



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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AMENDED NOTICE OF ADOPTED AMENDMENT

August 20, 2007



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Multnomah County Plan Amendment
DLCD File Number 002-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: September 4, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Stacy Humphrey, DLCD Metro-Portland Regional Representative
Meg Fernekees, DLCD Regional Representative
Michael Grimmett, Multnomah County

<paa> ya/

FORM 2

email

DLCD NOTICE OF ADOPTION DEPT OF

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

AUG 13 2007

(See reverse side for submittal requirements)

**LAND CONSERVATION
AND DEVELOPMENT**

Jurisdiction: Multnomah County Local File No.: PC-07-001
(If no number, use none)
Date of Adoption: July 26, 2007 Date Mailed: August 13, 2007
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: March 21, 2007

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other: Enforcement Code Revision
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Proposed revisions to sections of the Violation, Enforcement & Fines Ordinance, Multnomah County Code (MCC) 37.0915 Violations, MCC 37.0930 Enforcement levels, MCC 37.0945 Emergency Enforcement, MCC 37.0950 Failure to Appeal, and MCC 37.0955 Appeal.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

The requirement to provide a notice of hearing to surrounding property owners when a notice of violation is appealed was not deleted in the adopted amendment.

Plan Map Changed from: None to None

Zone Map Changed from: None to None

Location: None Acres Involved: None

Specify Density: Previous: None New: None

Applicable Statewide Planning Goals: None

Was an Exception Adopted? Yes: No:

DLCD File No: 002-07(15967)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: The revised Enforcement Code will need to be reviewed and adopted or rejected by the Columbia River George Commission

Local Contact: Michael Grinnett Area Code + Phone Number: 503-988-5050 ext. 29604

Address: 1600 SE 190th Avenue City: Portland

Zip Code+4: 97233-5910 Email Address: michael.v.grinnett@co.multnomah.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1096

Amending MCC Chapter 37, Administration and Procedures, Relating to Land Use Code Enforcement

(Language ~~stricken~~ is deleted; double underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. The proposed revisions to the code compliance provisions of Multnomah County Code Administrative Chapter 37 would:
 - (1) Improve the consistency of the code language related to enforcement of transportation regulations;
 - (2) Clarify enforcement of regulations and County issued permits through a Stop Work Order process;
 - (3) Clarify the Hearings Officer authority to order corrective actions for a Notice of Violation not appealed; and to order reimbursement for costs expended by the County to remediate a violation; and
 - ~~(4) Delete the requirement to provide a Notice of Hearing to surrounding properties when a Notice of Violation is appealed.~~
- b. The proposed code revisions are in the best interests of the County.

Multnomah County Ordains as follows:

Section 1. § 37.0915 is amended as follows:

37.0915 Violations

Any use of land, land division, ~~or adjustment to property boundaries,~~ work within a County right-of-way, or other activity by a person in violation of any provision of:

(A) MCC Chapters 33, 34, 35, 36 and 38; §§ 29.001 through 29.365 and 29.500 through 29.630; Multnomah eCounty Road Rules or the terms and conditions of any permit issued under those code provisions; or

(B) Any statute adopted by the Oregon Legislature and those land use planning goals and rules of the Land Conservation and Development Commission (LCDC) that apply directly to the County through ORS 197.646

may be subject to enforcement and fines as provided in this subchapter.

Section 2. § 37.0930 is amended as follows:

37.0930 Enforcement Levels

The levels of enforcement are:

- (A) Voluntary compliance;
- ~~(B) Stop Work Order;~~
- ~~(BC) Correction Notice;~~
- ~~(CD) Notice of Violation and fine;~~
- ~~(DE) Petition for injunction and other remedies in state court.~~

Section 3. § 37.0945 is amended as follows:

37.0945 Emergency Enforcement

If the CCS determines that the violation presents an immediate danger to the public health, safety, welfare ~~of persons or property; or substantial if there is any evidence of environmental harm to the environment~~ including but not limited to, any discharge of pollutants to waters of the state that cause or contribute to a violation of applicable water quality standards, the CCS may require immediate remedial action, ~~and/or may issue a Stop Work Order.~~ If the CCS is unable to serve a Notice of Violation on the respondent ~~and property owner, if different,~~ or, if after such service, the respondent ~~or property owner~~ refuses or ~~are~~ unable to remedy the violation, the CCS may proceed to remedy the violation by any means available under law, and the County shall be entitled to ~~recover its actual costs of remediation, its reasonable administrative costs, and as well as its attorney fees and costs for its enforcement actions, including appeals.~~

