



## MULTNOMAH COUNTY, OREGON

### BOARD OF COMMISSIONERS

#### Beverly Stein, Chair

1120 SW Fifth Avenue, Suite 1515  
Portland, Or 97204-1914

Phone: (503) 248-3308 FAX (503) 248-3093

Email: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

#### Diane Linn, Commission Dist. 1

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914

Phone: (503) 248-5220 FAX (503) 248-5440

Email: [diane.m.linn@co.multnomah.or.us](mailto:diane.m.linn@co.multnomah.or.us)

#### Serena Cruz, Commission Dist. 2

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914

Phone: (503) 248-5219 FAX (503) 248-5440

Email: [serena.m.cruz@co.multnomah.or.us](mailto:serena.m.cruz@co.multnomah.or.us)

#### Lisa Naito, Commission Dist. 3

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914

Phone: (503) 248-5217 FAX (503) 248-5262

Email: [lisa.h.naito@co.multnomah.or.us](mailto:lisa.h.naito@co.multnomah.or.us)

#### Sharron Kelley, Commission Dist. 4

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914

Phone: (503) 248-5213 FAX (503) 248-5262

Email: [sharron.e.kelley@co.multnomah.or.us](mailto:sharron.e.kelley@co.multnomah.or.us)

#### ANY QUESTIONS? CALL BOARD CLERK DEB BOGSTAD @ 248-3277

Email: [deborah.l.bogstad@co.multnomah.or.us](mailto:deborah.l.bogstad@co.multnomah.or.us)

INDIVIDUALS WITH DISABILITIES  
PLEASE CALL THE BOARD CLERK  
AT 248-3277, OR MULTNOMAH  
COUNTY TDD PHONE 248-5040, FOR  
INFORMATION ON AVAILABLE  
SERVICES AND ACCESSIBILITY.

### AUGUST 2, 3 & 5, 1999

### BOARD MEETINGS

### FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	6:00 p.m. Monday Public Hearing on Proposed Dog & Cat Food Fee
Pg 2	9:30 a.m. Tuesday Rural County Land Use Planning Values Discussion
Pg 2	10:00 a.m. Tuesday Early Childhood Development Briefing
Pg 3	9:30 a.m. Thursday A&DS RESULTS
Pg 3	9:50 a.m. Thursday Resolution Creating Mental Health Task Force
Pg 3	10:05 a.m. Thursday Organizational Self-Assessment Findings
Pg 4	11:00 a.m. Thursday E 1-99 De Novo Land Use Appeal Hearing
★	<b>Check the County Web Site:</b> <a href="http://www.co.multnomah.or.us/">http://www.co.multnomah.or.us/</a>

Thursday meetings of the Multnomah County  
Board of Commissioners are cable-cast live and  
taped and may be seen by Cable subscribers in  
Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community  
Television

Monday, August 2, 1999 - 6:00 PM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **PUBLIC HEARING**

PH-1 Public Hearing on a Proposed Fee on Dog and Cat Food Purchased in the County to Fund Animal Control Services and Replace the Current License Fee. Testimony Limited to Three Minutes Per Person. 2 HOURS REQUESTED.

**Please Note:** Portland Cable Access has granted permission for the Multnomah Community Television cable coverage to go live from 6:00 p.m. to 8:00 p.m. on Monday, August 2, 1999. The following are additional cable playback date/times:

Live:	Monday	August 2	6:00 p.m.	Channel 30
Playback:	Wednesday	August 4	7:00 p.m.	Channel 30
	Friday	August 6	8:00 p.m.	Channel 30
	Wednesday	August 11	6:00 p.m.	Channel 30
	Saturday	August 14	6:00 p.m.	Channel 30

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Tuesday, August 3, 1999 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **BOARD BRIEFINGS**

B-1 Continued Discussion on Land Use Planning Values for Rural Multnomah County. Presented by Kathy Busse, Susan Muir and Gary Clifford. 30 MINUTES REQUESTED.

B-2 Early Childhood Issues Briefing. Presented by Lisa Naito, Denise Chuckovich and Members of the County Workgroup on Early Childhood. 1 HOUR REQUESTED.

Thursday, August 5, 1999 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **REGULAR MEETING**

### **CONSENT CALENDAR**

#### **NON-DEPARTMENTAL**

C-1 Appointment of Richard Reiten to the LIBRARY ADVISORY BOARD

#### **DISTRICT ATTORNEY'S OFFICE**

C-2 Amendment 3 to Intergovernmental Revenue Agreement 500266 with the State of Oregon Office for Services to Children and Families, Funding the Termination of Parental Rights Program for 1999-2001

### **REGULAR AGENDA**

#### **PUBLIC COMMENT - 9:30 AM**

R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

#### **AGING AND DISABILITY SERVICES DEPARTMENT - 9:30 AM**

R-2 Results from RESULTS: Adult Care Home Program Form Redesign Process Improvement Team. Presented by Kathy Wiseman, Paul McWhorter and Shelley Immel. 10 MINUTES REQUESTED.

#### **DEPARTMENT OF SUPPORT SERVICES - 9:40 AM**

R-3 ORDER Denying Appeal of Merit System Civil Service Council Decision Regarding William Gillespie's Records Request

#### **NON-DEPARTMENTAL - 9:50 AM**

R-4 RESOLUTION Creating a Multnomah County Mental Health Task Force

R-5 How We Manage the County: A Report of the Organizational Self-Assessment Findings. Presented by Beverly Stein, Department Directors and Carla Gonzales. 45 MINUTES REQUESTED.

**DEPARTMENT OF ENVIRONMENTAL SERVICES - 10:50 AM**

- R-6 Second Reading and Possible Adoption of an ORDINANCE Repealing Multnomah County Ordinance 903 Pertaining to Expiration Periods for Certain Single Family Dwellings Approved in the Exclusive Farm Use Districts
- R-7 RESOLUTION Authorizing Grant of a Public Walkway Easement to the City of Portland, a Municipal Corporation of the State of Oregon
- R-8 De Novo Hearing on Appeal of Hearings Officer Decision Denying E 1-99 Regarding Request for Retroactive Exception to the Secondary Fire and Safety Zones and Forest Practices Setbacks for an Illegal Structure on Property Located on NW Skyline Boulevard. Presented by Tricia Sears and Deniece Won. TESTIMONY LIMITED TO 20 MINUTES PER SIDE. 1 HOUR REQUESTED.

**COMMISSIONER COMMENT/LEGISLATIVE ISSUES - 12:00 PM**

- R-9 Opportunity (as Time Allows) for Commissioners to Comment on Non-Agenda Items or to Discuss Legislative Issues.



SHARRON KELLEY  
Multnomah County Commissioner  
District 4



Portland Building  
1120 S.W. Fifth Avenue, Suite 1500  
Portland, Oregon 97204  
(503) 248-5213  
E-Mail: sharron.e.KELLEY@co.multnomah.or.us

## MEMORANDUM

TO: Chair Beverly Stein  
Commissioner Diane Linn  
Commissioner Serena Cruz  
Commissioner Lisa Naito  
Board Clerk Deb Bogstad

FROM: Debra Erickson  
Staff to Commissioner Sharron Kelley

DATE: June 30, 1999

RE: Board Meeting Absences

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Commissioner Kelley will be taking time off during the month of August. She will not be attending the Board meetings scheduled for August 3, 5, 12, 17, 19, & 26, 1999. Should an issue arise which merits her participation, the Commissioner may elect to be available for the meeting, either in person or via speakerphone.

BOARD OF  
COUNTY COMMISSIONERS  
JUN 30 PM 2:19  
MULTNOMAH COUNTY  
OREGON

MEETING DATE: AUG 05 1999  
AGENDA NO: C-1  
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Appointment to Library Advisory Board

BOARD BRIEFING:

DATE REQUESTED: \_\_\_\_\_

REQUESTED BY: \_\_\_\_\_

AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING:

DATE REQUESTED: 8/5/99

AMOUNT OF TIME NEEDED: Consent

DEPARTMENT: Nondepartmental

DIVISION: Chair's Office

CONTACT: Delma Farrell

TELEPHONE #: 248-3953

BLDG/ROOM #: 106/1515

PERSON(S) MAKING PRESENTATION:

**ACTION REQUESTED:**

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [XX] APPROVAL [ ] OTHER

**SUGGESTED AGENDA TITLE:**

Appointment of Richard Reiten to the Library Advisory Board

**SIGNATURES REQUIRED:**

ELECTED OFFICIAL: \_\_\_\_\_

(OR)

DEPARTMENT

MANAGER: \_\_\_\_\_

*Beverly Stunt*

99 JUL 20 PM 3:32  
MULTI-COUNTY  
OREGON  
CLERK OF  
JUDICIAL COMMISSIONERS

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

MEETING DATE: AUG 05 1999  
AGENDA NO: C-2  
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

SUBJECT: Intergovernmental Agreement between the District Attorney's office and Services to Children and Families for continued funding of the Termination of Parental Rights grant for 1999 - 2001.

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: 7/29/99  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: District Attorney DIVISION: Family Justice

CONTACT: Tom Simpson TELEPHONE #: 248-3863  
BLDG/ROOM #: 101/600

PERSON(S) MAKING PRESENTATION: (consent calendar item)

### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

### SUGGESTED AGENDA TITLE:

Intergovernmental Agreement between the District Attorney's Office and Services to Children and Families for continued funding of the Termination of Parental Rights grant for 1999 - 2001.

blaaa originals to Kathy Graham

### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT MANAGER: Tha Sg

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

CLERK OF  
COUNTY COMMISSIONERS  
99 JUL 27 AM 9:52  
MULTNOMAH COUNTY  
OREGON



**MICHAEL D. SCHRUNK**, District Attorney for Multnomah County

600 County Courthouse • Portland, Oregon 97204 • (503) 248-3162 • FAX (503) 248-3643

## **SUPPLEMENTAL STAFF REPORT**

**TO:** Board of County Commissioners  
**FROM:** Michael D. Schrunk  
**DATE:** July 22, 1999  
**RE:** Intergovernmental Agreement between the District Attorney's Office and Services to Children and Families for continued funding of the Termination of Parental Rights grant for 1999 - 2001.

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1. **Recommendation/Action Requested:**  
**Approval**

2. **Background/Analysis:**  
**The District Attorney's Office provides legal consultation and processing, filing, and litigating of cases in Multnomah County Juvenile Court for the purpose of terminating parental rights to children who have been neglected, abused, or abandoned or for whom otherwise under Oregon law, termination of parental rights is appropriate.**

3. **Financial Impact:**  
**This agreement provides \$1,290,788.96 new revenue to Multnomah County.**

4. **Legal Issues:**  
**ORS 190 provides for intergovernmental agreements.**

5. **Controversial Issues:**  
**None**

6. **Link to Current County Policies:**  
**N/A**

7. **Citizen Participation:**  
**N/A**

8. **Other Government Participation:**  
**Department of Human Resources, State Office for Services to Children and Families**

# MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Pre-approved Contract Boilerplate (with County Counsel signature) ☐ Attached ☐ Not Attached

Contract #: 500266  
Amendment #: 3

<p style="text-align: center;"><b>CLASS I</b></p> <p><input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption)</p> <p><input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption)</p> <p><input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000</p> <p style="margin-left: 20px;"><input type="checkbox"/> Expenditure</p> <p style="margin-left: 20px;"><input type="checkbox"/> Revenue</p> <p><input type="checkbox"/> Architectural &amp; Engineering not to exceed \$10,000 (for tracking purposes only)</p>	<p style="text-align: center;"><b>CLASS II</b></p> <p><input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount)</p> <p><input type="checkbox"/> PCRB Contract</p> <p><input checked="" type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)</p>	<p style="text-align: center;"><b>CLASS III</b></p> <p><input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000</p> <p style="margin-left: 20px;"><input type="checkbox"/> Expenditure</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Revenue</p> <p style="text-align: center;"><b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b></p> <p>AGENDA # <u>C-2</u> DATE <u>8/5/99</u></p> <p style="text-align: center;"><u>DEB BOGSTAD</u></p> <p style="text-align: center;"><b>BOARD CLERK</b></p>
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Department: Nondepartmental

Division: DA Office Family Justice

Date: 7/22/99

Originator: Tom Simpson

Phone: 248-3863

Bldg/Rm: 101/600

Contact: Kathy Graham

Phone: 248-5330

Bldg/Rm: 101/600

Description of Contract: Amendment to the Intergovernmental Agreement between the State of Oregon Services to Children and Families and the Multnomah County District Attorney Office to fund the Termination of Parental Rights Program for 1999 - 2001.

RENEWAL: ☒ PREVIOUS CONTRACT #(S): 500266

RFP/BID:

RFP/BID DATE:

EXEMPTION

EXEMPTION EXPIRATION

ORS/AR

#/DATE:

DATE:

#:

CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF ☐ N/A ☐ NONE (Check all boxes that apply)

<p>Contractor <u>SOSCF/DHR Contracts</u></p> <p>Address <u>500 Summer Sreet NE</u></p> <p style="margin-left: 20px;"><u>Salem, OR 97310-1004</u></p> <p>Phone <u>(503)-945-6882</u></p> <p>Employer ID# or SS# _____</p> <p>Effective Date <u>7/01/1999</u></p> <p>Termination Date <u>6/30/2001</u></p> <p>Original Contract Amount \$ <u>\$ 860,080</u></p> <p>Total Amt of Previous Amendments \$ <u>1,199,980</u></p> <p>Amount of Amendment \$ <u>1,290,788.96</u></p> <p>Total Amount of Agreement \$ <u>3,350,848.96</u></p>	<p>Remittance address _____</p> <p style="text-align: center;">(If different)</p> <p>Payment Schedule / Terms</p> <p><input type="checkbox"/> Lump Sum \$ _____</p> <p><input type="checkbox"/> Monthly \$ _____</p> <p><input checked="" type="checkbox"/> Other \$ <u>Per schedule</u></p> <p><input type="checkbox"/> Due on Receipt</p> <p><input type="checkbox"/> Net 30</p> <p><input type="checkbox"/> Other</p> <p><input type="checkbox"/> Requirements Not to Exceed \$ _____</p> <p>Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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**REQUIRED SIGNATURES:**

Department Manager

DATE

Purchasing Manager

DATE

(Class II Contracts Only)

County Counsel

DATE

County Chair

DATE

Sheriff

DATE

Contract Administration

DATE

(Class I, Class II Contracts only)

LGFS VENDOR CODE						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	156	023	2433			2323			TPR Revenue	1,290,788.96	
02											
03											

Exhibit A, Rev. 3/25/98 DIST: Originator, Accts Payable, Contract Admin - Original If additional space is needed, attach separate page. Write contract # on top of page.

STATE OF OREGON INTER-GOVERNMENTAL AGREEMENT

Agreement Number: 85404

Date: June 30, 1999

This Agreement is between the State of Oregon, acting by and through its Department of Human Resources, State Office for Services to Children and Families, hereinafter referred to as the "Department" and **MULTNOMAH COUNTY DISTRICT ATTORNEY'S OFFICE**, hereinafter referred to as the "Contractor or County". The Department's supervising representative for this Agreement is Kathy Ledesma.

**Effective Date and Duration:** This Agreement shall become effective on July 1, 1999 or on the date at which every party has signed this Agreement and, when required, the Department of Administrative Services and the Department of Justice have approved this Agreement, whichever date is later. This Agreement shall expire, unless otherwise terminated or extended, on June 30, 2001. However, such expiration shall not extinguish or prejudice Department's right to enforce this Agreement with respect to (i) any breach of a Contractor warranty; or (ii) any default or defect in Contractor performance that has not been cured.

**Statement of Work:** The statement of services to be performed and Agreement provisions are contained in the following documents which are attached hereto and are by this reference made a part of this Agreement:

<u>Document</u>	<u>Pages</u>	
SCHEDULE	6	EXHIBIT 1 <i>FW</i> 1 PAGE
INTER-GOVERNMENTAL PROVISIONS	5	

**Consideration:** Department agrees to pay Contractor an amount not to exceed \$1,290,788.96 for accomplishment of the work, including any allowable expenses. Interim payments shall be made to Contractor as outlined in the Agreement document entitled SCHEDULE.

**Amendments:** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by the parties, including, when required, the Department of Administrative Services and the Department of Justice.

**CONTRACTOR, BY EXECUTION OF THIS AGREEMENT HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

CONTRACTOR/COUNTY DATA AND CERTIFICATION

NAME: (tax filing): Multnomah County District Attorney Office

ADDRESS: 1021 SW 4th Avenue, Room 600

Social Security # or Federal Tax I.D. # 93-6002309 Phone #: 248-3162 Fax #: 248-3643

**Certification:** The undersigned agrees to perform work outlined in this agreement in accordance with the terms and conditions and the attachments referenced herein.

**CONTRACTORS: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS.**

**APPROVED BY THE CONTRACTOR/COUNTY:**

By: *Beverly Stein* Title: County Chair Date: 8/5/99

**State Office for Services to Children and Families:**

BY: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Reviewed by Contracts Officer:**

Approved as to Legal Sufficiency: *James R. Young* Asst. A.G. Date: 7/15/99

APPROVED BY MULTNOMAH COUNTY, OREGON:

DISTRICT ATTORNEY OFFICE

By:   
Tom Simpson, Management Assistant

Reviewed:

THOMAS SPONSLER, County Counsel  
for Multnomah County, Oregon

By:   
Assistant County Counsel

Date: 7.26.99

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-2 DATE 8/5/99  
DEB BOGSTAD  
BOARD CLERK

## **SCHEDULE**

CONTRACTOR/COUNTY: MULTNOMAH COUNTY      Date: June 30, 1999  
DISTRICT ATTORNEY'S OFFICE

### **SECTION A RECITALS**

1. The office of District Attorney of Multnomah County and the Department wish to cooperate for the purpose of providing legal consultation and processing, filing, and litigating cases in Multnomah County Juvenile court pursuant to relevant state law for the purpose of terminating parental rights to children who have been neglected, abused, or abandoned or for whom otherwise under Oregon law, termination of parental rights is appropriate.
2. The parties wish also to cooperate in providing legal consultation and training to the employees of the Department for the purpose of appropriately processing and preparing parental termination cases for trial.
3. The parties wish to minimize the amount of time necessary to prepare and process parental termination cases for trial.

### **SECTION B SERVICES TO BE PERFORMED**

1. The Contractor shall provide the services of 4.0 full-time equivalent (FTE) Deputy District Attorneys ; 1.5 FTE Legal Investigator; 2.0 FTE Secretary, and 10% of the Senior Deputy District Attorney to provide legal consultation and to prepare and present termination of parental rights cases.
2. The Contractor shall limit the scope of legal services to termination of parental rights and permanent planning issues.
3. The Contractor agrees to accept for litigation only written referrals for termination of parental rights cases that have been reviewed and approved for referral by the respective branch manager or supervisor designee. A referral for litigation of any case other than a termination of parental rights case is a program exception and will not be accepted without the approval of the Department Central Office Permanent Planning consultant.



4. The Contractor agrees to provide a timely response to Department Legal Assistance referrals. Within 30 calendar days of receiving an approved referral the assigned attorney will either file a petition for termination of parental rights or notify the department manager in writing of the reason the petition can not be filed within the established time limit.
5. The Contractor agrees to provide timely reports to the department reflecting the current status of each referral accepted for litigation upon request.
6. The Contractor agrees to submit to the department for each child served, 3 certified copies of each termination order (2 copies to Department Adoption Services, 2nd Floor, 500 Summer Street, N.E., Salem, Oregon, 97310-1017; 1 copy to the respective Multnomah branch office.)
7. The Contractor will participate with the Department in regular reviews of the operation of the Legal Assistance Program and take corrective actions if needed to fulfill the purpose of this contract. Key staff involved in the administration of the contract will confer as outlined in the attached Exhibit I, which by this reference is made a part of this contract.

#### SECTION C CONSIDERATION

1. As consideration for the services provided by the Contractor during the period beginning July 1, 1999 and ending June 30, 2001, the Department will pay the Contractor/County, by check(s), an amount not to exceed \$1,290,788.96 to be paid as follows:
  - a. During the period beginning July 1, 1999 through June 30, 2000, legal services will be paid at the rate of \$51,930.24 per month for a maximum of 12 months for an amount not to exceed \$623,162.88;
  - b. During the period beginning July 1, 2000 through June 30, 2001, legal services will be paid at the rate of \$52,968.84 per month for a maximum of 12 months for an amount not to exceed \$635,626.08; and
  - c. During the period beginning July 1, 1999 through June 30, 2001, and amount not to exceed \$32,000.00 paid at the rate of \$16,000.00 per year for a maximum of 2 years for expert witness fees.

2. The Department reserves the right to audit and review the actual expenses of the Contractor/County to assure that the payments under this agreement do not exceed amounts that are reasonable and necessary to assure quality service, and to assure that the Contractor/County's expenses are in accordance with applicable federal regulations on allowable costs. If the Department finds, from its audit and review, that the Contractor/County has made expenditures, from the funds under this agreement for costs, which are not allowable under the agreement or have not been approved by the Department, the Contractor/County agrees to promptly refund the monies so expended to the Department upon request.
3. The Contractor shall bill the Department monthly for services provided, by the 10th of the month following the month of service. The Contractor shall bill on CF Form 294A. A supply of the form CF 294 A will be sent to the Contractor/County by the Department. When reimbursement of expert witness fees are billed, a copy of the expert's invoice shall be attached. Billings shall be sent to State Office for Services to Children and Families, Adoption Programs, 2nd Floor, 500 Summer St NE, Salem, Oregon 97310-1017. For QUESTIONS regarding payments and billing forms, contact Accounting Services at (503) 945-5952.

#### SECTION D PROVISIONS SPECIFIC TO THIS AGREEMENT

1. PROGRAM:
  - a. The Department agrees to provide the Contractors office with a list of the permanent planning staff who are authorized to request services under the provisions of this contract.
  - b. The Department agrees to review with the Deputy District Attorney all potential termination case and jointly agree that the case is ready for litigation prior to submitting a Legal Assistance referral.
  - c. The Department agrees to submit a written referral within 30 calendar days of the mutual agreement that the case will be referred or notify the Deputy District Attorney in writing of the reason the referral can not be submitted within the established time frame.

The Department agrees to refer cases for litigation of termination of parental rights following the Department's approved format for referrals that has been approved in writing by the Department manager or designee. One copy of referral will be sent to the Senior Deputy District Attorney. The original will be sent to Permanent Planning and adoption Services, SCF Central Office.

- d. The Department agrees to limit referrals for litigation under this contract to termination of Parental rights cases unless an exception is approved in writing by the Department's Central Office Permanent Planning Consultant.
- e. Annual Contract Extension: It is the intention of the parties to renew this contract annually subject to funds authorized and available for the services, and the need for the services as determined by the Department. Renewal of the contract shall be in writing and shall be effective only when it has been duly signed and approved as required by the Contractor and the Department.
- f. Contractor/County-Client Relationship: The Contractor/County will establish a system through which a child and the child's parents or guardian may present grievances about the operation of the Contractor/County's service program. At the time arrangements are made for the Contractor/County's services, the Contractor/County will advise the child and parents or guardian of this provision. The Contractor/County shall notify the Department of all unresolved grievances.
- g. Services to Culturally Diverse Children and Families: Providing equal access to and maximum benefit from services for children and youth who are members of culturally diverse groups is a priority for Department. The Department reserves the right to review information regarding efforts to deliver services that benefit culturally diverse children and youth.
- h. Program Records, Controls, Reports and Monitoring Procedures: The Contractor/County agrees to maintain program records including statistical records, and to provide program records to Department at times and in the form prescribed by Department. The Contractor/County agrees to establish and exercise such controls as are necessary to assure full compliance with the program requirements of this agreement. The Contractor/County also agrees that a program and facilities review (including meetings with consumers, review of policy and procedures,

review of staffing ratios and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services) may be conducted at any reasonable time by state and federal personnel and other persons authorized by Department.

- i. Indemnification and Insurance: The Contractor/County agrees that it is an independent contractor and not an agent of the Department. The Contractor/County and the Department shall not be responsible for any legal liability, loss, damages, costs and expenses arising in favor of any person, because of personal injuries, death, or property loss or damage occurring, growing out of, incident to, or resulting directly or indirectly from the acts or omissions of the other party under this Contract.

Both the Department and the Contractor/County shall obtain, and always keep in effect, comprehensive liability insurance and property damage insurance covering each respective party's own acts and omissions under this Contract. The Contractor/County may satisfy these requirements in any manner allowed by ORS 30.282. The Department shall satisfy this requirement through the Insurance Fund established under ORS 278.425. Such liability insurance, whatever the form, shall be in an amount not less than the limits of public body tort liability specified in ORS 30.270. In the event of unilateral cancellation or restriction by the insurance company of the Contractor/County's insurance policy referred to in this paragraph, the Contractor/County shall immediately notify the Department verbally and in writing.

As evidence of the insurance coverage required by this Contract, and before execution of this Contract, the Contractor/County shall furnish a certificate of insurance to State Office for Services for Children and Families, ATTN: Contracts Manager, at 500 Summer Street NE, HRB003, Salem, Oregon 97310-1017. The certificate form to be completed by the Contractor/County's insurer will be maintained in the Department's file to this Contract.

There shall not be any cancellation, material changes or failure to renew such insurance policy (policies) without 30 days notice to the Department.

- j. **Media Disclosure.** The Contractor shall not provide information to the media regarding a recipient of services purchased under this contract without first consulting the Department's branch office which referred the child or family. The Contractor shall make immediate contact with the Department's branch office when media contact occurs. The Department's branch office will assist the Contractor with an appropriate follow-up response for the media. 2.
- k. **ADA:** In compliance with the Americans with Disabilities Act, this contract is available in alternate formats such as Braille, large print, audio tape, oral presentation, and computer disk. To request an alternate format call the State of Oregon, Department of Human Resources, Contracts Unit at (503) 945-5818 or TTY (503) 945-5928.

## 2. PAYMENT

- a. It is agreed that the amount to be paid under this contract may be changed by the Department as the result of Legislative action. The Department shall provide the Contractor written notice of any such change in payment.
- b. Payment will be made by the Department to the Contractor, on or before the 1st of the month following the month in which services are provided, subject to receipt of the billing described in Section C.3. above.
- c. Fiscal Responsibility, Records, Controls, Reports and Monitoring Procedures:

The Contractor agrees to maintain fiscal records consistent with accepted accounting practices and controls, which will properly reflect all direct and indirect costs and funds expended in the performance of this contract, and all revenue received for programs under this contract. The Contractor agrees to collect financial statistics on a regular basis and to make financial reports at times and in the form prescribed by the Department.

### GENERAL PROVISIONS

1. Government Employment Status - If payments under this contract are to be charged against federal funds, the Contractor/County certifies that it is not currently employed by the federal government.
2. Payments under this Contract: - Contractor/County will be responsible for any federal or state taxes applicable to any compensation or payments paid to Contractor/County under this contract. Contractor/County will not be eligible for any benefits from these contract payments of Federal Social Security, unemployment insurance, or workers' compensation, except as a self-employed individual.
3. Compliance with Applicable Law Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with: (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Agency's performance under this Contract is conditioned upon Contractor's compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference herein.
4. Safeguarding of Client Information - The use or disclosure by any party of any information concerning a recipient of services purchased under this contract for any purpose not directly connected with the administration of the Department's or the Contractor/County's responsibilities with respect to such services is prohibited except on written consent of the Department, or if the Department is not the recipient's guardian, on written consent of the recipient's responsible parent, guardian or attorney.
5. Equal Rights - The Contractor/County agrees to comply with Title VI of the Civil Rights Act of 1964, with Section V of the Rehabilitation Act of 1973, and with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Contractor/County also shall comply with the Americans with Disabilities Act of 1990 (Pub L No. 101-336), including Title II of that Act, ORS 659.425, and all regulation and administrative rules established pursuant to those laws.
6. Access to Records - The Department, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of the Contractor/County which are directly pertinent to the contract for the purpose of making audits, examinations, excerpts, copies and transcriptions. The Contractor/County agrees to include this provision in any subcontracts which may be authorized.
7. Retention of Records - The Contractor/County agrees to retain all books, records, and other documents relevant to this contract for three years after final payment is made under the contract or all pending matters are closed, whichever is later. If an audit, litigation or other action involving the contract is started before the end of the three year period, the records shall be retained until all issues arising out of the action are resolved or until the end of the three year period, whichever is later.
8. Subcontracting - Unless subcontracting is authorized elsewhere in the contract, the Contractor/County shall not enter into any subcontracts for any of the work contemplated under this contract without obtaining prior written approval from the Department, which approval shall be attached to the original contract. Prior written approval shall not be required for the purchase by the Contractor/County of articles, supplies and services which are incidental to the provision of residential care and related services under this contract but necessary for the performance of such work (e.g. facilities maintenance). Approval by the Department of a subcontract shall not result in any obligations to the Department in addition to the agreed rates of payment and total consideration. Any subcontracts which the

Department may authorize shall contain all requirements of this contract, and the Contractor/County shall be responsible for the performance of the subcontractor.

9. Force Majeure - Neither the Department nor Contractor/County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes and war which is beyond respectively, the Department's or Contractor/County's reasonable control. Contractor/County shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the contract.

10. Termination

a. **Parties' Right to Terminate For Convenience** Either party may, at its sole discretion, terminate this Contract, in whole or in part, upon 30 days written notice to other party.

b. **Department's Right to Terminate For Cause** Department may also terminate this contract effective upon delivery of written notice to the Contractor/County, or at such later date as may be established by the Department, under any of the following conditions:

1) If Department funding from state or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services as required in this contract. The contract may be modified to accommodate the change in available funds.

2) If state laws, regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

3) If any license or certificate required by law or regulation to be held by the Contractor/County to provide the services required by this contract is for any reason denied, revoked, suspended, not renewed or changed in such a way that the Contractor/County no longer meets requirements for such license or certificate.

Termination under this paragraph, a., and b. shall be without prejudice to any obligations or liabilities of either party already reasonably incurred prior to such termination.

c. **Department's Right to Terminate For Performance** Contractor/County's timely and accurate performance in accordance with the requirements and delivery schedule set forth in this contract is of the essence of this contract. The Department, by written notice to the Contractor/County, may immediately terminate the whole or any part of this contract under any of the following conditions:

1) If the Contractor/County fails to provide services called for by this contract within the time specified or any extension thereof.

2) If the Contractor/County fails to perform any of the other requirements of this contract or so fails to pursue the work so as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the Department specifying such failure, the Contractor/County fails to correct such failure within 15 calendar days or such other period as the Department may authorize.

If the contract is terminated under this paragraph, the Department's obligations shall be limited to payment for services provided in accordance with the contract prior to the date of termination, less any damages suffered by the Department. The rights and remedies of the Department in this section related to defaults (including breach of contract) by the Contractor/County shall not be exclusive and are in addition to many other rights and remedies provided to the Department by law or under this contract.

11. Enforcement of Contract - The passage of the contract expiration date shall not extinguish or prejudice the Department's or Contractor/County's right to enforce this contract with respect to any default or defect in performance that has not been cured.

12. Waiver of Default - The failure of the Department to enforce any provision of this contract shall not constitute a waiver by the Department of that or any other provision.

13. Severability - The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

14. Dual Payment - Contractor/County shall not be compensated for work performed under this contract by any other agency of the State of Oregon.

15. Fees Prohibited - The Contractor/County will not impose or demand any fees from any person or agency for services provided and paid for under this contract, unless the fees have been approved in advance by the Department.

16. State Tort Claims Act - Contractor/County is not an officer, employee, or agent of the state as those terms are used in ORS 30.265.

17. Indemnity/Hold Harmless Provision - Department and Contractor/County shall be responsible exclusively with respect to their employees, for providing for employment-related benefits and deductions that are required by law, including but not limited to federal and state income tax deductions, workers compensation coverage, and PERS contributions. Contractor/County shall perform the services under this contract as an independent contractor. Contractor/County and Department each shall be responsible, to the extent required by the Oregon Tort Claims Act (ORS 30.160-30.300), only for the acts, omissions or negligence of its own officers, employees or agents.

18. Assignment of Contract - Successors in Interest - The Contractor/County shall not assign or transfer its interest in this contract without prior written approval of the Department which shall be attached to the original contract. Any such assignment or transfer, if approved, is subject to such conditions and provisions as the Department may deem necessary. No approval by the Department of any assignment or transfer of interest shall be deemed to create any obligation of the Department in addition to the agreed rates of payment and total contract consideration. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

19. Funds Available and Authorized

a. Contractor shall not be compensated for work performed under this Contract by any other agency or department of the State of Oregon. Department has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract within the Department's biennial appropriation or limitation. Contractor understands and agrees that Department's payment of amounts under this Contract attributable to Work performed after the last day of the current biennium is contingent on Department receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow Department, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

b. Department will only pay for completed work that is accepted by Department.

20. Recovery of Overpayments - If billings under this contract, or under any other contract between the Contractor/County and the Department, result in payments to the Contractor/County to which the Contractor/County is not entitled, the Department, after giving written notification to the Contractor/County, may withhold from payments due to the Contractor/County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment.

21. Other Agency Approvals - If the amount of this contract, including all amendments thereto, exceeds \$75,000, approval for legal sufficiency by the Attorney General is required. If this contract provides for the provision of professional service to the benefit of the Department and is not exclusively for the benefit of Department clients or other third party entities, approval by the Department of Administrative Services is required. All such approvals, when required, shall be obtained before any work may begin under this contract.

22. Controlling State Law - The provisions of this contract shall be construed and enforced in accordance with the provisions of the laws of the State of Oregon. Any action or suit involving any question arising under this contract must be brought in the appropriate court of the State of Oregon.



23. Ownership of Work Product - All work products of the Contractor/County which result from this contract are the exclusive property of the Department.

24. Equal Employment Opportunity - If this contract, including amendments, is for more than \$10,000, then Contractor/County shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). OMB Circular A - 102, ¶ 14.c.

25. Clean Air, Clean Water, EPA Regulations - If this contract, including amendments, exceeds \$100,000 then Contractor/County shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the Department and to the U.S.E.P.A. Assistant Administrator for Enforcement (EN-329). All subcontracts, including amendments, which exceed \$100,000 shall include this language. OMB Circular A-102, ¶14.i.

26. Energy Efficiency - Contractor/County shall comply with applicable mandatory standards and policies relating to energy efficiency which are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-165). OMB Circular A-102, ¶ 14.j.

27. Truth in Lobbying - The Contractor/County certifies, to the best of the Contractor/County's knowledge and belief that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor/County, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any such officer, employee or member in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

d. The undersigned is solely responsible for all liability arising from a failure by the undersigned to comply with the terms of this certification. Additionally, the undersigned promises to indemnify the Department for any damages suffered by the Department as a result of the undersigned's failure to comply with the terms of this certification.

This certification is a material representation of facts upon which reliance was placed when this contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this contract imposed by section 1352, Title 31, U.S.Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

28. Merger Clause - THIS CONTRACT WHICH INCLUDES ALL ATTACHED OR REFERENCED EXHIBITS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES AND WHEN REQUIRED THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND DEPARTMENT OF JUSTICE. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE

AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR/COUNTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

## EXHIBIT I

The key staff involved in the Contract administration will confer as follows:

1. The Deputy District Attorney's providing services under this contract will meet monthly with the 3 branch managers of the Department's Multnomah offices with Permanent Planning Units and other invited Department staff to review and plan the day-to-day operation of the program;
2. The Chief Deputy District Attorney of the Family Justice Division will meet quarterly with the branch managers of the Department Multnomah offices with Permanent Planning Units and the manager of the Department's Permanent Planning and Adoption Services Section to review the general operation of the legal assistance program in Multnomah County, to make plans for future activities and to develop solutions to problems needing corrective action;
3. The Chief Deputy District Attorney of the Family Justice Division, the 3 managers of the Department's Multnomah offices with Permanent Planning Units, and the manager of the Department's Permanent planning and Adoption Services Section will meet annually to conduct a review of this contract and the Legal Assistance Program in Multnomah County.

MEETING DATE: AUG 05 1999  
AGENDA NO: R-2  
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Aging and Disability Services Results from RESULTS Presentation

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: August 5, 1999  
AMOUNT OF TIME NEEDED: <sup>10</sup>~~18~~ Minutes

DEPARTMENT: Aging and Disability Services DIVISION: Planning & Special Projects

CONTACT: Daphne Teals TELEPHONE #: 248-3620, ext 28655  
BLDG/ROOM #: 161/3rd

PERSON(S) MAKING PRESENTATION: Kathy Wiseman, Paul McWhorter, and Shelley Immel of the Aging and Disability Services Adult Care Home Program.

ACTION REQUESTED:

☒ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☐ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Aging and Disability Services "Results from RESULTS"  
Adult Care Home Program Form Redesign Process Improvement Team

SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT  
MANAGER: James R. Connell

CLERK OF  
COUNTY COMMISSIONERS  
99 JUL 19 THU 4:00  
CLERK OF  
CLATSOP COUNTY  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

## ADULT CARE HOME PROGRAM

### Process Improvement Team on Forms

**Problem Statement** — The Adult Care Home Program (ACHP) is the regulatory program responsible for ensuring that Adult Care Homes (ACHs) in Multnomah County meet minimum standards of care and services. An ACH is a family home in which residential care and services is provided in a homelike environment to five or fewer adults who are dependent, elderly or have disabilities and are not related to the provider (also known as the operator) by blood, adoption or marriage. The Board of County Commissioners adopted the Multnomah County Administrative Rules for Licensure of Adult Care Homes (the rules) after a comprehensive rewrite in August 1996. To ensure accountability of quality care and services the ACHP provided mandatory and recommended forms to applicants and licensed operators for completion.

#### **Documentation of Problem**

During the two years following the adoption of the rules, the ACHP staff trained care providers on how to complete the applications and recommended record keeping forms to ensure compliance with the rules. Providers and ACHP staff found the following problems with the forms:

- Required application forms were difficult to read and some of the questions had questionable value.
- Questions and instructions were duplicated in applications.
- Important information for emergency caregiver contact was needed.
- Providers voiced complaints about the forms; they were not user friendly, were confusing and in some cases the providers found the forms to be of no use.
- Inadequate documentation required that ACHP field staff spend additional time re-training or assisting providers in the need and use of recommended forms.
- ACHP staff asked providers to send in suggestions, or the form the provider had created to comply with the rules for review and possible adoption.
- Several providers expressed interest in assisting with the re-development of the applications and recommended record keeping forms.

#### **The Solution**

To implement quality into the process and improve responsiveness to the providers the ACHP determined that a Process Improvement Team (PIT) would be the best solution.

#### **The Team**

**External Customers:** The providers selected represented the diverse interests and cultural background of ACH providers; they included a RN, an Operator who was previously an administrator of a Long Term Care facility, a multiple home Operator, and an Operator who is not medically trained.

**Internal Customers:** Four ACHP staff members, and representatives from the Multnomah County Developmental Disabilities Services Division.

#### **Benefits: Efficiency, Quality, Safety**

- By combining the Operator and Co-Operator applications into one application the PIT reduced the application form materials by 30%. Current projections indicate that of the 594 licensed ACHs, 88 Operators (14%) will be applying for annual license renewal with a Co-Operator. The combined form estimated savings, 80 work hours/yr.
- Fourteen (14) duplicate questions and ten (10) duplicate instructions were eliminated.
- Reduced ACHP field staff time used to train and assist providers in the need and use of recommended forms. Estimated savings, 1200 work hours/yr.
- Reduced ACHP staff time spent providing technical support or returning forms improperly filled out. Estimated savings, 200 work hours/yr and reduced postage costs.
- Providers benefit from examples included to assist filling out the forms properly.
- Formatting has been standardized and type/font set for easier reading.
- Consistency in resident records allows the licensing staff the ability to coach on quality of life issues for residents, such as activities and care needs problem solving.
- Providers have expressed that they have been empowered with tools that meet the needs of long term care professionals & community partners.
- The ACHP staff can easily access emergency contact information.

#### **Future Action**

Reassess forms on an annual basis with PIT. Review and update all forms by July 2000. Encourage ACHP staff and Operators to submit ideas for new or revised forms on a regular basis. Providers expressed that their ideas were respected and supported, which will lead to more opportunities for their involvement in future achievements.

***Presentation to  
Multnomah County Board of County Commissioners  
Thursday August 5, 1999***

# An Introduction to the ADULT CARE HOME PROGRAM



*"A home away  
from home for  
somebody  
you love"*

## MULTNOMAH COUNTY

Aging and Disability  
Services Department  
Area Agency on Aging  
Adult Care  
Home Program



## HIGHLIGHTS

- Mission and Vision
- Guiding Principles
- What is an Adult Care Home and What are the Costs?
- Who lives in an Adult Care Home?
- Looking for an Adult Care Home.
- What is a License and How are Homes Monitored?
- How to apply for a License.
- New Licensing for an Adult Care Home.
- Renewal License Visit with the Licenser.
- Continuing Education

## ***When is it Time to Consider an Adult Care Home?***

If you or someone you know is unable to carry out the necessary tasks of life, it may be time to think about a more supportive living situation. When people find themselves forgetting to take medicine, losing interest in cooking and eating, or frequently falling, it usually means it is time for a change. Many people in this situation, and their families, choose adult care homes because they are the most like living at home.

If you are unsure about whether a move from home is needed, **contact Multnomah County Aging Services HelpLine: 248-3646 (TTY #:248-3683).**

## ***What are the Advantages of Adult Care Homes?***

Adult foster care is often the preferred choice of the resident. That is because it is the most like-home, and usually costs much less than nursing home care. The small community of residents and staff encourages the resident to be treated as a whole person, and not just a patient.

Informal adult foster care has been used for generations. People who could not stay in their own homes were taken in by family, friends and neighbors. Oregon has adopted and developed adult foster care as an important alternative to nursing home care. The additional advantages of adult care homes for Oregonians now include strict licensing, monitoring and inspection. The Adult Care Home Program gives added assurance to Oregonians who choose adult foster care.

## ***What is the Goal of Multnomah County's Adult Care Home Program?***

The goal of the Multnomah County Adult Care Home Program is to provide residents with an environment that promotes the highest level of their individuality, independence and privacy in a home-like environment. In keeping with this goal, all operators of adult care facilities must agree, in writing, to four principles of care. These are: DIGNITY, PRIVACY, CHOICE and INDEPENDENCE & INDIVIDUALITY for the resident.

## ***What Types of Services are Provided?***

All adult care homes will provide a room, meals and general oversight of the resident's well being. Different adult care homes however offer slightly different services and resources for their residents. Other common services include: medication monitoring, help with activities of daily living and emotional support. No more than one resident in the home may be completely bed-bound and need total care.

*Continued on back cover*

# ACHP

## *Mission and Vision Statements*



*Multnomah County Adult Care Home Program*



## **MISSION STATEMENT**



By licensing, monitoring and regulating the Adult Care Home Program (ACHP) ensures that the Operators of Adult Care Homes and the conditions in Adult Care Homes adhere to the living and care standards of Multnomah County which are to ensure the health, welfare, and safety of the residents of the Adult Care Home and to promote the highest level of independence possible for each elderly person and/or person with disabilities who resides there.

## **VISION STATEMENT**



The Adult Care Home Program is clearly a regulatory program. It will apply rules, tests, policies, procedures, and sanctions firmly, consistently, and fairly. In consultation with Citizen Advocates as well as Operators and other caregivers, the ACHP will continue to make improvements in the regulatory process to ensure that Adult Care Homes provide the highest quality of care possible to residents. In addition, the ACHP will work to ensure that the atmosphere in each Adult Care Home is home-like and that residents can have the choice to live in the least restrictive environment possible.

The work of the ACHP goes beyond regulation. Through educational partners, the ACHP will make quality training available to meet the needs of potential Operators and caregivers. Ongoing training and technical assistance will be available for existing Operators and caregivers.

All information on Adult Care Home, except what is protected under confidentiality laws, will be readily available to the public at multiple sites throughout Multnomah County.

Adopted by ACHP Staff July 1997.

# ***Guiding Principles for Adult Care Home Program Staff***



*Multnomah County Adult Care Home Program*



The health, welfare and safety of the residents come first in the interests of the Adult Care Home Program.

As regulators, ACHP staff will enforce the Multnomah County Administrative Rules for Licensure of Adult Care Homes in an open, fair, consistent and professional manner.

The Adult Care Home Program recognizes that its staff has a unique regulatory relationship with Operators and caregivers.

ACHP Staff will avoid any behavior or relationship with Operators or caregivers that might be, or might appear to be, in conflict with their role as regulators. It is not appropriate for ACHP Staff to give or receive any kind of gift, favor or social invitation, or to transact any personal business with an Operator or caregiver. The same principles are expected to guide the attitudes and behavior of Operators and caregivers in relation to the Adult Care Home Program Staff.

ACHP Staff is expected to maintain a professional manner at all times and to avoid behaviors that may be, or are considered to be, rude or offensive in their relationships with Operators and caregivers.

ACHP Staff pledge that they will take no action in retaliation against Operators or caregivers who report to authorities violations of these *Guiding Principles*, the rules of the Adult Care Home Program, or abuse or neglect of residents.

*Adopted June 15, 1998*

# ACHP

***Who lives in  
Adult Care Homes?***



*Multnomah County Adult Care Home Program*



## **Adult Care Homes serve many different kinds of people.**

Over 2000 individuals live in the 600 Adult Care Homes licensed in Multnomah County. Adult Foster Care provides a viable alternative to home care, at approximately half the cost of nursing facility care.

Generally, the population most served are people over 65 who need assistance with the activities of daily living, such as bathing, dressing, meal preparation, personal hygiene, and medication management. Of the Adult Care Home residents the average age is 83.49 years.\*

The reason people choose Adult Foster care varies, but for many there is a need for physical care and/or a combination of physical and cognitive assistance. Both residents and families who make the choice of Adult Foster Care, do so based on the home like environment, and more "family like setting." Residents enjoy the company of children and family pets, and often have their own room. The average length of time in the home for those who have lived there for a year or more is about 3 years.

Adult Care Homes also serve the developmentally disabled and mentally and emotionally disabled populations, and as well as the younger disabled. These are people who, like the elderly, need some kind of ongoing assistance with activities of daily living. Often, these residents have a need for physical assistance, and/or need help managing behavior problems.

### **Results from 1996-1997 ADS Satisfaction Survey**

Rev. Alice Scannel Ph.D., Principle Investigator

Primary reason for living in and Adult Care Home: Provider's records show that about a third (32%) of the respondents are living in adult foster care primarily because of the need for physical care; 32% have a combination of physical care needs and cognitive problems; 11% are in the home primarily because of cognitive problems or confusion and memory loss; 15% are there because of mental illness or developmental disabilities; and 1% are living in an Adult Care Home while recovering from a serious health problem or hospitalization.

Payment Status: More than half of the respondents (60%) are Medicaid clients. Thirty-eight percent are Private Pay, and 2% are documented as "other," such as the VA.

Ethnicity: 92% of the respondents in this sample are white; 6% are African American; one percent are Pacific Islander; and one percent are American Indian/Alaskan.

# ACHP

## *What is an Adult Care Home and What are the Costs*



*Multnomah County Adult Care Home Program*

## ***What is an Adult Care Home?***



An adult care home is a home where adults who are dependent, elderly and/or have disabilities, live and receive services from a care provider who is not related to them by blood, adoption or marriage.

*The vast majority (90%) of homes licensed by Multnomah County are:*

**Adult Foster Homes.** These provide residential care, 24 hours A day, to 1-5 adults.

*The remaining homes licensed by Multnomah County are:*

**Room and Board Facilities.** These provide room and board, but not care, to adults, and may have more than five residents in a home; or

**Limited License Homes.** These provide residential care to *specifically named individuals* who are listed on their license.

The State of Oregon Senior and Disabled Services Division licenses residential facilities where care, treatment and/or training is provided to 6 or more residents on a 24 hour basis. These are called Residential Care Facilities, Assisted Living Facilities, or Nursing Homes. State licensed facilities are not licensed or regulated by the Multnomah County Adult Care Home Program.

## ***What does it Cost to Live in an Adult Foster Home?***

Monthly rates for adult care homes vary greatly depending on the home and the level and type of care that is needed. While rates in adult care homes range from \$350 to over \$3000 per month per resident, most adult care homes receive about \$1000 to \$1800 per month per resident. In general, this is much less than the cost of a nursing home or other similar facility for the same level and type of care. The operator of the adult care home sets the rates for residents who are paying privately; for residents receiving Medicaid, Case Managers determine rates according to guidelines developed by the State of Oregon's Senior and Disabled Services Division.

# *What is a License and How are Homes Monitored*



*Multnomah County Adult Care Home Program*





## ***What is a Multnomah County Adult Care Home License?***

A license grants legal approval to operate an adult care home. The license demonstrates that the adult care home *and* the operator have met basic standards. It identifies the classification of the home (for adult foster homes), the maximum number of residents, the address of the adult care home, and the name of the operator. No residents may be accepted into a home until a license has been issued.

A license is issued specifically for both the home and the operator of the home. **If either the location or the operator changes, the license is void and a new application must be submitted.**

Resident managers and other staff must also be approved by the Adult Care Home Program office and meet licensing standards before they work in the adult care home. If you are caring only for someone who is related to you by blood, adoption or marriage, you do not need to be licensed by the Multnomah County Adult Care Home Program. If you are receiving foster care payments for a relative who is on Medicaid, a certification will be required from the Multnomah County Aging Services Department. **For more information, please call the Multnomah County Aging Services Senior Helpline: 248-3646 (TTY #:248-3683).**

## ***How are Adult Care Homes in Multnomah County Monitored?***

The Adult Care Home Program uses several methods to maintain the quality of care in Multnomah County adult care homes. Specially trained staff visit each home at least once a year. Licensing staff also conduct an unannounced visit each year before renewing the license. A Complaint Specialist responds to all complaints against adult care homes and assures timely, adequate follow up. If complaints are found to be true, mandatory corrections, fines or closure may result.

