear association with the Wildfire Emergency Declaration related to the September 2020 fires, and staff would recommend that the program sunset on or before June 30, 2022.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

- **What is the cost?** The cost of the fee waivers varies depending on the direction chosen by the Board. If only uninsured customers are offered waivers staff estimate the cost to be \$22,975.00. If both insured and uninsured customers have waivers available the cost would be \$114,692.50.
- **What is the funding source?** Under ORS 455.022 the Building Codes program operates as a fee for service, dedicated fund. The associated costs would be incurred by this program. No general funds would be used.

STRATEGIC PLAN ALIGNMENT:

- **How does this item align with your Department's Strategic Business Plan goals?** The Building Codes program, under the Land Use, Development Review and Permitting line of business supports customers in advancing their projects within the lens of economic growth, public health and safety. Supporting the community in rebuilding from the wildfires falls under this purpose.

- **How does this item align with the County’s Performance Clackamas goals?**
 Providing support for those rebuilding from the wildfires furthers the Board’s goal to *ensure safe, healthy and secure communities.*

LEGAL/POLICY REQUIREMENTS:

In accordance with County Code Sections 1.01.090 and 9.02.320, the Board must grant approval to waive fees.

PUBLIC/GOVERNMENTAL PARTICIPATION:

The Board of Commissioners received a policy session on October 6, 2020 to discuss DTD’s service options for wildfire affected customers. Direction on fee waivers was reintroduced to the Board on March 9, 2021. DTD has worked with Public and Government Affairs (PGA) to publicize the enhanced services available for those impacted by the wildfires, and if directed to enact a fee waiver, DTD and PGA will coordinate on outreach to the community.

OPTIONS:

1. Direct staff to move forward with a fee waiver and affidavit program, to waive 100% of all building permit fees for wildfire impacted customers who lack insurance.
2. Direct staff to move forward with a fee waiver and affidavit program, to waive 100% of all building permit fees for wildfire impacted customers who lack insurance, and 50% of all building permit fees for customers who have insurance.
3. Direct staff to move forward with a fee waiver and affidavit program, to waive 100% of all building permit fees for wildfire impacted customers who lack insurance, and 50% of single family residence (stick built and manufactured homes) permit fees for customers who have insurance.
4. Direct staff to move forward with a fee waiver and affidavit program as amended in this policy session.
5. Choose to not move forward with a fee waiver program at this time.

RECOMMENDATION:

In order to support those impacted by the wildfires who lack insurance, staff respectfully recommends:

Option 3: Direct staff to move forward with a fee waiver and affidavit program, to waive 100% of all building permit fees for wildfire impacted customers who lack insurance, and 50% of single family residence permit fees for customers who have insurance.

ATTACHMENTS: N/A

SUBMITTED BY:

Division Director/Head Approval Cheryl Bell
 Department Director/Head Approval Dan Johnson
 County Administrator Approval _____

For information on this issue or copies of attachments, please contact:
 Cheryl Bell @ 503-261-7124