Section 4. § 37.0946 is added as follows:

37.0946 Stop Work Orders

A Stop Work Order may be issued whenever the code enforcement staff or other Department of Community Services staff has determined that non-permitted construction and/or land use is occurring on property or within any County right-of-way, or has determined that construction and/or land use is occurring not in compliance with any land use or building permit issued for a property or a transportation permit within a County right of way. Failure to comply with a Stop Work Order may result in a Notice of Violation.

Section 5. § 37.0950 is amended as follows:

37.0950 Failure ~~t~~No Appeal

If the respondent or property owner does not file a written appeal of the violation within 14 days of the date when the Notice of Violation is served or mailed, the CCS shall forward the Notice of Violation to the Compliance Hearings Officer for review and issuance of a final order ~~imposing the fine assessed in the Notice and any administrative fees and costs~~

(A) If the Hearings Officer affirms the violation, the Hearings Officer shall set a time within which the responsible party must comply. The order may require such person to do any of the following;

- (1) Obtain any and all necessary permits, inspections and approvals;
- (2) Install any equipment necessary to achieve compliance;

(3) Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;

(4) Reimburse the County for actual costs of remediation, its reasonable administrative costs, as well as its attorney fees and costs for its enforcement actions, including appeals;

(5) Pay a civil fine for the violation and any fees and costs to the County;

(6) Pay a reduced fine;

(7) Undertake any other action reasonably necessary to remedy the violation.

(B) The Hearing Officer's order shall be in writing and may be accompanied by an opinion.

Section 6. § 37.0955 is amended as follows:

37.0955 Appeal

(A) Persons Authorized to Appeal Notice of Violation

(1) The Notice of Violation may be appealed by the respondent, ~~property owner of the subject property,~~ the property owner's representative or other person who has been included as part of the Notice of Violation.

(2) A representative of the property owner must have documentation demonstrating that ~~they are~~he/she is an authorized agent of the property owner

(B) Notice of Hearing

(1) The notice shall contain the time, date, and place of the hearing. A copy of the Notice of Violation and a description of the appeal process and associated rights shall be attached to the notice.

(2) Notice shall be served on the respondent and property owner, if different, by personal service or certified mailed, return receipt requested at least 15 days prior to the hearing date. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail. Notice will also be provided to surrounding properties within 750 feet of the subject property, complainant if known and other known interested parties who have made a written request for notice. Written notice includes email and faxes in addition to surface mail or hand-delivered documents.

(3) Failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this subchapter.

(C) Appeal Hearing

(1) Hearings to determine whether a violation has occurred shall be held before the Hearings Officer. The County must prove the violation alleged by a preponderance of the evidence.

(2) The Hearings Officer shall set a time within which the respondent must comply. ~~order a person found in violation to comply within such time as the Compliance Hearings Officer may by order allow.~~ The order may require ~~such person~~the respondent to do any of the following:

(a) Obtain any and all necessary permits, inspections and approvals;

- (b) Install any equipment necessary to achieve compliance;
- (c) Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;
- (d) Reimburse the County for actual costs of remediation, its reasonable administrative costs, as well as its attorney fees and costs for its incurred in conjunction with the enforcement actions, including appeals;
- (e) Pay a civil fine for the violation and any fees and costs to the County;
- (f) Pay a reduced fine;
- (g) Undertake any other action reasonably necessary to ~~correct~~ remedy the violation.

(3) The Hearing Officer's order shall be in writing or stated in the record and may be accompanied by an opinion

Section 7. The effective date of the amendments to Chapter 38 Columbia River Gorge National Scenic Area, General Management Areas shall be the date they are approved by the Bi-State Gorge commission. Amendments to Special Management Areas shall be effective upon acknowledgement by the United States Secretary of Agriculture.

FIRST READING: July 12, 2007
 SECOND READING AND ADOPTION: July 26, 2007



BOARD OF COUNTY COMMISSIONERS
 FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler
 Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
 FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy
 Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services