One more way to find out about a home is to look it up in the Public Disclosure File in the Multnomah County Adult Care Home Program office, 421 SW 5th Avenue, Room #405, Portland, Oregon 97204, 248-3000, open Monday through Friday, 8:00 am to 5:00 pm. In the file you will find copies of any complaints made about the home and whether the complaints were found to be true.

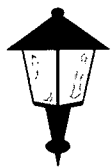
# ACHP

*Looking for an  
Adult Care Home*



*Multnomah County Adult Care Home Program*

## ***How Do I Begin Looking for an Adult Care Home?***



If the potential resident is a senior citizen and/or has a disability, the first question you will need to answer is: **Will the potential resident be receiving Medicaid benefits?** Residents with Medicaid benefits must select adult care homes that have Medicaid contracts. **If you are not sure** if the potential resident is eligible for Medicaid **benefits** call the Multnomah County Aging Services Senior Helpline : 248-3646 (TTY #: 248-3683).

**If the person who is a senior citizen and/or has a disability is already receiving Medicaid benefits**, their current case manager will be able to help you locate an adult care home. **If the person who is a senior citizen and/or has a disability will not be receiving Medicaid benefits**, call the Multnomah County Aging Services Senior Helpline : 248-3646 (TTY #: 248-3683) to receive a list of foster homes, A Guide to Adult Foster Care and information about agencies which can help you find an appropriate home.

What level of care will the potential resident need; will they need a Class I, II or III adult foster care home? What location in Multnomah County would work best for them and their visitors?

- Are the staff adequately experienced and qualified to take care of me (or my relative)?
- Would I (or my relative) be happy with the accommodations and atmosphere of the home?
- Would I (or my relative) get along with the staff and residents?
- Is the level of cleanliness suitable?
- Is the type of food that is prepared compatible with my (or my relative's) cultural and religious needs?
- Are the house rules for visiting hours, pets, and smoking workable for me (or my relative) and for those who will be visiting?

The Multnomah County Aging Services Department has an excellent checklist that you can take with you to each home. To receive a copy, you can call the Senior Helpline, 248-3646 (TTY #: 248-3683), and ask for a copy of A Guide to Adult Foster Care.

# ACHP

***New License Visit  
with the Licenser***



***Multnomah County Adult Care Home Program***



## **What an Operator can expect from a New License visit with a Licenser.**

Personal interviews are conducted within 60 days of the ACHP receiving a complete application, including all inspection reports. Licensing staff will then make an appointment with the new applicant. All personal interviews are done in the applicant's prospective Adult Care Home. When the Licenser arrives at the home, discussion will begin with "why applicant wants to operate an Adult Foster Home?" The Licenser will also discuss experience of the applicant and help decide which population they are qualified to provide care to. Positive and Negative aspects of becoming a licensed Operator will also be discussed with applicant.

Personal Interviews include, but are not limited to review of Inspection Reports, the Multnomah County Administrative Rules, Residents' Bill of Rights, House Rules, Medicaid Contracts, the role of the LTC Ombudsman, the ACHP Resource Sheet and Complaint Form. Other requirements reviewed; Annual 12-hour Training, CPR/First Aid, Fire/Warning schedule and proper Record Keeping, Medication Administration. The Licenser will also explain and provide technical assistance on the importance of each requirement to operate successfully.

A walk through of the home is done to verify facility requirements. Fire safety equipment will be inspected and Fire Evacuation Drills will be discussed. The home is checked to ensure bath assist aids are installed and adequate linens and other supplies have been purchased. Required Wall Postings are posted at this time, including rates for private pay residents. If items are incomplete or the home is not in compliance, applicant is given up to 120 days to be in compliance.

Licenser will discuss the most common rule violations in an Adult Care Home and how to avoid those violations; how to use resources available in the community through Senior & Disabled Services Department, Multnomah County Aging and Disability Department, Contract RNs, ADS Case Managers, Adult Care Home Program, Multnomah County Library, Tri-Met, and Loaves and Fishes.

If the home is in compliance a Standard License will be issued for 12 months, effective the date of the personal interview. If corrections are needed, a temporary license will be issued for 60 days pending corrections being made. A follow-up visit will be made at a later date when residents are placed into the home.

Applicants should contact their Licenser if he/she has questions about the personal interview.

# ACHP

*How to Apply  
for a License*



*Multnomah County Adult Care Home Program*

## How to apply for a License?



All persons interested in becoming licensed as an Operator or Co-Operator must complete an approved Basic Training Course in Multnomah County, and meet training and testing requirements. New applicants must have a minimum of one year of experience providing hands-on care to the population

they will be serving. The first step in the licensing process is to attend a New Operator orientation. At the orientation you will be required to take a pre-qualifying test. If you pass this test, you will be given an application packet and a copy of the Multnomah County Administrative Rules (MCARs) for licensure of adult care homes. The application is quite extensive and requires many items including but not limited to:

- Copy of Basic Training Course certificate.
- Take and pass the ACHP Qualifying Test.
- Have your home inspected and approved by the City of Portland or City of Gresham Bureau of Buildings Departments. \*
- Complete a four page questionnaire requesting information about your training and experience to operate an adult care home.
- Submit a criminal record authorization form for you, you're prospective staff and any other persons over the age of 16 living in the home or visiting on a frequent basis (not including residents and their families).
- Have a Physician complete a statement regarding your physical and mental health.
- Prepare a monthly budget, including a staff plan.
- Paid the required fees.

When a complete application has been recieved, the Adult Care Home Program will arrange:

- Multnomah County Sanitation inspection.
- City of Portland Fire Marshall inspection (if applicable).
- Personal interview with an Adult Care Home Program Licenser.

The process to become licensed may take several months. Please keep this in mind before entering into a purchase, lease or rental agreement.

**To pre-register for orientation, call 248-3000 – then press 2.**

\* You may be required to complete renovations or repairs to the proposed adult care home before receiving a Bureau of Buildings approval.

# achp

*Continuing Education*



*Multnomah County Adult Care Home Program*



## **Continuing Education for ACH Providers: What It Is, What It Is Not**

The purpose of continuing education, or ongoing training, is to ensure that Providers who are currently working in licensed Adult Care Homes in Multnomah County **continually increase their knowledge base and care skills to meet the changing needs of the residents in their care.**

In Multnomah County, Operators, Co-Operators and Resident Managers are expected to earn a minimum of 12 hours of continuing education credit per licensing year. The intent of continuing education requirements is: **1) to build on the expected entry level skills** received from taking the approved Basic Training Course for Adult Care Home Providers; **2) to expand the content of the basic training into areas of special interest** to caregivers and the community, and **3) to provide a variety of learning options** that meets the diverse needs of Providers.

The ACHP approves all continuing education training in Multnomah County for Operators, Co-Operators, Resident Managers and caregivers that work in, own or operate an Adult Care Home. Persons who want to offer continuing education training to Adult Care Home Providers in Multnomah County should submit that request in writing to the Training Specialist of the ACHP.

# ACHP

## *Renewal License Visit with the Licenser*



*Multnomah County Adult Care Home Program*



## **What an Operator can expect from a Renewal License visit with a Licenser.**

License renewal applications are mailed out to the operators about 60-90 days before the license is to expire. Operators are to complete and return the renewal application packet by the deadline given. The renewal application is reviewed for completeness, criminal record checks are done and the packet is referred to the licensing agent who will be making the renewal visit.

Inspection visits made by the license agent are usually unannounced. The operator is not required to be present for the renewal visit. The caregiver is welcome to call the operator to notify them of the visit.

Inspection visits are made to monitor compliance with Multnomah County Administrative Rules and standards of resident care. All inspections visits are not the same, but in general the following areas will be reviewed:

1. Verification of continuing education hours of the operator.
2. Current CPR/First Aid of operator and all caregivers.
3. Caregivers meet the training requirements (Caregiver Workbook or Basic Training Course, Caregiver Checklist).
4. Resident Manager (if any) has current renewal application, meets continuing education requirements, CPR/ First Aid, Caregiver Checklist.
5. Resident records are reviewed for completeness, accuracy, and level of care for each resident.
6. Entire house is inspected for general housekeeping and safety issues.
7. Fire safety equipment is checked (smoke detectors, fire extinguishers)
8. Evacuation plan and fire drill record is reviewed.
9. Residents are interviewed regarding there overall satisfaction.
10. Required wall postings, including menus, are checked.
11. Review medication procedures.

If deficiencies are found, the operator will be given a copy of the inspection report identifying areas of non-compliance and specific time frame for correction, not to exceed 60 days from the date of inspection. If the corrections are made prior to the expiration of the license, a license will be issued. If the corrections cannot be made before the expiration of the license, a temporary license may be issued while the corrections are being made. A standard license is issued once corrections are verified. Verification of corrections usually requires a follow-up visit to the home.

**This brochure available in accessible format**

*Multnomah County Code 8.91.035 requires all Adult Care Homes  
in Multnomah County to be licensed.  
Multnomah County Offers Equal Opportunity in its services.*

## ***Who Can Operate an Adult Care Home in Multnomah County?***

The **operator, resident manager and all staff** (*known as caregivers*) of an adult care home must be adults in good physical and mental health. They cannot have been convicted of a serious crime against persons, property, or public safety and decency, within the last 10 years. They must be able to read, write, speak and understand English.

The **operator and resident manager** must be at least 21 years old and have documented experience working with people who are dependent, elderly or have disabilities. The **operator** of an adult care home must own or lease the home and have sufficient income and/or savings to operate the home for at least two months.

### ***What are Adult Care Home Classifications?***

There are three (3) levels, or classes, of adult foster home licenses.

**Class I** homes provide light care to residents who need only minimal assistance such as medication monitoring and general reminders.

**Class II** homes provide moderate levels of care to people who need some assistance with activities of daily living. Activities of daily living include eating, dressing, going to the bathroom, personal hygiene, and walking.

**Class III** homes provide heavy levels of care to people who are dependent or need a high level of assistance with activities of daily living.

The higher the classification of the license, the greater the amount of training and experience are required of the operator and staff. Homes with higher classifications in general have higher rates for the more extensive services they provide.



**This booklet introduces the Multnomah County  
Adult Care Home Program**

**The Office is open from 8:00 a.m. to 5:00 p.m.,**

**Monday through Friday**

**4610 SE Belmont, Suite 10**

**Portland, Oregon 97215-7215**

**(503) 248-3000**

# **ACHP Process Improvement Team (PIT) on Forms**

Presentation to:

**Multnomah County**

**Board of County Commissioners**

August 5, 1999

# Why Forms? for Regulatory Agency

- Accountability to public to assure that standards and requirements are met and health, safety and welfare of residents is protected.
- Documentation of efforts and compliance with rules is easier to access in commonly used forms.
- Information obtained from forms can be basis for continuing education efforts to improve overall quality of care.

# Embracing Quality in the Mundane of the Everyday

- Application forms are means to determine if individuals can meet the minimum requirements to become an Operator.
- Forms give the agency information needed to make a qualified, rather than subjective, determination about applicant.
- Forms are the mundane necessities for getting needed and required information in regulatory agency.
- Improving the language, content, context, format and clarity of forms should improve quality of information received.



# ACHP PIT on Forms Goals:

- Ensure that forms reviewed meet the rules requirements in MCARs.
- Ensure that forms reviewed are clear, concise and easy to understand.
- Respond to the concerns of Operators who need to use them.
- Eliminate what is not needed.

# Characteristics of PIT on Forms Members

- Operators were **experienced** in running successful Adult Foster Home.
- Operators had combined total of 51 years of experience.
- Making **changes to forms they use every day was important to them.**
- ACHP staff **commitment to quality** recognized need to take on forms project to better serve internal and external customers of program.
- ACHP staff were concerned about the amount of time and \$\$\$ wasted in returning incomplete applications.
- ACHP field staff were concerned that forms were no longer in compliance with revised rules.

# Quality tools used:

- Agendas
- mini-surveys
- feedback loop --  
reasonable time to give  
feedback after each  
meetings
- thanking Operators in PIT  
for contributions among  
peers publicly and  
privately
- asking for input from  
other interested parties not  
on PIT at regular intervals
- Consideration of the use  
and necessity of the forms  
for ACHP and the amount  
of time to complete for  
Provider
- Willingness to think  
outside of the box
- Giving progress update at  
annual conference
- Setting up annual review  
process
- Support from Program  
Manager



# MULTNOMAH COUNTY OREGON

AGING AND DISABILITY SERVICES DEPARTMENT (503) 248-3646  
ADULT CARE HOME PROGRAM (503) 248-3000  
FAX: (503) 306-5722  
4610 SE BELMONT STE 10  
PORTLAND, OR 97215-7215

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## ACHP Process Improvement Team on Forms

The purpose of the PIT on forms was to offer advice and ideas on how to improve existing forms required in the licensing process for applicants and licensed Operators. The goal was to improve the overall quality in Adult Care Homes by improving the forms needed for accountability and documentation.

The members of the PIT met monthly commencing in October 1998 and concluding in March 1999. The group was originally set to end its work in February 1999, but by consensus the group determined an additional meeting was needed for a final review of the forms changed. Twelve hours were devoted to working meetings with an average of 6 hours of "homework" carried by each member outside of the meeting. Members received their homework at the end of each meeting. Sections of the MCARs, which were the basis for the forms, were included with the packets for easy reference.

The original schedule of the meetings and topics is attached as well as a sample of an agenda for the meetings and a mini-survey.

The members of the PIT included four Adult Foster Home Operators with a total 51 years of experience. The Operators participating in the PIT had been in business from two to 15 years with the average length of time being an Operator of 7 years. The Operators on the PIT were not novices to the business of operating a successful Adult Foster Home in Multnomah County. Three Operators worked primarily with persons of age while one Operator cares for both persons of age and persons with developmental disabilities.

Operators on the PIT received twelve (12) hours of continuing education credit for their involvement on the PIT, recognition at the Annual Conference on May 20, 1999, and a team pin and certificate. (See the team pin in your packets.)

Multnomah County staff from ACHP and the Developmental Disabilities Division had worked for the county from 3 to 10 years with the average length of time employed with the county being 5.7 years. For several months, the PIT was fortunate to be able to have the assistance of the services of Sherri A. Jenison. Sherri brought experience in desktop publishing, enthusiasm, and an ability to visualize what the PIT team wanted.

In a baseline survey completed for the first meeting on October 1, 1998, the PIT members recommended that "people first" language be used whenever possible for all forms, that instructions be more clear, and that improvements be made in both the formatting and content of the application and recordkeeping packets.

On a scale of 1 to 5 with 1 being difficult and 5 being easy, half of the PIT members rated the overall experience of completing the New Operator/applicant forms as a 3. The majority of the PIT rated the language of the applicant packets with a 3 or 2. The clarity of the instructions on the application packets was rated with either a 3 or 4. A minority of the PIT members rated the experience of completing an application, the language or the clarity of instructions as easy.

This initial survey indicated that the PIT members felt that there was substantial room for improvement in consistency, content, formatting, language and instructions on the forms that Operators use on a daily basis in the operation of their homes. Mini-surveys were completed on forms reviewed at each meeting.

At the final meeting on March 15, 1999, a mini-survey was completed by six of the PIT Team. Three members of the team were unable to attend due to prior commitments. A summary of those findings from that survey indicate that the majority of the team members found that participating in the PIT was a useful experience for them. They agreed the changed forms were more useful or felt they would be more useful to ACH Operators, the instructions were clearer and the language more helpful to persons who need to complete the forms.

Overall, the satisfaction with participating on the PIT was very high from both County employees and ACH Operators. Comments from some indicated that the PIT on Forms project was too large and added to the workload of ACHP staff on the PIT. Operators also indicated in later conversations that a smaller project would have been easier for them and their schedules. It should be noted, however, that three of the four Operators attended every meeting and many meetings found all in attendance so they took their responsibilities on the PIT seriously and felt they had value. In the future, review of the forms will be done annually so the project can be broken into smaller, more manageable pieces.

The PIT improved applications have been used since July and the recommended recordkeeping forms were mailed to all Operators in July 1999.

Submitted by Shelley Lee Immel, Facilitator for ACHP PIT on Forms

*SAMPLE AGENDAS*  
*AND*  
*MINI-SURVEYS*  
*FOR ACHP PIT ON FORMS*

Sample

ACHP PROCESS IMPROVEMENT TEAM ON FORMS

MEETING DATE: THURSDAY, OCTOBER 1, 1998

TIME: 2 - 4 P.M.

LOCATION: 4610 SE BELMONT, ACHP OFFICE

AGENDA

Welcome, Review of Agenda, Purpose of PIT team 2:00 - 2:05 p.m.

Facilitator: Shelley Lee Immel, Training Coordinator/Specialist

Final Deadline to submit final thoughts on today's forms:

Monday, October 12

Introduction of PIT team 2:05 - 2:15 p.m.

ACHP STAFF: Chair: Kathy Wiseman, Licenser; Recorder: Tom Glenn,  
Program Development Technician; Team Support: Paul McWhorter, Office  
Manager, and Facilitator: Shelley Immel.

All participants give a 30 second introduction of themselves, i.e., how long have  
you been an Operator in Multnomah County or been working with ACH  
Operators, what you see the results of this PIT team to be.

New Operator Application 2:15 - 3:00 p.m.

New Co-Operator Application 3:00 - 3:30 p.m.

New Resident Manager Application 3:30 - 4:00 p.m.

PURPOSE: The ACHP process improvement team (PIT) on forms will offer  
advice and ideas on how to improve existing forms required in the licensing  
process for applicants and licensed Operators. The PIT on forms includes  
Operators who are required to complete the forms, staff who must process the  
forms and review the information contained in the forms, and other stakeholders  
who have an interest in improving the overall quality of Adult Care Homes in  
Multnomah County.

NEXT MEETING: MONDAY, NOVEMBER 9, 1998 -- 2 to 4 p.m., ACHP Office

TOPIC: Renewal Packets

sample

TO: Members of the PIT on Forms  
FROM: Shelley Lee Immel  
Date: October 1, 198  
RE: Brief Biosketch and Baseline Survey

We would appreciate you taking a few minutes to complete the following biosketch. This information will be used in information sent from the Program Manager to the licensed Operators in Multnomah County along with an update of the work of the PIT on forms.

name:

Years you have been an Operator or worked with ACH Operators in Multnomah County, OR. \_\_\_\_\_ years

On a scale of 1 to 5, with 1 being difficult and 5 being easy please answer the following questions:

1. Overall, how do you rate the experience of completing forms for the ACHP?
2. Overall, how do you rate the language used in the forms?
3. Overall, how do you rate the clarity of the instructions in the forms?

1	2	3	4	5

Please list the top three things you hope this PIT on forms accomplishes:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Other comments or concerns:



sample

Mini-survey on New Operator, Co-Operator and Resident Manager Applications  
given to PIT on forms: October 1, 1998

On a scale of 1 to 5, with 1 being difficult and 5 being easy  
please answer the following questions:

1. Overall, how do you rate the experience of completing  
the New Operator/applicant forms?
2. Overall, how do you rate the language used in the New  
Operator/applicant forms?
3. Overall, how do you rate the clarity of the instructions in  
the New Operator/applicant forms?

1	2	3	4	5

Please list the top three things that need improvement in  
the New applicant forms packet.

1.

2.

3.

Other comments or concerns:

Name: \_\_\_\_\_

**sample**

**ACHP PROCESS IMPROVEMENT TEAM ON FORMS**

**MEETING DATE: Monday, March 15, 1999**

**TIME: 2 - 4 P.M.**

**LOCATION: 4610 SE BELMONT, ACHP OFFICE**

**AGENDA**

**Welcome, Review of Agenda, Additions** 2:00 - 2:05 p.m.

Facilitator: Shelley Lee Immel, Training Coordinator/Specialist

**Introduction of PIT team, Announcements** 2:05 - 2:10 p.m.

Operator Participants: Brigitte Baiz, Ileana Dejea, Cynthia Pitts, Zahra Rahmani

DDD Staff: Karen Markin

ACHP STAFF: Chair: Kathy Wiseman, Licenser; Recorder: Tom Glenn, Program Development Technician; Team Support: Paul McWhorter, Office Manager, Facilitator: Shelley Immel, and Forms Creator Extraordinary, Sherri Jenison.

Others attending: Bob Palmer, Program Manager

**Comments and Presentation** 2:10 - 2:25 p.m.

Bob Palmer, Program Manager -- Pins

Shelley Lee Immel, Training Coordinator/Specialist -- CE Certificate

Pictures -- Paul McWhorter

**Deadline to submit ideas on any of the forms reviewed: 4/2/99**

**Review of New Applications** 2:25 - 3:00 p.m.

**Operator/Co-Operator & Resident Manager**

**Review of Renewal Applications** 3:00 - 3:15 p.m.

**Operator/Co-Operator & Resident Manager**

**Review of Recordkeeping Forms Packet** 3:15 - 3:45 p.m.

**Any final thoughts or ideas on PIT Forms Project** 3:45 - 3:55 p.m.

**Thank you to Operator Members** 3:55 - 4:00 p.m.

**Kathy Wiseman, Chair of PIT Forms Group**

PURPOSE: The ACHP process improvement team (PIT) on forms will offer advice and ideas on how to improve existing forms required in the licensing process for applicants and licensed Operators. The PIT on forms includes Operators who are required to complete the forms, staff who must process the forms and review the information contained in the forms, and other stakeholders who have an interest in improving the overall quality of Adult Care Homes in Multnomah County.

**What remains to be done:**

- 1)Forms will be reviewed by ACHP Staff and other interested stakeholders, including County Counsel and the Program Manager, from April 2-30.
- 2)Changes to forms suggested will be incorporated and copies sent to Operators on PIT Forms Group for PIT Group final review from May 1-10. Suggestions should be sent to Kathy Wiseman by May 10.
- 3)After signoff from the Program Manager, the forms will be prepared for printing in June.
- 4)Copies of new forms sent to all licensed Adult Care Home Operators in July 1999. Applications to include new forms beginning in July 1999.

**SUMMARY: 6 of 9 participants completed. Not all questions answered.**

Mini-survey on forms given to Pit on March 15, 1999.

On a scale of 1 to 5, with 1 being very useful and 5 being not useful please answer the following questions:

1. Overall, how do you rate the experience of participating in the ACHP PIT on Forms?

2. Overall, how do you rate the usefulness of the changed forms?

a. Overall, how do you believe other Operators will rate the usefulness of the changed forms?

3. Overall, how do you rate the instructions on the changed forms?

a. Overall, how do you believe other Operators will rate the instructions on the changed forms?

4. Overall, how do you rate the language used in the PIT Forms group?

a. Overall, how do you believe other Operators will rate the language used in the changed forms?

1 very useful	2	3	4	5 not useful
4	2			
2	4			
2				
4	2			
1	2			
3	2			
2	1			

5. How could the ACHP have made this a better experience for you and your work on this group?  
Please use back of form for more comments.

***This PIT process made the ACHP seem more accessible and open to operators. I had the opportunity to express what I thought would be easier to fill out and beneficial for me and my residents. Take on a smaller task; this was overwhelming in terms of volume. Needed more staff assistance or less work in assignment. Need relief from other workload assignments when taking on this big of a project. Need more time for meetings of group.***

---

6. What have you learned from your involvement on this PIT Forms Group?

**I've learned that indeed, two or more brains, can come up with more solutions to a problem than one brain by itself. A lot of area in the rules became much more clear; forms look much more professional in order to make ACH more beneficial to the public.**

**Variety of opinion make a difference in quality product. "Old" forms lacked consistency and "professional" look.**

**A lot can be accomplished.**

**Ditto!**

**Sometimes, procedures by committee can end without useful and timely results, but this team worked well and achieved good results.**

7. If you had an opportunity to participate in another PIT group at ACHP, what would be your response:

**5 Be glad to participate**

**No, thank you. No explanation.**

**1 I am unable to participate, but let me recommend another person.**

**Other comments or concerns:**

Name: \_\_\_\_\_

# SCHEDULE FOR ACHP PROCESS IMPROVEMENT TEAM ON FORMS

October 1998 – February 1999

<b>Date of Meeting</b>	<b>Time</b>	<b>Location</b>	<b>Topic</b>	<b>Estimated Preparation Time for Team Members</b>
<b>1998 Wednesday, October 1</b>	2 – 4 p.m.	Large Conference Room, ACHP	New Operator, Co-Operator, & Resident Manager Applications	6 hours – materials sent one week prior to meeting date
<b>Monday, November 9</b>	2-4 p.m.	Large Conference Room, ACHP	Renewal Packets for Operator, Co-Operator & Resident Manager	4-6 hours – materials received at October 1 meeting
<b>Thursday, December 3</b>	2-4 p.m.	Large Conference Room, ACHP	Recordkeeping Forms related to Screening, Care Plans, Inventory, etc.	6 hours – materials received at November 9 meeting
<b>1999 Monday, January 11</b>	2-4 p.m.	Large Conference Room	Recordkeeping Forms related to Medications, Menus	4-6 hours – materials received at December 3 meeting
<b>Wednesday, February 17</b>	2-4 p.m.	Large Conference Room	Misc. Forms, Resource Sheet	2-4 hours— materials received at January 11 meeting

Sl/A:PITform.doc/9/1/98

**1<sup>st</sup> Annual Conference for Adult Care Home Providers May 20, 1999**

**Session C: Working on Quality Issues at ACHP**

*Excerpt from Multnomah County Administrative Rules*

**Licensure Rules for Adult Care Homes in Multnomah County in this packet:**

Contracts for Private Pay Residents *page 2*

General Criteria for Adult Foster Home Application Packets *page 4*

Additional Criteria for a New Adult Foster Home License *page 4*

Screening of Resident Care Needs Prior to Admission to the Adult Foster Home *page 5*

Admission to the Adult Foster Home *page 6*

Care Plan *page 6*

Administration of Medications *page 8*

Restraints *page 8*

Meals *page 9*

Resident Records *page 10*

House Rules *page 11*

Moving a Resident from the Adult Foster Home *page 11*

**Process Improvement Team on Forms**

Kathy Wiseman, ACHP Licenser, Chair

Tom Glenn, ACHP Licenser                      Shelley Lee Immel, ACHP Training Specialist  
Paul McWhorter, ACHP Office Asst Sr                      Sherri Jenison, ACHP Data/Forms Mgmt

**Community & Agency Partners**

Bridgette Baiz, ACH Operator                      Ileana DeJeu, ACH Operator  
Cynthia Pitts, ACH Operator                      Zahra Rhamani, ACH Operator  
Karen Markins, Developmental Disabilities Dept

## 891-040-100 CONTRACTS FOR PRIVATE PAY RESIDENTS

- 040-110 Operators of Adult Foster Homes with private pay residents shall enter into a contract with the residents, dated and signed by the Operator and the resident or the resident's legal representative. The Operator's contract is subject to ACHP review prior to licensure. The ACHP may disapprove contracts or contract provisions which are in conflict with the ACHP rules or any law or ordinance.
- 040-120 Operators shall review the contract with the resident and the resident's legal representative when the resident is admitted to the home. Operators shall give a signed copy of the contract to the resident and the resident's legal representative.
- 040-130 The contract shall be reviewed by the Operator and the resident or the resident's legal representative at least once a year. The contract shall be updated and signed whenever the home's rate changes as a result of a change in resident care needs or if any contract provision changes.
- 040-140 The contract shall address, at a minimum:
- (a) the specific care and services the home shall provide to the resident;
  - (b) the monthly rates for care and services;
  - (c) whether the resident's bedroom is private or shared;
  - (d) the due dates for payment and provisions for any late charges;
  - (e) the amount of refund and refund policy for any security deposits requested. The security deposit must be retained in an interest bearing account separate from the funds of the Operator;
  - (f) the circumstances under which the home's rates may change;
  - (g) the home's refund policy when a resident leaves the home before the required notice period;
  - (h) who shall be responsible for arranging and paying for any special services or equipment in the Adult Foster Home, including nursing delegations or care, and any fees for the resident's transportation;
  - (i) under what conditions the contract between Operator and resident may be ended, what notice is required from the Operator or resident to end the contract, and that the notice requirement may be waived with the consent of both parties;
  - (j) the resident's right to a hearing before being moved from the home in a non-emergency situation;
  - (k) how the resident may recover personal property left in the home, and how and when an Operator may dispose of the resident's property if not recovered;
  - (l) an acknowledgement that house rules have been signed;

(contracts continued page 3)

*Excerpt from Multnomah County Administrative Rules*

(m) how many days payment shall be required if a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return; and

(n) refunds of security deposits that allow for normal wear and tear.

040-150 If a resident's care needs change significantly, the Operator may renegotiate a higher rate to become effective in less than thirty days if the resident or the resident's legal representative voluntarily agrees to the increase.

040-160 Contracts between Operators and resident shall not require:

(a) any illegal or unenforceable provision, ask or require a resident to waive any of the resident's rights or the Operator's liability for wrongdoing;

(b) application fees or non-refundable deposits. Fees to hold a bed are permissible;

(c) if the home closes, charges to a resident beyond the date of closure or the date the resident moves from the home;

(d) advance payments for care and services beyond one month (This does not apply to security deposits.);

(e) less than 30 days written notice of a change in the home's contract rates;

(f) payment if the resident moves out because of abuse and/or neglect which is later substantiated;

(g) payment of room charges during any period when the room has been re-rented to another person;

(h) waiver of their rights to a thirty day notice of rate increases, except for pre-established rate schedules for specified care needs;

(i) payment for more than 15 days after the resident leaves the home for medical reasons and indicates in writing the intent not to return or if a resident dies; and

(j) residents to pay for damages considered normal wear and tear.



## **891-020-200 GENERAL CRITERIA FOR ADULT FOSTER HOME APPLICATION PACKETS**

- 020-204 Adult Foster Home application packets shall be in writing on ACHP forms, completed and submitted by the person requesting to be licensed as the Operator and who is responsible for the operation of the home.
- 020-208 Each Co-Operator shall complete all application packet forms. The term Co-Operator is synonymous with Operator as both are equally responsible for the home. Co-Operators shall meet all qualifications and standards for an Operator.
- 020-212 Application packets for an Adult Care Home which has a Resident Manager shall include all required information about the Resident Manager.
- 020-244 An applicant shall state the maximum capacity requested including the number of respite residents, room and board occupants, day care persons, and relatives needing care. The application form shall also include the total number of other occupants in the Adult Foster Home.

## **891-020-500 ADDITIONAL CRITERIA FOR A NEW ADULT FOSTER HOME LICENSE**

- 020-530 Application packets for new Adult Foster Home Operator's licenses returned to the ACHP shall include:
- (a) A completed ACHP application form.
  - (b) A Qualifying Test certificate.
  - (c) An Initial Training certificate.
  - (d) Criminal record check authorization forms for each person aged 16 years and over who lives or works in the home or is frequently in the home and has contact with the residents.
  - (e) A physician's statement regarding the applicant's physical and mental ability to provide care.
  - (f) A current CPR and first aid certificate for the Operator and Resident Manager.
  - (g) A completed financial information form, a budget for operating the home, including payroll expense totals, and evidence of the applicant's financial ability to operate the home.
  - (h) Evidence of the home's ownership, or a copy of the rental or lease agreement. If the home is leased or rented, the name of the owner and/or landlord must be included. In addition, there must be verification that the rent is a flat rate. Financial information about rental or lease arrangements shall not become part of the public record.
  - (i) Floor plans of the home showing the location and size of all rooms, doors and windows, as well as wheelchair ramps, smoke detectors and fire extinguishers.
  - (j) Bureau of Buildings and electrical inspection approval forms where applicable.

(additional criteria continued page 5)

*Excerpt from Multnomah County Administrative Rules*

(k) A staffing plan covering staff qualifications and how the home shall be supervised and monitored, including the use of substitute caregivers and other staff. If the Operator uses a Resident Manager, a written plan on coverage for Resident Manager absences must be submitted. (See Staff Coverage/Supervision.) The staffing plan shall also include the name, address and telephone number of an approved caregiver who will be available to provide care in the absence of the Operator, Resident Manager, or other caregiver.

(l) If needed, completed Co-Operator and Resident Manager applications.

(m) Adult Foster Home license application fees.

(n) Three references which document applicant's hands-on care experience with elderly persons or persons with disabilities. Once submitted, these references will be kept confidential and not released to the Operator.

(o) Copy of city business license, if applicable.

**891-60-200     SCREENING OF RESIDENT CARE NEEDS PRIOR TO ADMISSION  
TO THE ADULT FOSTER HOME**

060-224     The Operator's screening of the resident's care needs shall include, but is not limited to:

(a) assessment of activities of daily living;

(b) diagnosis;

(c) medications;

(d) a description of the prospective resident's physical and mental condition;

(e) personal care needs;

(f) resident's ability to communicate;

(g) nursing care needs and RN delegations;

(h) nutritional needs;

(i) night care needs;

(j) personal preferences for activities and lifestyle; and

(k) the prospective resident's ability to evacuate the home within three minutes along with the other home occupants.

060-240     Before admitting a private paying resident, the Operator shall advise the potential resident, his/her family, or his/her legal representative of the right to receive a long term care assessment. The Operator shall certify on a form provided by the ACHP that the individual has been so advised. Upon admission, the Operator shall maintain a copy of the form in the resident records.

*Excerpt from Multnomah County Administrative Rules*

## **891-060-300 ADMISSION TO THE ADULT FOSTER HOME**

- 060-310 Upon admission to the home, the Operator shall obtain and document in resident records general information regarding the resident. The information shall include names, addresses, and telephone numbers of relatives, significant persons, case managers, and medical/mental health providers. The record shall also include the date of admission and, if available, the resident's Social Security and medical insurance numbers, birth date, and prior living situation. At an appropriate date, the Operator shall obtain mortuary information.
- 060-320 Upon admission to the home, the Operator shall have made every effort to obtain physician/nurse practitioner orders for medications, treatments, therapies and special diets. Any telephone orders must be followed with written signed orders within 72 hours or the Operator must document attempts to get them. A physician, nurse practitioner, or pharmacist review of the resident's preferences for over-the-counter medications and home remedies shall also be obtained at that time and documented in the resident records. The Operator shall also obtain and place in the record any medical information available including history of accidents, illnesses, allergies, impairments or mental status that may be pertinent to the resident's care.
- 060-345 At the time of admission, the Operator shall list the resident possessions brought into the home.

## **891-060-400 CARE PLAN**

- 060-410 The Adult Foster Home Operator shall develop a care plan for each resident. The care plan shall be developed together with the resident and, as appropriate, the resident's family, physician, nurse, the resident's legal representative, case manager, and any other appropriate people, and shall include information from the screening assessment of the resident. The intent of the care plan is to accurately reflect the resident's care needs.
- 060-420 During the initial 14 days following the resident's admission to the home, the Operator shall continue the assessment process which includes documenting the resident's preferences and care needs. The assessment shall include observations of the resident and review of information obtained from the screening assessment process.
- 060-430 The resident care plan shall be finalized within 14 days of admission to the home. The care plan shall be signed by those who have prepared the plan.
- 060-440 The care plan shall be updated whenever the resident's care needs change and at least every six months. All updates must be dated and signed by the Operator. The Operators shall review care plans with the resident and/or a legal representative once a year. This review shall be documented in the resident's records.

(care plan continued page 7)

060-450

The care plan shall be a written description of a resident's needs, preferences and capabilities, including the type of care and services needed, when and who shall provide the care, how often care and services will be provided, and what assistance the resident requires for various tasks. Specific information in the care plan shall include information about the resident's:

- (a) ability to perform activities of daily living (ADL's);
- (b) need for special equipment;
- (c) communication needs: hearing, vision, sign language, non-English speaking, and speech along with any aids used;
- (d) night needs;
- (e) medical or physical health problems relevant to care and services;
- (f) cognitive, emotional, or physical disabilities or impairments relevant to care and services;
- (g) treatments, procedures or therapies;
- (h) need for Registered Nurse consultation and delegation;
- (i) need for behavioral interventions;
- (j) social/spiritual/emotional needs including lifestyle preferences;
- (k) emergency exit ability including assistance and equipment needed;
- (l) need for use of physical restraints or psychoactive medications;
- (m) dietary needs and preferences;
- (n) weekly activities or recreation schedule; and
- (o) preferences in how care is given.

060-460

The resident's care plan shall include goals for maintaining and, if possible, improving or restoring the resident's level of functioning.

## 891-060-500 ADMINISTRATION OF MEDICATIONS

- 060-532 Prescription medications ordered to be given "as needed" or "P.R.N." must have additional directions which show what the medication is for and specifically when, how much and how often it may be administered. These written directions may be given by a physician, nurse practitioner, Registered Nurse or pharmacist.
- 060-576 A current, written medication administration record shall be kept for each resident and shall identify all of the medications administered by the Operator, Resident Manager or caregiver to that resident, including over-the-counter medications and prescribed dietary supplements. The record shall indicate the medication name, dosage, route, the date and time to be given. The record shall be immediately initialed at the time of administration by the person giving the medications. Treatments and therapies must be immediately documented on the medication administration record showing times given, type of treatment or therapy, and initials of the person performing the procedure. The medication administration record shall contain a legible signature which identifies each set of initials.

## 891-060-700 RESTRAINTS

- 060-708 For the purposes of these rules, restraints are defined as any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, sleeping medications or tranquilizers).
- 060-716 Chemical or physical restraints may be used only after consideration of all other alternatives. The Operator shall document the consideration and trial of all other alternatives in the resident's records. Restraints shall be used only when required to treat a resident's medical symptoms, or to maximize a resident's physical functioning. If, following the assessment and trial of other measures, it is determined that a restraint is necessary, the least restrictive restraint shall be used as infrequently as possible. All physical restraints must allow for quick release at all times.
- 060-724 Physical restraints may be used only after an assessment by a physician/nurse practitioner, Registered Nurse, Christian Science practitioner, mental health clinician, physical therapist or occupational therapist assessment.
- 060-732 A written signed order for the restraint from the physician/nurse practitioner or Christian Science practitioner shall be obtained and placed in the resident record. The order, including any P.R.N. orders, shall include specific parameters including type, circumstances and duration of the use of the restraint.
- 060-740 Physical restraints may only be used with the resident's or resident legal representative's written consent which shall be filed in the resident's record. The Operator shall reassess their ability to provide care to the resident if the resident or legal representative refuses consent.
- 060-748 The Operator shall place the restraint assessment in the resident record. The assessment shall include procedural guidance for the correct use of the restraint, alternative less restrictive measures which shall be used in place of the restraint whenever possible, and dangers and precautions related to the use of a restraint.

(restraints continued page 9)

*Excerpt from Multnomah County Administrative Rules*

- 060-756 Physical restraint use shall be recorded on the care plan showing why and when the restraint is to be used, along with instructions for periodic release. Any less restrictive alternative measures planned during the assessment and cautions for maintaining safety while restrained shall also be recorded on the care plan.
- 060-764 Residents physically restrained during waking hours must have the restraints released at least every two hours for a minimum of 15 minutes. During this period, they are to be repositioned, offered toileting, fluids, exercised or provided range of motion.
- 060-772 Physical restraint use at night is discouraged and shall be limited to unusual circumstances. If used, the restraint shall be of the design to allow freedom of movement with safety. The frequency of night monitoring for resident safety and need for assistance shall be determined in the assessment.
- 060-780 Physical restraints may not be used for discipline of a resident or for the convenience of the Operator, Resident Manager or caregiver.
- 060-788 The frequency for reassessment of the physical restraint use shall be determined by the prescriber based on the recommendations made in the initial assessment. The reassessment may be performed by the physician/nurse practitioner, Registered Nurse, Christian Science practitioner, mental health clinician, physical therapist or occupation therapist.
- 060-794 Full side rails used to keep a resident in bed are considered restraints. Side rails or half rails, which are requested by the resident, to allow the resident to easily get in and out of bed or improve functioning are not considered restraints. Half side rails are not considered a restraint.
- 060-799 Use of restraints shall not impede the three minute evacuation of all household members.

#### **891-060-800 MEALS**

- 060-835 Operators shall prepare and post a planned weekly menu of the residents meals and keep menus on file for one year. The ACHP may require additional record keeping if problems with meals or nutrition arise.

## 891-070-100 RESIDENT RECORDS

070-140 The resident's records shall contain the following information:

- (a) Initial screening form. (See MCAR 891-060-224.)
- (b) General resident information form. (See MCAR 891-060-310.)
- (c) Long Term Care Assessment form for private pay residents. (See MCAR 891-060-240.)
- (d) Medical information, including:
  - (1) Medical history, including the resident's history of hospitalizations, accidents and injuries and relevant incident reports, and a description of any physical, emotional or mental health problems. (See MCAR 891-060-320.)
  - (2) Current written and signed physician/nurse practitioner orders. (See MCAR 891-060-320.)
  - (3) Any special diets or care instructions prescribed by a physician, including special therapies, treatments, and orders for the use of restraints or delegations. (See MCAR 891-060-508.)
  - (4) Guardianship letters, Oregon Directive to Physicians and/or a Power of Attorney for Health Care, if applicable. (See MCAR 891-060-330.)
- (e) Medication administration records. (See MCAR 891-060-500.)
- (f) The care plan. (See MCAR 891-060-400.)
- (g) Copies of the current written house rules and current Residents' Bill of Rights, signed by the resident and/or his/her representative. (See MCAR 891-060-340.)
- (h) A written report of all significant incidents relating to the health or safety of a resident including how and when the incident occurred, who was involved, what action was taken by Operator/staff and the outcome to the resident.
- (i) Narrative entries describing the resident's progress documented in ink at least once a week, dated and signed by the person writing them. Computerized progress notes shall be printed weekly and signed in ink by the person writing them.
- (j) A signed copy of the Medicaid Payment Assessment form (Form SDS 512) for Medicaid pay residents.
- (k) A signed copy of the contract for private pay residents. (See MCAR 891-040-100.)
- (l) An up-to-date list of the resident's personal belongings kept in the home. (See MCAR 891-060-345.)

(resident records continued page 11)

*Excerpt from Multnomah County Administrative Rules*

(m) If the Operator manages or handles a resident's money, the Operator shall keep a record of the resident's money. If the Operator has been authorized by a resident or resident's legal representative to handle a resident's money, a dated record of how the resident's money is spent and receipts retained for purchases over \$5.00. Receipts shall not be required for purchases made by the resident himself/herself. (See MCAR 891-060-177.)

(n) Any other information or correspondence about the resident.

## **891-070-200**

### **HOUSE RULES**

070-210

Operators shall have written house rules which are in accordance with the ACHP rules. They shall include, but are not limited to, the home's policies on daily and evening visiting hours, smoking, use of intercoms, resident telephone use, mealtimes, kitchen privileges, television, bedtimes, bathing, pets, alcohol use in the home, and other expectations of or restrictions on residents. House rules shall not be in conflict with the Residents' Bill of Rights or the family atmosphere of the home.

## **891-070-500 MOVING A RESIDENT FROM THE ADULT FOSTER HOME**

070-510

Operators shall not request or require a resident to move from the Adult Foster Home or move to another room in the Adult Foster Home without giving the resident, the resident's legal representative, family, case manager and any other appropriate person(s) at least 30 days written notice of the move. This excludes emergency situations where the home or resident's room no longer meets facility physical standards and situations where repairs are needed. The notice shall state the reasons for moving the resident and the resident's right to object and request a hearing.

070-530

Operators shall evict residents from the home or move residents between rooms in the home for the following reasons only:

(a) resident's care needs or behavior exceed the ability or classification of the Operator.

(b) welfare of the resident or other residents.

(c) nonpayment for room or board or care or services.

(d) the home is no longer licensed or there is a voluntary surrender of a license.

(e) behavior which poses an immediate threat to self, Operator, Resident Manager, caregivers or others.

(f) behavior which substantially interferes with the orderly operation of the home.

070-540

Residents may waive an Operator's 30 day notice to move in writing.

070-550

To require a resident to give the Operator a 30 day notice prior to a move, the Operator shall include this requirement in the contract.

(moving a resident continued page 12)

*Excerpt from Multnomah County Administrative Rules*



070-560

All written notices regarding evicting or moving a resident shall include:

- (a) the resident's name;
- (b) the reason for the proposed termination of residency;
- (c) the date of the proposed termination of residency;
- (d) the location to which the resident is going, if known;
- (e) the right to a hearing and to have the ACHP hold an informal conference;
- (f) the name, signature, address and telephone number of the person giving the notice; and
- (g) the date of the notice.

070-590

At the request of a resident, approval may be given for the resident to move from the home with less than 30 days written notice to the Operator or as specified in the contract, with the approval of the Director of Aging Services or his/her designee. Approval requires a finding by the Director of Aging Services or his/her designee that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the Operator, employees or other household members. Findings and approval shall be documented. Residents who move from a home under these circumstances shall not be charged beyond their last day in the home.

This information provided by the  
Multnomah County Aging and Disability Services Department  
Adult Care Home Program

A complete set of

Multnomah County Administrative Rules  
For Licensure of Adult Care Homes  
Effective August 29, 1996

Is available from the ACHP offices located at  
4610 SE Belmont, Lower Level Suite 10, Portland OR 97215  
Walk-in \$5 – Mail Orders add \$3 postage and handling.

*Excerpt from Multnomah County Administrative Rules*



**MULTNOMAH COUNTY**  
**AGING SERVICES DEPARTMENT**  
**ADULT CARE HOME PROGRAM**

**ADMINISTRATIVE RULES**  
**FOR**  
**LICENSURE OF ADULT CARE HOMES**

**EFFECTIVE AUGUST 29, 1996**

If you have questions, please contact:

Adult Care Home Program  
4610 SE Belmont Suite 10  
Portland, Oregon 97215-7215  
503-248-3000  
FAX 306-5722

## INTRODUCTION

The Multnomah County Administrative Rules for Adult Care Homes govern the licensing and operation of Adult Care Homes in Multnomah County, Oregon. The Adult Care Home Program (ACHP) licenses Adult Care Homes and enforces the rules.

Multnomah County is an exempt county as determined by the State Department of Human Resources, Senior and Disabled Services Division. An exempt county provides a program for licensing and inspection of Adult Care Homes which is equal to or exceeds the requirements of ORS 443.705 to ORS 443.825. Exempt county licensing rules must be submitted to the Director of Senior and Disabled Services Division for review and approval prior to implementation. Multnomah County has been designated as such an exempt area on the basis of the Adult Care Home Licensure Ordinance and these rules.

\*\*\*\*\*

### **891-005-100      AUTHORITY FOR AND JURISDICTION OF ADULT CARE HOME PROGRAM (ACHP) RULES**

- 005-110      These rules are authorized by MCC 8.91.005 through MCC 8.91.025, pursuant to the procedures set forth in MCC 8.91.160 through 8.91.260.
- 005-120      These rules are necessary for the administration and enforcement of the Multnomah County Adult Care Home Licensure Ordinance, found in Chapter 8.91 of Title 8 of the Multnomah County Code.
- 005-130      These rules shall apply to all Adult Care Homes operating within Multnomah County.

### **891-010-100      PURPOSE OF THE ADULT CARE HOME RULES**

- 010-110      These rules set forth the standards and requirements governing Adult Care Homes and are necessary to protect the health, safety and welfare of the residents of Adult Care Homes in Multnomah County. These standards and requirements shall be consistent with the homelike atmosphere required in Adult Care Homes.
- 010-120      Operators, Resident Managers and caregivers of Adult Care Homes shall abide by the terms of the Multnomah County Administrative Rules.
- 010-130      The goal of adult foster care is to provide necessary care while emphasizing the resident's independence. To reach this goal, the care provider and the resident, resident's family member or resident's legal representative shall cooperate to protect and encourage the resident's dignity, choice and decision-making. Resident needs will be addressed in a manner that supports and enables the individual to maximize abilities and function at his/her highest level of independence.

### **891-015-100      PURPOSE OF THE ADULT CARE HOME PROGRAM (ACHP)**

The Adult Care Home Program (ACHP) has developed standards for Adult Care Homes and the rules to be used in enforcing these standards in consultation with Operators, advocates for residents, experts in the field and others. The purpose

of the Adult Care Home Program, in relation to the Multnomah County Code and these rules, is:

- (a) To ensure that Adult Care Home residents are cared for in a homelike atmosphere which is friendly, safe, and secure; where the atmosphere is more like a home than a medical facility, where the resident's dignity and rights are respected, where positive interaction between members of the home is encouraged, and where the resident's independence and decision-making are protected and encouraged.
- (b) To enforce the Multnomah County Administrative Rules (MCAR's) in order to protect the health, safety and welfare of residents of Adult Care Homes.
- (c) To enforce the MCAR's to ensure an appropriate physical environment and at least a minimum standard of care in each home.
- (d) To ensure that the public has access to the information necessary to select an appropriate Adult Care Home.

## **891-018-100 RESIDENTS' BILL OF RIGHTS**

Each resident of an Adult Care Home in Multnomah County has a right to:

- (a) be treated as an adult with respect and dignity.
- (b) live in a safe, secure, homelike environment.
- (c) be informed of all resident rights and house rules.
- (d) be encouraged and assisted to exercise rights as a citizen, including the right to vote and to act on his or her own behalf.
- (e) be given information about his or her medical condition.
- (f) consent to or refuse treatment, medication or training.
- (g) have all medical and personal information kept confidential.
- (h) receive appropriate care and services from the Adult Care Home and access to prompt medical care as needed.
- (i) be free from mental or physical abuse, neglect, abandonment, punishment, harm or sexual exploitation.
- (j) be free to make suggestions or complaints without fear of retaliation.
- (k) be free from financial exploitation, including charges for application fees or nonrefundable deposits and solicitation, acceptance or receipt of money or property by an Operator, Resident Manager or caregiver other than the amount agreed to for services.
- (l) be free from physical or chemical restraints except as ordered by a physician or qualified practitioner. Restraints are used only for medical reasons, to maximize a resident's physical functioning, and after other alternatives have been tried. Restraints are not used for discipline or convenience.
- (m) be free from any type of illegal discrimination.
- (n) be afforded personal privacy, the opportunity to associate and communicate privately with any person the resident chooses, to send and receive mail unopened, and to use the telephone in private.
- (o) participate in social, religious, and community activities.
- (p) make personal decisions about such things as friends, leisure activities, choice of physician, spending personal money, food, personal schedules, and place of residence.
- (q) be allowed and encouraged to develop talents and learn new skills, relate to other residents in meaningful ways, and the choice to take part in the normal activities and upkeep of the home.
- (r) keep and use a reasonable amount of personal clothing and other belongings, and have a reasonable amount of private, secure storage space.

- (s) be free to manage financial affairs unless legally restricted.
- (t) receive a written agreement regarding the services the home shall provide and rates charged, and receive at least thirty days written notice before the home's ownership or rates change.
- (u) receive at least thirty days written notice from the Operator and an opportunity for a hearing before being involuntarily moved out of the home by an Operator, unless there is an emergency situation.
- (v) be involuntarily moved out of the home by an Operator only for the following:
  - (1) medical reasons;
  - (2) the resident's welfare;
  - (3) the welfare of other residents;
  - (4) nonpayment;
  - (5) behavior which poses an immediate threat to self or others;
  - (6) behavior which substantially interferes with the orderly operation of the home;
  - (7) the care needs of the resident exceed the ability or classification of the Operator;  
or
  - (8) the home is no longer licensed.
- (w) receive complete privacy when receiving treatment or personal care.
- (x) receive visitors free from arbitrary and unreasonable restrictions.
- (y) practice the religion of his/her choice.
- (z) not be forced to work against his/her will and to be paid for agreed upon work.

**ADMINISTRATIVE RULES  
FOR LICENSURE OF  
ADULT FOSTER HOMES**

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## PART I - LICENSING AND APPLICATIONS

### 891-020-100

### GENERAL REQUIREMENTS

020-110

A license is required for all Operators of Adult Care Homes located in Multnomah County in accordance with the Multnomah County Code and Administrative Rules for Adult Care Homes. The Multnomah County Adult Care Home Program shall license three different types of adult care homes. They are:

- (a) Adult Foster Homes;
- (b) Adult Foster Homes with a Limited License;
- (c) Room and Board Facilities.

020-120

An Adult Foster Home license is required (except as provided in MCAR 891-020-150) for any home or facility that provides residential care for compensation to five or fewer persons who are not related to the Operator by blood, adoption or marriage. Residential care is the provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management. The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the Adult Foster Home when one or more residents are present or are expected to be present in the home.

020-130

An Adult Foster Home Limited License is required for all homes or facilities that provide residential care for compensation to only a specific individual(s) who is not related to the Operator by blood, adoption or marriage. The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the Adult Foster Home when one or more residents are present or are expected to be present in the home. Part XV of these rules sets out the provisions for licensure of an Adult Foster Home with a Limited License.

020-140

A Room and Board License is required for homes or facilities that provide only room and board for compensation to one or more adults who are elderly persons or persons with disabilities, not related to the Operator by blood, adoption or marriage and which provide no services except medication management and money management. The Operator, approved Resident Manager or approved substitute caregiver shall not be required to provide supervision 24 hours per day in the room and board facility when one or more residents are present or are expected to be present in the home. Part XVI of these rules sets out the provisions for licensure of a Room and Board Facility.

020-150

An Adult Care Home license is not required for the following:

- (a) A home or facility, including but not limited to residential care facilities, specialized care facilities, and long term care facilities licensed by the State of Oregon in accordance with ORS 443.400 to ORS 443.455 or any other governmental agency.
- (b) A relative foster home licensed or registered by another agency to provide

care to family members eligible for State Medicaid assistance.

(c) Any other house, institution, hotel or other similar living situation that supplies:

(A) room only; or

(B) where no elderly persons or persons with disabilities reside who are provided any element of residential care for compensation.

(d) A facility where all residents are related to the Operator by blood or marriage.

(e) A facility where all residents are under age 18.

020-160 Compensation includes any sort of payment to the Operator, including in-kind payment or services.

**891-020-200 GENERAL CRITERIA FOR ADULT FOSTER HOME APPLICATION PACKETS**

020-204 Adult Foster Home application packets shall be in writing on ACHP forms, completed and submitted by the person requesting to be licensed as the Operator and who is responsible for the operation of the home.

020-208 Each Co-Operator shall complete all application packet forms. The term Co-Operator is synonymous with Operator as both are equally responsible for the home. Co-Operators shall meet all qualifications and standards for an Operator.

020-212 Application packets for an Adult Care Home which has a Resident Manager shall include all required information about the Resident Manager.

020-216 A separate application packet is required for each location where an Adult Foster Home is operated.

020-218 Operators of Adult Foster Homes shall obtain any applicable business license.

020-220 The ACHP will not process license applications until a complete application packet is received by the ACHP.

020-224 After the ACHP receives a completed application packet and the required fee, the ACHP shall review the application packet, investigate criminal records, order appropriate inspections, carry out interviews with the applicant(s), check references and inspect the home to determine compliance with ACHP rules.

020-226 As part of the application process, the ACHP may request inspections of the Adult Foster Home from local fire department representatives, the County Sanitarian, City building and electrical inspectors, and other persons as determined necessary by the ACHP.

020-228 The ACHP shall grant or deny a license to an applicant within 60 days of the date the ACHP receives a complete application packet.

020-232 The ACHP shall issue a license if the Adult Foster Home and Operator, Resident Manager and caregivers are in compliance with these rules and have cooperated in the application process.

020-236 Application packets are void 60 days from the date any portion of the application

packet and/or fee(s) are received by the ACHP if the application packet is not complete.

- 020-240 Failure to provide accurate and complete information may result in denial of the application.
- 020-244 An applicant shall state the maximum capacity requested including the number of respite residents, room and board occupants, day care persons, and relatives needing care. The application form shall also include the total number of other occupants in the Adult Foster Home.
- 020-248 The ACHP shall determine the maximum capacity of the Adult Foster Home during the licensure process.
- 020-252 An applicant shall state the classification being requested with information and supporting documentation regarding qualifications, relevant work experience, and training of staff as required by the ACHP.
- 020-256 The ACHP shall determine the classification of the Adult Foster Home based on the requirements in MCAR 891-025-100.
- 020-264 Applicants may withdraw applications at any time during the licensure process by notifying the ACHP.
- 020-268 Applicants may receive a refund of application fees if the application is withdrawn before any of the ACHP required inspections are completed.
- 020-272 The ACHP shall not refund application fees if an application is denied after the ACHP home inspection is completed.
- 020-276 The ACHP shall credit fees toward the Operator's future license application if the home is licensed for fewer beds than the applicant paid for at the time of application.
- 020-280 An applicant whose license has been revoked, voluntarily surrendered during a revocation process, or whose application has been denied for reasons of abuse, neglect, threat to the health, safety or welfare of any resident(s), or failure to possess the physical health, mental health, ability or good personal character necessary to be an Operator, shall not be permitted to make a new application for one year from the date the revocation, surrender, or denial is final, or for a longer period if specified in the order revoking or denying the license.
- 020-284 Information from a previous license or application shall be considered in processing a later application.
- 020-288 A license is void immediately upon issuance of a final order of revocation, a voluntary surrender by the Operator, or a change of ownership or location of the home. A void license shall be returned to the ACHP.
- 020-292 The ACHP shall not license an Operator who does not fully control all of the following:
- (a) hiring and firing of all the personnel in the Adult Foster Home;
  - (b) admission, discharge and transfer of any resident;

(c) daily operation of the Adult Foster Home.

**891-020-300**

**GENERAL CRITERIA FOR ADULT FOSTER HOME STAFF**

- 020-310 No person may be an Operator, Resident Manager, shift caregiver, or substitute caregiver or otherwise be employed by the Operator or reside in or on the property of an Adult Foster Home, or be in the home on a frequent basis and have contact with the residents, except for the resident or their visitors, who have not met the requirements of the criminal record section of these rules or who have been found responsible for a disqualifying type of abuse.
- 020-320 The ACHP may prohibit any person from working or being in an Adult Foster Home if the ACHP finds that his/her presence would jeopardize the health, safety or welfare of the resident(s) in the home.
- 020-330 Operators shall insure that all Resident Managers and caregivers who work in the Adult Foster Home have the necessary skills and experience to meet the needs of the residents.
- 020-340 If Operators, Resident Managers and caregivers do not meet the standards for Operators, Resident Managers and caregivers in MCAR 891-050-100 through MCAR 891-050-975, the ACHP shall deny the application of each individual.

**891-020-400**

**GENERAL CRITERIA FOR THE ADULT FOSTER HOME LICENSE**

- 020-406 The ACHP shall have the authority to issue an Adult Foster Home license to an approved applicant. The ACHP shall not issue a license unless the applicant and Adult Foster Home are in compliance with Multnomah County Administrative Rules.
- 020-412 The person and the Adult Foster Home that is licensed shall remain in compliance with all Multnomah County Administrative Rules for the duration of the license.
- 020-418 An Adult Foster Home license shall be valid for one year from the date the ACHP issues the license unless the license is revoked or suspended.
- 020-424 The Adult Foster Home license shall state the Operator's name and the home's address, the Resident Manager's name, type of license, maximum capacity of the home, the classification of the home and the time period for which the license is valid.
- 020-430 Operators must ensure that either the Operator or approved Resident Manager live in the home unless there is a written exception for shift caregivers granted by the ACHP.
- 020-436 By applying for and accepting an Adult Foster Home license, the Operator agrees to operate the home according to these MCAR's, including allowing unannounced licensing and monitoring visits.
- 020-442 The Operator shall post the most recent Inspection Reports available in the entry or equally prominent place and shall, upon request, provide a copy of the information to each resident of, or person applying for admission to the Adult Foster Home, or the family or legal representative of the resident or potential resident.

- 020-448 If a currently licensed Operator has more than one utility shut-off notice, or one complaint of nonpayment of rent or of lack of food or equipment, the Operator shall be required to have at least two months of financial resources reserved.
- 020-454 The applicant shall provide the ACHP with a list of all unsatisfied judgments, liens and pending lawsuits in which a claim for money or property is made against the applicant; all bankruptcy filings by the applicant; and all unpaid taxes due from the applicant. The ACHP may require or permit the applicant to provide a current credit report to satisfy this requirement. The ACHP shall not issue an initial license to an applicant who has been adjudged bankrupt more than once. If the applicant has any unpaid judgments (other than a current judgment for support), pending lawsuits, liens or unpaid taxes, the ACHP shall require the applicant to provide proof that the applicant has the amount of resources necessary to pay those claims. If the applicant is unable to demonstrate the financial ability and resources required by these rules, the ACHP may require the applicant to furnish a financial guarantee such as a line of credit or guaranteed loan as a requirement of initial licensure.
- 020-460 Operators must own, rent or lease the home to be licensed.
- 020-462 If a licensed Operator rents or leases the premises where the Adult Foster Home is located, the Operator shall not enter into a contract that requires anything other than a flat rate for the lease or rental.
- 020-466 If requesting a license to operate more than one home, the Operator must supply to the ACHP a plan for all homes covering:
- (a) administrative responsibilities for all homes,
  - (b) staffing qualifications,
  - (c) job descriptions for Resident Managers and caregivers,
  - (d) staffing plans, and
  - (e) Registered Nurse or physician monitoring.
- 020-472 The ACHP shall not issue a license to operate an additional Adult Foster Home unless the Operator has the qualifications, abilities and capacity to operate the existing licensed home(s) and proposed home(s) and has demonstrated the ability to provide care to the residents of those homes that meet the standards in the MCAR's.
- 020-484 An exception may be granted to MCAR 891-020-460 to an organization, such as a church, hospital, non-profit association or similar organization whose purposes include provision of care and services to residents to operate an Adult Foster Home. The organization must have a Board of Directors or Board of Trustees which must designate one person who meets the qualifications and functions as the Operator of the home. This individual's responsibilities must include MCAR 891-020-292 (a), (b), and (c).
- 020-490 Operators shall have written approval from the ACHP and appropriate contracting agencies before admitting any foster child for compensation in the same home with elderly persons and/or persons with disabilities.

020-496 If the Operator has a Medicaid contract, the Operator cannot ask a resident to move when the resident becomes eligible for Medicaid.

**891-020-500 ADDITIONAL CRITERIA FOR A NEW ADULT FOSTER HOME LICENSE**

020-510 Applicants shall have attended an ACHP orientation within the last 12 months before obtaining an application packet.

020-520 Applicants shall pass a pre-qualifying test to demonstrate adequate communication skills before an application packet is issued by the ACHP.

020-530 Application packets for new Adult Foster Home Operator's licenses returned to the ACHP shall include:

(a) A completed ACHP application form.

(b) A Qualifying Test certificate.

(c) An Initial Training certificate.

(d) Criminal record check authorization forms for each person aged 16 years and over who lives or works in the home or is frequently in the home and has contact with the residents.

(e) A physician's statement regarding the applicant's physical and mental ability to provide care.

(f) A current CPR and first aid certificate for the Operator and Resident Manager.

(g) A completed financial information form, a budget for operating the home, including payroll expense totals, and evidence of the applicant's financial ability to operate the home.

(h) Evidence of the home's ownership, or a copy of the rental or lease agreement. If the home is leased or rented, the name of the owner and/or landlord must be included. In addition, there must be verification that the rent is a flat rate. Financial information about rental or lease arrangements shall not become part of the public record.

(i) Floor plans of the home showing the location and size of all rooms, doors and windows, as well as wheelchair ramps, smoke detectors and fire extinguishers.

(j) Bureau of Buildings and electrical inspection approval forms where applicable.

(k) A staffing plan covering staff qualifications and how the home shall be supervised and monitored, including the use of substitute caregivers and other staff. If the Operator uses a Resident Manager, a written plan on coverage for Resident Manager absences must be submitted. (See Staff Coverage/Supervision.) The staffing plan shall also include the name, address and telephone number of an approved caregiver who will be available to provide care in the absence of the Operator, Resident Manager, or other caregiver.

(l) If needed, completed Co-Operator and Resident Manager applications.

(m) Adult Foster Home license application fees.



(n) Three references which document applicant's hands-on care experience with elderly persons or persons with disabilities. Once submitted, these references will be kept confidential and not released to the Operator.

(o) Copy of city business license, if applicable.

020-540 The ACHP shall not issue an initial license unless:

(a) A completed application packet is received and all fees, fines and penalties have been paid.

(b) The applicant and Adult Foster Home are in compliance with these rules.

(c) The ACHP has completed an inspection of the Adult Foster Home.

(d) The ACHP has completed a criminal record check on the applicant(s), any employee of the AFH, and any person aged 16 years and over who is in the home on a frequent basis and who will have contact with the residents, other than a resident or their visitors.

(e) The ACHP has checked the record of sanctions available from its files and the State registry of nursing assistants who have been found responsible for abuse.

(f) The applicant has demonstrated to the ACHP the financial ability and resources necessary to operate the Adult Foster Home. The applicant shall have a financial reserve equal to at least the amount of two months budgeted expenses.

020-550 In seeking an initial license, the burden of proof shall be on the Operator and the Adult Foster Home to establish compliance with the Multnomah County Administrative Rules.

**891-020-600 ADDITIONAL CRITERIA FOR RENEWAL OF AN ADULT FOSTER HOME LICENSE**

020-608 At least 60 days prior to the expiration of the license, an expiration notice and application packet for renewal will be sent to the Operator by the ACHP.

020-616 The Operator must submit a complete ACHP renewal application packet.

020-624 Submission of a renewal application packet prior to the expiration date will keep the license in effect until the ACHP takes action.

020-632 If the Operator does not submit a complete renewal application packet before the license expiration date, the ACHP shall treat the home as an unlicensed home. (Refer to MCAR 891-025-300.)

020-640 The ACHP shall review the renewal application materials and conduct an unannounced inspection of the Adult Foster Home. Prior to renewal, the ACHP shall interview Operators, Resident Managers, caregivers and residents; review Operator, Resident Manager and caregiver training documentation; review Adult Foster Home records; assess the homelike atmosphere; and inspect postings and safety features (fire safety equipment, etc.).

020-648 The Operator will be given a copy of the renewal ACHP Inspection Report at the

time of the inspection citing any deficiencies and timeframes for correction, which shall be no longer than 60 days from the date of the inspection. The Operator shall correct all deficiencies before the renewal license is approved. If any cited deficiencies are not corrected within the timeframe specified by the ACHP, the renewal application shall be denied. The ACHP may follow up with additional Licensing Reports citing deficiencies and timeframes for corrections.

020-656 The effective date of a renewal license shall be the day following the expiration date of the previous year's license.

020-664 The ACHP shall not renew a license unless:

(a) The ACHP has received a completed renewal application packet.

(b) The ACHP has completed an inspection of the Adult Foster Home.

(c) The home, Operator, Resident Manager and caregivers are in compliance with these rules.

(d) The ACHP has completed a criminal record check on the applicant(s), any employee of the Adult Foster Home and any person aged 16 years and over who is in the home on a frequent basis who will have contact with the residents, other than a resident or their visitors.

(e) All fines, penalties and fees have been paid unless there is a hearing pending regarding the fine or penalty.

(f) The ACHP has checked the record of sanctions available from its files and the State registry of nursing assistants who have been found responsible for abuse.

(g) The ACHP has received a copy of applicable city business license.

020-668 The ACHP shall consider requests for reclassification of the Adult Foster Home only at annual renewal.

020-672 Currently licensed Operators shall be able to demonstrate financial reserves equal to at least two month's operating expenses without relying on income from residents.

020-680 After the Adult Foster Home is in operation, the Operator may use the financial reserve if needed. If the financial reserve goes below the level required for two months of operation, the reserve must be replenished to the two months level within six months.

020-688 In seeking a renewal of a license when an Adult Foster Home has been licensed for less than 24 months, the burden of proof shall be upon the Operator and the Adult Foster Home to establish compliance with the rules of the ACHP.

020-692 In proceedings for renewal of a license when an Adult Foster Home has been licensed for at least 24 continuous months, the burden of proof shall be upon the ACHP to establish noncompliance with these rules.

**891-020-700 PROVISIONAL LICENSE**

Notwithstanding any other provision in the MCAR's, the ACHP may issue a

provisional license for up to 60 days to a qualified person if the ACHP determines that an emergency situation exists after being notified that the licensed Operator is no longer overseeing the operation of the Adult Foster Home. A person would be considered qualified if they are 21 years of age and meet the requirements of a substitute caregiver.

**891-020-800**

**OPERATOR'S RESPONSIBILITIES REGARDING RESIDENT MANAGERS**

- 020-810 Resident Managers for Adult Foster Homes shall attend orientation, the initial training course and pass the pre-qualifying test before being approved.
- 020-820 Adult Foster Home Operators who employ a Resident Manager shall submit a completed Resident Manager application packet, Resident Manager qualifying test certificate and fee to the ACHP before a Resident Manager's employment. The ACHP shall approve or deny the Resident Manager application and shall evaluate and may change the classification of the home based on the Resident Manager's qualifications.
- 020-830 If, during the period covered by the license, the Resident Manager leaves or ceases to act as the Resident Manager, the Operator must notify the ACHP. Before a new Resident Manager may start work, the Operator shall obtain approval from the ACHP. The Operator must request modification of the Adult Foster Home license to identify the change in Resident Manager.
- 020-840 If the ACHP determines that an unexpected and urgent staffing situation exists, the ACHP may permit, in writing, a person who has not attended orientation, completed the training or passed the qualifying test to act as a Resident Manager until training and testing are completed or for 60 days, whichever is shorter. The Operator shall provide a satisfactory explanation of the inability to find a qualified Resident Manager and must indicate that the person is at least 21 years of age and meets the requirements for a substitute caregiver for the Adult Foster Home, and that the Operator will provide adequate supervision.

**891-020-900**

**CAPACITY OF ADULT FOSTER HOMES**

- 020-910 Residents shall be limited to five persons unrelated to the Operator by blood, adoption, or marriage and who require care.
- 020-920 Respite residents are included in the licensed limit of the home.
- 020-930 The number of residents permitted to reside in an AFH will be determined by the ability of the staff to meet the care needs of the residents, the fire safety standards for evacuation, and compliance with the physical structure standards of these rules. Determination of maximum capacity must include consideration of total household composition including children and relatives requiring care and supervision. In determining maximum capacity, consideration shall be given to whether children over the age of five have a bedroom separate from their parents.
- 020-940 When there are relatives requiring care or day care residents, the allowable number of unrelated residents may continue to be the maximum capacity of five if the following criteria are met:
- (a) The Operator can demonstrate the ability to evacuate all occupants within three minutes;

(b) The Operator has adequate staff and has demonstrated the ability to provide appropriate care for all residents;

(c) There is an additional 40 square feet of common living space for each person above the five residents;

(d) Bedrooms and bathrooms meet the requirements of these rules;

(e) The care needs of the additional persons are within the classification of the license and any conditions imposed on the license;

(f) The well-being of the household including any children or other family members will not be jeopardized; and

(g) If day care persons are in the home, they must have arrangements for sleeping in areas other than a resident's bed or a resident's private room or space designated as common use.

020-950 The Adult Foster Home license shall state the maximum number of unrelated residents permitted to reside in the home, and the maximum number of additional persons, including relatives receiving care, day care residents and room and board residents.

020-960 The Adult Foster Home shall not exceed maximum capacity determined by the ACHP as stated on the license.

020-970 The ACHP shall review the Adult Foster Home's maximum resident capacity at each license renewal.

020-980 The ACHP shall review and may change the maximum capacity of the Adult Foster Home if there are any indications that ACHP standards of care are not being met or the health, safety or welfare of residents is at risk.

**891-025-100 CLASSIFICATION OF ADULT FOSTER HOMES (LEVELS OF CARE)**

025-105 The ACHP shall determine the classification of an Adult Foster Home during the licensure process. The classification level determines the level of care the Adult Foster Home may provide to residents.

025-110 A Class I, Class II or Class III license, except as noted in MCAR 891-025-115 and MCAR 891-025-120, will be issued by the ACHP based upon compliance with these rules and the qualifications of the Operator, Co-Operator and the Resident Manager. The lowest level of qualification of the Operator, Co-Operator and Resident Manager shall prevail in classification determination.

025-115 Homes that serve only Mentally Emotionally Disabled or Developmentally Disabled residents do not receive a classification.

025-120 Adult Foster Homes with a Limited License and Room and Board Facilities do not receive a classification. (See Parts XV and XVI.)

025-125 A Class I license may be issued if the applicant (and Resident Manager, if any) complete the required training and have the equivalent of at least one year of verifiable fulltime experience within the last three years providing direct care to elderly persons or persons with disabilities (for example, feeding, bathing,

transferring) or a current CNA certification and the equivalent of at least four months verifiable fulltime experience within the last three years.

025-130 A Class II license may be issued if the Operator (and Resident Manager, if any) complete the required training and each has the equivalent of two years of full-time verifiable experience providing direct care to elderly persons or persons with disabilities within the last five years, or a current CNA certification and the equivalent of at least 16 months fulltime verifiable experience within the last five years.

025-135 A Class III license may be issued if the Operator (and Resident Manager, if any) both complete the required training, have no substantiated complaints of abuse or neglect within the last three years and each:

(a) is a health care professional with a current license, such as a Registered Nurse, licensed practical nurse (LPN), physician, occupational therapist, or physical therapist;

or

(b) has the equivalent of three years' verifiable full time hands-on experience within the last ten years in providing direct care to elderly persons or persons with disabilities who are dependent in four or more ADL's; and

(c) can provide current satisfactory references from at least two medical professionals, such as a physician and Registered Nurse, who have direct knowledge of the applicant's ability and past experience as a caregiver; and

(d) can demonstrate to the ACHP the ability to provide appropriate care to persons dependent in four or more activities of daily living.

025-140 An Operator with a Class I license may admit only residents who need assistance in four or fewer activities of daily living (ADL's). All residents must be in stable medical condition and not need skilled or continuous nursing care.

025-145 An Operator with a Class II license may provide care for residents who require assistance in all activities of daily living, but are not dependent in more than three activities of daily living. A Class II Operator may request an exception to provide care to one Class III resident.

025-150 An Operator with a Class III license may provide care for residents who are dependent in four or more activities of daily living, except that no more than one bed-care or totally dependent person may be in residence at one time.

025-155 Operators shall care only for residents whose impairment levels are within the classification level of the home. If the Operator wishes a more impaired resident to remain in the home, the Operator shall request in writing an exception to care for a more impaired resident.

025-160 Operators of Class II and Class III homes shall not admit more than one resident requiring skilled or continuous nursing care without ACHP approval. This does not include residents who only require treatments such as insulin injections or catheter changes, as long as the task was properly delegated and the residents are not in need of other skilled or continuous nursing care.

025-165 The ACHP may grant an exception which allows a resident whose care needs exceed the classification of the home to live in the Adult Foster Home if the Operator provides clear and convincing evidence that the following criteria are met:

- (a) It is the choice of the resident to reside in the home;
- (b) The exception will not jeopardize the care, health, safety or welfare of any occupant;
- (c) The three minute fire evacuation standard for all occupants can be met.
- (d) The Operator is able to provide appropriate care to the resident in addition to the care of the other residents.
- (e) Adequate staff are available to meet the care requirements of all occupants in the home; and
- (f) Outside resources are available and obtained, if necessary, to meet the resident's care needs.

025-170 An Operators shall not admit a resident whose impairment level exceeds the license classification level of the home without prior written approval of the ACHP. The request must be made in writing.

025-175 Operators shall ensure that a Resident Manager meets or exceeds the experience and training standards for the classification of the Adult Foster Home.

025-185 The ACHP may require an RN's assessment of a resident's care needs whenever a resident's care needs change or are in question.

#### **891-025-200 CLOSING, MOVING OR SELLING ADULT FOSTER HOMES**

025-210 The Adult Foster Home license shall apply only to the person(s) and address specified on the Adult Foster Home license. A license shall not be transferred to another person or location.

025-220 If an Operator of an Adult Foster Home no longer wishes to be licensed, any potential new Operator shall apply to the ACHP for a license and be licensed before the change. The new potential Operator shall follow all ACHP application rules. The licensed Operator of the home shall not transfer operation of the home to the new Operator until the ACHP licenses the new Operator.

025-230 Operators shall give at least 30 days written notice to the resident, the resident's family member and to the resident's legal representative, before leaving, selling, leasing or transferring the Adult Foster Home business or the real property on which the Adult Foster Home is located.

025-240 If an Operator's license expires during a change in licensed Operators and the new potential Operator has not been approved for a license, the home shall be treated as an unlicensed home.

025-250 Operators selling the Adult Foster Home business must separate that transaction from the sale of the real estate.

025-260 The Operator shall inform real estate agents, prospective buyers, lessees and transferees in all written communications, including advertising and disclosure statements, that the license to operate an Adult Foster Home is not transferable and shall refer them to the ACHP for information about licensing.

025-270 Operators shall notify the ACHP prior to a voluntary closure of a home, proposed sale or transfer of business or property and shall give residents, families, and case managers for Medicaid clients 30 days' written notice except in circumstances where undue delay might jeopardize the health, safety or well-being of residents, Operators, Resident Managers, or staff. If an Operator has more than one home, residents cannot be shifted from one home to another home without a thirty day written notice unless prior written approval is given and agreement is obtained from residents, family members and case managers.

025-280 If an Operator proposes to move a licensed Adult Foster Home to another location, the new location must be licensed by the ACHP prior to a resident being placed in the home.

#### **891-025-300 UNLICENSED HOMES**

025-310 If an Operator's license expires and no renewal application packet has been received by the ACHP, or the ACHP becomes aware of an unlicensed home providing care, the ACHP shall conduct an unannounced visit to determine the safety of the residents in the home.

025-320 The ACHP will relocate residents immediately if there is an immediate threat to their health, safety or welfare.

025-330 The ACHP may issue a 30 day written notice to all residents stating that all residents must relocate if there is no immediate threat to their health, safety or welfare. The ACHP shall monitor the home during the notice period.

025-340 The Operator of an unlicensed Adult Foster Home who is unfamiliar with the ACHP shall be informed of the licensing process.

025-350 The ACHP may impose sanctions or initiate judicial action against an unlicensed Adult Foster Home.

025-360 No person or entity shall represent themselves as an Adult Foster Home, solicit or admit a person needing care or services, or accept placement of a person without holding a current license from the Adult Care Home Program. Failure to comply with this requirement shall be grounds for administrative sanctions, which may include imposition of a fine, denial of an application for an Adult Foster Home license, and/or the initiation of legal proceedings.

025-370 The ACHP shall identify Adult Foster Homes in Multnomah County which are operating without a valid license. The ACHP shall take appropriate action to ensure that unlicensed Adult Foster Homes either become licensed or cease to operate.

#### **PART II - EXCEPTIONS**

#### **891-030-100 APPLICATIONS FOR EXCEPTIONS TO THE ADULT FOSTER HOME RULES**

030-110 Adult Foster Home license applicants or Operators must apply in writing to the

ACHP for an exception to a specific requirement of the ACHP rules. The Operator must prove to the ACHP by clear and convincing evidence that such an exception does not jeopardize the care, health, welfare or safety of the residents. Evidence must indicate that all residents' needs can be met and that all occupants can be evacuated within three minutes.

030-120

The ACHP shall not grant exceptions to certain ACHP rules, including but not limited to the rules governing:

- (a) maximum capacity requirements except as provided in MCAR 891-030-150;
- (b) mandatory inspections;
- (c) criminal history and criminal record checks (MCAR 891-050-400);
- (d) Residents' Bill of Rights;
- (e) testing requirements for Operators and Resident Managers (MCAR 891-050-600 through MCAR 891-050-850);
- (f) protection from retaliation for filing complaints;
- (g) inspection of public files;
- (h) fire safety requirements;
- (i) license application requirements; and
- (j) standards set out in MCAR 891-060-100 through MCAR 891-070-770 and MCAR 891-090-100 through MCAR 891-090-150.

030-130

The ACHP shall document the reason for granting or not granting an exception to the ACHP rules. The exception shall not be effective until granted in writing by the ACHP. Exceptions shall be granted on a case by case basis considering all relevant factors.

030-140

The ACHP shall review exceptions granted to an Adult Foster Home at each license renewal period and may deny or modify exceptions previously granted if there has been a change in the situation.

030-150

The ACHP may grant an exception to the rules to increase the maximum licensed capacity of the Adult Foster Home to allow day care residents to stay in the home, if the Operator can demonstrate all of the following:

- (a) The ability to evacuate all occupants from the home to a point of safety within three minutes;
- (b) Adequate staff with demonstrated ability to provide appropriate care for all residents;
- (c) An additional forty square feet of common living space for each person above the five residents;
- (d) Bedrooms and bathrooms that meet ACHP facility standards;



(e) The care needs of additional persons do not exceed the classification of the Adult Foster Home license and any conditions imposed on the license;

(f) Day care residents have arrangements for daytime sleeping in areas other than a resident's bed or a resident's private room, or space designated as common use; and

(g) The safety of the home and the well-being and care needs of the residents, children or other family members will not be jeopardized if the ACHP grants the exception.

030-160 The decision of the ACHP regarding a request for an exception is final.

### **PART III - CONTRACTS**

#### **891-040-100 CONTRACTS FOR PRIVATE PAY RESIDENTS**

040-110 Operators of Adult Foster Homes with private pay residents shall enter into a contract with the residents, dated and signed by the Operator and the resident or the resident's legal representative. The Operators's contract is subject to ACHP review prior to licensure. The ACHP may disapprove contracts or contract provisions which are in conflict with the ACHP rules or any law or ordinance.

040-120 Operators shall review the contract with the resident and the resident's legal representative when the resident is admitted to the home. Operators shall give a signed copy of the contract to the resident and the resident's legal representative.

040-130 The contract shall be reviewed by the Operator and the resident or the resident's legal representative at least once a year. The contract shall be updated and signed whenever the home's rate changes as a result of a change in resident care needs or if any contract provision changes.

040-140 The contract shall address, at a minimum:

(a) the specific care and services the home shall provide to the resident;

(b) the monthly rates for care and services;

(c) whether the resident's bedroom is private or shared;

(d) the due dates for payment and provisions for any late charges;

(e) the amount of refund and refund policy for any security deposits requested. The security deposit must be retained in an interest bearing account separate from the funds of the Operator;

(f) the circumstances under which the home's rates may change;

(g) the home's refund policy when a resident leaves the home before the required notice period;

(h) who shall be responsible for arranging and paying for any special services or equipment in the Adult Foster Home, including nursing delegations or care, and any fees for the resident's transportation;

(i) under what conditions the contract between Operator and resident may be ended, what notice is required from the Operator or resident to end the contract, and that the notice requirement may be waived with the consent of both parties;

(j) the resident's right to a hearing before being moved from the home in a non-emergency situation;

(k) how the resident may recover personal property left in the home, and how and when an Operator may dispose of the resident's property if not recovered;

(l) an acknowledgement that house rules have been signed;

(m) how many days payment shall be required if a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return; and

(n) refunds of security deposits that allow for normal wear and tear.

040-150 If a resident's care needs change significantly, the Operator may renegotiate a higher rate to become effective in less than thirty days if the resident or the resident's legal representative voluntarily agrees to the increase.

040-160 Contracts between Operators and resident shall not require:

(a) any illegal or unenforceable provision, ask or require a resident to waive any of the resident's rights or the Operator's liability for wrongdoing;

(b) application fees or non-refundable deposits. Fees to hold a bed are permissible;

(c) if the home closes, charges to a resident beyond the date of closure or the date the resident moves from the home;

(d) advance payments for care and services beyond one month (This does not apply to security deposits.);

(e) less than 30 days written notice of a change in the home's contract rates;

(f) payment if the resident moves out because of abuse and/or neglect which is later substantiated;

(g) payment of room charges during any period when the room has been re-rented to another person;

(h) waiver of their rights to a thirty day notice of rate increases, except for pre-established rate schedules for specified care needs;

(i) payment for more than 15 days after the resident leaves the home for medical reasons and indicates in writing the intent not to return or if a resident dies or ; and

(j) residents to pay for damages considered normal wear and tear.

891-040-200

#### **OPERATORS WITH A MEDICAID CONTRACT**

040-210

Operators who wish to serve Medicaid clients shall have a valid Medicaid contract

in place and comply with the terms of the Medicaid agreement before accepting Medicaid paid residents.

040-220 The ACHP shall alert the contracting agency if an Adult Foster Home with residents who receive Medicaid payments is not in compliance with these rules.

**PART IV**

**STANDARDS FOR OPERATORS, RESIDENT MANAGERS AND CAREGIVERS**

**891-050-100 GENERAL CRITERIA FOR OPERATORS, RESIDENT MANAGERS AND CAREGIVERS**

050-110 For the purposes of these rules, Operators, Resident Managers and caregivers are defined as follows:

(a) **Operator** - The person licensed by the ACHP to operate the Adult Foster Home who has overall responsibility for the provision of residential care, who meets the standards outlined in these rules and who has been approved by the ACHP.

(b) **Co-Operator** - Synonymous with Operator as both are equally responsible for the home. Co-Operators shall meet all qualifications and standards for an Operator.

(c) **Resident Manager** - A person employed by the Adult Foster Home Operator and approved by the ACHP who lives in the home and is directly responsible for daily operation of the home and care given to residents.

(d) **Caregiver** - Any person responsible for providing care and services to residents, including the Operator, the Resident Manager, and any temporary, substitute or supplemental staff or other person designated to provide care and services to residents.

(e) **Substitute Caregiver** - Any person other than the Operator or Resident Manager who is approved by the ACHP and is responsible for providing supervision, care and services to residents of an Adult Foster Home. In addition, substitute caregivers left in charge of a home for multiple 24-hour periods during a month or for any period that exceeds 48 hours, shall be required to meet the education requirements of a Resident Manager in a Class II and Class III home and may be required to meet the education, experience and training requirements of a Resident Manager if the licensing authority determines that such qualifications are necessary based on the resident impairment levels in the home.

050-120 Adult Foster Home Operators and Resident Managers shall be at least 21 years old.

050-130 Operators must live in the home which is to be licensed unless a Resident Manager lives in the home unless the ACHP grants a written exception to allow shift caregivers.

050-140 Caregivers, other than Operators and Resident Managers, shall be at least 18 years old. Caregivers under 21 shall not have sole responsibility for resident care or supervision for more than two hours during any twelve hour period.

050-150 Adult Foster Home Operators and Resident Managers shall provide evidence

satisfactory to the ACHP regarding education, training, knowledge related to the population to be served, experience required for the classification of the home, and ability to operate an Adult Foster Home.

050-160 Operators, Resident Managers and caregivers shall have good physical health and mental health, good judgment, good personal character, including honesty, and the ability as determined necessary by the ACHP to provide 24-hour care for adults who are elderly persons or persons with disabilities.

050-170 Upon request of the ACHP, an Operator, Resident Manager or caregiver must obtain a statement from a physician or other qualified practitioner indicating they are physically, cognitively, and emotionally capable of providing care to residents.

050-180 Operators, Resident Managers and caregivers with a history of one or more substantiated episodes of substance abuse or mental illness must:

(a) provide evidence satisfactory to the ACHP of successful treatment/rehabilitation;

(b) submit references regarding current condition. References are confidential when received by the ACHP; and

(c) be capable of operating, managing or providing care to elderly persons or persons with disabilities.

050-190 All Resident Managers and caregivers must meet applicable requirements for criminal record check and training.

050-195 Other persons who work, live or spend significant periods of time in the household, may be subject to the same inquiries or investigations described above. Such persons may also be required to provide satisfactory evidence, if requested, that their presence in the household does not jeopardize residents.

**891-050-200 COMMUNICATION SKILLS**

050-210 Operators, Resident Managers, and anyone left alone with residents shall be literate and able to demonstrate all of the following:

(a) an understanding of written and oral instructions in English, including medication instructions and doctor orders; and

(b) the ability to communicate in oral and written English with residents, health care professionals, case managers and appropriate others; and

(c) the ability to respond appropriately to emergency situations at all times.

050-215 At least one approved Operator, Resident Manager or caregiver who meets the requirements of this section shall be in the home and available to respond to residents' needs at all times.

050-220 The ACHP may grant an exception to MCAR 891-050-210 for homes where the Operators, Resident Managers and caregivers do not speak English if the Operators, other caregivers, residents and their doctors all speak the same language. The home shall have an interpreter on call 24 hours a day, and shall notify the local fire department of special rescue requirements.

**891-050-300**

**COOPERATION**

050-310

Operators, Resident Managers and caregivers shall cooperate with ACHP personnel or other personnel providing services to the home or residents.

**891-050-400**

**CRIMINAL HISTORY AND CRIMINAL RECORD CHECK**

050-405

The criminal records check under this rule shall consist of:

(a) A check for a criminal record in the State of Oregon, and

(b) A national criminal record check if:

(1) The applicant or other person has resided in another state within the previous five years; or

(2) The applicant or other person has disclosed the existence of a criminal conviction in any state; or

(3) A criminal record check in the State of Oregon discloses the existence of a criminal record in any jurisdiction.

(c) A check of the record of sanctions available from the Senior and Disabled Services Division of the State of Oregon, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678.

050-410

It shall be the responsibility of the Operator to insure that all persons aged 16 years and over who live or work in the home and frequent visitors to the home who will have contact with the residents, excluding residents and their visitors, complete, sign and submit to the ACHP a criminal record release authorization form. This shall be completed prior to living in, working in or being in the home and on an annual basis. The form shall include name, any aliases, birthdate, social security number, gender, drivers license number, current address and address for the last five years and information about any criminal history.

050-415

Adult Foster Home Operators shall not hire a Resident Manager or caregiver whose criminal record has not been approved by the ACHP or allow family members, visitors, friends, etc. whose criminal record has not been approved to be in the home on a frequent basis and have contact with the residents.

050-420

Any Operator, Resident Manager or other caregiver may work in an Adult Foster Home pending the outcome of a national criminal record check providing that the Oregon criminal record check was clear and if he/she signs a form indicating that he/she has never had a criminal conviction.

050-425

A person with a criminal record shall provide the ACHP with all documents required to obtain a national criminal record check prior to working, residing or being in an Adult Foster Home. The person shall pay any costs necessary to obtain these documents.

050-430

The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime.

- 050-435 Any person who has been convicted of one or more crimes which are substantially related to the qualifications, functions or duties of an Operator, Resident Manager, or substitute caregiver of an Adult Foster Home, except as provided in MCAR 891-050-465, not including a resident or their visitors, shall be prohibited by the ACHP from operating, working in or being in or on the premises of an Adult Foster Home.
- 050-440 The Operator shall inform all persons aged 16 years and over, including Resident Managers and caregivers, occupants of the home and frequent visitors to the home who will have contact with the residents, not including residents, resident's families or visitors, that they must notify the Operator if arrested, charged with or convicted of a crime. A licensed Operator shall notify the ACHP immediately upon learning that anyone living, working or being in the Adult Foster Home on a frequent basis who will have contact with the residents has been arrested, charged with or convicted of a crime.
- 050-445 Any person other than a resident or their visitors who has been charged with or arrested for a crime which is substantially related to the qualifications, functions or duties of an Operator, Resident Manager or substitute caregiver may be prohibited by the ACHP from operating, working in, or being in an Adult Foster Home on a frequent basis. The ACHP shall determine the actions necessary to protect the health, safety, and welfare of residents.
- 050-450 Crimes which are substantially related to the qualifications, functions or duties of an Operator, Resident Manager or substitute caregiver include, but are not limited to the following: elder abuse, elder neglect, child abuse, child neglect, incest, abandonment of a child or dependent person, homicide, assault, kidnapping, sexual offenses and offenses against public health and decency (prostitution, offenses involving narcotics, alcohol abuse and dangerous drugs, driving under the influence of intoxicants), and crimes against property (arson, burglary, forgery, theft, embezzlement or obtaining property under false pretenses).
- 050-452 Persons who have been convicted of homicide shall be permanently disqualified from operating, working in or being in an Adult Foster Home.
- 050-455 The ACHP shall consider persons with convictions for crimes of domestic violence or other reliable evidence that they have committed domestic violence a threat to the health, safety and welfare of residents in an Adult Foster Home. The following persons shall not be involved in the operation of allowed in an Adult Foster Home:
- (a) An individual with reliable evidence of a domestic violence incident or a conviction for domestic violence during the past 5 years.
  - (b) An individual with reliable evidence of more than one domestic violence incident or conviction during the last ten (10) years.
  - (c) An individual with reliable evidence of a domestic violence incident or conviction for domestic violence in addition to any other conviction within the last ten (10) years.
- 050-460 A person who is found to have a criminal record may request an administrative conference if the ACHP denies an application or their ability to work or be in the home on a frequent basis based on the criminal record.

050-465 If a person was convicted of a crime other than the crimes listed in MCAR 891-050-450, or if more than ten (10) years have passed since the person was convicted of a crime, the ACHP may allow a person to operate, work, or be in a home after considering the following:

(a) the type of crime and number of offenses;

(b) whether the victim of the crime was elderly, handicapped or dependent, or under the age of 18;

(c) passage of time since the crime was committed;

(d) circumstances surrounding the commission of the crime which would demonstrate that repetition is unlikely (for example, age when crime was committed);

(e) activities since conviction or arrest such as employment, participation in therapy or education that indicate changes in behavior;

(f) Character references.

050-470 Criminal offender information shall be used only for the purposes for which it was obtained by the ACHP, and shall not be given to unauthorized persons or agencies. Unless a person gives written authorization for the release of criminal records, the ACHP may only inform an Operator that a person has been approved, or denied or that conditions are imposed on the basis of criminal offender information.

050-475 The ACHP shall make every effort to expedite completion of a criminal record check for the State of Oregon when requested by a licensed Operator because of an immediate staffing need.

#### **891-050-500 OPERATOR, RESIDENT MANAGER AND CAREGIVER TRAINING**

050-503 Operators and Resident Managers shall successfully complete the minimum ACHP approved initial training before being licensed or approved. The minimum ACHP approved initial training hours shall include but not be limited to: demonstrations and practice in physical care giving, screening for care and service needs, appropriate behavior towards residents with disabilities, issues related to accessibility for persons with disabilities and fire safety and evacuation issues.

050-506 Each year following the Basic Training Course, Operators and Resident Managers are required to obtain at least twelve hours of ACHP approved ongoing training related to care of elderly persons and persons with disabilities. Registered Nurse delegation or consultation and CPR certification shall not count towards the required training hours.

050-509 A Resident Manager who has not completed the Basic Training Course must complete the Caregiver Preparatory Training Course approved by the ACHP before providing care to any resident or being left alone with residents. The Caregiver Preparatory Training Course will include emergency procedures, medication management, personal care procedures, food preparation, home environment and safety procedures, and residents' rights.

- 050-512 Operators shall orient all Resident Managers and caregivers to the physical characteristics of the home, the residents of the home and their care needs using the ACHP checklist before Resident Managers and caregivers are left alone with residents. The Operator shall keep on file a copy of each Resident Manager's and caregiver's signed and completed ACHP checklist.
- 050-515 Operators shall train the Resident Manager and caregivers to meet the routine and emergency needs of the residents.
- 050-518 All Operators and Resident Managers shall have ACHP approved CPR certification before being licensed or beginning to work in the AFH. CPR certification shall be renewed on an annual basis.
- 050-521 All Operators and Resident Managers shall have current First Aid Certification before being licensed or beginning to work in the AFH.
- 050-524 All caregivers shall have a current ACHP approved CPR certificate and First Aid Certificate before being left alone with residents.
- 050-527 All caregivers other than Operators and Resident Managers shall study the ACHP Caregiver Preparatory Training Course and complete the workbook with no assistance or complete the ACHP-approved initial training, before working in the home. The caregiver training manual shall include but not be limited to the following topics: emergency procedures, medication management, personal care procedures, food preparation, home environment, safety procedures and residents' rights. Operators shall keep on file the substitute caregiver training certificate for all caregivers in the home where the caregiver works.
- 050-530 The ACHP may require other caregivers to complete annual training.
- 050-533 The ACHP may require Operators, Resident Managers and other caregivers to take part in additional training, including but not limited to training in major rule or program changes or fire and life safety standards.
- 050-536 Operators, Resident Managers and other caregivers shall record and keep on file ACHP training forms, certificates, attendance records and other training documentation. The Operator shall keep on file training documents for all Resident Managers and caregivers in the home where they work.

#### **OPERATOR AND RESIDENT MANAGER TESTING**

##### **891-050-600 QUALIFYING TEST FOR NEW APPLICANTS FOR OPERATOR OR RESIDENT MANAGER**

- 050-610 An applicant must pass the qualifying test before being licensed or becoming a Resident Manager. The examination shall evaluate the Operator's or Resident Manager's ability to understand and respond appropriately to emergency situations, changes in medical conditions, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Adult Foster Homes.
- 050-620 An applicant may take the qualifying test two times in a twelve month period. Failure to obtain a passing score on the qualifying test in two attempts will result in denial of the application and require the applicant to wait 12 months from the



date of the last test before beginning the application process again.

050-630 If an applicant fails to obtain a passing score on the qualifying test and demonstrates and documents special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. If the applicant fails to demonstrate special circumstances or fails to obtain a passing score on an alternate test as developed by the ACHP, the application shall be denied. Special consideration shall be granted only one time. If an applicant requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR 891-050-200.

050-640 If an applicant is granted an alternate test and fails that test, he/she must wait 12 months from the date of that test before he/she may begin the application process again.

#### **891-050-700 TESTING FOR OPERATORS**

050-706 An Operator must pass the qualifying test before the license is renewed. The examination shall evaluate the Operator's ability to understand and respond appropriately to emergency situations, changes in medical conditions, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Adult Foster Homes. This qualifying test must be passed by the Operator only one time.

050-712 An Operator who fails to obtain a passing score on the qualifying test may repeat the test one time within 60 days of the first test.

050-718 If an Operator fails to obtain a passing score on the qualifying test the first time the test is taken, a condition on the license restricting admission will be imposed. If an Operator fails to obtain a passing score on the qualifying test the second time the test is taken, the ACHP shall revoke or not renew his/her license. In this event, the Operator may not begin the application process for 12 months from the date of the last test.

050-724 If an Operator fails to obtain a passing score on the qualifying test on his/her second attempt and demonstrates and documents special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. The alternate test may only be taken one time. If an Operator requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR 891-050-200.

050-730 If the Operator fails to demonstrate special circumstances or fails to obtain a passing score on an alternate test, as developed by the ACHP, the renewal application shall be denied or the license shall be revoked if it has not expired.

050-736 If an Operator fails to obtain a passing score on the qualifying test and the Resident Manager passes the qualifying test, the requirements of MCAR 891-050-718 shall apply.

050-742 If an Operator fails to obtain a passing score on the qualifying test and the Resident Manager has not yet obtained a passing score on the qualifying test, the requirements of MCAR 891-050-718 shall apply.

050-748 If neither the Operator or Resident Manager obtains a passing score on the qualifying test, the requirements of MCAR 891-050-718 shall apply.

**891-050-800 TESTING FOR RESIDENT MANAGERS**

050-810 A Resident Manager must pass the qualifying test before the license is renewed. The examination shall evaluate the Resident Manager's ability to understand and respond appropriately to emergency situations, changes in medical conditions, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Adult Foster Homes. This qualifying test must be passed by the Resident Manager only one time.

050-820 A Resident Manager who fails to obtain a passing score on the qualifying test on his/her first attempt may repeat the test one time within 60 days of the first test.

050-830 If a Resident Manager fails to obtain a passing score on the qualifying test on his/her first attempt, his/her status as a Resident Manager shall become probationary for a period not to exceed 60 days or the date the second test is taken. He/she may continue working as a Resident Manager in the home during this period. In addition, the Operator must demonstrate to the ACHP how the home will be adequately supervised.

050-840 If a Resident Manager fails the examination a second time, his/her status as a Resident Manager shall terminate. A condition on the license restricting admissions shall be imposed until a qualified Resident Manager is hired and working in the home. The current Resident Manager may continue working as a Resident Manager for a period not to exceed 30 days to ease the transition. The current Resident Manager may continue working after that 30-day period only if he/she meets the qualifications of a substitute caregiver. In this event, the Resident Manager may not begin the process to apply to be a Resident Manager for 12 months from the date of the last test.

050-850 If a Resident Manager fails to obtain a passing score on the qualifying test on his/her second attempt and demonstrates special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. If the Resident Manager fails to demonstrate special circumstances or fails to pass an alternate test, as developed by the ACHP, his/her status as a Resident Manager shall immediately terminate. The alternate test may be taken only one time. If a Resident Manager requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR 891-050-200.

**891-050-900 STAFF COVERAGE/STAFF SUPERVISION/STAFFING CHANGES**

050-905 An Operator must live in the home that is to be licensed or hire an approved Resident Manager to live in the home.

050-910 The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the Adult Foster Home when one or more residents are present or are expected to be present in the home. Supervision means protective awareness of the residents' general whereabouts and functioning, including: monitoring the activities of the residents while on the premises of the home; generally ensuring residents' health, safety and welfare; and the ability and readiness to intervene on behalf of a resident if a crisis arises.

- 050-912 A resident with developmental disabilities or mental or emotional disabilities who has an Individual Service Plan (ISP) approved by the appropriate County or State Case Manager, may be left alone in the home for the length of time specified in the ISP. If there is no case manager, a resident with developmental disabilities or mental or emotional disabilities may be left alone in the home for the length of time specified in both the written doctors orders and care plan.
- 050-915 Operators not living in the home shall be in the Adult Foster Home at least three times a week and shall monitor the resident's health, safety and welfare, and record keeping, and document these visits. Operators may appoint a currently licensed Operator or person approved by the ACHP to meet this monitoring requirement.
- 050-920 Operators shall notify the ACHP of the name of the caregiver(s) who will be responsible anytime the Operator or Resident Manager will be out of the home more than 72 hours.
- 050-925 Operators shall give the current addresses and telephone numbers of all Resident Managers and caregivers employed by the Operator to the ACHP upon request.
- 050-930 A resident shall not provide supervision, care or services, or act as a Resident Manager or other caregiver.
- 050-935 Shift caregivers may be used in lieu of a Resident Manager only if the Operator is granted a written exception by the ACHP. Use of shift caregivers detract from the intent of a home-like environment, and may only be allowed for specific resident populations with intense care needs. The type of residents served must be a specialized population with intense care needs, such as those with Alzheimer's Disease, dementia, AIDS, or head injuries. If shift caregivers are used, they must meet the standards of a Resident Manager and the classification of the home.
- 050-940 If a Resident Manager (or shift caregiver) changes during the period the license covers, the Operator must notify the ACHP immediately and identify who will be providing care. The Operator must submit a request for a change of Resident Manager to the ACHP along with a completed Resident Manager application, a criminal record authorization, and payment of the required fee. Upon a determination that the applicant meets the requirements of a Resident Manager and the applicant has completed the ACHP's required training and passed the qualifying test, a revised license will be issued with the name of the new Resident Manager. The classification of the home will be reevaluated based on the qualifications of the new Resident Manager and may be changed accordingly.
- 050-945 If the ACHP determines an unexpected and urgent staffing situation exists, the ACHP may permit, in writing, a person who has not completed the orientation, training or passed the qualifying test to act as a Resident Manager until the orientation, training and testing are completed or for 60 days, whichever is shorter. The Operator must notify the ACHP of the situation and provide:
- (a) a satisfactory explanation of the inability to find a qualified Resident Manager;
  - (b) evidence that the person is 21 years of age;
  - (c) evidence that the person meets the requirements for a substitute caregiver working in the Adult Foster Home; and

(d) a plan that the Operator will provide adequate supervision.

- 050-950 Operators shall compensate Resident Managers and other caregivers, including respite and substitute caregivers in compliance with all applicable provisions of Federal and State wage and hour laws.
- 050-955 Operators shall keep adequate staff necessary to maintain a stable environment and to provide quality care in the home.
- 050-960 Operators shall ensure that Resident Managers and caregivers have a clear understanding of job responsibilities, have knowledge of residents' care plans, and are able to provide the care specified for each resident, including appropriate delegation or consultation by a Registered Nurse.
- 050-965 An Operator (whether or not present in the home) is responsible for the supervision, training and conduct of Resident Managers and caregivers. This applies to Resident Managers and caregivers when acting within the scope of their employment, duties, or when they are present in the home.
- 050-970 Operators shall not leave residents alone in the home with anyone who cannot communicate adequately in English and does not meet the requirements of MCAR 891-050-200.
- 050-975 Operators of Class II and Class III Adult Foster Homes shall insure monitoring of all residents by a Registered Nurse or physician at least every two months or more frequently, if medically indicated. At a minimum, monitoring shall include review of resident records, medication management, doctors orders and resident's care.

## **PART V - BASIC CARE**

### **891-060-100 GENERAL CRITERIA**

- 060-107 Adult Foster Home Operators, Resident Managers and caregivers shall protect resident's rights and help residents to exercise them as listed in the Residents' Bill of Rights.
- 060-114 Operators, Resident Managers and caregivers shall provide a resident with the care and services as agreed to in the resident's care plan and as appropriate to meet his/her needs.
- 060-121 Operators, Resident Managers and other caregivers shall meet the night time care needs of the residents.
- 060-128 Operators, Resident Managers and caregivers shall provide care and services in a homelike atmosphere, where the dignity and rights of the residents are respected, the atmosphere is more like a home than a medical facility, positive interaction between occupants, Resident Managers and caregivers of the home is encouraged, and the residents' independence and decision-making is protected and promoted. Operators, Resident Managers and caregivers may prohibit visitors from visiting a resident if the visitors threaten the health, safety or welfare of the resident or other occupants. The event must be documented in the resident's records as an incident report and the ACHP licensor shall be immediately informed.

- 060-135 Operators, Resident Managers and other caregivers shall provide supervision for resident use of hot tub, sauna, and swimming pool. (Hot tubs and saunas may be used only with written doctor approval.)
- 060-142 Residents shall have the right to consent to or refuse all medications, treatment or care. If a resident refuses medications, treatments or care, the refusal shall be immediately documented in the resident's records and appropriate persons notified, including the doctor, family, legal representative and case manager. Other persons involved in resident care, including the Resident Manager and caregiver, shall also be informed.
- 060-149 Operators shall immediately inform the resident, the resident's physician or nurse, family, legal representative, case manager, and any other appropriate people of changes in the resident's condition.
- 060-156 Operators, Resident Managers and caregivers shall promptly seek medical help, as needed, and continue to seek help until the resident receives the appropriate care and services. This includes persistent attempts to obtain doctor ordered prescriptions.
- 060-163 In the event of a serious medical emergency, the Operator/staff shall call 911 or the appropriate emergency number for their community. The physician/nurse practitioner, family or legal representative and the case manager (when applicable) shall also be called. The Operator shall have copies of Advance Directives, Do Not Resuscitate (DNR) orders and/or pertinent medical information available when emergency personnel arrive. Medical emergency means a change in medical condition that requires immediate care of a level or type that the Operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.
- 060-170 Operators must be able to provide or arrange for appropriate resident transportation. This does not mean the Operator has to pay for transportation.
- 060-177 If the Operator manages or handles a resident's money, it shall be maintained in a separate account record in the resident's name. The Operator shall not under any circumstances, commingle, borrow from, or pledge any funds of a resident. Personal Incidental Funds (PIF) for Medicaid clients are to be used at the discretion of the client for such things as clothing, tobacco, and snacks (not part of daily diet). Operators, Resident Managers or caregivers shall not influence, solicit from, or suggest to any resident that they or their family give the Operator, Resident Manager or caregiver, or the Operator's, Resident Manager's or caregiver's family, money or property for any purpose. The Resident Manager, Resident Manager's family, caregiver or the caregiver's family shall not accept gifts of substantial value or loans from the resident or the resident's family.
- 891-060-200 SCREENING OF RESIDENT CARE NEEDS PRIOR TO ADMISSION TO THE ADULT FOSTER HOME**
- 060-208 Operators shall screen a potential resident for care needs using a screening form before admitting a resident to the Adult Foster Home. The screening shall determine whether the care needs of the resident fall within the license classification of the home and if the Operator can meet the care needs of the resident along with meeting the care needs of the current residents of the home.
- 060-216 The screening shall include interviews with the prospective resident in person

whenever possible, and, if appropriate, the resident's family, prior caregivers, and case manager. The Operator's interview may also include any physician, nurse or other health care professional involved in the prospective resident's care.

060-224

The Operator's screening of the resident's care needs shall include, but is not limited to:

- (a) assessment of activities of daily living;
- (b) diagnosis;
- (c) medications;
- (d) a description of the prospective resident's physical and mental condition;
- (e) personal care needs;
- (f) resident's ability to communicate;
- (g) nursing care needs and RN delegations;
- (h) nutritional needs;
- (i) night care needs;
- (j) personal preferences for activities and lifestyle; and
- (k) the prospective resident's ability to evacuate the home within three minutes along with the other home occupants.

060-230

Upon completion, a copy of the screening form shall be given to the prospective resident or his/her representative.

060-232

If the prospective resident becomes a resident in the home, the Operator's screening of a prospective resident shall be documented, a copy given to the prospective resident and any legal representative, and a copy kept with the resident's records.

060-240

Before admitting a private paying resident, the Operator shall advise the potential resident, his/her family, or his/her legal representative of the right to receive a long term care assessment. The Operator shall certify on a form provided by the ACHP that the individual has been so advised. Upon admission, the Operator shall maintain a copy of the form in the resident records.

**891-060-300**

#### **ADMISSION TO THE ADULT FOSTER HOME**

060-310

Upon admission to the home, the Operator shall obtain and document in resident records general information regarding the resident. The information shall include names, addresses, and telephone numbers of relatives, significant persons, case managers, and medical/mental health providers. The record shall also include the date of admission and, if available, the resident's Social Security and medical insurance numbers, birth date, and prior living situation. At an appropriate date, the Operator shall obtain mortuary information.

060-320

Upon admission to the home, the Operator shall have made every effort to obtain

physician/nurse practitioner orders for medications, treatments, therapies and special diets. Any telephone orders must be followed with written signed orders within 72 hours or the Operator must document attempts to get them. A physician, nurse practitioner, or pharmacist review of the resident's preferences for over-the-counter medications and home remedies shall also be obtained at that time and documented in the resident records. The Operator shall also obtain and place in the record any medical information available including history of accidents, illnesses, allergies, impairments or mental status that may be pertinent to the resident's care.

060-330 At the time of admission, the Operator shall ask for copies of the following documents if the resident has them: Advance Directive, letters of guardianship, letters of conservatorship, and Do Not Resuscitate (DNR) orders. The copies shall be placed in a prominent place in the resident record and copies sent with the resident when transferred for medical care.

060-340 At the time of admission, the Operator shall discuss with the resident and/or her/his legal representative and resident's family, if available, whether the home has a Medicaid contract, as well as the Residents' Bill of Rights, and written house rules. The discussion shall be documented by having the resident sign the house rules and the Residents' Bill of Rights. These signed documents shall be filed in the resident's record.

060-345 At the time of admission, the Operator shall list the resident possessions brought into the home.

060-350 When Operators have contracts with more than one public social service agency, including but not limited to the State of Oregon Mental Health Division -- Mental Health or Developmental Disabilities Programs, Senior and Disabilities Services Division, or Children's Services Division, the Operator shall obtain written permission from each contracting agency with clients already in the home before admitting new residents from another agency.

#### **891-060-400 CARE PLAN**

060-410 The Adult Foster Home Operator shall develop a care plan for each resident. The care plan shall be developed together with the resident and, as appropriate, the resident's family, physician, nurse, the resident's legal representative, case manager, and any other appropriate people, and shall include information from the screening assessment of the resident. The intent of the care plan is to accurately reflect the resident's care needs.

060-420 During the initial 14 days following the resident's admission to the home, the Operator shall continue the assessment process which includes documenting the resident's preferences and care needs. The assessment shall include observations of the resident and review of information obtained from the screening assessment process.

060-430 The resident care plan shall be finalized within 14 days of admission to the home. The care plan shall be signed by those who have prepared the plan.

060-440 The care plan shall be updated whenever the resident's care needs change and at least every six months. All updates must be dated and signed by the Operator. The Operators shall review care plans with the resident and/or a legal representative once a year. This review shall be documented in the resident's

records.

060-450

The care plan shall be a written description of a resident's needs, preferences and capabilities, including the type of care and services needed, when and who shall provide the care, how often care and services will be provided, and what assistance the resident requires for various tasks. Specific information in the care plan shall include information about the resident's:

- (a) ability to perform activities of daily living (ADL's);
- (b) need for special equipment;
- (c) communication needs: hearing, vision, sign language, non-English speaking, and speech along with any aids used;
- (d) night needs;
- (e) medical or physical health problems relevant to care and services;
- (f) cognitive, emotional, or physical disabilities or impairments relevant to care and services;
- (g) treatments, procedures or therapies;
- (h) need for Registered Nurse consultation and delegation;
- (i) need for behavioral interventions;
- (j) social/spiritual/emotional needs including lifestyle preferences;
- (k) emergency exit ability including assistance and equipment needed;
- (l) need for use of physical restraints or psychoactive medications;
- (m) dietary needs and preferences;
- (n) weekly activities or recreation schedule; and
- (o) preferences in how care is given.

060-460

The resident's care plan shall include goals for maintaining and, if possible, improving or restoring the resident's level of functioning.

**891-060-500**

#### **ADMINISTRATION OF MEDICATIONS**

060-504

Operators, Resident Managers and caregivers who administer medications shall demonstrate an understanding of the administration of each resident's medications. Operators, Resident Managers and caregivers shall know the reason the medication is used and any specific instructions and common side effects. Drug reference material shall be kept in the Adult Foster Home and shall be readily available.

060-508

The Operator shall obtain and place a written signed order in the resident's record for any medications, dietary supplements, treatments, and/or therapies which have been prescribed by the physician/nurse practitioner.



- 060-510 Prescription medications shall not be given without written doctor's orders.
- 060-512 Orders must be carried out as prescribed unless the resident or the resident's legal representative refuses consent. The physician/nurse practitioner must be notified if a resident refuses to consent to an order.
- 060-516 Over-the-counter medications or home remedies requested by the resident shall be reviewed by the resident's physician/nurse practitioner or pharmacist at admission and at least annually thereafter and documented in the resident records.
- 060-520 Changes to orders may not be made without a physician/nurse practitioner's order. Attempts to call the physician/nurse practitioner to obtain the needed changes in orders must be documented in the resident's record.
- 060-524 If an Operator, Resident Manager or caregiver has good reason to believe that medical orders are harmful to a resident, the Operator, Resident Manager or caregiver shall immediately notify the physician, nurse, resident's family, case manager, and any other appropriate people to protect the health and safety of the resident.
- 060-528 Order changes obtained by telephone shall be implemented as soon as practicable. Operators shall obtain a written physician's order within 72 hours of receiving a doctor's telephone order or verbal order for a resident's medications or the Operator must document all attempts to get the order. Operators shall make and document, in the resident's progress notes, frequent and persistent attempts to obtain the written order until it is received.
- 060-532 Prescription medications ordered to be given "as needed" or "P.R.N." must have additional directions which show what the medication is for and specifically when, how much and how often it may be administered. These written directions may be given by a physician, nurse practitioner, Registered Nurse or pharmacist.
- 060-536 An Operator shall consult with the physician, nurse practitioner, Registered Nurse or mental health professional before requesting a psychoactive medication to treat a resident's behavioral symptoms. The consultation shall include a discussion of alternative measures to medication use including behavioral interventions. These medications may be used only after documenting all other alternative considerations and only when required to treat a resident's medical symptoms or to maximize a resident's physical functioning. Psychoactive medications shall never be given to discipline a resident or for the convenience of the Adult Foster Home. Psychoactive medications as defined in these rules may be used only pursuant to a prescription that specifies the circumstances, dosage and duration of use.
- 060-540 The Operator, Resident Manager and all caregivers shall know the specific reasons for the use of the psychoactive medication for an individual resident, the common side effects and when to contact the physician, nurse practitioner, or mental health professional regarding those side effects. Operators, Resident Managers and caregivers shall also know the behavioral interventions, if any, to be used along with the medication.
- 060-544 The frequency of the reassessment of the psychoactive medication use shall be determined by the physician or Registered Nurse completing the initial assessment.

- 060-546 All Operators may administer routine oral medications.
- 060-548 A resident or a relative of the resident or a Registered Nurse may administer subcutaneous, intramuscular, and intravenous injections. A Licensed Practical Nurse can give subcutaneous and intramuscular injections. An Operator, Resident Manager or caregiver who has been delegated and trained by a Registered Nurse under provision of the Board of Nursing rules may give only subcutaneous injections. Intramuscular and intravenous injections cannot be delegated to Operators, Resident Managers and caregivers.
- 060-552 Each resident's medication container shall be clearly labeled with the pharmacist's label or be in the original labeled container or bubble pack and shall be kept in a locked, central location, separate from that of the Operator or the Operator's family. Residents shall not have access to any medications in the home unless they have an order to self medicate. Over-the-counter medications in stock bottles (with original labels) may be used in the home.
- 060-556 The Operator may set up each resident's medications for up to seven days in advance (excluding P.R.N. medications) by using a closed container manufactured for that purpose. If used, each resident shall have her/his own container with divisions for the days and times of the day the medications are to be given. The container must be clearly labeled with the resident's name, name of each medication, time to be given, dosage, amount, route and description of the medications. The container shall be stored in the locked medication area.
- 060-560 Unused, outdated or discontinued medications, except controlled substances, shall not be kept in the home and shall be disposed of according to the pharmacist's recommendations. Disposal of these medications shall be documented on the medication administration record or in the resident's record. Documentation shall include the name of the medication and the number of pills disposed or returned to the pharmacy.
- 060-564 All controlled substances to be disposed of shall be:
- (a) counted by a Registered Nurse who witnesses and documents the disposal;
  - or
  - (b) returned to the dispensing pharmacy.
- 060-568 Operators, Resident Managers and caregivers shall be responsible for making certain that all medications prescribed for a resident are fully accounted for and used only by that resident.
- 060-572 A prescription may be given only to the person for whom the medication was prescribed.
- 060-576 A current, written medication administration record shall be kept for each resident and shall identify all of the medications administered by the Operator, Resident Manager or caregiver to that resident, including over-the-counter medications and prescribed dietary supplements. The record shall indicate the medication name, dosage, route, the date and time to be given. The record shall be immediately initialed at the time of administration by the person giving the medications. Treatments and therapies must be immediately documented on the medication administration record showing times given, type of treatment or therapy, and

initials of the person performing the procedure. The medication administration record shall contain a legible signature which identifies each set of initials.

060-580 A discontinued or changed medication order shall be marked and dated on the medication administration record as discontinued. The new order shall be written on a new line showing the date of order. If a resident misses or refuses a medication, treatment or therapy the initials must be circled and a brief but complete explanation shall be recorded on the back of the medication record. As needed (P.R.N.) medication shall be documented with the time, dose, the reason the medication was given, and the outcome.

060-584 A resident may self medicate only with a physician's written approval which shall be kept in the resident records. Residents shall keep self administered medications in their bedrooms in a secure place which can be locked. Operators, Resident Managers and caregivers shall not be responsible for administering or documenting medications when residents self medicate, but shall notify appropriate health care professionals if a resident cannot self-medicate safely.

#### **891-060-600 NURSING CARE TASKS**

060-610 A Registered Nurse consultation shall be obtained when a skilled nursing care task (such as insulin injections, blood sugar monitoring and ostomy care) has been ordered by a physician or other qualified practitioner. The Operator shall obtain medical professional consultation/assessment to meet the skilled nursing care needs of the resident.

060-620 When the Operator does not know or understand how to perform a nursing task, the Operator shall consult with a Registered Nurse.

060-630 The Registered Nurse may determine that a nursing care task for a particular resident is to be taught to an Operator, Resident Manager or caregiver utilizing the delegation process. The Operator, Resident Manager or caregiver shall not teach another individual the delegated task and shall not perform the task for another resident without specific delegation for that resident.

#### **891-060-700 RESTRAINTS**

060-708 For the purposes of these rules, restraints are defined as any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, sleeping medications or tranquilizers).

060-716 Chemical or physical restraints may be used only after consideration of all other alternatives. The Operator shall document the consideration and trial of all other alternatives in the resident's records. Restraints shall be used only when required to treat a resident's medical symptoms, or to maximize a resident's physical functioning. If, following the assessment and trial of other measures, it is determined that a restraint is necessary, the least restrictive restraint shall be used as infrequently as possible. All physical restraints must allow for quick release at all times.

060-724 Physical restraints may be used only after an assessment by a physician/nurse practitioner, Registered Nurse, Christian Science practitioner, mental health clinician, physical therapist or occupational therapist assessment.

- 060-732 A written signed order for the restraint from the physician/nurse practitioner or Christian Science practitioner shall be obtained and placed in the resident record. The order, including any P.R.N. orders, shall include specific parameters including type, circumstances and duration of the use of the restraint.
- 060-740 Physical restraints may only be used with the resident's or resident legal representative's written consent which shall be filed in the resident's record. The Operator shall reassess their ability to provide care to the resident if the resident or legal representative refuses consent.
- 060-748 The Operator shall place the restraint assessment in the resident record. The assessment shall include procedural guidance for the correct use of the restraint, alternative less restrictive measures which shall be used in place of the restraint whenever possible, and dangers and precautions related to the use of a restraint.
- 060-756 Physical restraint use shall be recorded on the care plan showing why and when the restraint is to be used, along with instructions for periodic release. Any less restrictive alternative measures planned during the assessment and cautions for maintaining safety while restrained shall also be recorded on the care plan.
- 060-764 Residents physically restrained during waking hours must have the restraints released at least every two hours for a minimum of 15 minutes. During this period, they are to be repositioned, offered toileting, fluids, exercised or provided range of motion.
- 060-772 Physical restraint use at night is discouraged and shall be limited to unusual circumstances. If used, the restraint shall be of the design to allow freedom of movement with safety. The frequency of night monitoring for resident safety and need for assistance shall be determined in the assessment.
- 060-780 Physical restraints may not be used for discipline of a resident or for the convenience of the Operator, Resident Manager or caregiver.
- 060-788 The frequency for reassessment of the physical restraint use shall be determined by the prescriber based on the recommendations made in the initial assessment. The reassessment may be performed by the physician/nurse practitioner, Registered Nurse, Christian Science practitioner, mental health clinician, physical therapist or occupation therapist.
- 060-794 Full side rails used to keep a resident in bed are considered restraints. Side rails or half rails, which are requested by the resident, to allow the resident to easily get in and out of bed or improve functioning are not considered restraints. Half side rails are not considered a restraint.
- 060-799 Use of restraints shall not impede the three minute evacuation of all household members.
- 891-060-800 MEALS**
- 060-807 Three nutritious meals will be served daily at times consistent with those in the community. Each daily menu will include food from the basic food groups and fresh fruit and vegetables in season. There shall be no more than a 14-hour span between the evening meal and breakfast. Nutritious snacks and liquids shall be offered to fulfill each resident's nutritional requirements. Consideration shall be given to residents' preferences, cultural and ethnic background in food

preparation. Special consideration must be given to residents with chewing difficulties and other eating limitations. Food shall not be used as an inducement to control the behavior of a resident.

060-814 Operators shall follow all special diets as prescribed in writing by the resident's physician/nurse practitioner or other qualified professional.

060-821 Operators shall not serve home canned foods unless prepared according to the latest guidelines of Oregon Department of Agriculture Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized. Operators shall not serve wild game unless approved by the U.S. Department of Fish and Wildlife. All meats served must be USDA inspected.

060-828 Operators shall prepare and serve resident meals in the home where the residents live. Meals shall be served so that residents eat in a family style manner unless residents choose to eat alone or in their rooms. Normal eating out (for example, restaurant meals, take outs, or picnics) is permitted. Payment for meals eaten away from home for the convenience of the Operator (restaurants, senior meal sites) is the responsibility of the Operator. Meals and snacks as part of an individual recreational outing by choice are the responsibility of the resident.

060-835 Operators shall prepare and post a planned weekly menu of the residents meals and keep menus on file for one year. The ACHP may require additional record keeping if problems with meals or nutrition arise.

060-842 Food shall be stored at appropriate temperatures to prevent spoilage and to protect food from contamination and rodent or insect infestation. The home shall include a properly working refrigerator.

060-849 Food, utensils, dishes and glassware shall not be stored in bedrooms, bathrooms or living areas.

060-856 Utensils, dishes and glassware shall be washed in hot, soapy water, rinsed, and air dried if the home does not have a dishwasher, and stored to prevent contamination.

060-864 Food storage and preparation areas shall be clean and free of offensive odors. Equipment, eating and cooking utensils shall be clean and in good repair.

#### **891-060-900 RESIDENT ACTIVITIES**

060-910 Operators, Resident Managers and caregivers shall make available at least six hours of activities to residents each week, not including television and movies. The activities shall be of interest to the residents and should be appropriate to the resident's interests and abilities. Residents may choose whether or not to participate in any activity.

060-930 Operators, Resident Managers and caregivers shall allow and encourage residents to develop talents and learn new skills, relate to other residents in meaningful ways, and to have the choice to take part in the normal activities and upkeep of the home.

060-950 Operators, Resident Managers and caregivers shall directly interact with residents on a daily basis to promote a homelike environment. If the physical characteristics of the Adult Foster Home do not encourage contact between the

Operator, Resident Manager, caregivers and residents, the Operator must demonstrate how regular positive contact will occur.

060-960 Operators shall insure clear documentation of each resident's weekly six hours of activities.

## **PART VI - STANDARDS FOR OPERATION**

### **891-070-100 RESIDENT RECORDS**

070-110 Operators, Resident Managers and caregivers shall keep accurate and up to date resident records on file in the Adult Foster Home where the resident lives.

070-120 Resident records maintained by the Operator shall be readily available at the Adult Foster Home to all Resident Managers and caregivers and to representatives of the ACHP conducting inspections or investigations, as well as to residents and their legal representative.

070-130 In all other matters pertaining to confidential records and release of information, Operators shall be guided by the principles and definitions described in OAR Chapter 411, Division 05. A copy of these rules will be made available by the Senior and Disabled Services Division upon request.

070-140 The resident's records shall contain the following information:

(a) Initial screening form. (See MCAR 891-060-224.)

(b) General resident information form. (See MCAR 891-060-310.)

(c) Long Term Care Assessment form for private pay residents. (See MCAR 891-060-240.)

(d) Medical information, including:

(1) Medical history, including the resident's history of hospitalizations, accidents and injuries and relevant incident reports, and a description of any physical, emotional or mental health problems. (See MCAR 891-060-320.)

(2) Current written and signed physician/nurse practitioner orders. (See MCAR 891-060-320.)

(3) Any special diets or care instructions prescribed by a physician, including special therapies, treatments, and orders for the use of restraints or delegations. (See MCAR 891-060-508.)

(4) Guardianship letters, Oregon Directive to Physicians and/or a Power of Attorney for Health Care, if applicable. (See MCAR 891-060-330.)

(e) Medication administration records. (See MCAR 891-060-500.)

(f) The care plan. (See MCAR 891-060-400.)

(g) Copies of the current written house rules and current Residents' Bill of Rights, signed by the resident and/or his/her representative. (See MCAR 891-060-340.)

(h) A written report of all significant incidents relating to the health or safety of a resident including how and when the incident occurred, who was involved, what action was taken by Operator/staff and the outcome to the resident.

(i) Narrative entries describing the resident's progress documented in ink at least once a week, dated and signed by the person writing them. Computerized progress notes shall be printed weekly and signed in ink by the person writing them.

(j) A signed copy of the Medicaid Payment Assessment form (Form SDS 512) for Medicaid pay residents.

(k) A signed copy of the contract for private pay residents. (See MCAR 891-040-100.)

(l) An up-to-date list of the resident's personal belongings kept in the home. (See MCAR 891-060-345.)

(m) If the Operator manages or handles a resident's money, the Operator shall keep a record of the resident's money. If the Operator has been authorized by a resident or resident's legal representative to handle a resident's money, a dated record of how the resident's money is spent and receipts retained for purchases over \$5.00. Receipts shall not be required for purchases made by the resident himself/herself. (See MCAR 891-060-177.)

(n) Any other information or correspondence about the resident.

070-150 Operators shall keep all resident records on file in the Adult Foster Home for three years.

070-160 If a resident moves from the Adult Foster Home, and with the written consent of the resident or resident's legal representative, copies of medication sheets and an updated care plan, as well as progress notes and personal information sheet shall be transferred with the resident to be used as reference only.

070-170 The falsification or omission of information from resident records shall be a violation of ACHP rules and shall subject the Operator to sanctions.

#### **891-070-200 HOUSE RULES**

070-210 Operators shall have written house rules which are in accordance with the ACHP rules. They shall include, but are not limited to, the home's policies on daily and evening visiting hours, smoking, use of intercoms, resident telephone use, mealtimes, kitchen privileges, television, bedtimes, bathing, pets, alcohol use in the home, and other expectations of or restrictions on residents. House rules shall not be in conflict with the Residents' Bill of Rights or the family atmosphere of the home.

070-220 House rules are subject to review and approval by the ACHP.

070-230 If smoking is allowed in the home, the house rules shall designate the smoking areas and shall state that smoking is never allowed in sleeping areas.

070-240 Operators shall include in the house rules daily visiting hours of at least seven hours with at least two hours after 6:00 pm. Operators shall make reasonable

accommodations to visitors upon request.

070-245 House rules may deny visitors of a resident if the visitors threaten the health, safety or welfare of the resident or other occupants in the home.

070-250 A copy of the house rules shall be given to and discussed with the resident, their family member or legal representative. It shall be signed by the resident or the resident's legal representative upon admission to the Adult Foster Home and maintained in the resident records.

**891-070-300 POSTINGS**

070-310 Operators shall post copies of the following in a prominent place where they can be easily seen by residents and others:

- (a) current Multnomah County Adult Foster Home License;
- (b) if a conditional license, a statement of the conditions next to the license;
- (c) Residents' Bill of Rights;
- (d) House Rules;
- (e) the home's floor plan with emergency evacuation map;
- (f) Inspection Report for the most recent annual inspection;
- (g) Licensing Report for the most recent inspection;
- (h) range of monthly rates for private pay residents;
- (i) Ombudsman poster;
- (j) name and telephone numbers of at least one emergency back up caregiver;
- (k) ACHP complaint process poster;
- (l) weekly menus; and
- (m) telephone number(s) to provide 24 hour access to the Operator.

**891-070-400 TELEPHONE**

070-410 The home shall have a working telephone with a listed number.

070-420 The telephone shall be available and accessible in the Adult Foster Home for residents' use with reasonable accommodation for privacy for incoming and outgoing calls.

070-430 Any restrictions and limitations on the use of the telephone by residents shall be specified in the written house rules and shall not violate residents' rights.

070-440 Appropriate use of the residents' personal telephone shall not be restricted by the Operator, Resident Manager or caregiver.



- 070-450 Restrictions for telephone use for a specific resident shall be included in the care plan with documentation of the specific reason for the restriction, (i.e., behavior management).
- 070-460 Long distance service shall be available in the Adult Foster Home to residents who should pay for personal long distance telephone calls.
- 070-470 Residents with hearing impairments (to the extent that they cannot hear over a normal telephone) shall be provided with a telephone in the Adult Foster Home that is amplified with a volume control or is hearing aid compatible.
- 070-480 The Operator shall notify the ACHP, the resident's family, legal representative and any case manager of a change of the telephone number of the Adult Foster Home within 24 hours of the change.
- 070-490 The emergency 911 number shall be posted on all telephones in the home. Emergency telephone numbers shall be posted by the telephone in the home including an emergency number to reach an Operator who does not live in the home.
- 891-070-500 MOVING A RESIDENT FROM THE ADULT FOSTER HOME**
- 070-510 Operators shall not request or require a resident to move from the Adult Foster Home or move to another room in the Adult Foster Home without giving the resident, the resident's legal representative, family, case manager and any other appropriate person(s) at least 30 days written notice of the move. This excludes emergency situations where the home or resident's room no longer meets facility physical standards and situations where repairs are needed. The notice shall state the reasons for moving the resident and the resident's right to object and request a hearing.
- 070-520 A resident may be moved from the home or between bedrooms in a home if the move is the resident's choice or by mutual agreement of the resident and the Operator. This move requires that the resident receive 30 day written notice.
- 070-530 Operators shall evict residents from the home or move residents between rooms in the home for the following reasons only:
- (a) resident's care needs or behavior exceed the ability or classification of the Operator.
  - (b) welfare of the resident or other residents.
  - (c) nonpayment for room or board or care or services.
  - (d) the home is no longer licensed or there is a voluntary surrender of a license.
  - (e) behavior which poses an immediate threat to self, Operator, Resident Manager, caregivers or others.
  - (f) behavior which substantially interferes with the orderly operation of the home.
- 070-540 Residents may waive an Operator's 30 day notice to move in writing.
- 070-550 To require a resident to give the Operator a 30 day notice prior to a move, the

Operator shall include this requirement in the contract.

070-560 All written notices regarding evicting or moving a resident shall include:

- (a) the resident's name;
- (b) the reason for the proposed termination of residency;
- (c) the date of the proposed termination of residency;
- (d) the location to which the resident is going, if known;
- (e) the right to a hearing and to have the ACHP hold an informal conference;
- (f) the name, signature, address and telephone number of the person giving the notice; and
- (g) the date of the notice.

070-570 If the resident has a medical emergency, the Operator may give less than 30 days' advance notice, but shall give the written notice as soon as possible under the circumstances. This includes situations in which the resident is hospitalized for a medical emergency and the Operator refuses to allow the resident to return to the home. Medical emergency means a change in medical condition that requires immediate care of a level or type that the Operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.

070-580 Residents may be evicted from the home with less than the 30 day written notice from the Operator with approval of the Director of Aging Services or his/her designee in emergency circumstances. Approval requires a finding that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the Operator, employees, or other household members. Findings and approval shall be documented. Residents who move from the home under these circumstances shall not be charged beyond their last day in the home.

070-590 At the request of a resident, approval may be given for the resident to move from the home with less than 30 days written notice to the Operator or as specified in the contract, with the approval of the Director of Aging Services or his/her designee. Approval requires a finding by the Director of Aging Services or his/her designee that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the Operator, employees or other household members. Findings and approval shall be documented. Residents who move from a home under these circumstances shall not be charged beyond their last day in the home.

#### **891-070-600 RESIDENT HEARING RIGHTS**

070-610 A resident who has been or will be evicted or refused the right to return to a home by the Operator shall be entitled to an informal conference with the ACHP and an administrative hearing except in instances when the home is no longer licensed.

070-620 The ACHP will hold an informal conference upon request and before any hearing about an eviction. The ACHP shall send written notice of the time and place of

the conference to the Operator, the resident and, at the resident's request, a family member, case manager, Ombudsman, legal representative of resident, and, if the Operator requests it, a representative from a provider association. The purpose of the informal conference is to resolve the matter without a formal hearing.

070-625 The ACHP shall issue a written determination following the conference either approving or disapproving the eviction.

070-630 If the resident is being moved from the Adult Foster Home by an Operator for a medical emergency, or to protect the welfare of the resident or other residents, as defined by rule, the hearing must be held within seven days of the move or notice to move. If a resident is being moved from the Adult Foster Home by an Operator for any other reason, the resident has a right to a hearing within ten days of the notice to move. The Operator shall hold a space available for the resident pending the decision of the hearing.

070-640 ORS 441.605(4) regarding transfer notices and hearings of long term care facilities shall apply to Adult Foster Homes.

070-650 Factors to be considered by the ACHP in a conference and the hearing officer in a hearing, in evaluating an eviction to determine whether such action should be approved, conditionally approved or disapproved, shall be limited to the following:

(a) Evidence of medical reasons for the action including behavior which substantially interferes with the orderly operation of the home.

(b) Evidence concerning the safety or welfare of the resident, other residents, the Operator, employees or other members of the household.

(c) Evidence of non-payment of monies agreed upon for room, board and/or care.

(d) Evidence that the resident's care needs exceed the ability or classification of the Operator.

(e) Transfer trauma to the resident.

070-660 After reviewing the evidence submitted at the hearing, the hearings officer may sustain, modify, or overrule the ACHP's determination approving an Operator's eviction or may approve, conditionally approve, or disapprove an eviction.

#### **891-070-700 REFUNDS/RETURN OF PERSONAL PROPERTY**

070-710 The Operator shall refund any money owed to the resident, the resident's family or legal representative within 30 days of when the resident dies or permanently leaves the home.

070-720 Operators shall make a resident's personal property available within seven days after the resident leaves the home. If the resident does not claim his or her personal property within seven days of leaving the home, the Operator shall give written notice to the resident or legal representative and allow 30 days before disposing of the resident's personal property.

070-730 The Operator may charge a reasonable fee for storage of a private pay resident's

belongings beyond 15 days if the contract/admission agreement includes fees for storage.

- 070-740 The Operator has an obligation to act in good faith to reduce the charge by seeking a new resident to fill the vacancy. The Operator shall refund to the resident who moves any rent for days after the date the room is re-rented.
- 070-750 If the home closes, the Operator waives the right to collect any fees beyond the date of closure or the resident's departure, whichever is sooner.
- 070-755 The Operator shall not charge a resident for payment for more than 15 days after the resident has left the Adult Foster Home after a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return.
- 070-760 If a resident dies or leaves an Adult Foster Home due to substantiated neglect or abuse or due to conditions of immediate threat to life, health or safety, the Operator shall not charge the resident beyond the resident's last day in the home.
- 070-770 If the ACHP orders the relocation of resident(s) and/or the refund of money to a resident, Operators shall refund the money owed to the resident within 30 days.

## **PART VII STANDARDS FOR ADULT FOSTER HOME FACILITIES**

### **891-080-100 GENERAL CONDITIONS OF THE HOME**

- 080-107 The Adult Foster Home shall meet all applicable zoning, building and housing codes, and state and local fire and safety regulations for a single family residence. It is the responsibility of the Adult Foster Home Operator to ensure that all applicable local codes have been met.
- 080-121 The home shall be inspected for fire safety using these rules and standards by an inspector designated by the ACHP or by the local fire department. The ACHP may require any additional standards that are recommended by the State Fire Marshall or his/her designee, for a single family residence.
- 080-128 The buildings of the Adult Foster Home shall be of sound construction and kept clean and in good repair. The grounds shall be kept clean and well maintained.
- 080-130 Manufactured homes must have been built since 1976 and designed for use as a home rather than a travel trailer. The manufactured homes shall have a manufacturer's label permanently affixed on the taillight end of the unit itself which states it meets the requirements of the Department of Housing and Urban Development. The required label shall read as follows:

"As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacturer. See date plate."

If such a label is not evident on a mobile home unit, and the Operator believes his/her unit meets the required specifications, he/she must take the necessary steps to secure verification of compliance from the manufacturer.

Mobile homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated any further.

- 080-135 The interior and furnishings of the Adult Foster Home shall be kept clean and in good repair. Walls, ceilings and floors shall be finished to permit frequent washing, cleaning or painting. There shall be no accumulation of clutter, garbage, debris, rubbish or offensive odors.
- 080-142 All interior walls of the Adult Foster Home shall be at least equivalent to a smoke barrier design. Buildings will be constructed with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of finished materials shall not exceed Class III (76-200) and smoke density shall not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exitway of the Adult Foster Home is composed of readily combustible materials such as acoustical tile or wood paneling, such material must be treated with an approved intumescent surface coating or removed.
- 080-149 Interior and exterior stairways and steps of the Adult Foster Home shall have properly installed handrails. The yard, approved exits and stairs of the Adult Foster Home shall be accessible and appropriate to the condition of the residents.
- 080-156 Interior hallways of the Adult Foster Home shall be at least 32" wide. They shall be wide enough to accommodate wheelchairs or walkers if used by the resident(s). Each room, stairway and exitway shall be free of barriers which impede evacuation.
- 080-163 Each room, stairway and exitway of the Adult Foster Home shall be equipped with working lights and kept adequately lighted, based on the resident's needs. Light bulbs shall be shatterproof or protected with appropriate covers.
- 080-170 There shall be at least 150 square feet of common living space and sufficient appropriate furniture in the home to accommodate the recreational and socialization needs of all the occupants at one time. Common space shall not be located in an unfinished basement or garage(s) unless such space was constructed for that purpose or has otherwise been legalized under permit. There shall be additional space required if wheelchairs are to be accommodated. An additional 40 square feet of common living space will be required for each day care person or relative receiving care.
- 080-177 The Adult Foster Home shall be furnished to meet the needs of the residents.
- 080-184 Swimming pools, hot tubs, spas, or saunas shall not be accessible to residents without supervision. They shall also be equipped with safety barriers and devices designed to prevent accidental injury to the residents.
- 080-191 Operators shall keep first aid supplies and a first aid manual available at all times.
- 080-193 The address of the Adult Foster Home shall be easily visible from the street.
- 080-195 Smoking is not permitted in any bedroom of the Adult Foster Home including that of a resident, Operator, Resident Manager, caregiver, boarder, or family member.
- 080-197 Operators shall submit a copy of a revised floor plan of the Adult Foster Home to the ACHP whenever it changes or before remodeling is begun.

**HEALTH AND SANITATION**

- 080-210 Operators shall use a public water supply for the Adult Foster Home if available. If a non-municipal water source is used, a sample shall be collected by the licensor or sanitarian and tested at the Operator's expense for coliform bacteria yearly and records shall be retained for three years. Corrective action shall be taken to ensure potability.
- 080-220 Septic tanks or other non-municipal sewage disposal system shall be in good working order.
- 080-230 Commodes shall be emptied frequently and cleaned daily.
- 080-240 Garbage and refuse shall be suitably stored in readily cleanable, rodent proof, covered containers. Garbage must be removed at least once a week.
- 080-250 Operators shall store soiled linens and clothing in closed containers kept separate from the bedrooms and the kitchen, dining and food preparation and storage areas. Clothing and bed linens soiled by human waste shall be placed in closed containers, emptied daily and promptly laundered. Soiled paper products used for cleaning incontinent residents shall be immediately disposed of in waterproof bags or containers.
- 080-260 Sanitation for household pets and other domestic animals shall be adequate to prevent health hazards. Proof of rabies or other vaccinations required by a licensed veterinarian shall be maintained on the premises for household pets. Pets not confined in enclosures must be under control and must not present a danger to residents or visitors.
- 080-270 Operators shall keep the home free of insects and rodents. Immediate action shall be taken if the home becomes infested to protect the health and safety of residents. Screens shall be installed on doors and windows used for ventilation.
- 080-280 Operators shall regularly clean surfaces, floors and rugs. Personal property shall be stored in a neat and orderly manner to keep the home free of clutter and obstructions.
- 080-290 Universal precautions for infection control shall be followed in resident care. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.
- 080-299 Operators, Resident Managers and caregivers shall take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. After they are used, disposable syringes and needles, scalpel blades, and other sharp items must be placed in puncture-resistant containers for disposal. The puncture-resistant containers must be located as close as practical to the use area. Containers holding sharp objects or medical waste shall not be stored in food preparation areas. Disposal shall be according to local regulations and resources (ORS 459.386 through ORS 459.405).

**BATHROOMS**

- 080-310 Bathrooms shall be kept clean and free from objectionable odors.
- 080-320 The Adult Foster Home shall have at least one toilet, one sink, one tub or shower

and one mirror for each six household occupants including residents, day care persons, room and board occupants, and the Operator and/or caregiver's family excluding children under two years old). A sink shall be located near each toilet, and a toilet and sink shall be located on each floor occupied by residents.

080-330 Bathrooms shall have grab bars for toilets, tubs, and/or showers for resident's safety and have barrier-free access to toilet and bathing facilities. Alternative arrangements for non-ambulatory residents must be appropriate to the needs of the resident for maintaining good personal hygiene.

080-340 Bathrooms shall have a finished interior, with floors, walls, tubs/showers, toilets, sinks and mirrors in good repair.

080-350 Bathrooms shall be adequately ventilated with a window and window covering or other means of bringing in fresh air from the outside. A window must have a surface area of not less than one twentieth of the floor area of the bathroom with a minimum of three square feet and a minimum clear opening of one and 1/2 square feet.

080-360 Bathrooms shall allow for privacy and have a door which opens to a hall or common use room, unless the bathroom is used only by a resident who occupies a bedroom adjacent to that bathroom. Residents shall not have to walk through another person's bedroom to get to a bathroom.

080-370 Hot and cold water shall be available at each tub, shower, and sink in sufficient supply to meet the needs of the residents. Hot water temperature shall be supervised for persons unable to regulate water temperature.

080-380 Shower enclosures shall have nonporous surfaces. Glass shower doors shall be tempered safety glass. Tubs and shower shall have nonslip floor surfaces. Shower curtains shall be kept clean and in good condition.

080-390 The Operator shall provide adequate supplies of toilet tissue for each toilet and soap for each sink. Residents shall be provided with individual towels and wash cloths which are laundered in hot water at least weekly. Appropriate racks or hooks shall be available for drying bath linens. If individual cloth hand towels are not provided, roller dispensed hand towels or individually dispensed paper towels shall be provided for residents.

## **891-080-400 BEDROOMS**

080-407 Bedrooms for all household occupants shall:

(a) have been constructed as a bedroom when the home was built or remodeled under permit.

(b) be finished with walls or partitions of standard construction which go from floor to ceiling.

(c) have a door which opens directly to a hallway or common use room without passage through another bedroom or common bathroom.

(d) be adequately ventilated and lighted with at least one openable window which meets fire regulations.

(e) be at least 70 square feet of usable floor space for one resident or 120 square feet for two residents excluding any area where a sloped ceiling does not allow a person to stand upright.

(f) have ceiling heights of not less than 7 feet 6 inches covering at least one half of the area of the room.

- 080-414 Bedrooms shall not contain furnaces, laundry tubs, washers, dryers, freezers, dishwashers or other common use equipment.
- 080-421 The Adult Foster Home shall have at least one bedroom for use by the Operator, Resident Manager or other caregivers. Operators, Resident Managers and caregivers shall not share bedrooms with residents or sleep in common living areas or rooms not approved as bedrooms. All other occupants shall be housed in bedrooms meeting the criteria described in this section.
- 080-428 No more than two people shall occupy a bedroom, not including children under five years old.
- 080-435 Resident bedrooms shall be in close enough proximity to the Operator to alert the Operator to night time needs or emergencies, or shall be equipped with a call bell or intercom. Intercoms shall not violate the resident's right to privacy and must have the capability of being turned off by or at the resident's request.
- 080-442 Use of interior video monitors detracts from a home-like environment and Operators shall not use them in resident bedrooms, bathrooms or living areas.
- 080-449 Bedrooms shall be on ground level for residents who are non-ambulatory, have impaired mobility, or are cognitively impaired. Residents on the second floor or in the basement must demonstrate their capability to self exit. Lifts or elevators are not an acceptable substitute for a resident's capability to ambulate stairs.
- 080-456 Sleeping rooms located on a second floor or in a basement shall have an approved emergency means of exit. Split level homes shall be evaluated according to accessibility, emergency exit and evacuation capability of residents. Bedrooms located on stories above the second floor shall not be used for sleeping purposes.
- 080-463 Bedrooms shall be adequately heated with a permanent source of heat.
- 080-470 Each bedroom shall have sufficient separate closet space, a private dresser and secure storage space for each resident's clothing and personal effects including hygiene and grooming supplies. Residents shall be allowed and encouraged to keep and use reasonable amounts of personal belongings.
- 080-477 Drapes or shades for windows shall be in good condition and allow privacy for residents.
- 080-484 There shall be an individual bed at least 36 inches wide for each resident consisting of a mattress and springs, or the equivalent, in good condition. Cots, rollaways, bunks, trundles, daybeds with restricted access, couches, and folding beds may not be used by residents. Each bed shall have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Sheets and pillowcases shall be laundered at least weekly, and more often if soiled. Waterproof mattress



covers will be used for incontinent residents. Day care persons may use a cot or rollaway bed if bedroom space is available which meets the requirements of these rules. Resident beds may not be used by day care persons.

080-491

All bedrooms in the home shall have at least one window or exterior door to permit venting and for emergency escape or rescue. This escape and rescue window or door shall:

(a) Be easily openable from the inside without the use of keys, tools, or any special knowledge or effort.

(b) Provide a clear opening of not less than 5.7 square feet (821 square inches). The minimum net clear opening height dimension shall be 24 inches (by 34 inches wide); the minimum net clear opening width dimension shall be 20 inches (by 41 inches high). Windows with a clear opening of not less than 5.0 square feet or 720 square inches with sill heights of 48 inches may be accepted when approved by the State Fire Marshal or designee.

(c) Have a finished sill height not more than 44 inches from the floor level, or not more than 48" if the sill height met applicable code requirements at the time the bedroom was constructed and if an exception is granted by the ACHP. For sill heights above 48 inches, application may be made for a building permit to install a permanently attached step(s) (minimum width 30 inches, rise of 4 to 8 inches, and run of 9 to 12 inches) or other aids to window exit which are constructed so the sill height is no more than 44 inches from the top of the step(s). Upon approval of the permit and final inspection, the ACHP may grant an exception, but only if the step(s) or aids are readily accessible and not used for storage, and only if their use is within the demonstrated evacuation capability of the residents of the room. In no case can residents who are non-ambulatory or have limited mobility use such bedrooms.

(d) Be free of any obstacles that would interfere with the window being used as an emergency exit.

891-080-500

#### HEATING AND COOLING SYSTEMS AND ELECTRICAL EQUIPMENT

080-510

Heating and electrical equipment, including wood stoves, shall be installed in accordance with manufacturer's specifications and all applicable fire and safety regulations. Such equipment shall be used and maintained properly and be in good repair.

080-520

Room temperatures shall be at a safe and comfortable temperature for the residents. The Operator shall have ventilation, fans or air conditioning available for use in hot weather, and keep the rooms at a comfortable and safe temperature for the residents at all times. When residents are home, minimum temperatures shall be no less than 70 degrees Fahrenheit during waking hours and 60 degrees Fahrenheit during sleeping hours.

080-530

Operators shall not use unvented portable oil, gas or kerosene heaters. Sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used only if approved by the State Fire Marshall's guidelines. State Fire Marshall guidelines refer to Appendix I-E of the Uniform Fire Code of the State of Oregon which are available from the ACHP.

080-540

Operators shall not use extension cords in place of permanent wiring.

080-550 Portable air conditioners shall not block the exit window and shall be UL listed and used only in accordance with manufacturer's instructions.

080-560 Protective glass screens or metal mesh curtains attached top and bottom are required on fireplaces. The installation of a non-combustible heat resistant safety barrier shall be installed 36 inches around woodstoves to prevent accident or injury to residents.

080-570 Fireplaces shall not be used to burn trash. If the fireplace is used, chimneys shall be properly maintained and cleaned yearly so no accumulation of creosote or combustible residue can accumulate.

080-580 Operators who do not have a permit verifying proper installation of an existing woodstove shall have the woodstove inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth Products Association member and follow their recommended maintenance schedule.

#### **891-080-600 DOORS AND LOCKS**

080-610 Exit and interior doors of the Adult Foster Home shall have simple and easy to operate hardware that cannot be locked to prevent exit. Hasps, sliding bolts, hooks and eyes and double key deadbolts shall not be used. There shall be no more than two locks per door, including a lock in the handle. All hardware shall be mounted no more than 48 inches from the floor. All locks must be openable from the inside without the use of a key, tool, special knowledge or effort or more than one motion.

080-620 Adult Foster Homes with one or more residents who are prone to wander out of doors shall have an activated door alarm system to alert the Operator, Resident Manager and caregivers of an unsupervised exit by a resident.

080-630 Storm windows or doors, bars, grills, grates or similar devices may be installed on escape and rescue windows or doors only if such devices are equipped with approved release mechanisms which can be easily opened from the inside without the use of a key, tool, special knowledge or effort or more than one motion.

#### **891-080-700 FIRE SAFETY**

080-710 Operators shall post an up-to-date evacuation plan for the Adult Foster Home with the locations of each bedroom, all windows and doors, the location of smoke detectors, fire extinguishers, and any sprinkler shut-offs. The evacuation plan shall clearly indicate the path occupants shall use to evacuate the home in an emergency.

080-720 Smoke detectors shall be installed in accordance with the manufacturer's specifications and be installed in each bedroom, in hallways or access areas that adjoin bedrooms, family room or main living area where residents congregate, any interior designated smoking area, and in basements. Smoke detectors shall be installed at the top of each stairway. Ceiling placement of smoke detectors is recommended. Detectors shall be equipped with a device that warns of low battery when battery operated or with a battery back-up if hard wired.

080-730 All smoke detectors shall contain a sounding device or be interconnected to other detectors in order to provide an alarm which is loud enough in all sleeping rooms

to wake occupants who are not hearing impaired.

080-740 Bedrooms used by hearing impaired residents must be equipped with a visual/audio or vibration alerting smoke alarm to wake the residents when they are asleep.

080-750 The Operator shall maintain exits, detectors and extinguishers in functional condition. If there are more than two violations of failure to maintain battery operated detectors in working condition in a 12 month period of time, hard-wiring of the detectors into the electrical system shall be required.

080-760 At least one fire extinguisher classed as 2A-10BC shall be mounted in a visible and readily accessible location on each floor, including basements. Extinguishers shall be recharged every six years. Extinguishers shall be mounted with the top no higher than five (5) feet above the floor. Fire extinguishers shall be checked at least once a year by a technician qualified in fire extinguisher maintenance. All recharging and hydrostatic testing shall be completed by a qualified agency properly trained and equipped for this purpose. All fire extinguishers shall be tagged with the date of the last inspection and/or service.

080-770 Operators shall keep at least one plug-in rechargeable flashlight readily accessible on each floor of the home for emergency lighting.

080-780 If an Operator allows smoking in the Adult Foster Home, smoking regulations shall be adopted to allow smoking only in designated areas. Smoking shall be prohibited in sleeping areas, areas where oxygen is used, or in areas where flammable materials are stored. Ashtrays of noncombustible material and safe design shall be provided in areas where smoking is permitted.

#### 891-080-800 EVACUATION

080-808 An evacuation plan to be used in the event of an emergency shall be developed and rehearsed with all occupants.

080-816 Operators, Resident Managers and all caregivers shall be required to demonstrate the ability to evacuate all occupants from the facility within three minutes to the closest point of safety outside the home. Drills will be held at least once every 30 days in the first year of operation and at least every 60 days thereafter, with at least one drill practice per year occurring during sleeping hours. A record shall be maintained of evacuation drills. Records of drills shall be maintained for three years and include date, time for full evacuation, names of residents requiring assistance for evacuation, and signature of person conducting the drill.

080-820 Within 24 hours of arrival, any new resident, Resident Manager or caregiver shall be shown how to respond to a fire alarm, shown how to participate in an evacuation drill from the home in an emergency, and receive an orientation to basic fire safety. New Resident Managers and caregivers will also be oriented in how to conduct a fire drill.

080-824 If there are continual problems in demonstrating this evacuation time, conditions shall be applied to the license which include, but are not limited to, reduction of the capacity of the home, adding staff, relocating one or more residents, moving residents within the home, changing the classification of the home, hard wiring smoke detectors into the home's electrical system, installing a sprinkler system, increasing the number of fire drills, installing fire barriers, increased smoke

detector systems or alarms or increased fire and life safety protection.

- 080-832 All residents shall participate in fire drills unless the Operator believes a resident may be harmed by participation in a fire drill and a written assessment from a physician or Registered Nurse is on file stating that such participation is medically contraindicated for the resident. In the event the resident cannot participate, substitutes for such residents of similar size shall be used in conducting fire drills to determine Operator's, Resident Manager's or caregiver's evacuation capability.
- 080-840 Operators shall not place residents who are unable to walk without assistance or not capable of self-preservation in a basement, split-level, second story or other area of the Adult Foster Home that does not have an exit at ground level. Such residents shall be given ground level rooms.
- 080-848 Stairs shall have a riser height of between 6-8 inches and tread width of between 8 - 10 ½ inches.
- 080-856 All common use areas of the Adult Foster Home and exitways must be barrier free and corridors and hallways shall be a minimum of 32 inches wide or as approved by the authority having jurisdiction. Any bedroom window identified as an exit shall be free of any obstacles, at least the width of the window, that would interfere with it being an exit.
- 080-864 There must be two safe means of exit. Operators whose sleeping rooms are above or below the first floor may be required to demonstrate a fire exit drill from that room, using the secondary exit and still evacuate all the occupants in three minutes, at the time of licensure, renewal, or inspection.
- 080-872 There shall be a wheelchair ramp from a minimum of one exterior door if non-ambulatory persons live in the home. All wheelchair ramps shall be constructed under appropriate permit. Wheelchair ramps shall have non-skid surfaces, handrails, and have a maximum slope of 1 inch rise in each 12 inches of distance. The maximum rise for any run without a platform shall be 30 inches. Operators shall bring existing ramps into revised compliance.
- 080-880 An Adult Foster Home located more than five miles from the nearest fire station or those of unusual construction may be required to have a complete fire alarm system installed which meets the requirements of the NFPA 72A and 72E and with approved automatic reporting to the local jurisdiction providing fire protection.
- 080-888 Operators whose homes are located in areas where there is a danger of natural disasters which require rapid evacuation such as forest fires or flash floods, must be aware of community resources for evacuation assistance.
- 891-080-900 STORAGE OF FLAMMABLE LIQUIDS, HAZARDOUS SUBSTANCES, AND GUNS**
- 080-910 Flammable and combustible liquids and hazardous materials shall be safely and properly stored in original, properly labeled containers or safety containers and secured in areas to prevent tampering by residents or vandals. Storage of flammable liquids is prohibited in living areas.
- 080-920 Cleaning supplies, poisons, insecticides, etc. shall be stored in original labeled containers, safely away from bedrooms, food preparation and storage areas, dining areas and medication storage areas. Kitchen cleaning supplies may be

kept in a separate enclosed space in the kitchen.

080-930

Guns must be stored, unloaded, in a locked cabinet. The gun cabinet must be located in an area of the home that is not readily accessible to residents. Ammunition shall be stored and locked in a separate location from the gun.

891-090-100

**ABUSE, NEGLECT AND EXPLOITATION OF ADULT FOSTER HOME RESIDENTS**

090-110

Operators, Resident Managers and caregivers shall exercise all reasonable precautions against conditions which could threaten the health, safety or welfare of Adult Foster Home residents. Anyone who lives or works in an Adult Foster Home shall not inflict, allow to be inflicted, or expose residents to abuse, neglect or exploitation. Abuse, neglect or exploitation is a violation of ACHP rules and may subject the offender to civil and/or criminal proceedings. Operators shall be responsible for preventing abusive or neglectful treatment or exploitation of any resident by any occupant in the AFH.

090-120

Abuse of an Adult Foster Home resident means any verbal or physical action or mistreatment which causes or threatens to cause physical or mental pain, injury or discomfort to a resident which is inconsistent with resident needs or prescribed resident care.

090-130

Neglect is a kind of abuse which includes any action or inaction which causes or threatens to cause physical or mental harm to a resident which is inconsistent with resident needs and prescribed resident care. Neglect may be intentional, unintentional, careless, through reckless endangerment, inadequate monitoring of residents by an Operator, Resident Manager or caregiver, or because of ignorance, indifference, incompetence, poor health, inadequate experience, training or skill.

090-140

Abuse or neglect may result from the conduct of an Operator, Resident Manager, caregiver or other household member towards a resident of the home.

090-145

Abuse or neglect shall include but is not limited to the following:

(a) willful infliction of physical pain or injury, including physical assaults such as hitting, choking, pushing, shoving, pinching, kicking, scratching, or using any kind of unreasonable force.

(b) any physical injury caused by other than accidental means or which appears to be different from the explanation given for the injury.

(c) punishment, including but not limited to withholding food, clothing, eyeglasses, hearing aids, walkers or wheelchairs.

(d) using psychoactive medications or physical restraints, without a written order or contrary to a written order from a physician or qualified practitioner, or to discipline or punish a resident; or for the convenience of the Adult Foster Home.

(e) abandonment, including deserting or leaving a resident without adequate care or supervision.

(f) use of derogatory or inappropriate names, phrases or profanity, verbal abuse, unnecessary yelling, harassment, ridicule, threats, coercion, menacing behavior or intimidation, cursing or inappropriate sexual comments.

(g) emotional abuse, mistreatment, or any pattern of psychologically destructive

behavior (for example, rejecting, isolating, terrorizing, ignoring or corrupting a resident). This includes the emotional impact on a resident of Operators, Resident Managers and caregivers or other household members or visitors abusing each other while on the premises of the Adult Foster Home.

(h) sexual abuse or exploitation, including but not limited to:

- (1) inappropriate language or physical contact between an Operator, Resident Manager, caregiver or other household member and a resident;
- (2) inappropriate language or inappropriate physical contact between nonconsenting residents;
- (3) the failure of an Operator, Resident Manager or caregiver to discourage sexual advances of residents toward the Operator or caregiver; or
- (4) failure of the Operator, Resident Manager or caregiver to discourage inappropriate language or inappropriate sexual contact between nonconsenting residents.

(i) withholding or failure to provide adequate food, shelter, clothing, supervision, socialization, care or services necessary to ensure the health, safety and welfare of residents.

(j) withholding or failing to seek adequate medical attention and care.

(k) improper administration, supervision and safe guarding of medications, including failure to follow medication orders.

(l) failure to provide bedding or adequate changing of bedding or clothes.

(m) failure to help with a resident's daily personal grooming and regular bathing, as needed.

(n) failure to make a reasonable effort to discover what care is necessary for the wellbeing of a resident.

(o) failure to provide and maintain a safe, sanitary, and secure home.

(p) failure to provide the staffing needed to care for the residents; failure to adequately train and supervise Resident Managers and caregivers.

(q) Placing unreasonable restrictions which violate rights guaranteed to the resident by the Bill of Rights.

090-148

Exploitation means any act or absence of action that deprives or threatens to deprive the resident of personal resources or entitlements, and that is inconsistent with resident needs or prescribed resident care. Exploitation includes financial exploitation or mismanagement, including, but not limited to:

- (1) taking or disposing of any funds or property belonging to a resident;
- (2) buying property from or selling property to a resident;

- (3) becoming a resident's legal representative, or attorney in fact;
- (4) commingling the resident's funds with the Operator's, Resident Manager's, caregiver's or another person's funds;
- (5) borrowing from or loaning money to residents; pledging any resident's funds;
- (6) spending a resident's personal funds inappropriately or without authorization from a resident or resident's family member;
- (7) entering into inappropriate financial arrangements with a resident;
- (8) adding an Operator's, Resident Manager's, caregiver's or a member of the their family's name to a resident's bank account, legal contract or property or credit cards;
- (9) making unreasonable rate increases;
- (10) requiring more than 30 days advance payment for care;
- (11) witnessing a will in which an Operator, Resident Manager, or caregiver or Operator's, Resident Manager's or caregiver's family is a beneficiary;
- (12) requesting or requiring the Medicaid-funded residents to pay more than state authorized Medicaid rates;
- (13) perfecting or foreclosing a lien in violation of ORS Chapter 87;
- (14) theft or misuse of money or gifts intended for the residents;
- (15) charging excessive rates for care or services.

090-150 Operators, Resident Managers, caregivers and any person with reasonable cause to believe that abuse, neglect or exploitation has taken place in an Adult Foster Home shall immediately make a report to the ACHP or a local law enforcement agency.

## PART IX - INSPECTIONS - CORRECTION OF VIOLATIONS

### 891-100-100 INSPECTIONS

100-107 The ACHP may conduct unannounced inspections of an Adult Foster Home, in situations including but not limited:

- (a) licensing inspections for new and renewal licenses;
- (b) to determine if deficiencies noted in a home have been corrected;
- (c) to monitor compliance with ACHP rules and standards;
- (d) to monitor resident care;
- (e) to determine if a home is operating without a license;



(f) whenever the ACHP receives a complaint of violations to the ACHP rules.

- 100-114 The Operator will be given a copy of the licensing and monitoring Inspection Report at the time of the inspection identifying any areas of non-compliance and specifying a time frame for correction set by the ACHP. The timeframe shall not exceed 60 days from date of inspection. The ACHP may follow up with an additional Licensing Report citing deficiencies and timeframes for corrections.
- 100-121 In the course of an investigation, the ACHP may require that an RN conduct an assessment of the nursing care needs of any residents of an Adult Foster Home to evaluate the level of nursing care required by the resident(s), and/or the classification of the Operator/home, and/or the appropriate ability of personnel to be providing nursing care.
- 100-128 ACHP staff shall have full access and authority to examine and copy facility and resident records. The ACHP shall also have access to inspect the entire physical premises, including Operator/family areas, including the buildings, grounds, equipment and any vehicles.
- 100-135 The ACHP inspection shall also include the private living area of the Operator, Resident Manager and caregiver and their families only to the extent to determine fire, sanitation and safety hazards or to respond to a specific complaint.
- 100-142 The ACHP shall have authority to interview, tape record and photograph Operators, Resident Managers, caregivers, residents, and other household members. Interviews shall be conducted in private and kept confidential. Any photos taken or tape recordings made during inspections and interviews may not be subject to public access if they include confidential information but may be used in enforcement hearings.
- 100-149 Operators must inform and authorize all Resident Managers and caregivers of their duty to permit the ACHP to enter the home at any time to carry out inspections, interviews and monitoring.
- 100-156 The ACHP shall conduct unannounced inspections without advance notice to the Operator, Resident Manager or caregiver of the home. The ACHP shall not give advance notice of any inspection if the ACHP believes that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these administrative rules. The ACHP may also conduct announced inspections.
- 100-163 If Operators, Resident Managers or caregivers deny the ACHP access for inspections or interviews, the ACHP shall inform the Operator, Resident Manager or caregiver of the requirements of the rules and may, if access is still denied, obtain a search warrant and impose administrative sanctions.
- 100-170 If an Operator denies access to the home during an investigation of a complaint of abuse or neglect, the ACHP may obtain the help of law enforcement agents to gain immediate access to the home and residents.
- 100-177 ACHP inspectors shall respect the private possessions of Operators, Resident Managers, caregivers, residents and other household members when carrying out inspections.
- 100-184 Operators, Resident Managers and caregivers shall permit state or local health and safety inspectors, Bureau of Buildings inspectors or other inspectors to enter

and inspect the home.

100-191

The State Long Term Care Ombudsman or designee has access to all resident and facility records. This does not include Certified Ombudsman volunteers who only have access to facility records relevant to caregiving as well as resident records with written permission from the resident, the resident's family or legal representative.

**891-100-200**

## **PROCEDURES FOR THE CORRECTION OF VIOLATIONS**

100-210

If the ACHP determines that there has been a violation of any ACHP rule, the ACHP shall notify the Operator of:

(a) the violation;

(b) the rule violated;

(c) correction procedures;

(d) timelines for correction of the problem, where applicable;

(e) a written warning or sanction, as needed, to protect the health, safety and welfare of residents;

(f) the right to an administrative conference;

(g) the right to a hearing if a sanction is imposed; and

(h) the right to request an exception as provided in MCAR 891-030-100, if applicable.

100-220

Operators shall correct any violation as soon as possible but in no case beyond the timeline specified by the ACHP.

100-230

For violations that present an immediate threat to the health, safety or welfare of residents, the notice of violation shall order the Operator to correct the violations no later than 24 hours after receipt of the notice of violation. The ACHP shall inspect the home after the 24-hour period to determine if the violations have been corrected as specified in the notice of violation.

100-240

In cases other than those involving the health, safety or welfare of a resident, the ACHP shall prescribe a reasonable time for elimination of a violation which shall not exceed 30 days after notice of the violation (except as provided in MCAR 891-100-250).

100-250

If it is determined by the ACHP that the correction is not possible within 30 days, the ACHP may approve a reasonable time in excess of 30 days.

100-260

If there is an immediate threat to the residents, the ACHP may immediately suspend the license and make arrangements to move the residents.

## PART X - COMPLAINTS

### 891-200-100

### COMPLAINTS AND COMPLAINT INVESTIGATIONS

- 200-105 The ACHP shall provide the Adult Foster Home with a complaint poster that the Operator shall post in a conspicuous place. The complaint poster shall list the ACHP telephone numbers and explain how to make a complaint.
- 200-110 The ACHP shall cause all complaint investigations to begin within two hours if the complaint alleges that a resident has been injured, abused or neglected, and that there is an immediate threat to any resident, or that a resident has died or been put in a hospital because of abuse or neglect.
- 200-115 The ACHP shall cause investigations of other complaints to begin by the end of the next working day or at a time appropriate to the nature of the complaint.
- 200-120 The ACHP shall take immediate actions to protect the health, safety and welfare of residents when the ACHP receives a complaint of abuse or neglect, regardless of whether the investigative report is completed, and whenever the ACHP finds that abuse or neglect is placing or could place a resident in danger or cause the resident physical or mental harm before the danger could be eliminated by regular enforcement procedures.
- 200-125 The ACHP shall cause all complaint investigations to be completed, including a written report, within 60 days unless a concurrent criminal investigation requires more time or unless the complaint investigation cannot be completed due to Operator noncooperation or other circumstances beyond the ACHP's control.
- 200-130 The ACHP shall initiate appropriate action within 30 days of the completion of the investigative report.
- 200-135 If the ACHP cannot meet the time requirements in MCAR 891-200-125 and MCAR the 891-200-130, Director of Aging Services or his/her designee may grant an extension to these requirements.
- 200-140 The ACHP's failure to meet the time frame guidelines in this section shall not affect the ACHP's ability to protect the health, safety and welfare of the residents.
- 200-145 The ACHP investigations shall include:
- (a) unannounced visits to the home;
  - (b) observing, recording, photographing or copying of all relevant evidence;
  - (c) interviewing all available persons identified by any source as having relevant knowledge of circumstances about the complaint, including the alleged perpetrator(s) and alleged victim(s), if possible. Interviews shall be conducted in private and treated as confidential.
- 200-150 Complaint investigators shall interview the Operator and shall advise the Operator of the nature of the complaint and give the Operator the opportunity to submit any relevant information.
- 200-155 The ACHP shall not to release information about the content of the complaint

investigation until the complaint investigation is completed.

- 200-160 In investigation reports, the identity of the resident(s), the complainant, and any witnesses shall be kept confidential. The Operator's name and name of any other person identified as the perpetrator of a rule violation is not confidential.
- 200-165 A report shall include: the Operator's name and Adult Foster Home address, the investigator's name, observations, a review of relevant documents and records, a summary of witness statements, and a conclusion.
- 200-170 The investigative report shall list each allegation and shall state whether each allegation was found to be true. (more likely than not to have occurred or substantiated), found to be false (more likely than not to have not occurred or unsubstantiated), or found unable to be determined true or false (unable to substantiate).
- 200-175 The ACHP shall mail a copy of the completed investigative report within seven (7) days of completion to the following people:
- (a) the person who made the complaint, if known; unless the complainant requests anonymity;
  - (b) the resident(s) involved and any person designated by the resident to receive the information;
  - (c) the Operator of the Adult Foster Home involved;
  - (d) the Long Term Care Ombudsman; and
  - (e) the State Senior and Disabled Services Division.
- 200-180 The ACHP shall inform the persons receiving the complaint report of the right to give additional information about the report to the ACHP within seven (7) days of receipt.
- 200-185 The ACHP shall review responses and may reopen the investigation based on the new information.
- 200-190 The investigative report and any responses shall become part of the public complaint file.
- 200-199 Any person shall have the right to inspect files of public complaint investigation reports and to make photocopies at reasonable cost.
- 891-200-200 PROHIBITING RETALIATION AGAINST PERSONS MAKING COMPLAINTS**
- 200-210 The Adult Foster Home Operator shall not retaliate against any resident after the resident or someone acting on his/her behalf has filed a complaint by increasing charges, decreasing services, rights or privileges, threatening to increase charges or decrease services, rights or privileges, by taking or threatening to take any action to coerce or compel the resident to leave the Adult Foster Home or by abusing or threatening to harass or abuse a resident in any manner.
- 200-220 An Operator, Resident Manager or other caregiver shall not retaliate against any complainant, witness or employee of an Adult Foster Home for making a report

or being interviewed about a complaint or being a witness. Retaliation can include restriction of access to the home, to a resident, or dismissal or harassment of an employee.

200-230 The complainant shall have immunity from any civil or criminal liability with respect to the making or content of a complaint made in good faith. Immunity under this subsection does not protect self-reporting Operators, Resident Managers or caregivers from liability for the underlying conduct that is alleged in the complaint.

200-240 Operators, Resident Managers and caregivers shall not make or cause to be made a bad faith complaint.

## **PART XI - SANCTIONS**

### **891-300-100 ADMINISTRATIVE SANCTIONS**

300-110 ACHP sanctions may include but are not limited to:

- (a) fines;
- (b) conditions on a license;
- (c) denial, suspension, revocation or non-renewal of a license.

300-120 The ACHP shall deny, revoke, or refuse to renew a license where it finds:

- (a) There exists a threat to the health, safety or welfare of any resident.
- (b) There is reliable evidence of abuse, neglect or exploitation of any resident.
- (c) There has been significant non-compliance with these rules;
- (d) There is significant non-compliance with local regulations and ordinances or any other state or federal law or rule applicable to the health and safety of residents and caring for residents in an Adult Foster Home.
- (e) The applicant or Operator has been convicted of one or more crimes described in MCAR 891-050-450 or MCAR 891-050-455.
- (f) The Operator knowingly employs Resident Managers and caregivers, or allows household members, or any other person (excluding the residents and their visitors) to live in, work in, or be in the Adult Foster Home who have been convicted of one or more crimes as described in MCAR 891-050-450.
- (g) The applicant or Operator provides false information regarding their criminal history.
- (h) An applicant whose license has been revoked, voluntarily surrendered during a revocation process, or whose application has been denied for reasons of abuse, neglect, threat to the health, safety or welfare of any resident(s), or failure to possess the physical health, mental health, ability or good personal character necessary to be an Operator and the time frame specified in the order revoking or denying the license has not passed.

300-130

(i) An Operator or applicant has failed to pass the Operator's Qualifying Test within the last twelve months.

The ACHP may impose sanctions if an applicant, Operator, Co-Operator, Resident Manager or caregiver:

( 1) is not in compliance with the rules of the Adult Care Home Program.

( 2) is non-compliant with local codes, ordinances, state or federal law, or rules applicable to the care of residents of Adult Foster Homes.

( 3) has given fraudulent or misleading information to the ACHP or other government agency.

( 4) has a prior license denial, suspension, revocation or has been refused a license renewal in Multnomah County or any other county or state.

( 5) is associated with a person whose license for a foster home or residential care facility was denied, suspended, revoked or refused to be renewed due to abuse or neglect of the residents, creating a threat to the residents or failure to possess physical health, mental health or good personal character, unless the applicant or Operator can demonstrate to the ACHP by clear and convincing evidence that the person does not pose a threat to the residents. For purposes of this rule, an applicant or Operator is "associated with" a person if the applicant or Operator:

(a) Resides with the person.

(b) Employs the person in the Adult Foster Home.

(c) Receives financial backing from the person for the benefit of the Adult Foster Home.

(d) Receives managerial assistance from the person for the benefit of the Adult Foster Home.

(e) Allows the person to have access to the Adult Foster Home.

(f) Rents or leases the Adult Foster Home from the person.

(6) has obstructed the investigation of a complaint, interview or any action meant to administer or enforce ACHP rules or laws.

(7) has accumulated complaints that threaten the health, safety or welfare of residents.

(8) has a medical, psychiatric or psychological problem, or an alcohol or drug use problem, which interferes with the ability to provide good care or to operate an Adult Foster Home.

(9) has had a complaint that, upon initial review, indicates evidence of immediate threat to the health, safety or welfare of residents.

(10) has knowingly failed to file an application or to report information required by the ACHP rules.

(11) has failed to pay a fine within time limits specified by the ACHP.

(12) has operated or continues to operate an unlicensed Adult Foster Home.

(13) fails to comply with an administrative sanction, including a condition imposed on a license.

(14) has previously surrendered a license while under investigation or administrative sanction.

(15) has denied access to ACHP staff to enter the home.

(16) such other circumstances as may be established by the ACHP.

**891-300-200**

**ACHP FINES**

300-210 The ACHP may levy fines against an Operator who violates the Multnomah County Administrative Rules.

300-220 If an Operator does not fully correct a violation which has resulted in a fine within the specified timeframe, the fines may be increased.

300-230 The ACHP shall consider the following factors in setting the fine amounts for specific rule violations:

(a) the degree of harm caused to residents, if any.

(b) whether the violation threatens or threatened the health, safety or welfare of residents.

(c) the seriousness, frequency and duration of the rules violation, and the violator's intent.

(d) past history of violations of rules or laws and corrections taken in response to rule violations.

300-240 The ACHP may levy fines of up to \$1000.00 for each separate violation including multiple violations of the same rule. The ACHP may levy additional fines up to \$250.00 per day, up to \$1000.00 per violation, for continuing violations until the violation is discontinued.

300-250 The ACHP shall impose a mandatory fine of not less than \$250.00 for an Operator's failure to have an approved Resident Manager or caregiver on duty 24 hours a day in the Adult Foster Home.

300-260 The ACHP shall impose a mandatory fine of not less than \$250.00 on an Operator who admits a resident to the home knowing the resident's care needs exceed the Operator's license classification.

300-270 The failure to pay a fine within time limits specified by the ACHP, shall result in an automatic penalty of up to \$250.00 per day, to a maximum of \$1,000.00, until the fine and penalties are paid in full.

300-280 If the ACHP levies a fine against an Operator, the ACHP shall give a notice to the Operator that provides the following information:

- (a) the violation,
- (b) a reference to the particular section of rule or statute involved,
- (c) a brief statement of the circumstances of the violation,
- (d) the amount of the fine,
- (e) the date the fine is due,
- (f) penalties if the fine is not paid,
- (g) a notice that failure to pay the fine shall subject the violator to further legal action,
- (h) a statement of the right to request a hearing, and
- (i) that the notice will become a final order if no hearing is requested in twenty days.

300-290 An Operator shall have twenty days from the date of the notice to request a hearing in writing. If a timely written request is not received, the fine shall become a final order.

300-299 Unless the fine is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the Operator.

#### **891-300-300 CONDITIONS PLACED ON A LICENSE**

300-310 The ACHP shall have the authority to place conditions on a license that limit the scope of the license or impose additional requirements on the Operator. License conditions are effective immediately and are the final order of the ACHP unless later rescinded through the hearings process.

300-320 The ACHP may place conditions on a license when the ACHP finds:

(a) the Operator is not in full compliance with ACHP rules

and/or

(b) a threat exists to the health, safety or welfare of the residents that may be remedied by placing a condition on the license.

300-330 Conditions on a license must directly relate to a risk of harm or potential harm to residents and may include, but are not limited to:

(a) restricting the total number of residents and occupants of the home;

(b) restricting the number of residents or impairment level of residents within a classification level whom the Operator may care for;

(c) restricting the type of care the home may provide;

(d) requiring additional staff or staff qualifications to meet the resident's care



needs;

(e) requiring additional training of Operator/staff to meet specific resident care needs;

(f) restricting admissions due to failure of the Operator or Resident Manager to pass the qualifying test as required by these rules;

(g) restricting admissions when there is a threat to the current residents of the home and admitting new residents would compound that threat;

(h) restricting the opening of additional Adult Foster Homes;

(i) restricting the Operator from allowing persons on the premises who may pose a threat to resident safety or welfare;

(j) requiring an Operator to notify the ACHP when accepting a resident with skilled or continuous nursing care needs, or when a resident develops such needs;

(k) requiring an Operator to contract with a Registered Nurse if one or more residents of an Adult Foster Home have nursing care needs;

(l) requiring that a resident with nursing care needs be relocated from an Adult Foster Home.

300-340

The ACHP may place conditions on a license for a specified period of time. At the end of that period, the ACHP shall determine if the conditions are still appropriate and may continue the conditions. The ACHP shall consider the reasons for the condition at the time of license renewal to determine if the conditions are still appropriate. The condition's effective date and expiration date shall be put on the license.

300-350

Operators may request that the condition be removed if the Operator believes that the reason for the condition has been remedied.

**891-300-400**

### **SUSPENSION**

300-410

If a license is suspended for reasons other than immediate threat to the health, safety or welfare of the resident(s), the Operator shall be entitled to a hearing preceding the effective date of the suspension if the Operator requests a hearing in writing within 20 days of the date of the notice. If no written request for a timely hearing is received, the ACHP shall issue a final order by default. The ACHP may designate its file as the record for purposes of default.

300-420

If the ACHP finds that there is an immediate threat to the health, safety or welfare of the residents, the ACHP shall issue a written order suspending the license effective immediately. A hearing shall follow the suspension if requested in writing by the Operator within 20 days of the order.

300-430

An Operator may also request an administrative review of an ACHP order to suspend their license based on immediate threat to residents. If the ACHP receives such a request from the Operator in writing within 10 days of the order, the ACHP shall review the decision within five business days. This review shall be limited to the issue of whether the finding of immediate threat is supported by the evidence. The review shall include all materials related to the findings of

immediate threat, including any written documentation submitted by the Operator. If the finding of immediate threat is supported, the suspension shall remain in effect.

300-440 If the ACHP does not sustain the finding of immediate threat, the suspension shall be lifted. A suspension may not be reimposed unless and until a final order has been issued pursuant to the hearing process in MCAR 891-300-800 through MCAR 891-300-891 or until the Operator's right to request a hearing under these provisions has expired.

300-450 In the event the license is suspended or a threat to the resident safety is identified, the ACHP may notify the resident, the resident's family, the resident's legal representative, the case manager and other persons involved in resident care. For protection of the residents, the ACHP may arrange for them to move.

#### **891-300-500 REVOCATION/NON-RENEWAL/DENIAL**

300-510 The ACHP shall revoke a license if the conditions listed in MCAR 891-300-120 are found to exist in the Adult Foster Home. The ACHP may revoke a license if the conditions listed in MCAR 891-300-130 are found to exist in the Adult Foster Home.

300-515 Denial, non-renewal or revocation of a license by the ACHP shall be preceded by a hearing if requested by the operator, unless the license is denied, not renewed or revoked for the reason of an immediate threat to the life, health, safety or welfare of a resident. If an immediate threat exists, the denial, revocation or non-renewal shall be effective upon order of the ACHP. In this case, a hearing shall follow the denial, non-renewal or revocation if requested by the operator.

300-520 A license in the revocation or non-renewal process will remain in effect during an administrative hearing process even if the license expires before the hearing and/or a final order is issued unless the license is revoked or not renewed due to immediate threat to the resident(s).

300-530 If a license is revoked, not renewed or denied, the ACHP may arrange for residents to move for their protection.

300-540 An Operator whose license has been revoked or an applicant whose application has been denied shall not be permitted to make a new application for one year from the date the revocation or denial is final or for a longer period specified in the order revoking or denying the license.

#### **891-300-600 NOTIFICATION OF SANCTIONS**

300-610 The ACHP shall give Operators written notice of any sanctions imposed. The ACHP shall deliver the notice in person or by certified or registered mail.

300-620 The notice of a sanction shall state:

(a) the sanction imposed, the reasons for the sanction, and a description of the circumstances of the violation;

(b) the rule(s) violated;

(c) the effective date of the sanction and the time frame for correcting the

violation(s), if applicable;

(d) that the ACHP may impose additional sanctions, if applicable, if violations continue or reoccur;

(e) the availability of help relocating residents, if needed, and the Operator's duty to help with any resident relocation;

(f) the right to appeal the ACHP order or sanction, and how to request a hearing;

(g) the authority for the hearing;

(h) that the ACHP files on the subject of the contested case automatically become part of the contested case record upon default for the purposes of proving a prima facie case; and

(i) that the notice of the sanction shall become a final order if the Operator does not request a hearing within the specified time.

300-630 A copy of the complaint investigation report or inspection report shall be attached to the sanction notice, if applicable, unless previously provided to the applicant or Operator.

#### **891-300-700 ADMINISTRATIVE CONFERENCES**

300-710 The ACHP may require attendance by an Operator at a conference prior to or as part of the imposition of a sanction. The purpose of the conference is to discuss the problems, rule violation(s) and/or sanctions, and review means to achieve satisfactory and timely compliance with the rules.

300-720 An Operator may request an administrative conference at any time after notice of problems, rule violations or sanctions.

300-730 An Operator's request for an administrative conference does not extend the effective date of a sanction or time limit for correction of a problem unless the Operator requests and the ACHP grants a change in the date the sanction shall be effective.

#### **891-300-800 HEARINGS**

300-814 An Operator may appeal a sanction given by the ACHP. To appeal, the Operator must file a written request for a hearing with the ACHP within 20 days of the date of the notice except as provided in MCAR 891-300-290. The written request shall include the reason(s) for the hearing and the issues to be heard. If the timely request is not received, the ACHP's order shall become final. The ACHP may designate its file as the record for purposes of default. The ACHP may designate its file as the record for purposes of default.

300-821 For purposes of these rules, a hearing is defined as an administrative proceeding conducted by an independent hearing officer, with definite issues of fact or of law to be tried, in which witnesses are heard and evidence is presented.

300-828 Hearings shall be conducted by an independent hearing officer who shall hear witnesses, take in evidence presented and determine issues of fact and of law based on the evidence presented.

- 300-835 Hearings shall be conducted in accordance with these rules and with the Oregon Attorney General's Model Rules for contested case proceedings when these rules do not address a procedural issue. Any party may be represented by an attorney.
- 300-842 The ACHP shall provide copies of relevant correspondence, reports and other information to the hearings officer.
- 300-849 The entire proceeding shall be recorded by tape recorder or court reporter. The record will be transcribed only if a writ of review is filed pursuant to ORS 34.010 to ORS 34.100.
- 300-856 A party may receive a copy of the tape recording upon payment of copying costs. Costs of transcription of the court reporter's record shall be paid by the party requesting the transcript.
- 300-863 Evidence, including hearsay evidence, of a type commonly relied upon by reasonably prudent persons in the conduct of serious affairs shall be admissible in a hearing requested by an Operator to appeal an administrative sanction or an order disapproving an eviction, or in a hearing requested by a resident or person acting on a resident's behalf to contest an eviction. There are four types of admissible evidence:
- (a) Knowledge of the agency. The Director of Aging Services or any authorized representatives may take "official notice" of conclusions developed in an investigation as a result of intensive experience of the agency in its specialized field of activity. This includes judgments based upon investigation findings, as well as notice of a technical and scientific nature. Such notice shall be so indicated in the proceedings.
  - (b) Testimony of witnesses, including the parties, about the matter in dispute. Any witness testifying is subject to cross examinations by other parties and the hearings officer.
  - (c) Written or visual material. This material includes complaints, reports, notices, letters, other records, notes, maps, diagrams and other written or visual material. Such material may include signed written statements and videotaped interviews of parties or witnesses not present at the hearing.
  - (d) Experiments, demonstrations and similar means used to prove a fact.
- 300-870 Once a hearing is concluded, there shall be no continuance or reopening of the hearing to offer additional evidence unless any party can show that the additional evidence was not known to the party at the time of the hearing and that reasonable diligence would not have discovered the evidence prior to the conclusion of the hearing.
- 300-877 In reaching a decision, the hearings officer shall only consider evidence which has been admitted, and shall evaluate the weight of all such evidence in light of the presentations of the parties during the hearing.
- 300-884 After reviewing the evidence submitted at the hearing, the hearings officer may sustain, modify, or overrule the ACHP's imposition of an administrative sanction or an order disapproving an eviction, or may approve, conditionally approve, or disapprove an eviction. Nothing in this section shall prevent the hearings officer from remanding the matter to the ACHP following the conclusion of the hearing.

and prior to issuing an order for the ACHP's review and recommendation in light of evidence presented. The final order shall be issued by the hearings officer not later than 45 days after the termination of the hearing. The final order is effective when issued. The final order shall notify the Operator of the right to appeal to the Circuit Court under ORS 34.010 to ORS 34.100.

300-891 Review of the hearing officer's final order shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to ORS 34.100.

**891-300-900 CRIMINAL PENALTIES**

300-910 Operating an Adult Foster Home without a license is punishable as a Class C misdemeanor.

300-920 Refusing to allow access and inspection of a home by ACHP staff or for state or local fire inspections is a Class B misdemeanor.

300-930 The ACHP may ask a court to prohibit a person from:

(a) operating an Adult Foster Home without a license.

(b) operating an Adult Foster Home after notice of license suspension or revocation and after a reasonable amount of time has been given for placement of residents in other homes or facilities but placement has not been accomplished.

**PART XII - PUBLIC INFORMATION**

**891-400-100 PUBLIC INFORMATION ABOUT ADULT FOSTER HOMES**

400-110 The ACHP shall maintain current information about all licensed Adult Foster Homes in Multnomah County. The ACHP shall make all information that is not confidential available to prospective residents and members of the public.

400-120 The information in the public file shall include:

(a) the location of the Adult Foster Home and the name and mailing address of the Operator if different;

(b) the Adult Foster Home license and an example of the private pay or Medicaid contract;

(c) the date the Operator was first licensed to operate the home and the home's license classification;

(d) the date of the last licensing inspection and fire inspection, the name and telephone number of who performed the inspection, and a summary of the inspection findings;

(e) copies of all non-confidential portions of complaint investigations filed by home and date, ACHP findings and actions taken by the ACHP, and responses of the Operator or person making the complaint, if any;

(f) any conditions placed on the license, license suspensions, denials, revocations, fines, rule exceptions granted, or other current ACHP actions involving the home;

(g) whether care in the home is given primarily by the licensed Operator, a Resident Manager, or by some other arrangement;

(h) a brief description of the physical characteristics of the home.

- 400-130 The registry maintained by the Adult Care Home Program shall be regularly updated to indicate homes which have been issued a regular, limited, conditional or provisional license, homes which have been issued a renewal license, and homes which have newly applied for a license. This registry shall be available to the public upon request.
- 400-140 Any list of Adult Foster Homes maintained or distributed by the ACHP shall include the number of substantiated complaints for each of the Adult Foster Homes for the lesser of the preceding five years or the period beginning January 1, 1992.
- 400-150 The ACHP shall report on a quarterly basis to SDSD the number of exceptions for residents whose care needs exceed the classification of the home granted during the preceding quarter.
- 400-160 The ACHP will make every effort to ensure that public file information is as user friendly and easy to read as possible.

## PART XIII - DEFINITIONS

The terms used in the ACHP Administrative Rules are defined as follows. All terms are listed alphabetically.

### **ACHP - Adult Care Home Program**

**Abuse** - Abuse of an Adult Foster Home resident means any verbal or physical action or mistreatment which causes or threatens to cause physical or mental pain, injury or discomfort to a resident. This includes withholding or failure to provide adequate food, shelter, clothing, supervision, socialization, care or services necessary to ensure the health, safety and welfare of residents.

**Activities of Daily Living (ADL)** - Those personal functional activities required by an individual for continued well-being including eating/nutrition, dressing, personal hygiene, mobility, toileting and behavior management. See Appendix I.

- (a) "Independent" means the resident can perform the ADL without help.
- (b) "Assistance" means the resident is able to do part of an ADL, but cannot do it entirely alone.
- (c) "Dependent" means the resident is unable to do any part of an ADL, it must be done entirely by someone else.

**Adult Care Home (ACH)** - Any home or facility that provides room and/or board and/or care for compensation to persons who are not related to the Operator by blood, adoption or marriage except as provided in MCAR 891-020-140. For the purpose of this rule, adult care home does not include any house, institution, hotel or other similar living situation that supplies room and board only, or room only, or board only, if no resident thereof requires any element of care. Adult Foster Homes are classified as Class I, II or III. The Adult Care Home Program licenses three types of homes. The categories of adult care homes licensed by the ACHP include Adult Foster Homes, Adult Foster Homes with a Limited License, and Room and Board Facilities.

**Adult Care Home Program (ACHP)** - The regulatory part of the Aging Services Department of Multnomah County, Oregon, that oversees the enforcement of ACHP rules in adult care homes in Multnomah County.

**Adult Foster Home** - Any home or facility that provides residential care for compensation to five or fewer persons who are not related to the Operator by blood, adoption or marriage except as provided in MCAR 891-020-140. Residential care is the provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management. Twenty-four hour supervision is required.

**Adult Foster Home with a Limited License** - A home or facility that provides residential care for compensation to only a specific individual(s) who is not related to the Operator by blood, adoption or marriage. Twenty-four hour supervision is required. Part XV of these rules sets out the provisions for licensure of an Adult Foster Home with a limited license.

**Advance Directive** - The legal document signed by the resident giving instructions for health care should he/she no longer be able to give directions regarding his/her wishes. The directive gives the resident the means to continue to control his/her own health care in any circumstances.

**Applicant** - Any person who submits a completed set of application materials to the ACHP to obtain a license to operate an Adult Foster Home in Multnomah County and who is owner of the business.

**ASD** - Aging Services Division, A Multnomah County office responsible for a variety of social services provided to elderly persons and persons with disabilities residing in Multnomah County.

**Behavioral Interventions** - Those interventions which will modify the resident's behavior or the resident's environment.

**Board** - The Operator's provision of meals to a resident on a predictable and/or regular basis.

**Board of Nursing Rules** - The standards for Registered Nurse Teaching and Delegation to Unlicensed Persons according to the statutes and rules of the Oregon State Board of Nursing, ORS 678.010 to 678.445 and OAR Chapter 851, Division 45 (page 33).

**Care** - The provision of room, board, services and assistance with activities of daily living, such as assistance with bathing, dressing, grooming, eating, money management, recreation or medication management, except that assistance with self-medication is not included as part of care for purposes of these rules. Care also means services that encourage maximum resident independence and enhance quality of life.

**Care Plan** - The written description of a resident's needs, preferences, and capabilities, including by whom, when and how often care, services, and/or supervision will be provided. Care plan includes ISP (Individual Service Plan) and Mental Health Care Plan.

**Caregiver** - Any person responsible for providing supervision, care and services to residents of an Adult Foster Home under the jurisdiction of the ACHP other than the Operator or certified Resident Manager and who is approved by the ACHP.

**Case Manager** - A person employed by the Aging Services Division or other social service agency who oversees the care and service provided to a resident from various social and health care services.

**Classification** - The ACHP's determination during licensure of what level of care an Adult Foster Home may provide. The ACHP classifies Adult Foster Homes as Class I, II or III homes. Note: Room and Board facilities and Adult Foster Homes with a Limited License are not classified as Class I, II or III.

**Client** - A resident in an Adult Foster Home for whom SDSD or MHDDSD pays for care or for whom case management services are provided.

**Clutter** - An accumulation of material which impedes or obstructs a person's progress through a room, restricts use of a room and which may present a fire or safety hazard.

**Cognitive** - Pertaining to the mental state and thought and deliberative processes of the mind.

**Compensation** - Payments in cash, in-kind, or in labor, by or on behalf of a resident to an Operator or common fund in exchange for room and/or board and/or care and/or services, including any supervision, care and services specified in the care plan. Compensation does not generally include the voluntary sharing of expenses between or among roommates.

**Complaint** - An allegation that an Operator has violated these rules or an expression of dissatisfaction relating to the condition of the Adult Foster Home or the resident(s).

**Compliance** - Meeting the requirements of ACHP rules, orders, or any applicable laws, codes, regulations or ordinances.

**Conditions** - Restrictions or additional requirements placed on a license by the ACHP as a sanction.



**Co-Operator** - Co-Operator is synonymous with Operator as both are equally responsible for the home. All Co-Operators shall meet all qualifications and standards for an Operator.

**Criminal History** - Records and related data, including fingerprints, received, compiled, and disseminated by the Oregon State Police and any other local and national law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and pertaining to such persons records of arrest, the nature and disposition of criminal charges, sentencing, confinement and release.

**Day Care Resident** - A resident who receives care, assistance, and supervision but who does not stay overnight.

**Delegation** - The process by which a Registered Nurse teaches and supervises a skilled nursing task.

**Department** - Multnomah County Aging Services Division

**Director** - The Director of the Department of Aging Services of Multnomah County, Oregon, or his or her designee.

**Disabled** - A person with physical, cognitive or emotional impairment which limits the person in one or more activities of daily living.

**Discrimination** - Differential treatment or denial of normal privileges to persons because of their race, age, sex, sexual orientation, nationality or religion.

**Elderly Person or Aged** - Any person age 65 or older who is in need of care.

**Exitway** - A continuous and unobstructed path of travel, separated by other spaces of the home by a fire or smoke barrier, through which a person can safely exit to the outside of the home. This includes room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

**Family Member** - For the purposes of these rules, a husband, wife, domestic partner, natural parent, child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

**Fire Barrier** - A continuous surface, such as a wall, ceiling or floor, designed to limit the spread of fire and restrict smoke movement, including doors which are tight fitting solid core wood, and which are equipped with a closing device such as spring loaded hinges and which meet all applicable laws, codes and rules.

**Flame Spread Rating** - A measure of how fast flames will move across the surface of a material. (See Appendix II.)

**Frequent** - One or more times in a seven day period of time.

**Hearing** - An administrative proceeding conducted by an independent hearing officer with definite issues of fact or of law to be tried, in which witnesses are heard and evidence is presented.

**Home** - The physical structure in which residents live. Synonymous with Adult Foster Home.

**Homelike** - A friendly, safe, secure environment where the atmosphere of the Adult Foster Home is more like a home than a medical facility, where the resident's dignity and rights are respected, interaction between members of the home is encouraged, and the resident's independence and

decision-making is protected and encouraged.

**House Rules** - An Operator's written rules about the home's policies, including but not limited to visiting hours, smoking, telephone use, pets and other matters, all subject to ACHP approval and consistent with ACHP rules.

**Immediate Threat (Imminent Danger)**- A danger which could reasonably be expected to cause death, or to cause harm to a person's physical or mental well-being as a result of abandonment, abuse, neglect, exploitation, hazardous conditions, or threatening behavior, or to pose a threat to the life, health, safety or welfare of residents, Resident Managers, caregivers or other occupants in the immediate future, or before such danger could be eliminated through the regular enforcement procedures.

**Inspection** - An on-site evaluation of the physical environment and related records of an Adult Foster Home in order to determine whether the facility is in compliance with applicable laws, codes and rules prior to issuing or renewing a license, or in order to monitor ongoing compliance of the facility, or in order to determine the validity of a complaint.

**Interview** - An evaluation of the Operator, Resident Managers, caregivers, occupants, social environment, operations, and related records of an Adult Foster Home in order to determine whether the Operator, Resident Manager(s) and other caregivers, and their training, practices, and care, are in compliance with applicable laws, codes and rules prior to issuing or renewing a license, or in order to monitor ongoing compliance of the facility, or in order to determine the validity of a complaint, or in order to determine if a resolution can be achieved without a hearing when a hearing has been requested to contest an eviction.

**Investigation** - The ACHP's process of finding out whether or not a violation of ACHP rules has occurred through interviews, on-site visits and other methods of inquiry.

**Legal Representative** - A person who has the legal authority to act for the resident. On matters involving care, this is a legal guardian, a health care representative under an Advance Directive, or Power of Attorney for Health Care. On financial matters, this is a legal conservator, an agent under a power of attorney, or a representative payee.

**Long Term Care Assessment Form** - The form provided by the ACHP and signed by a resident who privately pays for care that he/she has been advised that he/she may have an assessment at no charge to provide the individual with his/her placement options. The Operator shall maintain a copy of the form in the resident records.

**MCAR(s)** - For the purpose of this document, MCAR(s) refers to Multnomah County Administrative Rule(s) for Licensure of Adult Care Homes.

**Medical Emergency** - A change in medical condition that requires immediate care of a level or type that the Operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.

**Neglect** - Neglect of an Adult Foster Home resident means any action or inaction which causes or threatens to cause physical or mental harm to a resident. Neglect may be intentional, unintentional, careless, through reckless endangerment, inadequate monitoring of residents by an Operator, or because of ignorance, indifference, incompetence, poor health, inadequate experience, training or skill. In these rules, neglect is addressed under Abuse.

**Non-injectable Medications** - Pills, ointments, suppositories, narcotics, controlled substances, over the counter medications, and any treatments or therapies. Such medications do not include moisturizing lotions or medicated shampoos.

**Nurse** - A person licensed to practice nursing by the Oregon State Board of Nursing as a Practical Nurse (LPN), Registered Nurse (RN), and an RN certified as a Nurse Practitioner, under authority of ORS Chapter 678 in accordance with OAR Chapter 851.

**Nursing Assistant** - A person who assists licensed nursing personnel in the provision of nursing care and who has been certified by an approved training program in accordance with rules adopted by the Oregon State Board of Nursing in OAR Chapter 851. Nursing assistants may be known as, but are not limited to, Certified Nurses Aide (CNA), a nurses aide, home health aide, geriatric aide, or psychiatric aide.

**Nursing Care** - The practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are taught or delegated under specified conditions by a Registered Nurse to persons other than licensed nursing personnel, which is governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

**Occupant** - Anyone residing in or using the facilities of the Adult Foster Home including all residents, Operators, Resident Managers, caregivers, friends or family members, day care persons, and boarders.

**Ombudsman** - The State Long-Term Care Ombudsman or an individual designee appointed by the Ombudsman to serve as a representative of the Ombudsman Program in order to investigate and resolve complaints on behalf of the Adult Foster Home residents.

**Operator** - The person licensed by the ACHP to operate the Adult Foster Home who has overall responsibility for the provision of residential care, who meets the standards outlined in these rules and who has been approved by the ACHP.

**Senior and Disabled Services Division (SDSD)** - A division of the Department of Human resources for the State of Oregon.

**Physical Restraint** - Any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, the resident's body which the resident cannot easily remove and restricts freedom of movement or normal access to his/her body. Physical restraints include, but are not limited to, leg restraints, soft ties or vests, hand mitts, wheelchair safety bars, lap trays, any chair that prevents rising, and gerichairs. Side rails (bed rails) are considered restraints when they are used to prevent a resident from getting out of a bed. When a resident requests a side rail (e.g. for the purpose of assisting with turning), the side rail is not considered a restraint.

**Physician** - A person who has been licensed to practice medicine by the Oregon State Board of Medical Examiners, under authority of ORS Chapter 677.

**Point of Safety** - For the Purpose of these rules, a location which is away from the building and away from the fire area.

**P.R.N. (pro re nata) Medications and Treatments** - Those medications and treatments which have been ordered by a qualified practitioner to be given as needed.

**Provisional License** - A 60-day license issued to a qualified person in an unforeseen emergency situation when the licensed Operator is no longer overseeing the operation of the Adult Foster Home. A person must meet the standards of these rules except for completing the training and testing requirements.

**Psychoactive Medications** - Various medications used to alter mood, anxiety, behavior or cognitive processes. For the purpose of these rules, they include, but are not limited to, antipsychotics, sedatives, hypnotics, and antianxiety medications.

**Relative** - See Family Member

**Relative Foster Homes** - Homes licensed by the State of Oregon that provide care to elderly family members or family members with disabilities eligible for State Medicaid assistance. The ACHP does not license relative foster homes in Multnomah County.

**Reside** - To make the home a person's residence on a frequent or continuous basis.

**Resident** - Any person who is receiving room, board, care, and services for compensation in an Adult Foster Home on a 24-hour basis.

**Resident Rights** - Civil, legal or human rights, including but not limited to those rights listed in the Adult Care Home Residents' Bill of Rights.

**Resident Manager** - A person employed by the Adult Foster Home Operator and approved by the ACHP who lives in the home, is responsible for daily operation of the home and care given to residents, and must comply with ACHP rules.

**Residential Care** - The provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management.

**Respite Resident** - A person who receives residential care for a period of 14 days or less or who only stays overnight.

**Restraints** - Any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, or sleeping medications). Chemical restraints are those that limit movement or physical functioning. Restraints may not be used in a Class I home.

**Retaliation** - Increasing charges, decreasing services, rights or privileges, threatening to increase charges or decrease services, rights or privileges, by taking or threatening to take any action to coerce or compel the resident to leave the facility or by abusing or threatening to harass or abuse a resident in any manner.

**Room** - The provisions of a place for a person to sleep on a regular basis.

**Room and Board** - The provision of meals, a place to sleep, laundry and housekeeping for compensation to persons who do not need activities of daily living care services.

**Room and Board Facility** - A home or facility that provides only room and board for compensation to one or more adults who are elderly persons or persons with disabilities, not related to the Operator by blood, adoption or marriage and which provides no residential care except medication management and money management. Less than 24 hour supervision may be provided. Part XVI of these rules sets out the provisions for licensure of a room and board facility.

**Self Administration of Medication** - The act of a resident placing a medication in or on his/her own body. This means the resident manages and takes his or her own medications, in that the resident identifies the medication and the times and manners of administration, and places the medication internally or externally on his/her own body without assistance.

**Self Preservation** - In relation to fire and life safety, the ability of residents to respond to an alarm without additional cues and to reach a point of safety on their own.

**Services** - Living accommodations and meals provided by the Operator and non-care related tasks such as housekeeping, laundry, transportation or recreation performed by an Operator or employee for the benefit of the residents.

**Sexual Exploitation** - See MCAR 891-090-140 - Sexual Abuse and Exploitation

**Shall - Must.**

**Shift Caregiver** - A caregiver who, only by written exception of the ACHP, is responsible for providing care for regularly scheduled periods of time, such as 8 or 12 hours, in homes where there is no Operator or Resident Manager living in the home.

**Smoke Barrier** - See Fire Barrier.

**Substitute Caregiver** - Any Person responsible for providing supervision, care and services to residents of an Adult Foster Home under the jurisdiction of the ACHP other than the Operator or certified Resident Manager and who is approved by the ACHP.

## **PART XIV APPENDICES**

## APPENDIX I - ACTIVITIES OF DAILY LIVING

Activities of daily living are those personal functional activities required by an individual for continued well-being, i.e., Eating, Dressing, Personal Hygiene, Mobility, Bowel and Bladder Control, and Behavior Management. Each prospective or current resident must be evaluated as either dependent, assistance or independent for each activity of daily living.

### 1. EATING/NUTRITION (When used in connection with this ADL.)

- (a) Dependent person means a person needs to be fed virtually all foods and fluids.
- (b) Assistance person means a person can maintain an adequate food and fluid intake according to their dietary needs with only minimal or substantial assistance.
- (c) Independent person means a person eats without assistance and can maintain an adequate food and fluid intake according to their dietary needs with or without mechanical aids.

### 2. DRESSING (When used in connection with this ADL.)

- (a) Dependent person means the person is substantially unable or unwilling to assist in getting dressed and undressed or in staying dressed.
- (b) Assistance person means the person needs minimal or substantial assistance in selecting appropriate clothing, tying shoes, fastening buttons, etc..
- (c) Independent person means the person is able to dress, select clean and appropriate clothing, tie shoes, fasten buttons, etc..

### 3. PERSONAL HYGIENE (Daily bathing, shaving, oral care and grooming hair.) (When used in connection with this ADL.)

- (a) Dependent person means the person is unable to do any activity associated with personal hygiene.
- (b) Assistance person means the person needs minimal or substantial assistance with activities associates with personal hygiene and is able to partially bathe self.
- (c) Independent person means the person does personal hygiene activities without assistance, with mechanical aids if needed.

### 4. MOBILITY (When used in connection with this ADL.)

- (a) Dependent person means the person is unable to move from one place to another without depending on another person to move them.
- (b) Assistance person means the person controls and moves extremities but needs minimal or substantial assistance changing position or sitting in a wheelchair. The person may be able to walk or transfer with the help of another, including going to bathroom or commode.
- (c) Independent person means the person controls movement at will, may need devices to lift, turn, pull, balance and sit up. The person can also rise from bed and can get from one place to another without help from another person.

5. **BOWEL AND BLADDER** (The ability to get to or from bathroom or commode relates to mobility, rather than toileting.) (When used in connection with this ADL.)
- (a) **Dependent person** means a person does not demonstrate bowel and/or bladder control and cannot manage own cleanliness or external care of a catheter or appliance.
  - (b) **Assistance person** means a person has occasional loss of bowel and/or bladder control and cannot manage own clean-up or external care of a catheter or appliance and requires minimal or substantial assistance.
  - (c) **Independent person** means a person is continent or, if incontinent, can manage personal clean-up, or can manage external care of catheter or appliances.
6. **BEHAVIOR** (Behavior includes money management and medication management and the response to the environment and is not included in any of the other activities of daily living.) (When used in connection with this ADL.)
- (a) **Dependent person** means a person cannot interact with persons or the physical environment or take medications appropriately or manage their own money without at least daily behavior monitoring to intervene or prevent extreme behavior.
  - (b) **Assistance person** means a person who does not always interact appropriately with other persons, take medications appropriately or manage their own money and may be withdrawn, afraid, or insecure and require minimal or substantial assistance from others.
  - (c) **Independent person** means a person interacts with persons and physical environment, take medications appropriately or manage their own money without the need for behavior monitoring by others.



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## **PART XV - ADMINISTRATIVE RULES FOR ADULT FOSTER HOMES WITH A LIMITED LICENSE**

Contact the ACHP at 240-3000 if you wish to obtain a copy of these rules.

## **PART XVI - ADMINISTRATIVE RULES FOR ROOM AND BOARD FACILITIES**

Contact the ACHP at 248-3000 if you wish to obtain a copy of these rules.

---

# NEW OPERATOR AND NEW CO-OPERATOR

## Application Check List

Multnomah County Adult Care Home Program  
4610 SE Belmont, Suite 10 Portland, Oregon 97215

---

**BEFORE YOU MAIL YOUR APPLICATION, REFER TO THE CHECKLIST BELOW.  
PLEASE DO NOT SEND IN THE APPLICATION UNTIL YOU:**

- ☐ Complete every question, and have signed and dated the application
- ☐ Submit the Fee Determination Form and paid the required fee(s).

### **TESTING/TRAINING:**

- ☐ Attend orientation within the past 12 months, and pass Prequalifying test. (attach certificate/letter)
- ☐ Complete the ACHP approved Basic Training Course for Adult Care Home Providers. (attach certificate)
- ☐ Pass Qualifying Test (attach copy of letter) Date Test taken Operator \_\_\_\_\_ Co-Operator \_\_\_\_\_  
(You may submit application if you have not received results of your test, or a certificate.)
- ☐ Complete the record keeping class. (attach copy of certificate)

### **PERSONAL INFORMATION:**

- ☐ Submit Criminal Record Authorization Form(s) **signed and dated by all persons**, 16 or older who will live, work, or be in the home on a frequent basis. (frequent defined as 3x in a week, 4x in a month.)
- ☐ Complete Physician's report form, **signed and dated by a Physician** (required every 2 years).
- ☐ Give reference questionnaires to 3 previous employers, or former/current residents or their relatives. Please contact your references to ensure forms have been completed and mailed to ACHP.
- ☐ Attach a personal budget. The 2 month reserve form must be completed with all required documentation attached.
- ☐ Sign and date the General Release of information form.
- ☐ Attach a copy of your business license or application, If applicable in your jurisdiction.

### **STAFFING:**

- ☐ Submit a copy of staffing and monitoring plans for the home.
- ☐ Complete Substitute Caregiver requirements. You must find at least one person other than yourself or your spouse who can be approved to stay with your residents in case of emergencies. The person must sign the Criminal Record Authorization Form and meet the caregiver requirements including current CPR, First Aid, completion of caregiver study guide, and workbook, **prior** to working in home. Enclose payment of \$10.00 for each caregiver.
- ☐ Complete Resident Manager application packet, if hiring Resident Manager.

### **HOME INFORMATION (FACILITY):**

- ☐ Complete a Floor Plan (this must be a drawing). All information asked for on the Floor Plan Form must be included.
- ☐ Attach lease or rental agreement if applicable.
- ☐ Complete Bureau of Building inspection requirements and submit copy of approval.

**IF ANY PART OF THE APPLICATION OR REQUIREMENTS ARE NOT COMPLETED CORRECTLY, THE APPLICATION WILL BE RETURNED TO YOU. INCOMPLETE APPLICATIONS ARE HELD FOR 60 DAYS, THEN WILL BE RETURNED TO THE APPLICANT.**



# Adult Care Home Program

4610 SE Belmont, Suite 10  
Portland, Oregon 97215-7215  
(503) 248-3000

## APPLICATION FOR NEW ADULT CARE HOME LICENSE

Official Use Only: Amount Received \$

Directions: Read carefully, complete one application in full, for each Adult Care Home (ACH), and return to the above address with appropriate license application fees. **INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.**

◆ PLEASE PRINT USING A BALLPOINT PEN OR TYPE. AN INCOMPLETE APPLICATION WILL NOT BE PROCESSED ◆

Name of Operator: \_\_\_\_\_ SSN: \_\_\_\_\_  
(Persons applying for a license to operate an ACH)

Date of Birth: \_\_\_\_\_

Name of Co-Operator: \_\_\_\_\_ SSN: \_\_\_\_\_  
(Persons applying for a license to operate an ACH)

Date of Birth: \_\_\_\_\_

Name of Resident Manager: \_\_\_\_\_ SSN: \_\_\_\_\_  
(Persons applying for approval to manage an ACH)

Date of Birth: \_\_\_\_\_

1. Facility Address: \_\_\_\_\_ City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

Facility Telephone: \_\_\_\_\_ Business Telephone: \_\_\_\_\_

Cell Telephone: \_\_\_\_\_ Fax Number: \_\_\_\_\_

2. Type of Dwelling: ☐ House ☐ Mobile Home ☐ Duplex ☐ Other Describe: \_\_\_\_\_

Number of Bedrooms: \_\_\_\_\_ Number of Bathrooms: \_\_\_\_\_

3. Number of people you will provide care for:

Adult Foster Care	Room & Board	Day Care	Respite	Relatives	Other	TOTAL

4. List all homes currently licensed by Operator, Co-Operator or spouse: (Attach additional sheets if necessary)

Name/Address/Telephone: \_\_\_\_\_

Name/Address/Telephone: \_\_\_\_\_

5. Do you: ☐ Own ☐ Rent/Lease the residence to be used as an Adult Care Home?

6. If property owner is different than operator:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_ City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

7. List adults/children who will live and/or work in the home (include Resident Manager and/or caregiver, and indicate if they live or work in the home.)

Name/Age	Relationship to Operator(s)/Managers	Live/Work

8. Location of residence if different from facility:

Street	City/State	Zip	Telephone
Street	City/State	Zip	Telephone

9. Do you, or have you ever had a License/Certificate for an Adult Care Home, Children's Foster Home, Residential Care Facility, Assisted Living Facility, or Nursing Home?

**Operator:** ☐ Yes ☐ No, If Yes, by Whom was it licensed?

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

**Co-Operator:** ☐ Yes ☐ No, If Yes, by Whom was it licensed?

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

Has that license ever been denied, suspended, or revoked?

**Operator:** ☐ Yes ☐ No, If Yes, by Whom? \_\_\_\_\_

Reason: \_\_\_\_\_ Date: \_\_\_\_\_

**Co-Operator:** ☐ Yes ☐ No, If Yes, by Whom? \_\_\_\_\_

Reason: \_\_\_\_\_ Date: \_\_\_\_\_

10. Have you ever been treated for severe & persistent Mental Health problems by Mental Health Professionals?

**Operator:** ☐ Yes ☐ No, If Yes, give reason: \_\_\_\_\_ Date: \_\_\_\_\_

List names, address, and telephone number of the mental health professionals: (Attach additional sheets if needed)

Name	Telephone
------	-----------

Address:	City/State	Zip
----------	------------	-----

**Co-Operator:** ☐ Yes ☐ No, If Yes, give reason: \_\_\_\_\_ Date: \_\_\_\_\_

List names, address, and telephone number of the mental health professionals: (Attach additional sheets if needed)

Name	Telephone
------	-----------

Address:	City/State	Zip
----------	------------	-----



11. **REFERENCES:** Provide employment references from at least three (3) non-relatives. Questionnaires are included in the application packet.

12. **EDUCATION OF OPERATOR:**

School Name _____	City/State _____	Last grade completed _____
-------------------	------------------	----------------------------

**EDUCATION OF CO-OPERATOR:**

School Name _____	City/State _____	Last grade completed _____
-------------------	------------------	----------------------------

13. **SPECIAL QUALIFICATIONS: (attach copy)**

☐ Registered Nurse: State & License # \_\_\_\_\_ Operator \_\_\_\_\_ Co-Operator \_\_\_\_\_

☐ Licensed Practical Nurse: State and License # \_\_\_\_\_ Operator \_\_\_\_\_ Co-Operator \_\_\_\_\_

☐ Sign Language: \_\_\_\_\_ Operator \_\_\_\_\_ Co-Operator \_\_\_\_\_

☐ Other language(s) spoken \_\_\_\_\_ Operator \_\_\_\_\_ Co-Operator \_\_\_\_\_

Certified Nurses Aid ☐ Operator ☐ Co-Operator    Certified Medi-Aid ☐ Operator ☐ Co-Operator

Certificate # Operator \_\_\_\_\_ Co-Operator \_\_\_\_\_

☐ Other: Operator \_\_\_\_\_ Co-Operator \_\_\_\_\_

**REQUIRED TRAINING/EXPERIENCE:**

**Operator**

☐ Approved Basic Training course for Adult Care Home providers: Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

☐ First Aid Training    Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_      ☐ CPR Training    Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Co-Operator**

☐ Approved Basic Training course for Adult Care Home providers: Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

☐ First Aid Training    Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_      ☐ CPR Training    Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

14. **CLASSIFICATION OF ADULT CARE HOME:** Please indicate which classification you are applying for; Includes verifiable experience providing direct care to elderly persons or persons with disabilities. (note: list paid, volunteer or any appropriate experience) (MCAR 891-025-100)

☐ **CLASS I\*** - Requires at least one year of verifiable full-time hands on experience within the last 3 years, or current CNA and 4 months experience.

Name, Address and Telephone # of Employer	Duties & Responsibilities	Dates	
		From	To

Operator: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Co-Operator: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- ☐ **CLASS II\*** - Requires at least 2 years of verifiable full-time experience within the last 5 years or current CNA and 16 months of full-time experience.

Name, Address and Telephone # of Employer	Duties & Responsibilities	Dates	
		From	To
Operator: _____			
_____			
_____			

Co-Operator: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- ☐ **CLASS III** - If applying as class III, please contact Adult Care Home Program for other requirements

Name, Address and Telephone # of Employer	Duties & Responsibilities	Dates	
		From	To
Operator: _____			
_____			
_____			

Co-Operator: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*If using CNA certification, attach copy

15. Are you or your spouse/significant other, currently employed, own a business, or intend to be employed or have a business outside the ACH?

Operator: ☐ Yes ☐ No, If Yes, Where? \_\_\_\_\_  
(Company Name/Address/Telephone)

Co-Operator: ☐ Yes ☐ No, If Yes, Where? \_\_\_\_\_  
(Company Name/Address/Telephone)

16. **EMERGENCY CONTACTS: (DO NOT list yourself or others who live in the home.)\***

***Emergency Contact #1***

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone/Cell Telephone

***Emergency Contact #3***

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone/Cell Telephone

***Emergency Contact #2***

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone/Cell Telephone

***Emergency Contact #4***

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone/Cell Telephone

\*Operators, Caregivers, Friends, who can meet the residents needs in case of emergencies and natural disasters.

Please include the following information on all Substitute Caregivers and Caregivers.

Name: \_\_\_\_\_

Criminal Record Approved (date): \_\_\_\_\_

First Aid Taken (date): \_\_\_\_\_

CPR Taken (date): \_\_\_\_\_

Date of Basic Training: \_\_\_\_\_

OR

Date Work Books and Study Guide completed in home:

\_\_\_\_\_

Name: \_\_\_\_\_

Criminal Record Approved (date): \_\_\_\_\_

First Aid Taken (date): \_\_\_\_\_

CPR Taken (date): \_\_\_\_\_

Date of Basic Training: \_\_\_\_\_

OR

Date Work Books and Study Guide completed in home:

\_\_\_\_\_

Name: \_\_\_\_\_

Criminal Record Approved (date): \_\_\_\_\_

First Aid Taken (date): \_\_\_\_\_

CPR Taken (date): \_\_\_\_\_

Date of Basic Training: \_\_\_\_\_

OR

Date Work Books and Study Guide completed in home:

\_\_\_\_\_

Name: \_\_\_\_\_

Criminal Record Approved (date): \_\_\_\_\_

First Aid Taken (date): \_\_\_\_\_

CPR Taken (date): \_\_\_\_\_

Date of Basic Training: \_\_\_\_\_

OR

Date Work Books and Study Guide completed in home:

\_\_\_\_\_

Name: \_\_\_\_\_

Criminal Record Approved (date): \_\_\_\_\_

First Aid Taken (date): \_\_\_\_\_

CPR Taken (date): \_\_\_\_\_

Date of Basic Training: \_\_\_\_\_

OR

Date Work Books and Study Guide completed in home:

\_\_\_\_\_

Name: \_\_\_\_\_

Criminal Record Approved (date): \_\_\_\_\_

First Aid Taken (date): \_\_\_\_\_

CPR Taken (date): \_\_\_\_\_

Date of Basic Training: \_\_\_\_\_

OR

Date Work Books and Study Guide completed in home:

\_\_\_\_\_

I declare under penalties of perjury that I have examined this application and to the best of my knowledge and belief it is true, correct and complete. I hereby authorize the department to conduct an investigation of my background. If granted a license I understand that I am required by law to comply with all applicable laws and rules, to comply with the standards for adult care home, and to comply with the resident's bill of rights. I agree to cooperate with the department in all future inspections, interviews and other investigations conducted in order to approve a license and to monitor continuing compliance in my Adult Care Home.

\_\_\_\_\_  
Signature of Operator or Co-Operator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Operator or Co-Operator

\_\_\_\_\_  
Date

IF **ANY** PART OF THESE APPLICATION FORMS ARE NOT COMPLETED CORRECTLY,  
ALL FORMS WILL BE RETURNED TO YOU.

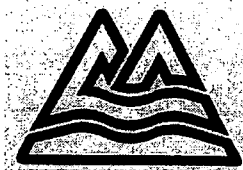
**THE MULTNOMAH COUNTY ADMINISTRATIVE RULES (MCARs) STATE**

The Adult Care Home Program (ACHP) will not process license applications until a complete application packet is received by the ACHP. (MCAR 891.020.220)

Application packets are void 60 days from the date any portion of the application packet and/or fees are received by the ACHP if the application packet is not complete. (MCAR 891.020.236)

The ACHP shall grant or deny a license to an applicant within 60 days of the date the ACHP receives a complete application packet. (MCAR 891.020.228)

Failure to provide accurate and complete information may result in denial of the application. (MCAR 891.020.240)



## ADULT CARE HOME PROGRAM

4610 SE Belmont Suite 10

Portland, OR 97215-7125

### FEE DETERMINATION FORM

1. **Number of Beds** applying for: \_\_\_\_\_ X \$40.00 per bed = \$ \_\_\_\_\_  
(\$200.00 maximum bed fee. This fee covers the criminal record check for the Operator and Co-Operator.)
2. **Resident Managers**\* Must be at least 21 years of age (has primary responsibility for multiple 24 hour periods on a regular basis.)  
  
Will you be hiring a Resident Manager(s) Yes ☐ No ☐  
If YES, number of Resident Manager(s) \_\_\_\_\_ X \$ 25.00 per person \$ \_\_\_\_\_
3. **Substitute Caregiver**\* Must be at least 21 years of age (provides care in the home for less than 24 hours per day; may be left alone with residents for periods less than 24 hours.)  
Number of Substitute Caregivers \_\_\_\_\_ X \$10.00 \$ \_\_\_\_\_
4. **Substitute Caregiver**\* 18, 19, or 20 years of age (provides care in the home but, may not be left alone with residents for a period of longer than 2 hours.)  
Number of Substitute Caregivers \_\_\_\_\_ X \$10.00 \$ \_\_\_\_\_
5. **Caregiver** May not be left alone with residents.  
Number of Caregivers \_\_\_\_\_ X \$10.00 \$ \_\_\_\_\_

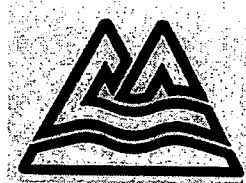
**TOTAL ENCLOSED**

\$ \_\_\_\_\_

Please make checks payable to: *Multnomah County Adult Care Home Program (ACHP)*

\* Note 1: You must plan for your home to have at least one Resident Manager, or Substitute Caregiver for the times when you must be away.

\*\*Note 2: You need to be sure that any individuals who will be a Resident Manager, or Substitute Caregiver have a completed Criminal Record Check on file at the Adult Care Home office.  
All persons left alone with residents must have current First Aid and CPR training.



## MULTNOMAH COUNTY OREGON

Dear Adult Care Home Operator,

The enclosed Criminal Record Authorization form **MUST** be completed by you, your Co-Operator, Substitute Caregivers, Resident Managers, and each of your family members and frequent visitors to the home\* who are 16 years or older annually.

We will notify you when we have approved or denied the criminal record for any person within five (5) business days.

Remember to include the required fees for Resident Managers and Substitute Care givers.

Thank You

*Adult Care Home Program*

\*Frequent visitor as defined by Multnomah County Counsel: Any person who visits the home and has contact with the residents 3 times in a week or 4 times in a month, which ever comes first.

# CRIMINAL RECORD AUTHORIZATION FORM

◆Incomplete forms will not be accepted◆

Type or Print Adult Care Home Address, City, State, Zip Code	Name of Operator
	Adult Care Home Telephone Number

The Multnomah County Adult Care Home Program (ACHP) requires criminal history checks be completed ANNUALLY on all operators, and employees, and their family members over the age of sixteen, and volunteers in adult foster homes and room and board facilities. Anyone who is employed in the home, lives in, or visits the adult care home on a frequent basis and interacts with the residents, must complete and submit this form (below) with the appropriate fees. (Visitors to residents do not need to submit this form.)

**Name & information of person requiring criminal record check. Please fill in form completely, and answer all questions.**

Last Name (Please type or print)	First	Middle	Date of Birth Mo Day Yr	Social Security Number - -	Sex
Other Names Used			Birth Name (if different)	Driver's License Number	State
Current Mailing Address			City	State	Zip Code
					Telephone Number

**Have you ever been arrested or do you have charges pending in Oregon or any other state?**

☐ YES ☐ NO ☐ UNSURE -If "YES," list charge(s), conviction(s), date(s), location(s); attach additional sheet if necessary.

**The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime (MCAR891-050-430).**

List all addresses where you have lived for the **past 5 years**, start with current address; attach additional sheet if necessary.

From	To Present	Address
From	Until	Address
From	Until	Address

WILL YOU PROVIDE CARE/SERVICES IN THE ADULT FOSTER HOME ☐ YES ☐ NO

WILL YOU LIVE IN THE ADULT CARE HOME ☐ YES ☐ NO

ESTIMATED NUMBER OF HOURS PER WEEK YOU WILL WORK: \_\_\_\_\_

Please indicate the category for which you are applying:

- |   |  |
|---|--|
| <input type="checkbox"/> Operator / Co-Operator - No Additional Fee | <input type="checkbox"/> Resident Manager - \$25 Processing Fee                                |
| <input type="checkbox"/> Caregiver - \$10 Processing Fee            | <input type="checkbox"/> Family Member - No Fee (not providing care, over the age of 16 years) |
| <input type="checkbox"/> Frequent Visitor - No Fee                  | <input type="checkbox"/> Housekeeping / Property Maintenance - No Fee                          |

I authorize Multnomah County ACHP to obtain information about me from the Oregon State Police and other law enforcement agencies and courts. I understand the ACHP may recheck my criminal history at any time during my employment. I authorize the ACHP to give the results of the criminal record check to the Operator listed above. I also authorize the ACHP to give the results of this criminal record check to any ACHP Licensed Operator with whom I apply for work.

My signature below indicates that I declare under penalties of perjury that the information provided by me is true and correct to the best of my knowledge. I understand that I cannot live or work in, or be in an Adult Care Home in Multnomah County on a frequent basis without written approval from the ACHP (MCAR 891-050-410, 415).

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

MULTNOMAH COUNTY  
ADULT CARE HOME PROGRAM  
4610 SE Belmont, Suite 10  
Portland, OR 97215 (503) 248-3000

For ACHP Use Only	
Ctl/A by _____	
\$ _____	# _____

**EXCERPT FROM MULTNOMAH COUNTY ADMINISTRATIVE RULES FOR LICENSURE  
OF ADULT CARE HOMES, EFFECTIVE AUGUST 29, 1996**

**891-050-400 CRIMINAL HISTORY AND CRIMINAL RECORD CHECK**

- 050-405 The criminal records check under this rule shall consist of:
- (a) A check for a criminal record in the State of Oregon, and
  - (b) A national criminal record check if:
    - (1) The applicant or other person has resided in another state within the previous five years; or
    - (2) The applicant or other person has disclosed the existence of a criminal conviction in any state; or
    - (3) A criminal record check in the State of Oregon discloses the existence of a criminal record in any jurisdiction.
  - (c) A check of the record of sanctions available from the Senior and Disabled Services Division of the State of Oregon, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678.
- 050-410 It shall be the responsibility of the Operator to insure that all persons aged 16 years and over who live or work in the home and frequent visitors to the home who will have contact with the residents, excluding residents and their visitors, complete, sign and submit to the ACHP a criminal record release authorization form. This shall be completed prior to living in, working in or being in the home and on an annual basis. The form shall include name, any aliases, birthdate, social security number, gender, drivers license number, current address and address for the last five years and information about any criminal history.
- 050-415 Adult Foster Home Operators shall not hire a Resident Manager or caregiver whose criminal record has not been approved by the ACHP or allow family members, visitors, friends, etc. whose criminal record has not been approved to be in the home on a frequent basis and have contact with the residents.
- 050-420 Any Operator, Resident Manager or other caregiver may work in an Adult Foster Home pending the outcome of a national criminal record check providing that the Oregon criminal record check was clear and if he/she signs a form indicating that he/she has never had a criminal conviction.
- 050-425 A person with a criminal record shall provide the ACHP with all documents required to obtain a national criminal record check prior to working, residing or being in an Adult Foster Home. The person shall pay any costs necessary to obtain these documents.
- 050-430 The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime.



# CRIMINAL RECORD AUTHORIZATION FORM

◆Incomplete forms will not be accepted◆

Type or Print Adult Care Home Address, City, State, Zip Code	Name of Operator
	Adult Care Home Telephone Number

The Multnomah County Adult Care Home Program (ACHP) requires criminal history checks be completed ANNUALLY on all operators, and employees, and their family members over the age of sixteen, and volunteers in adult foster homes and room and board facilities. Anyone who is employed in the home, lives in, or visits the adult care home on a frequent basis and interacts with the residents, must complete and submit this form (below) with the appropriate fees. (Visitors to residents do not need to submit this form.)

**Name & information of person requiring criminal record check. Please fill in form completely, and answer all questions.**

Last Name (Please type or print)	First	Middle	Date of Birth Mo Day Yr	Social Security Number - -	Sex
Other Names Used			Birth Name (if different)	Driver's License Number	State
Current Mailing Address			City	State	Zip Code
					Telephone Number

**Have you ever been arrested or do you have charges pending in Oregon or any other state?**

☐ YES ☐ NO ☐ UNSURE -If "YES," list charge(s), conviction(s), date(s), location(s); attach additional sheet if necessary.

**The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime (MCAR891-050-430).**

List all addresses where you have lived for the **past 5 years**, start with current address; attach additional sheet if necessary.

From	To Present	Address
From	Until	Address
From	Until	Address

WILL YOU PROVIDE CARE/SERVICES IN THE ADULT FOSTER HOME ☐ YES ☐ NO

WILL YOU LIVE IN THE ADULT CARE HOME ☐ YES ☐ NO

ESTIMATED NUMBER OF HOURS PER WEEK YOU WILL WORK: \_\_\_\_\_

Please indicate the category for which you are applying:

- |   |  |
|---|--|
| <input type="checkbox"/> Operator / Co-Operator - No Additional Fee | <input type="checkbox"/> Resident Manager - \$25 Processing Fee                                |
| <input type="checkbox"/> Caregiver - \$10 Processing Fee            | <input type="checkbox"/> Family Member - No Fee (not providing care, over the age of 16 years) |
| <input type="checkbox"/> Frequent Visitor - No Fee                  | <input type="checkbox"/> Housekeeping / Property Maintenance - No Fee                          |

I authorize Multnomah County ACHP to obtain information about me from the Oregon State Police and other law enforcement agencies and courts. I understand the ACHP may recheck my criminal history at any time during my employment. I authorize the ACHP to give the results of the criminal record check to the Operator listed above. I also authorize the ACHP to give the results of this criminal record check to any ACHP Licensed Operator with whom I apply for work.

My signature below indicates that I declare under penalties of perjury that the information provided by me is true and correct to the best of my knowledge. I understand that I cannot live or work in, or be in an Adult Care Home in Multnomah County on a frequent basis without written approval from the ACHP (MCAR 891-050-410, 415).

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

MULTNOMAH COUNTY  
ADULT CARE HOME PROGRAM  
4610 SE Belmont, Suite 10  
Portland, OR 97215 (503) 248-3000

For ACHP Use Only
Ctl/A by _____
\$ _____ # _____

**EXCERPT FROM MULTNOMAH COUNTY ADMINISTRATIVE RULES FOR LICENSURE  
OF ADULT CARE HOMES, EFFECTIVE AUGUST 29, 1996**

**891-050-400 CRIMINAL HISTORY AND CRIMINAL RECORD CHECK**

- 050-405      The criminal records check under this rule shall consist of:
- (a) A check for a criminal record in the State of Oregon, and
  - (b) A national criminal record check if:
    - (1) The applicant or other person has resided in another state within the previous five years; or
    - (2) The applicant or other person has disclosed the existence of a criminal conviction in any state; or
    - (3) A criminal record check in the State of Oregon discloses the existence of a criminal record in any jurisdiction.
  - (c) A check of the record of sanctions available from the Senior and Disabled Services Division of the State of Oregon, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678.
- 050-410      It shall be the responsibility of the Operator to insure that all persons aged 16 years and over who live or work in the home and frequent visitors to the home who will have contact with the residents, excluding residents and their visitors, complete, sign and submit to the ACHP a criminal record release authorization form. This shall be completed prior to living in, working in or being in the home and on an annual basis. The form shall include name, any aliases, birthdate, social security number, gender, drivers license number, current address and address for the last five years and information about any criminal history.
- 050-415      Adult Foster Home Operators shall not hire a Resident Manager or caregiver whose criminal record has not been approved by the ACHP or allow family members, visitors, friends, etc. whose criminal record has not been approved to be in the home on a frequent basis and have contact with the residents.
- 050-420      Any Operator, Resident Manager or other caregiver may work in an Adult Foster Home pending the outcome of a national criminal record check providing that the Oregon criminal record check was clear and if he/she signs a form indicating that he/she has never had a criminal conviction.
- 050-425      A person with a criminal record shall provide the ACHP with all documents required to obtain a national criminal record check prior to working, residing or being in an Adult Foster Home. The person shall pay any costs necessary to obtain these documents.
- 050-430      The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime.

# CRIMINAL RECORD AUTHORIZATION FORM

**◆Incomplete forms will not be accepted◆**

Type or Print Adult Care Home Address, City, State, Zip Code	Name of Operator
	Adult Care Home Telephone Number

The Multnomah County Adult Care Home Program (ACHP) requires criminal history checks be completed ANNUALLY on all operators, and employees, and their family members over the age of sixteen, and volunteers in adult foster homes and room and board facilities. Anyone who is employed in the home, lives in, or visits the adult care home on a frequent basis and interacts with the residents, must complete and submit this form (below) with the appropriate fees. (Visitors to residents do not need to submit this form.)

**Name & information of person requiring criminal record check. Please fill in form completely, and answer all questions.**

Last Name (Please type or print)	First	Middle	Date of Birth Mo    Day    Yr	Social Security Number -   -	Sex
Other Names Used			Birth Name (if different)	Driver's License Number	State
Current Mailing Address			City	State	Zip Code
Telephone Number					

**Have you ever been arrested or do you have charges pending in Oregon or any other state?**

☐ YES ☐ NO ☐ UNSURE -If "YES," list charge(s), conviction(s), date(s), location(s); attach additional sheet if necessary.

**The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime (MCAR891-050-430).**

List all addresses where you have lived for the **past 5 years**, start with current address; attach additional sheet if necessary.

From	To Present	Address
From	Until	Address
From	Until	Address

WILL YOU PROVIDE CARE/SERVICES IN THE ADULT FOSTER HOME ☐ YES ☐ NO

WILL YOU LIVE IN THE ADULT CARE HOME ☐ YES ☐ NO

ESTIMATED NUMBER OF HOURS PER WEEK YOU WILL WORK: \_\_\_\_\_

Please indicate the category for which you are applying:

<input type="checkbox"/> Operator / Co-Operator - No Additional Fee <input type="checkbox"/> Caregiver - \$10 Processing Fee <input type="checkbox"/> Frequent Visitor - No Fee	<input type="checkbox"/> Resident Manager - \$25 Processing Fee <input type="checkbox"/> Family Member - No Fee (not providing care, over the age of 16 years) <input type="checkbox"/> Housekeeping / Property Maintenance - No Fee
---	--

I authorize Multnomah County ACHP to obtain information about me from the Oregon State Police and other law enforcement agencies and courts. I understand the ACHP may recheck my criminal history at any time during my employment. I authorize the ACHP to give the results of the criminal record check to the Operator listed above. I also authorize the ACHP to give the results of this criminal record check to any ACHP Licensed Operator with whom I apply for work.

My signature below indicates that I declare under penalties of perjury that the information provided by me is true and correct to the best of my knowledge. I understand that I cannot live or work in, or be in an Adult Care Home in Multnomah County on a frequent basis without written approval from the ACHP (MCAR 891-050-410, 415).

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**MULTNOMAH COUNTY  
ADULT CARE HOME PROGRAM**  
4610 SE Belmont, Suite 10  
Portland, OR 97215    (503) 248-3000

<b>For ACHP Use Only</b>	
Ct/A by _____	# _____
\$ _____	# _____

**EXCERPT FROM MULTNOMAH COUNTY ADMINISTRATIVE RULES FOR LICENSURE  
OF ADULT CARE HOMES, EFFECTIVE AUGUST 29, 1996**

**891-050-400 CRIMINAL HISTORY AND CRIMINAL RECORD CHECK**

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- (a) A check for a criminal record in the State of Oregon, and
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    - (1) The applicant or other person has resided in another state within the previous five years; or
    - (2) The applicant or other person has disclosed the existence of a criminal conviction in any state; or
    - (3) A criminal record check in the State of Oregon discloses the existence of a criminal record in any jurisdiction.
  - (c) A check of the record of sanctions available from the Senior and Disabled Services Division of the State of Oregon, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678.
- 050-410 It shall be the responsibility of the Operator to insure that all persons aged 16 years and over who live or work in the home and frequent visitors to the home who will have contact with the residents, excluding residents and their visitors, complete, sign and submit to the ACHP a criminal record release authorization form. This shall be completed prior to living in, working in or being in the home and on an annual basis. The form shall include name, any aliases, birthdate, social security number, gender, drivers license number, current address and address for the last five years and information about any criminal history.
- 050-415 Adult Foster Home Operators shall not hire a Resident Manager or caregiver whose criminal record has not been approved by the ACHP or allow family members, visitors, friends, etc. whose criminal record has not been approved to be in the home on a frequent basis and have contact with the residents.
- 050-420 Any Operator, Resident Manager or other caregiver may work in an Adult Foster Home pending the outcome of a national criminal record check providing that the Oregon criminal record check was clear and if he/she signs a form indicating that he/she has never had a criminal conviction.
- 050-425 A person with a criminal record shall provide the ACHP with all documents required to obtain a national criminal record check prior to working, residing or being in an Adult Foster Home. The person shall pay any costs necessary to obtain these documents.
- 050-430 The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime.

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**Name & information of person requiring criminal record check. Please fill in form completely, and answer all questions.**

Last Name (Please type or print)	First	Middle	Date of Birth Mo      Day      Yr	Social Security Number -      -      -	Sex
Other Names Used			Birth Name (if different)	Driver's License Number	State
Current Mailing Address			City	State	Zip Code      Telephone Number

**Have you ever been arrested or do you have charges pending in Oregon or any other state?**

☐ YES ☐ NO ☐ UNSURE -If "YES," list charge(s), conviction(s), date(s), location(s); attach additional sheet if necessary.

**The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime (MCAR891-050-430).**

List all addresses where you have lived for the **past 5 years**, start with current address; attach additional sheet if necessary.

From	To Present	Address
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From	Until	Address

WILL YOU PROVIDE CARE/SERVICES IN THE ADULT FOSTER HOME ☐ YES ☐ NO

WILL YOU LIVE IN THE ADULT CARE HOME ☐ YES ☐ NO

ESTIMATED NUMBER OF HOURS PER WEEK YOU WILL WORK: \_\_\_\_\_

Please indicate the category for which you are applying:

- |   |  |
|---|--|
| <input type="checkbox"/> Operator / Co-Operator - No Additional Fee | <input type="checkbox"/> Resident Manager - \$25 Processing Fee                                |
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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**MULTNOMAH COUNTY  
ADULT CARE HOME PROGRAM  
4610 SE Belmont, Suite 10  
Portland, OR 97215      (503) 248-3000**

<b>For ACHP Use Only</b>	
Cti/A by: _____	\$ _____ # _____

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(b) A national criminal record check if:

(1) The applicant or other person has resided in another state within the previous five years; or

(2) The applicant or other person has disclosed the existence of a criminal conviction in any state; or

(3) A criminal record check in the State of Oregon discloses the existence of a criminal record in any jurisdiction.

(c) A check of the record of sanctions available from the Senior and Disabled Services Division of the State of Oregon, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678.

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# MULTNOMAH COUNTY OREGON

AGING AND DISABILITY SERVICES DEPARTMENT (503) 248-3646  
ADULT CARE HOME PROGRAM (503) 248-3000  
FAX: (503) 306-5722  
4610 SE BELMONT STE 10  
PORTLAND, OR 97215-7215

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

I authorize my Physician, or clinic to release any medical information pertinent to my application for approval as an Adult Care Home Operator, Resident Manager, or other Caregiver.

Applicant's Last Name	First Name	Date of Birth
Applicant's Address	City/State/Zip	Telephone
Applicant's Signature	Social Security #	Date
Name of Operator (if different than above)		
Adult Care Facility Address	Telephone	

### TO THE EXAMINING PHYSICIAN:

The above named person (applicant) has applied for a license to operate, manage or otherwise provide care in an Adult Care Home. Adult Care Homes provide room and board and care, room and care, or room and board only, to elderly persons over 65, or to adults 18-65 who are physically, mentally or emotionally disabled, or alcohol/drug dependent. Please complete this form as soon as possible and return it to the above address. Please contact our office at (503)248-3000 if you have any questions.

- How long have you known this person? \_\_\_\_\_ Date of last visit? \_\_\_\_\_
- Please rate the applicants ability to:

	UNKNOWN	POOR	AVERAGE	GOOD
◆ Lift over 50lbs on a regular/daily basis:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
◆ Cope with high levels of stress on a daily basis:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
◆ Stand for long periods of time:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
- To your knowledge, is this person capable of following complex medical/medication instructions?  
☐ Yes ☐ No ☐ Unknown

4. To your knowledge can this person perform simple & complex nursing tasks under RN Delegation (e.g.: insulin injection, enemas, restraints)?  
☐ Yes ☐ No ☐ Unknown
5. To your knowledge does this person have any other temporary or long standing medical, mental or emotional problems which would hinder his/her ability to operate or manage an Adult Care Home or otherwise provide care to dependents?  
☐ Yes ☐ No ☐ Unknown
6. To your knowledge has this person ever been treated or abused drugs or alcohol?  
☐ Yes ☐ No ☐ Unknown
7. Is there any reason which would lead you to question this person's ability to provide care to the elderly, dependent or disabled adults?  
☐ Yes ☐ No ☐ Unknown
8. Are there any tests, examinations, or immunization, which should be completed before this person provides care to dependent adults?  
☐ Yes ☐ No ☐ Unknown
- \_\_\_\_\_
- \_\_\_\_\_
10. To the best of your knowledge, has this person ever had psychological, psychiatric or mental health treatment which would limit this person's ability to provide care to the elderly, dependent, or disabled adults?  
☐ Yes ☐ No ☐ Unknown
11. Applicant's Diagnosis and Medications currently taken: \_\_\_\_\_
- \_\_\_\_\_
12. Physician comments: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Physician's Signature

Date

Physician's Name (please print)

Daytime Telephone

Physician's Address

City

State

Zip





# MULTNOMAH COUNTY OREGON

AGING AND DISABILITY SERVICES DEPARTMENT (503) 248-3646  
ADULT CARE HOME PROGRAM (503) 248-3000  
FAX: (503) 306-5722  
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## AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

I authorize my Physician, or clinic to release any medical information pertinent to my application for approval as an Adult Care Home Operator, Resident Manager, or other Caregiver.

Applicant's Last Name First Name Date of Birth

Applicant's Address City/State/Zip Telephone

Applicant's Signature Social Security # Date

Name of Operator (if different than above)

Adult Care Facility Address Telephone

### TO THE EXAMINING PHYSICIAN:

The above named person (applicant) has applied for a license to operate, manage or otherwise provide care in an Adult Care Home. Adult Care Homes provide room and board and care, room and care, or room and board only, to elderly persons over 65, or to adults 18-65 who are physically, mentally or emotionally disabled, or alcohol/drug dependent. Please complete this form as soon as possible and return it to the above address. Please contact our office at (503)248-3000 if you have any questions.

1. How long have you known this person? \_\_\_\_\_ Date of last visit? \_\_\_\_\_

2. Please rate the applicants ability to: UNKNOWN POOR AVERAGE GOOD

◆ Lift over 50lbs on a regular/daily basis: ☐ ☐ ☐ ☐

◆ Cope with high levels of stress on a daily basis: ☐ ☐ ☐ ☐

◆ Stand for long periods of time: ☐ ☐ ☐ ☐

3. To your knowledge, is this person capable of following complex medical/medication instructions?  
☐ Yes ☐ No ☐ Unknown

4. To your knowledge can this person perform simple & complex nursing tasks under RN Delegation (e.g.: insulin injection, enemas, restraints)?  
☐ Yes ☐ No ☐ Unknown
5. To your knowledge does this person have any other temporary or long standing medical, mental or emotional problems which would hinder his/her ability to operate or manage an Adult Care Home or otherwise provide care to dependents?  
☐ Yes ☐ No ☐ Unknown
6. To your knowledge has this person ever been treated or abused drugs or alcohol?  
☐ Yes ☐ No ☐ Unknown
7. Is there any reason which would lead you to question this person's ability to provide care to the elderly, dependent or disabled adults?  
☐ Yes ☐ No ☐ Unknown
8. Are there any tests, examinations, or immunization, which should be completed before this person provides care to dependent adults?  
☐ Yes ☐ No ☐ Unknown
10. To the best of your knowledge, has this person ever had psychological, psychiatric or mental health treatment which would limit this person's ability to provide care to the elderly, dependent, or disabled adults?  
☐ Yes ☐ No ☐ Unknown

11. Applicant's Diagnosis and Medications currently taken: \_\_\_\_\_

12. Physician comments: \_\_\_\_\_

\_\_\_\_\_  
Physician's Signature Date

\_\_\_\_\_  
Physician's Name (please print) Daytime Telephone

\_\_\_\_\_  
Physician's Address City State Zip



# MULTNOMAH COUNTY OREGON

AGING AND DISABILITY SERVICES DEPARTMENT (503) 248-3646  
ADULT CARE HOME PROGRAM (503) 248-3000  
FAX: (503) 306-5722  
4610 SE BELMONT STE 10  
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SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## ▼ CONFIDENTIAL ▼

### Character or Employment Reference

Applicant Name \_\_\_\_\_

Adult Care Home Address \_\_\_\_\_

Applicant SSN \_\_\_\_\_

Applicant's Telephone Number \_\_\_\_\_

The above-named person has applied to operate or work in an Adult Care Home. Adult Care Homes provide room and board and care, or room and board only to elderly persons over 65, or to adults over 18 who are physically, mentally or emotionally disabled or alcohol/drug dependent. Your name has been given as a reference. We would appreciate it if you would complete this form as soon as possible and return it to the above address. Please call our office at 248-3000 if you have any questions.

How long have you known this person? \_\_\_\_\_ in what capacity? \_\_\_\_\_

Do you have any knowledge that could lead you to question this person's ability to provide care to elderly, disabled or dependent persons? \_\_\_\_\_

To your knowledge, has this person been known to abuse drugs or alcohol? \_\_\_\_\_

TO YOUR KNOWLEDGE, does this person:

Get along with others?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to deal with behavior problems?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to cope with stress?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to budget money?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to keep accurate records?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TO YOUR KNOWLEDGE, does this person have **DIRECT HANDS ON** experience working with the following persons:

Elderly	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Physically Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Developmentally Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Emotionally Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Alcohol/drug dependent	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Mentally ill or Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TO YOUR KNOWLEDGE, Is this person dependable? ☐ Yes ☐ No

#### PERSONAL STATEMENT:

Signed \_\_\_\_\_ Date \_\_\_\_\_ Occupation \_\_\_\_\_

Print Name \_\_\_\_\_ Address City/State/Zip \_\_\_\_\_ Daytime Telephone \_\_\_\_\_



# MULTNOMAH COUNTY OREGON

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## ▼ CONFIDENTIAL ▼ Character or Employment Reference

Applicant Name \_\_\_\_\_

Adult Care Home Address \_\_\_\_\_

Applicant SSN \_\_\_\_\_

Applicant's Telephone Number \_\_\_\_\_

The above-named person has applied to operate or work in an Adult Care Home. Adult Care Homes provide room and board and care, or room and board only to elderly persons over 65, or to adults over 18 who are physically, mentally or emotionally disabled or alcohol/drug dependent. Your name has been given as a reference. We would appreciate it if you would complete this form as soon as possible and return it to the above address. Please call our office at 248-3000 if you have any questions.

How long have you known this person? \_\_\_\_\_ in what capacity? \_\_\_\_\_

Do you have any knowledge that could lead you to question this person's ability to provide care to elderly, disabled or dependent persons? \_\_\_\_\_

To your knowledge, has this person been known to abuse drugs or alcohol? \_\_\_\_\_

TO YOUR KNOWLEDGE, does this person:

Get along with others?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to deal with behavior problems?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to cope with stress?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to budget money?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to keep accurate records?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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Elderly	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Physically Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Developmentally Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Emotionally Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Alcohol/drug dependent	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Mentally ill or Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TO YOUR KNOWLEDGE, Is this person dependable? \_\_\_\_\_

☐ Yes ☐ No

### PERSONAL STATEMENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_

Occupation \_\_\_\_\_

Print Name \_\_\_\_\_

Address City/State/Zip \_\_\_\_\_

Daytime Telephone \_\_\_\_\_



# MULTNOMAH COUNTY OREGON

AGING AND DISABILITY SERVICES DEPARTMENT (503) 248-3646  
ADULT CARE HOME PROGRAM (503) 248-3000  
FAX: (503) 306-5722  
4610 SE BELMONT STE 10  
PORTLAND, OR 97215-7215

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## ▼ CONFIDENTIAL ▼ Character or Employment Reference

Applicant Name

Adult Care Home Address

Applicant SSN

Applicant's Telephone Number

The above-named person has applied to operate or work in an Adult Care Home. Adult Care Homes provide room and board and care, or room and board only to elderly persons over 65, or to adults over 18 who are physically, mentally or emotionally disabled or alcohol/drug dependent. Your name has been given as a reference. We would appreciate it if you would complete this form as soon as possible and return it to the above address. Please call our office at 248-3000 if you have any questions.

How long have you known this person? \_\_\_\_\_ in what capacity? \_\_\_\_\_

Do you have any knowledge that could lead you to question this person's ability to provide care to elderly, disabled or dependent persons? \_\_\_\_\_

To your knowledge, has this person been known to abuse drugs or alcohol? \_\_\_\_\_

TO YOUR KNOWLEDGE, does this person:

Get along with others?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to deal with behavior problems?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to cope with stress?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to budget money?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the ability to keep accurate records?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TO YOUR KNOWLEDGE, does this person have **DIRECT HANDS ON** experience working with the following persons:

Elderly	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Physically Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Developmentally Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Emotionally Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Alcohol/drug dependent	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Mentally ill or Disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TO YOUR KNOWLEDGE, Is this person dependable? ☐ Yes ☐ No

**PERSONAL STATEMENT:**

Signed

Date

Occupation

Print Name

Address City/State/Zip

Daytime Telephone



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TO YOUR KNOWLEDGE, Is this person dependable?

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**PERSONAL STATEMENT:**

Signed \_\_\_\_\_

Date \_\_\_\_\_

Occupation \_\_\_\_\_

Print Name \_\_\_\_\_

Address City/State/Zip \_\_\_\_\_

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TO YOUR KNOWLEDGE, Is this person dependable?

☐ Yes ☐ No

#### PERSONAL STATEMENT:


Signed

Date

Occupation

Print Name

Address City/State/Zip

Daytime Telephone



---

**ADULT CARE HOME PROGRAM  
OPERATORS PROJECTED MONTHLY BUDGET**  
(MCAR 891.020.540)

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**SECTION 1 – Expenses**

Please list the projected monthly expenses to be used in operating your adult care home.

Building Rent/Mortgage Payment	\$
Property Tax	\$
Property Insurance	\$
Telephone	\$
Water/Sewer	\$
Electric	\$
Oil/Gas	\$
Garbage	\$
Laundry/Cleaning Supplies	\$
Home Repairs/Upkeep	\$
Food Expenses (minimum \$ 150.00 per person in home)	\$
Car Payment	\$
Auto Insurance	\$
Other Supplies	\$
Employee Expenses (payroll)	\$
Employee Taxes (payroll/federal/state/FICA)	\$
Employee Benefits	\$
<b>TOTAL PROJECTED MONTHLY EXPENSE</b>	<b>\$</b>
<b>TOTAL NEEDED FOR 2 MONTH RESERVE</b>	<b>X 2</b>

---

**★ Please attach copies of the following items. The ACHP will not process the application without these items.**

**Copies of:**

Building Rent/Mortgage Payment  
Property Tax Expenses  
Property Insurance  
Telephone Expenses  
Car Payment

Water/Sewer  
Electric  
Garbage  
Gas/Oil Expenses  
Auto Insurance

## **SECTION 2 – Income**

Please indicate what you project as your income per month.

	<u>Medicaid</u>		<u>Private</u>
Resident #1 Payment	\$ _____	or \$	_____
Resident #2 Payment	\$ _____	or \$	_____
Resident #3 Payment	\$ _____	or \$	_____
Resident #4 Payment	\$ _____	or \$	_____
Resident #5 Payment	\$ _____	or \$	_____

Total Income from \$ \_\_\_\_\_ + \$ \_\_\_\_\_ =  
(Medicaid) (Private)

\$ _____ (Total Income)
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## **SECTION 3 – Two Months Reserve**

Please indicate your cash reserves equal to the 2 month reserves indicated in the Expense Section.

Checking Account	\$ _____
Savings Account	\$ _____
Money Market/CD	\$ _____
Line of Credit	\$ _____
Other _____	\$ _____

---

### **Please attach copies of this documentation.**

Please list all unsatisfied judgements, liens, pending lawsuits in which a claim for money or property has been made: \_\_\_\_\_

List any Unpaid Taxes: \_\_\_\_\_

Have you filed Bankruptcy more than once? ☐ Yes ☐ No, If Yes, please list dates

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have you shared this financial information with your Co-Operator? ☐ Yes ☐ No



Multnomah County  
Adult Care Home Program  
4610 SE Belmont, Suite 10  
Portland, Oregon 97215-7215

## General Authorization for Release of Information

*The information we receive will be used to evaluate your ability to operate or work in an adult care home. By signing this form you are giving permission for these agencies/persons to share information about you.*

Applicant's Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Date of Birth \_\_\_\_\_

Applicant's Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_ Telephone \_\_\_\_\_

Social Security #: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

### **I AUTHORIZE THE FOLLOWING INDIVIDUALS OR AGENCIES:**

- ☐ Medical/Psychiatric Professionals  
☐ Mental Health (to include Counselors, Psychologists, Alcohol/Drug Treatment, and Therapist)  
☐ Credit Reporting Agencies  
☐ Other \_\_\_\_\_

(note Alcohol/Drug, Mental Health and Medical Records include all aspects of diagnosis, treatment and prognosis.)

### **TO PROVIDE INFORMATION TO:**

**The Adult Care Home Program  
4610 SE Belmont, Suite 10  
Portland, Oregon 97215-7215**

**PURPOSE:** The information received will be used to evaluate my ability to care for elderly/dependent persons. This permission is good for one year and will be renewed annually.

I can cancel this transaction at any time, but I understand that the cancellation will not affect any information that was already released before cancellation. I understand that information about my application is confidential and protected by state and federal law. I approve the release of this information. I understand what this agreement means. I am signing on my own and have not been pressured to do so. I understand signing this document is a condition of licensure.

\_\_\_\_\_  
Signature of person completing form

\_\_\_\_\_  
Date

To those receiving information under authorization: This information disclosed to you, is protected by state and federal law. You are not to release it to any agency or person listed on this form without specific written consent of the person to whom it pertains unless authorized by other laws.



Multnomah County  
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---

**STAFFING PLAN FOR NEW ADULT CARE HOME LICENSE**  
**MCAR 891-020-500 (k)**

---

Application packets for new Adult Foster Home Operator's licenses shall include a staffing plan covering staff qualifications and how the home shall be supervised and monitored, including the use of Substitute Caregivers and other staff. If the operator hires Resident Managers, a written plan on coverage for resident manager absences must be submitted. This staffing plan must also include the name, address and telephone number of an approved caregiver who will be available to provide care in the absence of the Operator, Resident Manager, or other Caregiver.

**List all persons who will be used as substitute caregivers:**

Name	Phone number	Qualifications
<hr/>		
<hr/>		
<hr/>		
<hr/>		

2. How will the home be supervised and monitored by the operator not living in the home (ie, visits 3 x a week, daily monitoring, etc..)

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3. If hiring a resident manager, describe what the coverage will be when the resident manager is absent:

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---

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4. Name, address, and phone number of approved caregiver(s) for emergencies: \_\_\_\_\_

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## Staffing Plan -- A Typical Week

Please indicate the person/caregiver in the home who will be in charge at all times.

TIME	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
8:00 am							
9:00							
10:00							
11:00							
12:00 pm							
1:00							
2:00							
3:00							
4:00 pm							
5:00							
6:00							
7:00							
8:00 pm							
9:00							
10:00							
11:00							
12:00 am							
1:00							
2:00							
3:00							
4:00 am							
5:00							
6:00							
7:00							

**APPLICATION FOR ADULT CARE HOME LICENSE  
FLOOR PLAN**

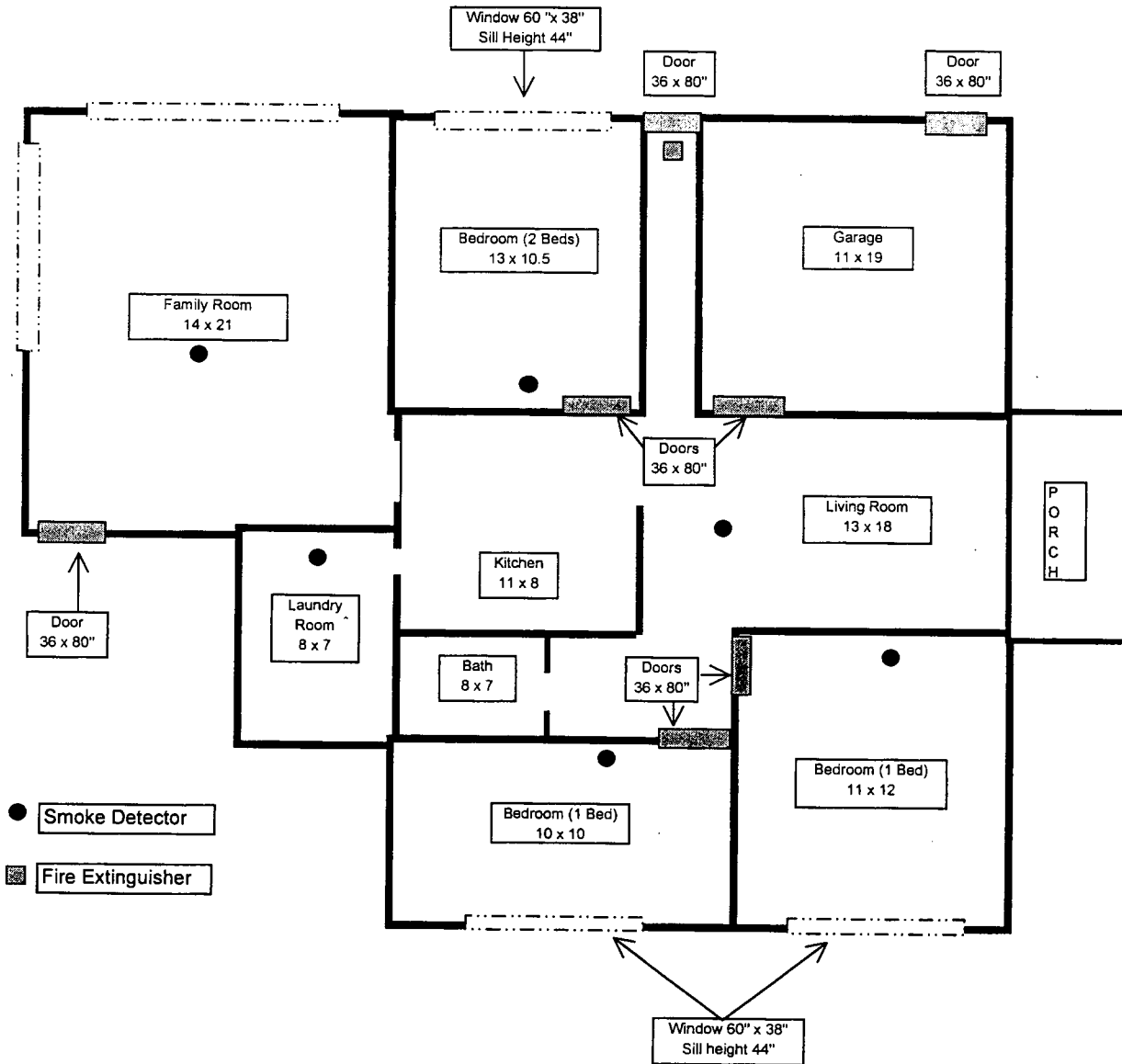
(Print or Type)

Operator's Name \_\_\_\_\_ Address \_\_\_\_\_

In the space below or on attached pages, provide a plan of all habitable floors of the proposed adult care home:

1. Indicate the dimensions of all rooms to be used as common living areas and as bedrooms.
2. Indicate the location of all fire extinguishers and smoke detectors.
3. For all rooms to be used as bedrooms by residents, family members, employees or other persons also indicate:
  - a) the number of beds in each room
  - b) the total dimensions of the largest window
  - c) the separate dimensions of the clear opening of the window
  - d) the height of the window sill
  - e) the dimensions of any doors leading directly from the bedroom to the outside.

# FLOOR PLAN



SAMPLE



**BUREAU OF BUILDINGS  
STATEMENT OF UNDERSTANDING**

Name, Address and Telephone # of Applicant(s): \_\_\_\_\_

**Portland City Residents** must provide an Electrical Safety Inspection approval before they may get a building inspection approved. This inspection requires an electrical permit and can be purchased at 1120 S.W. 5th Ave., 1st floor, Permit Center, Portland OR 97204 by the applicant or owner of the property. This signed and completed Statement of Understanding must be presented at the time the electrical permit is purchased.

**Gresham City Residents** must contact the City of Gresham, Building Division, 1333 NW Eastman Parkway, Gresham OR 97030, at 618-2845 between 8:00 AM and 5:00 PM and request an Adult Care Home inspection. The permit fee is determined by the City of Gresham.

STATEMENT OF UNDERSTANDING to be completed by PROPERTY OWNER.

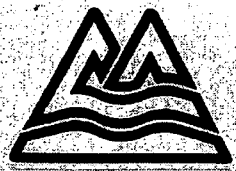
I, \_\_\_\_\_ the undersigned owner, agree  
Print Name of Property Owner

to allow a housing inspection by the Bureau of Buildings, City of Portland or the City of Gresham, whichever is appropriate, of my property located at

\_\_\_\_\_  
Address of property

for the purpose of obtaining approval for the property to be licensed as an adult care home by the Multnomah County Department of Aging and Disability Services. I understand that if the inspection(s) reveal any substandard conditions I will receive a Notice of Violation letter from the agency conducting the inspection. I understand that I am responsible for correcting any violations contained in a Notice of Violation within the time frame set by the inspecting agency. I understand that my responsibility to correct the violations exists whether or not I am ultimately approved to receive a license to operate an adult care home, or whether I sell the property. I further understand that failure to correct the violation in the time stated will result in my being responsible for all (if any) Code Enforcement Fees, plus additional charges assessed by the Portland City Auditor or City of Gresham building Division. I understand this obligation remains in effect until all violations are corrected and final approval is obtained by the Bureau of Buildings. I understand that the case may be referred to the Codes Hearings Officer.

Signature Of **Owner**: \_\_\_\_\_ Date: \_\_\_\_\_



## Adult Care Home Program

4610 SE Belmont, Suite 10  
Portland, Oregon 97215-7215  
(503) 248-3000

### INSPECTION REQUEST FOR ADULT FOSTER CARE

**INSTRUCTIONS:** Please complete this form and send to the appropriate Bureau of Buildings for processing. Be sure to include the Statement of Understanding with this form.

\*City of Portland Bureau of Buildings  
1120 SW 5th, Room 930, Portland, OR 97204

\*Gresham Bureau of Buildings - (Gresham inspection area East of 162nd)  
1333 NW Eastman Parkway, Gresham, OR 97040 Phone: 618-2845

To: **BUREAU OF BUILDINGS/RESIDENTIAL INSPECTIONS DIVISION**

From: \_\_\_\_\_  
(Name/Address of Applicant)

Telephone: \_\_\_\_\_

RE: **Request for Inspections**

Date: \_\_\_\_\_ Renewal Application: \_\_\_\_\_ New Application: \_\_\_\_\_

Attached you will find a completed Statement of Understanding signed by the property owner of an adult care home located at:

Name \_\_\_\_\_ Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Telephone \_\_\_\_\_

**I AM REQUESTING A ROUTINE INSPECTION.**

**Building Division Verification Of Final Approval:**

**ELECTRICAL APPROVED** ☐ YES ☐ NO If no, see following explanation and/or attached

**HOUSING INSPECTION APPROVED** ☐ YES ☐ NO If no, contact Housing Inspector. (Copy of correction letter to be sent to Adult Care Home Program)

**CITY OF PORTLAND or GRESHAM BUILDING DIVISION**

\_\_\_\_\_  
Electrical Inspector / Housing Inspector

\_\_\_\_\_  
Dates of Approval

◆ **RETURN THIS COMPLETED APPROVAL WITH YOUR APPLICATION PACKET TO** ◆  
Adult Care Home Program, 4610 SE Belmont, Suite 10, Portland, OR 97215

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# NEW OPERATOR AND NEW CO-OPERATOR

## Application Check List

Multnomah County Adult Care Home Program  
4610 SE Belmont, Suite 10 Portland, Oregon 97215

---

**BEFORE YOU MAIL YOUR APPLICATION, REFER TO THE CHECKLIST BELOW.**

**PLEASE DO NOT SEND IN THE APPLICATION UNTIL YOU:**

- ☐ Complete every question, and have signed and dated the application
- ☐ Submit the Fee Determination Form and paid the required fee(s).

### **TESTING/TRAINING:**

- ☐ Attend orientation within the past 12 months, and pass Prequalifying test. (attach certificate/letter)
- ☐ Complete the ACHP approved Basic Training Course for Adult Care Home Providers. (attach certificate)
- ☐ Pass Qualifying Test (attach copy of letter) Date Test taken Operator \_\_\_\_\_ Co-Operator \_\_\_\_\_  
(You may submit application if you have not received results of your test, or a certificate.)
- ☐ Complete the record keeping class. (attach copy of certificate)

### **PERSONAL INFORMATION:**

- ☐ Submit Criminal Record Authorization Form(s) **signed and dated by all persons**, 16 or older who will live, work, or be in the home on a frequent basis. (frequent defined as 3x in a week, 4x in a month.)
- ☐ Complete Physician's report form, **signed and dated by a Physician** (required every 2 years).
- ☐ Give reference questionnaires to 3 previous employers, or former/current residents or their relatives. Please contact your references to ensure forms have been completed and mailed to ACHP.
- ☐ Attach a personal budget. The 2 month reserve form must be completed with all required documentation attached.
- ☐ Sign and date the General Release of information form.
- ☐ Attach a copy of your business license or application, if applicable in your jurisdiction.

### **STAFFING:**

- ☐ Submit a copy of staffing and monitoring plans for the home.
- ☐ Complete Substitute Caregiver requirements. You must find at least one person other than yourself or your spouse who can be approved to stay with your residents in case of emergencies. The person must sign the Criminal Record Authorization Form and meet the caregiver requirements including current CPR, First Aid, completion of caregiver study guide, and workbook, **prior** to working in home. Enclose payment of \$10.00 for each caregiver.
- ☐ Complete Resident Manager application packet, if hiring Resident Manager.

### **HOME INFORMATION (FACILITY):**

- ☐ Complete a Floor Plan (this must be a drawing). All information asked for on the Floor Plan Form must be included.
- ☐ Attach lease or rental agreement if applicable.
- ☐ Complete Bureau of Building inspection requirements and submit copy of approval.

**IF ANY PART OF THE APPLICATION OR REQUIREMENTS ARE NOT COMPLETED CORRECTLY, THE APPLICATION WILL BE RETURNED TO YOU. INCOMPLETE APPLICATIONS ARE HELD FOR 60 DAYS, THEN WILL BE RETURNED TO THE APPLICANT.**

**MULTNOMAH COUNTY ADULT CARE HOME  
APPLICATION CHECK LIST  
OPERATOR**

**BEFORE YOU MAIL YOUR APPLICATION REFER TO THE CHECKLIST BELOW AND PLEASE DO NOT SEND IN THE APPLICATION UNTIL YOU HAVE:**

- ☐ Attend orientation within last 12 months, and passed Pre-qualifying test (attach certificate).
- ☐ Completed every question and have signed and dated the application.
- ☐ Completed Co-Operator application packet if you have a Co-Operator.
- ☐ Completed Resident Manager application packet if you have a Resident Manager.
- ☐ Submitted the Fee Determination Form and paid the required fees.
- ☐ A Criminal Record Check Authorization Form signed by all workers in the home and persons who have access to the home who are 16 years or older.
- ☐ A completed Physician's Report Form, signed by a physician, required for the Operator EVERY 2 YEARS.
- ☐ Given reference questionnaires to three (3) previous employers or former or current residents or their relatives. Please contact your references to verify that they have completed the questionnaire and it has been mailed back to us.
- ☐ Submitted copy of certificate with Operator's Qualifying Test results.
- ☐ Completed Floor Plan: (This must be a drawing). All information asked for on the Floor Plan Form must be included.
- ☐ Two Month Financial Information Form must be completed with all required statements attached.
- ☐ Completed CPR & First Aid Training and submitted Certificates for Operator.
- ☐ Completed Bureau of Buildings inspection form with Bureau of Buildings approval for Foster Home and Statement of Understanding Form, signed by the property owner.
- ☐ Must have completed the Initial Training Course for the population you expect to serve. Attach copy of the certificate.
- ☐ Signed the General Release of Information form.
- ☐ Completed Substitute Caregiver requirements. You must find at least one person besides yourself or spouse that can be approved to stay with your residents in case of emergencies. They must sign the Criminal Record Authorization Form and fulfill the preparatory training requirements (MCAR 891-050-527). Enclose payment of \$10 fee for each new caregiver.
- ☐ Attached a copy of your rental agreement or lease if applicable.
- ☐ Attached a copy of your city business license.
- ☐ Submitted a copy of staffing and monitoring plan for the home.

☐ **IF ANY PART OF THESE APPLICATION FORMS ARE NOT COMPLETED CORRECTLY, ALL FORMS WILL BE RETURNED TO YOU TO BE PROPERLY COMPLETED.**

☐ **INCOMPLETE APPLICATION PACKETS ARE HELD FOR 60 DAYS PENDING COMPLETION, THEN RETURNED TO APPLICANT.**

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**ADULT CARE HOME PROGRAM  
OPERATORS PROJECTED MONTHLY BUDGET**  
(MCAR 891.020.540)

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**SECTION 1 – Expenses**

Please list the projected monthly expenses to be used in operating your adult care home.

Building Rent/Mortgage Payment	\$
Property Tax	\$
Property Insurance	\$
Telephone	\$
Water/Sewer	\$
Electric	\$
Oil/Gas	\$
Garbage	\$
Laundry/Cleaning Supplies	\$
Home Repairs/Upkeep	\$
Food Expenses (minimum \$ 150.00 per person in home)	\$
Car Payment	\$
Auto Insurance	\$
Other Supplies	\$
Employee Expenses (payroll)	\$
Employee Taxes (payroll/federal/state/FICA)	\$
Employee Benefits	\$
<b>TOTAL PROJECTED MONTHLY EXPENSE</b>	\$
	<b>X 2</b>
<b>TOTAL NEEDED FOR 2 MONTH RESERVE</b>	

---

**★ Please attach copies of the following items. The ACHP will not process the application without these items.**

**Copies of:**

Building Rent/Mortgage Payment  
Property Tax Expenses  
Property Insurance  
Telephone Expenses  
Car Payment

Water/Sewer  
Electric  
Garbage  
Gas/Oil Expenses  
Auto Insurance

## **SECTION 2 – Income**

Please indicate what you project as your income per month.

	<u>Medicaid</u>		<u>Private</u>
Resident #1 Payment	\$ _____	or \$	_____
Resident #2 Payment	\$ _____	or \$	_____
Resident #3 Payment	\$ _____	or \$	_____
Resident #4 Payment	\$ _____	or \$	_____
Resident #5 Payment	\$ _____	or \$	_____

Total Income from	\$ _____	+	\$ _____	=	\$ _____
	(Medicaid)		(Private)		(Total Income)

---

## **SECTION 3 – Two Months Reserve**

Please indicate your cash reserves equal to the 2 month reserves indicated in the Expense Section.

Checking Account	\$ _____
Savings Account	\$ _____
Money Market/CD	\$ _____
Line of Credit	\$ _____
Other _____	\$ _____

---

### **Please attach copies of this documentation.**

Please list all unsatisfied judgements, liens, pending lawsuits in which a claim for money or property has been made: \_\_\_\_\_

List any Unpaid Taxes: \_\_\_\_\_

Have you filed Bankruptcy more than once? ☐ Yes ☐ No, If Yes, please list dates

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have you shared this financial information with your Co-Operator? ☐ Yes ☐ No



# ADULT CARE HOME PROGRAM FINANCIAL INFORMATION DISCLOSURE FORM

OPERATOR'S NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

<u>MONTHLY EXPENSES:</u>	<u>MONTHLY AMOUNT PROJECTED</u>
* BUILDING RENT/MORTGAGE PAYMENT ♦ (PLEASE ATTACH A COPY OF YOUR MOST RECENT RENT RECEIPT OR MORTGAGE PAYMENT COUPON)	\$ _____
* PROPERTY TAX EXPENSE ♦ (PLEASE ATTACH A COPY OF YOUR MOST RECENT PROPERTY TAX BILL)	\$ _____
* PROPERTY INSURANCE AND LIABILITY INSURANCE ♦ (PLEASE ATTACH A COPY OF YOUR MOST RECENT INSURANCE BILLING OR A STATEMENT FROM YOUR INSURANCE AGENT INDICATING THE MONTHLY EXPENSE AMOUNT.)	\$ _____
* TELEPHONE EXPENSE ♦	\$ _____
* WATER AND SEWER EXPENSE ♦	\$ _____
* ELECTRICITY EXPENSE ♦	\$ _____
* GARBAGE EXPENSE ♦	\$ _____
* OIL OR GAS FOR HEATING/COOKING, ETC. ♦ (PLEASE ATTACH A COPY OF YOUR MOST RECENT MONTHLY BILLING FROM EACH UTILITY COMPANY.)	\$ _____
LAUNDRY AND CLEANING SUPPLIES	\$ _____
HOME REPAIRS AND UPKEEP	\$ _____
FOOD EXPENSE (FOR RESIDENTS <u>ONLY</u> (AT LEAST \$100.00 PER MONTH PER RESIDENT))	\$ _____
* CAR PAYMENT ♦ (PLEASE ATTACH A COPY OF YOUR MOST RECENT CAR PAYMENT COUPON)	\$ _____
* AUTO INSURANCE EXPENSE ♦ AUTO EXPENSES (GAS, OIL, REPAIRS)	\$ _____
* OTHER SUPPLIES FOR RESIDENTS	\$ _____
* OTHER EXPENSES (PLEASE LIST)	\$ _____
* PAYROLL EXPENSE	\$ _____
* PAYROLL TAX (FOR MOST PEOPLE THIS WILL BE 7.65% FICA, 3% SUTA, 1% FUTA, 1% WORKERS COMPENSATION)	\$ _____
* <u>EMPLOYEE BENEFITS</u>	\$ _____

**Total Projected Monthly Expenses.....\$ \_\_\_\_\_**  
**\* PLEASE ATTACH COPIES OF ALL ITEMS MARKED WITH AN ASTERISK. THE ACHP WILL NOT PROCESS LICENSE APPLICATIONS UNTIL A COMPLETE APPLICATION PACKET IS RECEIVED. (MCAR 891-020-220). A CREDIT REFERENCE CHECK MAY BE REQUIRED.**

♦ THE FULL AMOUNT OF THESE EXPENSES SHOULD BE SHOWN HERE; DO **NOT** DIVIDE COSTS OUT FOR ADULT CARE HOME COSTS AND PERSONAL COSTS. FOR EXAMPLE, BECAUSE THE OPERATION OF THE ADULT CARE HOME DEPENDS ON THE HOME BEING AVAILABLE, THE FULL COST OF THE MORTGAGE/RENT PAYMENT MUST BE SHOWN HERE.

**TOTAL PROJECTED MONTHLY EXPENSES** \$ \_\_\_\_\_  
**TOTAL NEEDED FOR TWO MONTH RESERVE** \$ \_\_\_\_\_ X 2

**SECTION TWO : TWO MONTH RESERVES:**

AS REQUIRED BY THE MULTNOMAH COUNTY ADMINISTRATIVE RULES, ADULT CARE HOMES IN MULTNOMAH COUNTY MUST HAVE TWO MONTHS OF CASH RESERVES AVAILABLE AT ALL TIMES. CASH RESERVES MAY INCLUDE CASH IN A CHECKING OR SAVINGS ACCOUNT, MONEY MARKET ACCOUNT, CERTIFICATE OF DEPOSIT, MUTUAL FUNDS, ET CETERA. IT MAY ALSO INCLUDE A LINE OF CREDIT WITH A FINANCIAL INSTITUTION OR ON A CREDIT CARD IN AN AMOUNT UP TO THAT OF THE TWO MONTH RESERVE TOTAL. FINALLY, CASH RESERVES MAY BE A LETTER OF CREDIT FROM A FAMILY MEMBER OF FRIEND WHO CAN DEMONSTRATE THAT THE REQUIRED AMOUNT OF MONEY WOULD BE AVAILABLE, AND CAN BE USED, AS NEEDED, BY THE OPERATOR OF THE ADULT CARE HOME.

PLEASE INDICATE HOW YOU WILL HAVE CASH RESERVES EQUAL TO THE AMOUNT SHOWN ABOVE AS TWO MONTH RESERVE?

CHECKING ACCOUNT	\$ _____
SAVINGS ACCOUNT	\$ _____
MONEY MARKET/CD	\$ _____
LINE OF CREDIT	\$ _____
OTHER: _____	\$ _____
_____	\$ _____

PLEASE EXPLAIN HOW THIS AMOUNT CAN BE DOCUMENTED BY THE ACHP LICENSING STAFF AT THE TIME YOUR HOME IS LICENSED, AT EACH YEARLY RENEWAL LICENSING, AND THROUGHOUT THE TIME YOUR ADULT CARE HOME IS OPERATING. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PLEASE ATTACH COPIES OF THIS DOCUMENTATION. FOR EXAMPLE, PROVIDE COPIES OF THE CHECKING ACCOUNT STATEMENT, SAVINGS ACCOUNT STATEMENT, MONEY MARKET ACCOUNT STATEMENT, LETTER OF CREDIT, ETC.

Please list all unsatisfied judgements, liens, pending lawsuits in which a claim for money or property is made against applicant:

\_\_\_\_\_

\_\_\_\_\_

Have you filed bankruptcy more than once? List date(s) \_\_\_\_\_



**SECTION 3: ANNUAL BUDGET:**TOTAL PROJECTED MONTHLY EXPENSES (FROM PAGE 1)  
12 MONTH BUDGET\$ \_\_\_\_\_  
X 12

(A)	<b>TOTAL ANNUAL PROJECTED EXPENSES</b> (BEFORE ANY COMPENSATION TO OWNER/OPERATOR)	\$ _____
-----	--	----------

**PROJECTED REVENUE:**

	<u>PAYMENT FROM:</u> <u>MEDICAID/PRIVATE</u>	<u>AMOUNT</u>
RESIDENT #1	_____ / _____	\$ _____
RESIDENT #2	_____ / _____	\$ _____
RESIDENT #3	_____ / _____	\$ _____
RESIDENT #4	_____ / _____	\$ _____
RESIDENT #5	_____ / _____	\$ _____

OTHER ADULT CARE HOME INCOME: \$ \_\_\_\_\_  
OTHER HOUSEHOLD INCOME..... \$ \_\_\_\_\_TOTAL PROJECTED MONTHLY REVENUE \$ \_\_\_\_\_  
12 MONTH BUDGET X 12

(B)	<b>TOTAL ANNUAL PROJECTED REVENUE</b>	\$ _____
-----	---------------------------------------	----------

**PROJECTED OPERATOR'S INCOME:**

LINE (B) ABOVE SUBTRACTED FROM LINE (A) ABOVE: \$ \_\_\_\_\_

I DECLARE UNDER PENALTIES OF PERJURY THAT I HAVE EXAMINED THIS FINANCIAL DISCLOSURE FORM AND IT IS TRUE AND CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT PROVIDING ERRONEOUS OR FALSE INFORMATION MAY RESULT IN DENIAL OR REVOCATION OF A LICENSE TO OPERATE AN ADULT CARE HOME IN MULTNOMAH COUNTY, OREGON.

\_\_\_\_\_  
Signature\_\_\_\_\_  
Date

# RECORD KEEPING

(Recommended Forms)

## Adult Care Home Program



Multnomah County  
Aging & Disability Services Department  
4610 SE Belmont, Suite 10  
Portland, Oregon 97215-7215  
(503) 248-3000

Revised July 1, 1999

**Organization of Record Keeping is Recommended as Follows:  
(How to set up a Tabbed 3-Ring Binder)**

**RESIDENT RECORDS**

**Tab/Divider**

**Form/Information**

**TOP PAGE (First Page)**

Resident Information Sheet  
Resident Bill of Rights  
House Rules

**RESIDENT CARE**

Resident Pre-Screening Sheet  
Care Plan(s)  
Incident Reports

**DR. ORDERS**

Physician Orders  
Do not resuscitate orders  
End of Life Documentation  
(Advanced directives, DNR, and POLST)

**MEDICATION**

Med Sheet  
Controlled Substance sheet (from pharmacy)

**NURSES NOTES**

RN Delegations  
PRN Form  
Restraints Approval  
Health care notes/Documentation  
Other health care professional notes/Documentation

**MISC.**

Rental Agreement (Private pay clients)  
Personal Possession Inventory  
Authorization for Release of Information Form  
Long Term Care Assessment Form  
Money Management Form  
Notice of Move  
Living Wills

**SPIRAL NOTEBOOK RECOMMENDED**

Progress Notes

**OPERATOR'S NOTE BOOK**

Rules  
Training Documentation

Letters from ACHP  
CPR / First Aid Cards

**POST IN HOME**

Complaint Process Poster  
License: If conditions on the license, statement of conditions.  
Phone number to provide 24 Hour access to Operator  
House Rules  
Name and number of emergency back-up caregiver  
Ombudsman Poster  
Most recent inspection report (i.e. Fire and Sanitation)

Licensing Inspection Reports  
911 on all Phones  
Weekly Menus  
Resident Bill of Rights  
Fire / Evacuation Record  
Floor plan with emergency evacuation information  
Range of Monthly Rates

**RESIDENT INFORMATION SHEET**  
(MCAR 891.060.310)

Resident Name: \_\_\_\_\_

Admission Date: \_\_\_\_\_

**PERSONAL INFORMATION:**

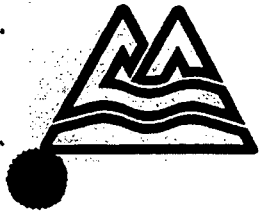
Social Security #		Medicare #	
Medicaid #	VA#	Other Insurance	
Policy #			
Birth Date	Birthplace		Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female
Hobbies/Interests		Preferred Hospital	
Favorite Activities		Case Manager & Telephone	
Food Likes/Dislikes		Preferred Funeral Home Name and Telephone	
Other(please specify)		Faith/Worship affiliation	

**GENERAL INFORMATION:**

Prior living situation <input type="checkbox"/> Living Alone <input type="checkbox"/> Family Member <input type="checkbox"/> Assisted Living <input type="checkbox"/> Foster Home <input type="checkbox"/> Nursing Home <input type="checkbox"/> Hospital <input type="checkbox"/> Other (please explain)	
Address of Prior home:	
Primary Physician's Name & Telephone	Nurses Name & Telephone
Other Physician's Name and Telephone	Nurses Name & Telephone
Other Physician's Name and Telephone	Dentist's Name & Telephone
Other Physician's Name and Telephone	Pharmacy Name & Telephone
Power of Attorney & Telephone	Legal Guardian
<b>Legal Representative</b>	<b>Relationship</b>
<b>Address (City, State, &amp; Zip)</b>	<b>Telephone</b>
<b>Relative</b>	<b>Relationship</b>
<b>Address (City, State, &amp; Zip)</b>	<b>Telephone</b>
<b>Relative</b>	<b>Relationship</b>
<b>Address (City, State, &amp; Zip)</b>	<b>Telephone</b>
Other Emergency Contacts	

**MEDICAL INFORMATION:**

(Please check all that apply) <input type="checkbox"/> DNR <input type="checkbox"/> Physician Directive <input type="checkbox"/> POLST <input type="checkbox"/> Advanced Directives <input type="checkbox"/> Other	Date
Diagnosis	
Home Health Agency	
Allergies	



Multnomah County  
Aging and Disability Services Dept.  
Adult Care Home Program  
4610 SE Belmont, Suite 10  
Portland, Oregon 97215-7215  
(503) 248-3000

## **RESIDENTS' BILL OF RIGHTS**

### **891-018-100**

- (a) be treated as an adult with respect and dignity,
- (b) in a safe, secure, homelike environment.
- (c) be informed of all resident rights and house rules.
- (d) be encouraged and assisted to exercise rights as a citizen, including the right to vote and to act on his or her own behalf
- (e) be given information about his or her medical condition.
- (f) consent to or refuse treatment, medication or training.
- (g) have all medical and personal information be kept confidential.
- (h) receive appropriate care and services from the Adult Care Home and access to prompt medical care as needed.
- (i) be free from mental or physical abuse, neglect, abandonment, punishment, harm or sexual exploitation.
- (j) be free to make suggestions or complaints without fear of retaliation.
- (k) be free from financial exploitation, including charges for application fees or non-refundable deposits and solicitation, acceptance or receipt of money or property by an Operator, Resident Manager or caregiver other than the amount agreed to for services.
- (l) be free from physical or chemical restraints except as ordered by a physician or qualified practitioner. Restraints are used only for medical reasons, to maximize a resident's physical functioning, and after other alternatives have been tried. Restraints are not used for discipline or convenience.
- (m) be free from any type of illegal discrimination.
- (n) be afforded personal privacy, the opportunity to associate and communicate privately with any person the resident chooses, to send and receive mail unopened, and to use the telephone in private.
- (o) participate in social, religious, and community activities.
- (p) make personal decisions about such things as friends, leisure activities, choice of physician, spending personal money, food, personal schedules, and place of residence.
- (q) be allowed and encouraged to develop talents and learn new skills, relate to other residents in meaningful ways, and the choice to take part in the normal activities and upkeep of the home.

- (r) keep and use a reasonable amount of personal clothing and other belongings, and have a reasonable amount of private, secure storage space.
- (s) be free to manage financial affairs unless legally restricted.
- (t) receive a written agreement regarding the services the home shall provide and rates charged, and receive at least thirty days written notice before the home's ownership or rates change.
- (u) receive at least thirty days written notice from the Operator and an opportunity for a hearing before being involuntarily moved out of the home by an Operator, unless there is an emergency situation.
- (v) be involuntarily moved out of the home by an Operator only for the following:
  - (1) medical reasons;
  - (2) the resident's welfare;
  - (3) the welfare of the other residents;
  - (4) nonpayment;
  - (5) behavior which poses an immediate threat to self or others;
  - (6) behavior which substantially interferes with the orderly operation of the home;
  - (7) the care needs of the resident exceed the ability or classification of the Operator;  
or
  - (8) the home is no longer licensed.
- (w) receive complete privacy when receiving treatment or personal care.
- (x) receive visitors free from arbitrary and unreasonable restrictions.
- (y) practice the religion of his/her choice.
- (z) not be forced to work against his/her/ will and to be paid for agreed upon work.

---

Resident or Representative Signature.

Date

# S A M P L E

This is a **sample** only – Operator of the home is responsible for creating House Rules which best reflects this particular home. House Rules must be posted, and be *signed* by the resident and placed in the resident's records.

---

## HOUSE RULES (MCAR 891.070.200)

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### House Rules shall include, but are not limited to:

1. The home's policies on daily and evening visiting hours:  
*(minimum 7 hours during the day, and 2 hours after 6pm Example: 10am-5pm and 6pm-8pm).*
2. Smoking:  
*Example: No Smoking Allowed in the home or Smoking Allowed (never allowed in bedrooms).*
3. Use of intercoms:  
*Example: Intercoms used only at night.*
4. Resident telephone use:  
*Example: Residents must pay for Long Distance charges.*
5. Meal Times:  
*Example: 8am – Breakfast / Noon – Lunch / 5pm – Dinner / Snacks offered twice a day.*
6. Kitchen privileges:  
*Example: Residents not allowed in refrigerator*
7. Television:  
*Example: Turn down volume after 8pm.*
8. Bedtimes:  
*Example: Residents asked to retire at 9pm or No Bedtimes.*
9. Bathing:  
*Example: Bathing done as care needs are assessed.*
10. Pets:  
*Example: No Pets Allowed or Small Pet Allowed.*
11. Alcohol consumption in the home:  
*Example: No Alcohol Allowed or Alcohol Allowed.*
12. Other expectations or restrictions:

---

Resident/Legal Representative

Date

## **HOUSE RULES**

(MCAR 891.070.200)

**House Rules shall include, but are not limited to:**

- 1. The home's policies on daily and evening visiting hours: FROM: \_\_\_\_\_ TO: \_\_\_\_\_**
- 2. Smoking:**
- 3. Use of Intercoms:**
- 4. Resident Telephone Use:**
- 5. Meal Times: Breakfast: \_\_\_\_\_ Lunch: \_\_\_\_\_ Dinner: \_\_\_\_\_**
- 6. Kitchen Priviledges:**
- 7. Television:**
- 8. Bedtimes:**
- 9. Bathing:**
- 10. Pets**
- 11. Alcohol Consumption in the Home:**
- 12. Other Expectations or Restrictions:**

---

**Resident/Legal Representative**

**Date**



**RESIDENT SCREENING SHEET**  
REQUIRED BEFORE RESIDENT ACCEPTED INTO HOME

To be completed by interviewing the resident in person (if possible), resident's family, caregivers, case managers, and attending medical personnel.

◆ Upon completion, a copy shall be given to resident or resident's representative. ◆

Resident Name: \_\_\_\_\_

SSN# \_\_\_\_\_ Date: \_\_\_\_\_

ASSESSMENT OF ACTIVITIES OF DAILY LIVING (ADLs):

	Independent	Assistance	Dependent
Eating/Nutrition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dressing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal Hygiene	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mobility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bowel/Bladder	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Behavior	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>TOTAL</b>	_____	_____	_____

Class I = Assistance in 4 or fewer ADLs

Class II = Assistance in all ADLs, dependent in no more than 3.

Class III = Dependent in 4 or more ADLs.

**CLASS LEVEL** \_\_\_\_\_

Diagnosis: \_\_\_\_\_

Resident's Ability to communicate: ☐ Speak ☐ Write ☐ Cue ☐ Sign Language ☐ Body Language ☐ Other  
(please explain) \_\_\_\_\_

Primary Language: ☐ English ☐ Spanish ☐ Russian ☐ Chinese ☐ Rumanian ☐ unknown ☐ Other  
(please explain) \_\_\_\_\_

Medications: \_\_\_\_\_

Allergies: \_\_\_\_\_

Describe resident's physical & mental condition: \_\_\_\_\_

Specialized Diet (please explain): \_\_\_\_\_

Nursing Needs/Delegations: \_\_\_\_\_

Nutritional needs: \_\_\_\_\_

Nighttime care needs: ☐ Wandering ☐ Cueing ☐ Toileting ☐ Medication ☐ Repositioning ☐ Other (please explain)

Personal preferences for activities/lifestyle: \_\_\_\_\_

Evacuation Ability (must be able to evacuate all residents in 3 minutes or less): \_\_\_\_\_

Transportation Needs: ☐ Public Transportation ☐ Family ☐ Cab ☐ Medical Transportation ☐ Other \_\_\_\_\_

---

**INFORMATION ON  
CLASSIFICATION OF ADULT CARE HOMES  
AND REQUESTING EXCEPTIONS**

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**Provider Training**

**CLASS I**

- Approved basic training
- One year, full time verifiable experience within the past 3 years providing direct care.  
**OR**
- Have CNA certificate and 4 months full time experience within the past 3 years.

**RESIDENT PROFILE**

- In stable medical condition.
- Independent in ADL's or need assistance with 4 or fewer ADL's.
- Do not need skilled or continuous nursing.

---

**CLASS II**

- Approved basic training
- Two years, full time verifiable experience within the past 5 years providing direct care.  
**OR**
- Have CNA certificate and 16 months full time experience within the past 5 years.

**RESIDENT PROFILE**

- May require assistance in all ADL's.
- Dependent in no more than three ADL's.
- Routine nursing tasks may be delegated.
- May request exception for **ONE** Class III resident

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**CLASS III**

- Approved basic training
- Have no substantiated complaints of abuse or neglect within the past 3 years.
- Is a health care professional with current license (RN, LPN, Physician, OT, PT).  
**OR**
- Has 3 years full time verifiable experience providing direct Care within the past 10 years to elderly persons or persons with disabilities who are dependent in four or more ADL and
- Satisfactory references from at least two medical professionals, i.e. physician and a registered nurse.
- Can demonstrate ability to provide the care required.

**RESIDENT PROFILE**

- Dependent in four or more ADL's.
  - No more than ONE bed care or totally dependent person.
  - Nursing tasks performed by RN or delegated under Board of Nursing Rules.
-

ADULT CARE HOME CARE PLAN: Resident Name \_\_\_\_\_ SS# \_\_\_\_\_

**Instructions:** The care plan shall be developed with resident, family and medical/social representatives. Information from screening sheet shall be included. Care plan must be completed within fourteen (14) days of resident admission to adult care home.

1). Who will be providing care? Complete Activities of Daily Living (ADLs) work sheet below.

**I = Independent, no help needed; A = Assistance, needs help; D = Dependent, needs total help**

Activities of Daily Living	I	A	D	What can resident do?	Description of Care	How Often?	Who provides care?	Goals?
<b>Eating/Nutrition</b> <ul style="list-style-type: none"> <li>• Special diet needs</li> <li>• Choking/swallowing</li> </ul>								
<b>Dressing</b>								
<b>Personal Hygiene</b> <ul style="list-style-type: none"> <li>• Bathing</li> <li>• Shaving</li> <li>• Dental care</li> <li>• Hair care</li> <li>• Finger/toe nails</li> <li>• Make-up</li> </ul>								
<b>Mobility</b> <ul style="list-style-type: none"> <li>• One person transfer</li> <li>• Two person transfer</li> <li>• Stand &amp; walk</li> <li>• Hoyer lift</li> </ul>								
<b>Toileting</b> <ul style="list-style-type: none"> <li>• Bowel control</li> <li>• Bladder control</li> <li>• Cueing needed</li> </ul>								
<b>Behavior Issues</b> <ul style="list-style-type: none"> <li>• Cueing required</li> <li>• Money management</li> <li>• Behavior interventions</li> <li>• Comfort needs</li> </ul>								

**RESIDENT HAS / NEEDS THE FOLLOWING:**

- 2). **Special Equipment:** ☐ Wheel Chair ☐ Walker ☐ Cane ☐ Commode ☐ Hearing Aid  
☐ Glasses ☐ Hoyer Lift ☐ Hospital Bed ☐ Other \_\_\_\_\_
- 3). **Communication Needs:** ☐ Hearing ☐ Vision ☐ Sign Language ☐ Non-English Speaking  
Resident speaks the following language: \_\_\_\_\_
- 4). **Night Time Needs:** \_\_\_\_\_
- 5). **Medical / Physical health problems (Diagnosis):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 5a). List Current treatments, procedures, Therapies of Residents, i.e., Diabetic Care, Skincare, Oxygen Therapy, Suction, Wound Care. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FIRE SAFETY & EVACUATION**

- 6). Can resident exit the home in 3 minutes or less? ☐ Yes ☐ No

If No, explain: \_\_\_\_\_

Does Resident need help in leaving the home? ☐ Yes ☐ No

Cueing ☐ Yes ☐ No

Physical Assistance ☐ Yes ☐ No

Special Equipment ☐ Yes ☐ No

Walker ☐ Yes ☐ No

Wheel Chair ☐ Yes ☐ No

Other: \_\_\_\_\_ If special equip. Where is it located? \_\_\_\_\_

**QUALITY OF LIFE**

- 7). **Social Needs (including preferred activities):** \_\_\_\_\_  
\_\_\_\_\_

**Activities (hours offered per day of week)**

Day of Week	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
6 Hours Per Week							

Spiritual / Religious Preference: \_\_\_\_\_

Emotional / Family / Support Needs: \_\_\_\_\_

Goals to support Resident's quality of life: \_\_\_\_\_

8). RN Consultant, Contract RN Delegation Needed for Restraints ☐ Yes ☐ No

Side Rails

☐ Yes ☐ No

Vest

☐ Yes ☐ No

Wrist

☐ Yes ☐ No

Pelvic

☐ Yes ☐ No

Geri-chair

☐ Yes ☐ No

Note: The Resident and/or his legal representative must give you written consent for use of restraints prior to use, and an assessment if a qualified health professional is required (MCAR 891.060.700).

#### RN Consultant for Private Pay Clients

Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Services Provided: \_\_\_\_\_

#### Contract RN

Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Services Provided: \_\_\_\_\_

**Who will provide transportation?** (Operators must be able to provide or arrange for appropriate resident transportation. This does not mean the operator has to pay for transportation. MCAR 891-060-170.) \_\_\_\_\_

Operator Signature \_\_\_\_\_

Date \_\_\_\_\_

Resident/legal Guardian \_\_\_\_\_

Date \_\_\_\_\_

Signature/Review Directions: Operator must sign **every six months.**

Resident/Legal Representative must sign **every 12 months.**

**OPERATOR – six month review**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**RESIDENT/LEGAL REPRESENTATIVE – 12 month review**

\_\_\_\_\_  
Resident/Legal Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Operator

\_\_\_\_\_  
Date

**OPERATOR – six month review**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**RESIDENT/LEGAL REPRESENTATIVE – 12 month review**

\_\_\_\_\_  
Resident/Legal Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Operator

\_\_\_\_\_  
Date

**OPERATOR – six month review**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**RESIDENT/LEGAL REPRESENTATIVE – 12 month review**

\_\_\_\_\_  
Resident/Legal Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Operator

\_\_\_\_\_  
Date

**OPERATOR – six month review**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**RESIDENT/LEGAL REPRESENTATIVE – 12 month review**

\_\_\_\_\_  
Resident/Legal Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Operator

\_\_\_\_\_  
Date

(MCAR 891.070.140(I))

Social Security #

- Use this form or a notebook to describe the resident progress. Log changes in medications, treatments, therapies, behavior, or condition of the resident.
- In addition, all incidents, accidents, and special events are to be recorded on this form or notebook. This would include incidents relating to the health and safety of a resident including when the incident occurred, who was involved, action taken, and out come to the resident.
- Nurses, therapists, and other service providers should also use the progress notes to record information regarding their assessments and services when they come to your home.
- **ALL PROGRESS NOTES MUST BE SIGNED IN INK AND DATED BY PERSON WRITING.**
- **PROGRESS NOTES MUST BE DONE WEEKLY.**
- **PROGRESS NOTES MAY BE COMPLETED ON THE COMPUTER AND PRINTED AND SIGNED WEEKLY.**

[illegible]

MEDICATION		HOURS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Name/Dose/Route																																	
Name/Dose/Route																																	
Name/Dose/Route																																	
Name/Dose/Route																																	
Name/Dose/Route																																	
ALLERGIES		TREATMENTS																															
*Initial medications and identify initials below*		Instructions																															
INITIALS	SIGNATURE	1. Use trade name of drug & generic name if different on bottle from Doctor's order. 2. Initial appropriate box on front when medications or treatments are given. 3. Circle initial and document on reverse side when medications or treatments are refused, held, or sent with restraint. 4. Circle initial and document on reverse side for all PRN medications. 5. Document disposed medications, including the number of PRNs returned. 6. Treatments/Therapies/Dietary supplements should be also listed and initialed.																															
Resident's Name		SSN#										Doctor's Name																					



## PRN AND REFUSED MEDICATION NOTES

[illegible][illegible]

MEDICATION	HOURS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Name/Dose/Route																																
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Name/Dose/Route																																
Name/Dose/Route																																
Name	Doctors																															

## PRN AND REFUSED MEDICATION NOTES

[illegible][illegible]

# GUIDELINES FOR PRN ADMINISTRATION OF MEDICATION

(MCAR 891.060.532)

## THIS IS NOT A PRESCRIPTION

A care provider cannot give prescription PRN medication without specific written parameters from the physician or registered nurse. Please complete the following so that medication administration can occur. Thank You.

Client \_\_\_\_\_ Physician \_\_\_\_\_

Medication Name: \_\_\_\_\_ Generic or Trade (*circle one*)

What is the medication for? \_\_\_\_\_

Dose of medication \_\_\_\_\_ Amount to be given \_\_\_\_\_  
(i.e., four (4) mg.) (i.e., one tablet, one teaspoon)

Schedule \_\_\_\_\_ Route \_\_\_\_\_  
(i.e., every six (6) hours) (i.e., by mouth, under tongue)

To be given if \_\_\_\_\_  
(specific reason medication needed, i.e., specific descriptive complaint of pain, behavior – not just pain)

Not to Exceed \_\_\_\_\_  
(Number of doses in a specific amount of time, i.e., six (6) tablets in a twenty-four (24) hours)

To be discontinued if \_\_\_\_\_  
(Specific adverse reactions, side effects)

To be discontinued \_\_\_\_\_  
(when should medication no longer be given?)

Physician contacted regarding above information? ☐ Yes ☐ No

\_\_\_\_\_  
Registered Nurse / Nurse Practitioner Signature

\_\_\_\_\_  
Date

OR

\_\_\_\_\_  
Consulting Physician / Pharmacist Signature

\_\_\_\_\_  
Date

**PHYSICIAN'S APPROVAL FOR USE OF PHYSICAL RESTRAINTS IN ADULT CARE HOME  
(MCAR 891.060.700)**

**Administrative rules regulate the use of restraints for a resident in an Adult Care Home. It requires that:**

Physical restraints may be used only after considering all other alternatives and only when required to treat a resident's medical symptoms or to maximize the physical functioning of a resident.

2. If, following the assessment and trial of other measures, it is determined a restraint is necessary, the least restrictive shall be used as infrequently as possible.
3. All restraints must allow for quick release at all times.
4. Restraints may not be used for discipline of a resident or for the convenience of the adult care home provider.
5. Restraints may be used: ONLY after an assessment by a physician/nurse practitioner, registered nurse, Christian Science practitioner, mental health clinician, physical therapist, or occupational therapist. The assessment must include procedural guidance for the correct use of the restraint, alternative measures and consent by the resident or legal guardian.

**PHYSICIAN'S ORDER**

I am ordering the use of restraints for : \_\_\_\_\_  
Name of Resident

a resident at the adult care home operated by \_\_\_\_\_  
Name of Operator

The medical and/or safety reasons for ordering these restraints are : \_\_\_\_\_

The following are the specific parameters for the use of these restraints: \_\_\_\_\_

Type of Restraint: \_\_\_\_\_

Circumstances under which restraints may be used: \_\_\_\_\_

**Duration of the use of restraint** (how long to be used at any one time) \_\_\_\_\_

**NOTE:** There must be release from the physical restraints at least **every two hours for a minimum of 15 minutes** and the person restrained must be repositioned, toileted, offered liquids, exercised or provided range of motion during this period.

Night time use of a restraint is discouraged, but if prescribed shall be limited to unusual circumstances. Give specific procedures for their use, frequency of nighttime monitoring/need for assistance: \_\_\_\_\_

Length of time order is valid: \_\_\_\_\_

Frequency of reassessment for the use of restraint shall be: \_\_\_\_\_

Signature of Physician/Nurse practitioner \_\_\_\_\_ Date

Resident/Legal Guardian consent \_\_\_\_\_ Date

## EXAMPLES OF RESTRAINTS



### PHYSICAL

- VEST
- WRIST
- WAIST
- PELVIC
- GERI-CHAIR - (If resident can not unlock)



The above list of restraints is not a complete list.

**May be completed by the Family/Resident**

Admission Date \_\_\_\_\_ Date List Completed \_\_\_\_\_

[illegible]

Resident/Legal Representative	Date
-------------------------------	------

0606 ACHP 06/16/99

## ITEMS PURCHASED AFTER ADMISSION

Date & Initials	Description (Incl. Est. Value)	Date & Initials	Description (Incl. Est. Value)

## ITEMS LOST, DAMAGED, REPLACED, OR REMOVED.

Item	Circumstance	Date/Initial

## NOTES/COMMENTS (DATE AND INITIAL ENTRIES).




**RESIDENT/LEGAL REPRESENTATIVE AUTHORIZATION  
TO RELEASE CONFIDENTIAL INFORMATION**

**RELEASE TO:**

Operator \_\_\_\_\_

Address \_\_\_\_\_

City/State/ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

I here by authorize \_\_\_\_\_  
(Name of physician, or health care provider)

to forward medical records or a summary thereof for \_\_\_\_\_  
(Resident Name)

\_\_\_\_\_  
Resident or Legal Representative

\_\_\_\_\_  
Date

Comments/Special requests: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



## Adult Care Home Program

4610 SE Belmont, Suite 10  
Portland, Oregon 97215-7215  
(503) 248-3000

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### NOTICE OF RIGHT TO RECEIVE A LONG TERM CARE ASSESSMENT

(MCAR 891.060.240)

#### PRIVATE PAY RESIDENTS

*Must be done prior to Admission to Adult Care Home*

---

#### **To Resident's and/or Family Members,**

*Oregon law requires you be notified of the availability of long term care assessment services when considering admission to an Adult Foster Home (AFH), Residential Care Facility (RCF), Assisted Living Facility (ALF), or non-Medicaid Nursing Facility (NF).*

*Such an assessment identifies your long term care needs and provides you information about care settings and services available to meet these needs. Recommendations you receive are not binding.*

*You may choose any option.*

*Assessments are available at your own expense through private agencies certified by the State or at no charge from Aging and Disability Services, Multnomah County. To arrange for an assessment or to receive information about private agencies in your area, contact Aging and Disability Services Senior Help Line at 248-3646.*

---

I understand I have a right to request an assessment of my long term care needs.

☐ **YES**, I do wish to receive information about my care options.

☐ **NO**, I do not wish to receive information about my care options.

Name: (Print) \_\_\_\_\_  
(Resident or Legal Representative)

Social Security #: \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
(Date)

Certified By: \_\_\_\_\_

(Operator Signature)

\_\_\_\_\_  
(Date)

---

Before admitting a private paying resident, the Operator shall advise the potential resident, his/her family, or his/her legal representative of the right to receive a long term assessment. The Operator shall certify on a form provided by the ACHP that the individual has been so advised. Upon admission, the Operator shall maintain a copy of the resident records.

# RESIDENT ACCOUNT RECORD (PETTY CASH)

**Resident Account Record:** \_\_\_\_\_

**Social Security #:** \_\_\_\_\_ **Month of:** \_\_\_\_\_

## DEPOSITS

## WITHDRAWALS

[illegible]

# RESIDENT ACCOUNT RECORD (SAVINGS & TRUST ACCOUNT)

**Institution Name:** \_\_\_\_\_ **Account #:** \_\_\_\_\_

**Address:** \_\_\_\_\_

## DEPOSITS

## WITHDRAWALS

[illegible]

**ADULT CARE HOME 30 DAY NOTICE  
(MCAR 891.070.500)**

A 30 DAY WRITTEN NOTICE SHALL BE GIVEN TO A RESIDENT WHO ARE ASKED TO MOVE TO ANOTHER ROOM, TRANSFER, OR DISCHARGE, FROM ADULT FOSTER HOME. AN OPERATOR WHO SELLS, LEASES, OR TRANSFERS, ADULT CARE PROPERTY SHALL GIVE RESIDENT'S A 30 DAY WRITTEN NOTICE.

This notice is issued by: \_\_\_\_\_

Name of Operator: \_\_\_\_\_

Address of adult care home: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_

To: \_\_\_\_\_ Social Security #: \_\_\_\_\_  
(Resident's Name)

Copies must be sent to the resident, appropriate relative(s), legal representative and case manager, if any. Copies of this notice have been issued to the following people (include address and relationship to resident).

Name/address/ relationship	Name /address/ relationship
----------------------------	-----------------------------

Name/address/ relationship	Name /address/ relationship
----------------------------	-----------------------------

Date of proposed move/transfer/discharge: \_\_\_\_\_

Location to which resident is going: \_\_\_\_\_

This action is taken, or proposed to be taken, because Check the appropriate box(es):

- |  |  |
|--|--|
| <p><input type="checkbox"/> Residents care needs or behavior exceed the staff ability or classification of the home.</p> <p><input type="checkbox"/> Welfare of the resident or other residents</p> <p><input type="checkbox"/> Nonpayment for room or board or care or services</p> | <p><input type="checkbox"/> The home is no longer licensed or there is a voluntary surrender of a license.</p> <p><input type="checkbox"/> Behavior which poses an immediate threat to self, Operator, Resident Manager, occupants in the home</p> <p><input type="checkbox"/> Behavior which substantially interferes with the orderly operation of the home.</p> |
|--|--|

Specifically: \_\_\_\_\_

Signature of Provider	Date
-----------------------	------

You, the resident, have the right to an informal conference and administrative hearing with Multnomah County Adult Care Home Program if you disagree with this notice. To request a conference or hearing, please contact: **Adult Care Home Program, Multnomah County, 4610 SE Belmont, Suite 10, Portland, Oregon 97215-7215**  
**Telephone: (503) 248-3000. Ext. 22624 or Ext. 26061.**

NOTE: THIS IS A **SAMPLE** DESIGNED TO HELP YOU AS A PROVIDER COMPLY WITH ADMINISTRATIVE RULES REGULATING ADULT CARE HOMES. IT IS NOT DESIGNED TO GIVE YOU LEGAL ADVICE REGARDING MATTERS ABOUT WHICH YOU SHOULD CONSULT A PRIVATE ATTORNEY OF YOUR CHOICE. SINCE WE CANNOT LEGALLY GUARANTEE THIS AGREEMENT, YOU ARE PROHIBITED IN USING AN EXACT COPY OF IT. YOU MAY, HOWEVER, REVISE OR ADAPT IT FOR YOUR USE AFTER CONSULTING AN ATTORNEY.

## CONTRACTS FOR PRIVATE PAY RESIDENTS

AND

AGREE TO THE FOLLOWING:

Provider

Resident or Responsible Party

TERMS AND ARRANGEMENTS PROVIDING FOR THE CARE OF: \_\_\_\_\_

Resident

SOCIAL SECURITY #: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

### 1). THE PROVIDER AGREES:

#### REQUIRED PROVISIONS

- A. To furnish such care and services as are described in the care plan and are in accordance with the standards and rules specified in the state law and county ordinance, including but not limited to furnishing room, board, linen, bedding, towels, soap, toilet paper, and personal care services (Housekeeping, laundry, personal care assistance, activities, delegated nursing tasks if appropriate, medication management, Other \_\_\_\_\_)

Such care shall be provided on a 24 hour basis and shall include the observation, monitoring, and evaluation of resident's condition and daily activities, the appropriate maintenance and supervision of resident's condition, the prevention of abuse, exploitation, injury, or neglect of resident by self or others, and the safeguarding of resident's personal property and funds.

The provider will not leave the resident unsupervised nor allow the resident to self-medicate, unless there is a written physician authorization or use restraints unless all ACHP rules are met.

Resident will be Renting; ☐ Private Bedroom ☐ Shared Bedroom

- B. To Notify the responsible party and other family members as listed on the resident information form in any of the following events:

- 1). Accident, injury, or sickness requiring medical attention or any change in condition or other incident involving resident.
- 2). Resident's unexplained absence from the home or resident's failure to return to the home after a scheduled outing.
- 3). Resident's expressed desire or intent to remove him/herself from the home.

C. To provide 30 days written notice to the responsible party of intent to terminate the admission agreement. The notice must state the reason for the termination, the resident's right to object to that action, and the residents right to request assistance from the Department. Acceptable reasons for termination of less than 30 days include:

- 1). Residents care needs or behavior exceed the ability or classification of the home.
- 2). Welfare of the resident or other residents.
- 3). Nonpayment for room or board or services.
- 4). The home is no longer licensed or there is a voluntary surrender of a license.
- 5). Behavior which poses an immediate threat to self, Operator, Resident Manager, or Caregiver.
- 6). Behavior which substantially interferes with the orderly operation of the home.

This notice requirement may be waived with the consent of both parties.

The resident has a right to request a hearing from the Adult Care Home Program before being moved from the home in a non-emergency situation.

#### **REFUND/RETURN OF PERSONAL PROPERTY (MCAR 891.070.700)**

D. The Operator shall refund any money owed to the resident, the resident's family or legal representative within 30 days of when the resident dies or permanently leaves the home.

Operators shall make a resident's personal property available no later than seven (7) days after the resident leaves the home. If the resident does not claim his or her personal property within seven days of leaving the home, the Operator shall give written notice to the resident or legal representative and allow 30 days for claiming before disposing of the resident is personal property.

The Operator may charge a reasonable fee for storage of private pay resident's belongings beyond 15 days. This fee would be \$\_\_\_\_\_ per day.

The Operator has an obligation to act in good faith to reduce the charge by seeking a new resident to fill the vacancy. The Operator shall refund to the resident who moves out any rent for days after the date the room is re-rented.

If the home closes, the Operator waives the right to collect any fees beyond the date of closure or the resident's departure, which ever is sooner.

**The Operator shall not charge a resident for payment for more than 15 days after the resident has left the Adult Foster Home after a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return.**

If a resident dies or leaves an Adult Care Home due to substantiated neglect or abuse or due to conditions of immediate threat to life, health or safety, the Operator shall not charge the resident beyond the residents last day in the home.

If the Adult Care Home Program orders the relocation of resident(s) and/or the refund of money to a resident, the Operator shall refund the money owed to the resident within 30 days.

2). **THE RESIDENT OR RESPONSIBLE PARTY AGREES:**

**REQUIRED PROVISIONS:**

- A. To pay the agreed upon rate of \$ \_\_\_\_\_ per month to the provider for room and board, and care and services provided as specified in the care plan. Such payment shall be made on or before the \_\_\_\_\_ day of each month. Late charges will be assessed at \$ \_\_\_\_\_ per day until the rent payment is received.
- B. To provide 30 days written notice of intent to terminate residency. In the event a balance is found to be owed to the facility, to pay said balance not more than 30 days following the date of termination of the admission agreement.
- C. To provide such personal clothing, toiletries, and effects as are needed or desired by the resident.
- D. To be responsible for hospital, physician, medications and other medical/health care charges as needed by the resident , including transportation to and from the hospital, and cost of nursing delegation.
- D. To reimburse the provider for such damages as may be attributed to the resident beyond normal wear and tear. In the event the cause of such damages are disputed, the parties concerned will seek settlement through legal or other agreed upon means.
- F. To provide such durable equipment or appliances or special care or treatment as are required by the resident, per physician order, including but not limited to wheelchair, walker, cane, crutches special bed, heating pad, nursing care, physical therapy, etc.
- G. To authorize the provider to spend no more than \$ \_\_\_\_\_ per month in expenditures on behalf of the resident.

3). **DURATION OF AGREEMENT:**

Either party may terminate this agreement with 30 days written notice. Amendments may also be added in writing, by mutual agreement of both parties as long as they do not violate the Multnomah County Adult Care Home Rules. This agreement will remain in effect until such time as it is terminated or amended as described. However, the resident may vacate this home at any time except that he/she will be held responsible for payments due as described previously.

By initialing, I acknowledge that I have been provided House Rules, which have been signed.

\_\_\_\_\_

\_\_\_\_\_  
Operator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Resident/Legal Representative

\_\_\_\_\_  
Date



## COMMONLY USED ABBREVIATIONS

Six common abbreviations:

c-with s=without a=before p=after et=and  
hours of sleep

Examples:

A breakfast, bring in milk et butter.

Don't leave s turning out lights.

Check c husband about dinner.

Stop at bank p work.

Amb. C crutches.

Prefixes:

a = from, without

ante = before

anti = against

contra = against, opposed

post = after

.c	with
.s	without
a.c	before meals
abd	abdomen
ad lib	as described
ADL	activities of daily living
amb	ambulatory
amt	amount
aqua	water
at	and
B.P.	blood pressure
B.R.P.	bathroom privilege
BID	twice a day
BM	bowel movement
C/O	complaints of
cap	capsule
cc	cubic centimeter
cm	centimeter
CVA	stroke
D.C.	discontinue
dr. or	dram
F.	fahrenheit
FBS	fasting blood sugar
G.I.	gastrointestinal
gm.	gram
gtts.	drops
H2O	water
hs	at bedtime or hours of sleep
ht.	height
L	left
m.	minm
mEq.	milliequivalent
mg.	milligram
mm.	millimeter
N.P.O.	nothing by mouth
NA	not applicable
NA	sodium or salt

no.	number
noc.	night
npo	nothing by mouth
od	Right eye
os	mouth
os	Left eye
ou	Both eyes
oz or	ounce
p.c.	after meals
p.o.	by mouth
p.r.n	as necessary
per	through
PRN	as needed or requested
Q. 3h	every three hours
q.i.d.	four times a day
Q.s.	quantify sufficient
qd	everyday
QID	four times a day
R	Rectal
R	Right
R.O.	reality orientation
ROM	range of motion
Rx	take
S.L.	Sublingual (under the tongue)
S.Q	Subcutaneous (or S.C.)
SOB	shortness of breath
spec.	specimen
ss.	half
stat.	immediately
Supp.	suppository
t.i.d.	three times a day
tab.	tablet
tr.	tincture
ung.	ointment
vin	wine
w/c	wheelchair
wt.	Weight

**ME -- POST**

Each day must meet the basic four food group requirements and dietary guidelines

Day	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>B R E A K F A S T</b>							
<b>SNACK</b>							
<b>L U N C H</b>							
<b>SNACK</b>							
<b>D I N N E R</b>							
<b>SNACK</b>							

# S A M P L E

This is a **sample** only – Operator of the home is responsible for creating House Rules which best reflects this particular home. House Rules must be posted, and be *signed* by the resident and placed in the resident's records.

---

## HOUSE RULES

(MCAR 891.070.200)

---

House Rules shall include, but are not limited to:

1. The home's policies on daily and evening visiting hours:  
*(minimum 7 hours during the day, and 2 hours after 6pm Example: 10am-5pm and 6pm-8pm).*
2. Smoking:  
*Example: No Smoking Allowed in the home or Smoking Allowed (never allowed in bedrooms).*
3. Use of intercoms:  
*Example: Intercoms used only at night.*
4. Resident telephone use:  
*Example: Residents must pay for Long Distance charges.*
5. Meal Times:  
*Example: 8am – Breakfast / Noon – Lunch / 5pm – Dinner / Snacks offered twice a day.*
6. Kitchen privileges:  
*Example: Residents not allowed in refrigerator*
7. Television:  
*Example: Turn down volume after 8pm.*
8. Bedtimes:  
*Example: Residents asked to retire at 9pm or No Bedtimes.*
9. Bathing:  
*Example: Bathing done as care needs are assessed.*
10. Pets:  
*Example: No Pets Allowed or Small Pet Allowed.*
11. Alcohol consumption in the home:  
*Example: No Alcohol Allowed or Alcohol Allowed.*
12. Other expectations or restrictions:

---

Resident/Legal Representative

Date

## **HOUSE RULES**

(MCAR 891.070.200)

House Rules shall include, but are not limited to:

1. The home's policies on daily and evening visiting hours: FROM: \_\_\_\_\_ TO: \_\_\_\_\_
2. Smoking:
3. Use of Intercoms:
4. Resident Telephone Use:
5. Meal Times: Breakfast: \_\_\_\_\_ Lunch: \_\_\_\_\_ Dinner: \_\_\_\_\_
6. Kitchen Priviledges:
7. Television:
8. Bedtimes:
9. Bathing:
10. Pets
11. Alcohol Consumption in the Home:
12. Other Expectations or Restrictions:

---

Resident/Legal Representative

Date

***This is a SAMPLE only - The Operator of the home is responsible for creating House Rules which best reflects this particular home.  
House Rules must be posted, and be signed by the resident and placed in the resident's records.***

**HOUSE RULES  
MCAR 891-070-200**

**House Rules shall include, but are not limited to:**

1. The home's policies on daily and evening visiting hours. This shall include daily visiting hours of at least seven hours, with at least two hours after 6:00 p.m.
2. (A) Smoking - If smoking is allowed in the home, the House Rules must designate the smoking areas  
  
(B) Smoking is never allowed in sleeping areas
3. Use of intercoms
4. Resident telephone use
5. Meal Times
6. Kitchen privileges
7. Television
8. Bedtimes
9. Bathing
10. Pets
11. Alcohol consumption in the home
12. Other expectations or restrictions

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Date

**RESIDENT INFORMATION SHEET**  
(MCAR 891.060.310)

Resident Name: \_\_\_\_\_

Admission Date: \_\_\_\_\_

**PERSONAL INFORMATION:**

Social Security #		Medicare #	
Medicaid #	VA#	Other Insurance	
Policy #			
Birth Date	Birthplace		Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female
Hobbies/Interests		Preferred Hospital	
Favorite Activities		Case Manager & Telephone	
Food Likes/Dislikes		Preferred Funeral Home Name and Telephone	
Other(please specify)		Faith/Worship affiliation	

**GENERAL INFORMATION:**

Prior living situation <input type="checkbox"/> Living Alone <input type="checkbox"/> Family Member <input type="checkbox"/> Assisted Living <input type="checkbox"/> Foster Home <input type="checkbox"/> Nursing Home <input type="checkbox"/> Hospital <input type="checkbox"/> Other (please explain)	
Address of Prior home:	
Primary Physician's Name & Telephone	Nurses Name & Telephone
Other Physician's Name and Telephone	Nurses Name & Telephone
Other Physician's Name and Telephone	Dentist's Name & Telephone
Other Physician's Name and Telephone	Pharmacy Name & Telephone
Power of Attorney & Telephone	Legal Guardian
<b>Legal Representative</b>	<b>Relationship</b>
<b>Address (City, State, &amp; Zip)</b>	<b>Telephone</b>
<b>Relative</b>	<b>Relationship</b>
<b>Address (City, State, &amp; Zip)</b>	<b>Telephone</b>
<b>Relative</b>	<b>Relationship</b>
<b>Address (City, State, &amp; Zip)</b>	<b>Telephone</b>
Other Emergency Contacts	

**MEDICAL INFORMATION:**

(Please check all that apply) <input type="checkbox"/> DNR <input type="checkbox"/> Physician Directive <input type="checkbox"/> POLST <input type="checkbox"/> Advanced Directives <input type="checkbox"/> Other	Date
Diagnosis	
Home Health Agency	
Allergies	

## RESIDENT INFORMATION SHEET

Resident's Name \_\_\_\_\_

Admission Date \_\_\_\_\_

### GENERAL INFORMATION:

Prior living situation \_\_\_\_\_

Physician's Name & Phone # \_\_\_\_\_

Nurses Name and Phone # \_\_\_\_\_

Preferred Hospital \_\_\_\_\_

Dentist's Name & Phone # \_\_\_\_\_

Case Manager's Name & Phone # \_\_\_\_\_

Pharmacy Name & Phone # \_\_\_\_\_

Preferred Funeral Home Name & Phone # \_\_\_\_\_

Responsible Party \_\_\_\_\_ Relationship \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Relative \_\_\_\_\_ Relationship \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Relative \_\_\_\_\_ Relationship \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Other Emergency Contacts \_\_\_\_\_

Allergies \_\_\_\_\_

Social Security Number \_\_\_\_\_ Medicare # \_\_\_\_\_

Medicaid # \_\_\_\_\_ VA # \_\_\_\_\_ Other Insurance \_\_\_\_\_

Policy Number \_\_\_\_\_

### PERSONAL INFORMATION

Birth date \_\_\_\_\_ Birthplace \_\_\_\_\_ Sex: Male Female

Hobbies/Interests \_\_\_\_\_

Favorite Activities \_\_\_\_\_

Food Likes/Dislikes \_\_\_\_\_

Other \_\_\_\_\_

(If additional space is required, use back of form.)

MEETING DATE: AUG 05 1999  
AGENDA NO: R-3  
ESTIMATED START TIME: 9:40

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: Order denying Appeal of Merit System Civil Service Council decision regarding William Gillespie's records request

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: August 5, 1999  
AMOUNT OF TIME NEEDED: 10 - 15 minutes

DEPARTMENT: Support Services DIVISION Merit System Civil Service Council  
CONTACT: Leila Wrathall TELEPHONE #: 248-5015 x24422  
BLDG/ROOM #: 106/1430

PERSON(S) MAKING PRESENTATION: Kathryn Short, Asst. County Counsel and William Gillespie, Merit Council complainant

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Order denying Appeal of Merit System Civil Service Council decision regarding William's Gillespie's Records Request

8/9/99 copies to Kathy Short, William Gillespie & Leila Wrathall

BOARD OF  
COUNTY COMMISSIONERS  
99 JUL 21 AM 9:16  
MULTNOMAH COUNTY  
OREGON

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT \_\_\_\_\_  
MANAGER: Richard S. Galt

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277





# MULTNOMAH COUNTY OREGON

VICKIE S. GATES, DIRECTOR  
DEPARTMENT OF SUPPORT SERVICES

PORTLAND BUILDING  
1120 S.W. FIFTH AVENUE, SUITE 1400  
P.O. BOX 14700  
PORTLAND, OREGON 97293-0700

PHONE (503) 306-5881  
FAX (503) 248-3292

AFFIRMATIVE ACTION  
BUDGET AND QUALITY  
EMERGENCY MANAGEMENT SERVICES  
EMPLOYEE SERVICES  
FINANCE  
INFORMATION SERVICES  
LABOR RELATIONS  
RISK MANAGEMENT

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Leila Wrathall

DATE: July 20, 1999

RE: Order denying Appeal of Merit System Civil Service Council  
Decision regarding William Gillespie's Records Request

1. Recommendation/Action Requested: That the Board approve the Order denying Mr. Gillespie's appeal of the Merit System Civil Service Council's decision that the Sheriff's Office did not have to disclosure background investigation information requested by him.

2. Background/Analysis: Mr. Gillespie applied for the position of Deputy Sheriff. He filled out the required application materials including a waiver of his right to be granted access to all or any part of the results of the background investigation conducted by the Sheriff's Office as part of the hiring process. Mr. Gillespie was ultimately not hired by the Sheriff's Office. He subsequently filed an appeal with the Merit Council contesting the Sheriff's Office's decision not to hire him. The appeal is scheduled for a hearing on

August 9, 1999. As a part of his appeal, Mr. Gillespie requested through the Merit Council that he be provided with "...a copy of the complete Background Investigation including all information used in the hiring and selection process. I am making this request pursuant to the provisions of the Oregon Revised Statutes (sic) Chapter 192 inclusive." The County agreed to provide information used in the hiring and selection process except for that related to the Background Investigation.

Mr. Gillespie appealed this decision to the Merit Council. The County argued that the Background Investigation documentation was exempt from disclosure because of the waiver Mr. Gillespie signed, because exempting background investigations from disclosure provides a means of encouraging citizens to provide relevant information voluntarily to public bodies with some reasonable assurance of confidentiality and because the public interest in hiring good public safety officers would suffer if the Sheriff's Office were required to disclose this type of information. The Council voted 2-1 at its May 11, 1999 meeting to uphold the County's decision not to release the Background Investigation documentation.

Mr. Gillespie then requested that the District Attorney's Office enforce the provisions of ORS 192.410 et. seq. and order the Sheriff's Office to produce all information used to evaluate and deny Mr. Gillespie's employment application for the position of Deputy Sheriff. After receiving the County's response, the District Attorney upheld the County's decision not to release the Background Investigation documentation to Mr. Gillespie.

Personnel Rule 23.04 gives complainants the right to appeal a non-unanimous Merit Council decision to the Board of County Commissioners within 10 days from the date of the Merit Council's decision. On May 22, 1999 Mr. Gillespie filed an appeal with the Clerk of the Board.

3.           Financial Impact: N/A.

4.           Legal Issues: The right of the County to exempt certain records from disclosure. ORS 192.420 gives persons the right to inspect public information except as otherwise expressly provided by other sections of ORS 192. The County asserts a right under ORS 192.502(4) to exempt certain records from

disclosure. ORS 192.502(4) provides an exemption from disclosure of "Information submitted to a public body in confidence...and not otherwise required by law to be submitted...and when the public interest would suffer by disclosure."

5. Controversial Issues: N/A

6. Link to Current County Policies: MCC 9.008 Conformance with law.

7. Citizen Participation: N/A

8. Other Government Participation: N/A

June 22, 1999  
3120 NW John Olsen Ave. #8204  
Hillsboro, OR 97124

Ms. Deb. Bogstad  
Office of the Chair  
1120 SW 5<sup>th</sup>, Ste 1515  
Portland, OR 97204

RE: APPEAL OF NON RELEASE OF INFORMATION

Dear Ms. Bogstad,

I was denied employment with the Multnomah County Sheriffs Office earlier this year. This has resulted in an appeal of the decision. As part of the appeal, the reasons for denying me the position was asked and the MCSO refused to provide the information.

On May 11, 1999 the Merit Council had a split vote on releasing the information (the appeal of the non-selection is still pending). On May 12, 1999 I wrote and asked how and whom to appeal the decision to. I just received a response to this request dated June 17, 1999 directing me to you.

Mr. J. Hoover of the Multnomah County District Attorneys Office has also file a petition on my behalf dated June 9, 1999 respecting this matter.

I want to appeal the earlier decision of the Merit Council. I would appreciate your assistance in what steps I need to take to do this. I look forward to your prompt reply.

Sincerely,



W. GILLESPIE  
Auzzie4Me@aol.com  
(503) 531-8793

RECEIVED  
JUN 23 1999  
COUNTY COUNSEL FOR  
MULTNOMAH COUNTY, OR

BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
99 JUN 23 AM 8:49

**MERIT SYSTEM CIVIL SERVICE COUNCIL MEETING  
MINUTES  
May 11, 1999**

The meeting was called to order with Commissioners Floyd, Hauser and Price present. Also present: Anna Kanwit and Leila Wrathall.

The minutes of the April 6 and 13, 1999 meetings were approved as corrected and signed by Comm. Floyd, Hauser and Price.

**Consideration of William Gillespie's Public Information Request**

Due to a conflict of interest because of an action Mr. Gillespie has before the City of Portland, Anna Kanwit excused herself during the hearing on William Gillespie's public information request.

It was noted that at the April 13, 1999 there had only been a discussion that there was a prior related case. After reviewing the file of an appeal filed by James B. Griffith, Jr., the Commissioners concluded that the prior case was not applicable.

The County was represented by Kathryn Short, Asst. County Counsel and Mr. Gillespie represented himself on the issue of whether the Multnomah County Sheriff's Office (MCSO) had to provide a copy of the background investigation requested by Mr. Gillespie.

Mr. Gillespie indicated that he was requesting the background investigation information because it is a possible issue in the MCSO's decision not to hire him; therefore he will need to have it to discuss the case during the hearing. Comm. Floyd clarified that only the issue of the information request was before the Council, the actual appeal would be heard by a hearings officer.

William Gillespie was sworn in. He briefly explained the selection process and his subsequent correspondence asking for the reasons he was not hired. He had been no. 2 on the hiring list. He was subsequently told that he would not be offered a position. He requested to know the reason, but the MCSO did not respond for about six weeks. On February 2, 1999 he received a letter. It said it was the Sheriff's policy not to release information or discuss applications. He also sent an e-mail to the Multnomah County Personnel Office.

Commander Hansen wrote him a letter on February 10, 1999 indicating that he could not discuss the decision not to hire him. He said that he could not share background information with William Gillespie, but would share it with other law enforcement agencies. He also cited the waiver that Mr. Gillespie had signed. Confidentiality is important in law enforcement agencies. Criminals have more right to know charges and see evidence than applicants for employment. Slander and malice are possible. The application process is under minded if applicants cannot correct it. The waiver does not state that it is irrevocable. Applicants have to sign it to be considered.

He has been applying to law enforcement agencies and scratching out the waiver. Another agency returned his application because they won't consider an applicant without a background check. He showed the Council the letter from this agency. Under Oregon law

they argue this information is protected from disclosure. So why is the release needed? The issue for him is having the right to know why he was not selected and then being able to present that information in a hearing. Only reason request is being submitted to the Council is because the MCSO mentioned the background investigation as a possible issue in why he was not hired. There is no law saying that background investigations are protected by law. The County hasn't presented anything saying this.

His waiver was signed and notarized in Honolulu, Hawaii. The laws there are different. In Hawaii the entire personnel file is a public record. If malice or slander exists, then the waiver will not stand. This is especially of concern if file is sent to other law enforcement agencies.

Comm Floyd asked if the file had been sent to other law enforcement agencies? Mr. Gillespie responded that he does not know this for a fact, but the second paragraph of the February 10, 1999 letter from Cmdr. Hansen says it can be sent to others. The waiver states that it is for employment with the Multnomah County Sheriff's Office (MCSO).

Comm. Hauser read the second paragraph and asked if he interpreted this to mean that others in law enforcement could view the file outside of Multnomah County. Mr. Gillespie expressed his belief that it could be seen by other law enforcement agencies based on access of information from Los Angeles County by MCSO. They have the same waiver. He understands the MCSO background investigation information was sent to another agency, but he has no direct proof. In an informal hearing the City of Portland Police Bureau indicated they had seen a copy of the MCSO background investigation, but then they retracted the statement.

Kathy Short indicated that the waiver is used to ensure that information they obtain is confidential. They reference the waiver when they ask people such as friends and neighbors for information as part of the background check. They have faxed or sent copies of it to other agencies.

She made the point that William Gillespie signed the waiver. The MCSO needs to get comments from people so they use an express waiver to bar right to information under Oregon law. OR 192.502(4) is the statutory reference cited in her letter to the Council in which the County refused to disclose the background investigation.

Sue Ayers, Sr. Human Resources Analyst, MCSO was sworn in. She stated that all MCSO applicants are given a waiver for a statement of Personal History to sign so they can get information on suitability of applicants. She has never disclosed background information to the best of her knowledge. In doing reference checks, most personnel offices are advised not to give information beyond basic employment information about former employees. Employers have requested copies of the waivers, but she is not sure about others. She reviews files and there is information in files that is given in confidence.

Comm Hauser asked if she knows of specific instances where background information has been shared with other law enforcement agencies. Ms. Ayers replied that she did not know

but understood that it would be shared since law enforcement agencies are interested having accurate background checks.

Mr. Gillespie asked how she knew they were accurate. According to Ms. Ayers she does not know for sure. Mr. Gillespie asked if the waiver could allow information to be shared with others beyond just law enforcement. The answer was just law enforcement.

Mr. Gillespie stated that a report is made by the individual conducting the background investigation and that in essence they make the hiring decision. Ms. Ayers responded that the background investigator(s) write a report but the report is reviewed by others including the sergeant over hiring. She makes recommendations also. The background investigator makes a recommendation, but it is not the final decision.

Mr. Gillespie observed that the background investigator recommends hiring or not hiring. Ms. Ayers concurred. Mr. Gillespie further asked if the background investigators were respected. Ms. Ayers responded that she couldn't answer that question. She has only been reviewing files for a month since the Human Resources director left.

Mr. Gillespie asked if he would be hired based on having lined out part of the waiver. Ms. Ayers indicated that his application would probably be rejected. He continued by asking if his application would be considered if he signed the complete waiver. Ms. Ayers said she was not sure.

Kathy Short summarized the County's position. Mr. Gillespie waived right to see background investigation when he voluntarily signed the waiver. The waiver implied that information could be shared with other law enforcement agencies, he knew it when it signed the waiver. The MCSO doesn't just share the background investigation with anyone else who requests it.

Mr. Gillespie summarized his position. He explained that other law enforcement agencies are prospective employers. If the background investigation is not accurate it could affect his ability to get hired. He is in Oregon not Hawaii, 5,000 miles away. The County could black out sensitive information. He got different responses from 3 different jurisdictions when he requested copies of background investigations. Releasing it isn't a public safety issue. Knowing you won't get considered without signing the waiver makes you sign it.

He never provided a waiver to the MCSO on face to face contact meetings with him. This information could be released, but MCSO won't release it.

Council members went into Executive Session. When the Council reconvened Comm. Floyd said she was voting to grant access to the background investigation. The applicant is put in a catch 22 situation, can't really apply without signing the waiver. The way the current waiver stands, information gathered could be wrong. Based on MCC 9.005 A-D and Rule 8.02 Release of Materials, she would grant access to Mr. Gillespie.

Comm. Hauser stated that she was voting to deny access. Mr. Gillespie knowingly signed the waiver. He read it before signing it. Waiver clearly said what he was waiving.

Comm. Price said she was torn between these two positions. She was voting to deny access. The last sentence of the waiver indicates that he waived any and all rights. That statement says that he waived his rights to access and that he understood what he was signing.

Comm. Floyd informed Mr. Gillespie that he has the right to appeal this decision because it was not unanimous and that the clock begins when the minutes are signed.

**Hearing on Appeal of Non Selection of Gail Ross for Promotion by Health Department**

Gail Ross requested that the hearing be postponed because she needed to subpoena some witnesses. Ms. Short said the County was agreeable to this request. Ms. Kanwit will handle the subpoenas.

The Council agreed to postpone it to June 8, 1999.

**Hearing on Appeal for Hiring Process of Senior Office Assistant (continued)**

The hearing was continued from the April 6, 1999 session. Comm. Floyd acknowledged receipt of the letter from Ms. Short regarding the interview notes requested by the Council. She confirmed that the complainants had received a copy of the letter. They had.

Comm. Hauser explained the Council's reason for requesting the notes. They wanted to see if there was anything in the notes indicating that complainants had been disqualified or dismissed. Colette Umbras responded that the notes basically only relate to the interviews, nothing was in them saying that people had been disqualified. She gave copies of the notes to Council members to review. The last two candidates interviewed were on the internal transfer list.

Comm. Floyd asked if there was any other testimony. Kathy Short asked if the Council would like any clarification of the County's position. Comm. Floyd requested that she briefly address the issue of employees not being promotable.

Ms. Short asked Nabil Zaghloul if he had ever told Colleen Roseberry that she was not promotable. He responded "no." She then asked if he had provided suggestions on improvement? He said that he had met with her and provided suggestions on improvement.

Ms. Short asked Sheryle Sample if she remembered the conversation at the meeting at which she was asked why they interviewed people on the transfer list.

Sheryle Samples was sworn in. She indicated that she didn't really remember what she said during the conversation at the meeting.

Ivy Scazzafavo indicated that she was not told that she was not promotable, but that Carl Jaber had said she wouldn't be interviewed again.



Ms. Short called Carl Jaber as a witness. He was sworn in. Ms. Short asked if he had ever said this to Ms. Scazzafavo. He said that he had met with Ivy on her grievance and he never said that she wouldn't be interviewed again. Ms. Scazzafavo said that Ken Babbick the union steward had also been in the meeting with Mr. Jaber.

The Council went into Executive Session. When it reconvened Comm. Hauser announced the decision. She said that while the Commissioners understand the complainants' frustration with the process, they were unable to find any violation of the Rules. It is not their position to substitute their judgement for the County's in the absence of a Rule violation.

**Other Business**

Comm. Hauser said that she may not be able to attend the June meeting. Comm Floyd and Anna Kanwit indicated that they will not be at the July meeting. Lianna Columbo will attend in July for Ms. Kanwit.

The meeting was adjourned.

MULTNOMAH COUNTY MERIT SYSTEM CIVIL SERVICE COUNCIL

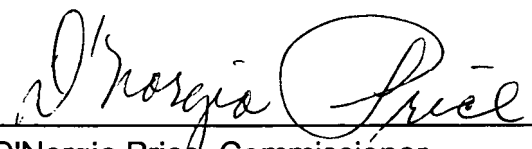
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Carla Floyd, Commissioner



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Regina Hauser, Commissioner



---

D'Norgia Price, Commissioner

maymscsminutes.doc



MICHAEL D. SCHRUNK, District Attorney for Multnomah County

600 County Courthouse • Portland, Oregon 97204-1193 • (503) 248-3162

June 18, 1999

Kathryn A. Short  
Assistant County Counsel  
Office of Multnomah County Counsel  
1120 SW Fifth Avenue, Suite 1530  
Portland, OR 97204-1977

William G. Gillespie  
3120 NW John Olsen Ave #8204  
Hillsboro, OR 97234

Re: Petition of William Gillespie, received June 9, 1999, to disclose certain records of the Multnomah County Sheriff's Office and the Merit System Civil Service Council

Dear Ms. Short and Mr. Gillespie:

BACKGROUND

On this public records petition, ORS 192.410 et. seq., petitioner William G. Gillespie, requests the District Attorney to order the Multnomah County Sheriff's Office and the Merit System Civil Service Council and its employees to produce a copy of the following record:

All information, in any form used to evaluate and deny the petitioner employment for the position he applied for, namely Lateral Entry Deputy Sheriff Officer.

Petitioner unsuccessfully requested the background investigation information from Multnomah County Chair Beverly Stein, from Leila Wrathall, Executive Secretary to the Merit System Civil Service Council, and from Susan Ayers, Director of Human Resources, Multnomah County Sheriff's Office.

Page 2  
June 18, 1999  
Petition of William Gillespie

Kathryn Short, Assistant County Counsel; has issued the attached letter response to the petition dated June 11, 1999. Ms. Short claims exemption for the County agencies under ORS 192.502(4) which provides:

Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

Ms. Short also maintains that petitioner "waived his right to access these documents when he knowingly executed a waiver." County Counsel's position is consistent with correspondence provided by petitioner from Ms. Wrathall regarding petitioner's unsuccessful appeal before the Merit System Civil Service Council.

Petitioner maintains that the signed waiver is not irrevocable and was provided as the only way to be considered for the position. Petitioner indicates that he does not want to know the identity of persons unless slander or malicious conduct be identified. Petitioner notes that the Sheriff's Office does disseminate the information to other entities and acknowledges that the information might not be accurate.

#### DISCUSSION

##### **I. Confidential Information Exemption**

According to the Attorney General's Public Records Manual, 1997, page 52, the purpose of this exemption is to "encourage citizens to provide relevant information voluntarily to public bodies. with some reasonable assurance that the information will be kept confidential." There are five tests to be met for the exemption to apply:

The informant must have submitted the information on the condition that the information would be kept confidential.

EXHIBIT B  
PAGE 2 OF 4

Page 3  
June 18, 1999  
Petition of William Gillespie

The informant must not have been required by law to provide the information.

The information itself must be of a nature that reasonably should be kept confidential.

The public body must show that it has obliged itself in good faith not to disclose the information.

Disclosure of the information must cause harm to the public interest.

The letter response of County Counsel clearly establishes the exemption is appropriate in this case. The background investigation process is extremely sensitive where law enforcement employment applications are concerned. There is an explicit need for frankness and a corresponding need for confidentiality. Disclosure of background information would, under these circumstances, harm the public interest. Petitioner has not demonstrated a public interest that would override such a conclusion.<sup>1</sup>

## II. Waiver of Access

Under ORS 192.420 "every person" has a right to inspect any nonexempt public record of a public body in this state. A necessary limitation on that right must be under circumstances where that person has "waived" this right. Petitioner signed an employment application document which specifically acknowledged that

I further understand that neither I nor any persons outside of a law enforcement background investigation process will be granted access to all or any part of the results of this investigation.

There is nothing inherently coercive or unreasonable to require such a waiver as a pre-condition of applying for employment. It is particularly necessary for a law enforcement agency to be able to assure confidentiality to 8

PAGE 3 OF 4

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<sup>1</sup> Although the background investigation material was not produced by either the Sheriff's Office or the Merit Council, this office has had an extensive conversation with Assistant County Counsel Short regarding the investigation and the reasons for the hiring decision of the Multnomah County Sheriff's Office.

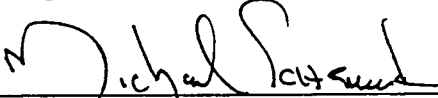
Page 4  
June 18, 1999  
Petition of William Gillespie

sources of information in a background investigation. This office is bound to honor the waiver as executed by petitioner.

ORDER

Accordingly, it is ordered that the petition of William G. Gillespie to disclose certain records of the Multnomah County Sheriff's Office and the Merit System Civil Service Council is denied.

Very truly yours,



MICHAEL D. SCHRUNK  
District Attorney  
Multnomah County, Oregon

99-07

EXHIBIT B  
PAGE 4 OF 4

## **WRATHALL Leila**

---

**From:** Auzzie4Me@aol.com  
**Sent:** Wednesday, August 04, 1999 9:26 PM  
**To:** leila.wrathall@co.multnomah.or.us  
**Subject:** Re: Board Meeting on August 5th

Dear Ms. Wrathall:

I did receive your e-mail to day, however my computer managed to loose it when it froze up (the magic of technology).

Unfortunately my work schedual is going to prevent me from attending the meeting in person and given what we had previously discussed regarding the commission only re affirming the DA's decision. I do not feel it necessary for my in person attendance.

Rather I would like the following to be a matter of record relating to this request and matter:

The MSCO have declined to provide any reason for the denial of employment except to say it is based on their background investigation

It is for this reason that the request is made.

By denying access to the information and being able to review it, stymies the appeals process and is unfair to me.

In the previous hearing, it was acknowledged that information in these files could be inaccurate or wrong.

I do not want to know any identities, merely the issues relating to the decision not to offer me a position. And an opportunity to either learn from it or to correct the record, especially as the MSCO distribute the information to other employers. It is imperative that the information be correct or that the MSCO be ordered not to release the information to anyone due to liability.

Respectfully I ask you to reconsider the previous decision or to direct the MSCO not to release or distribute the information to anyone under any circumstances.

Respectfully submitted.

W. GILLESPIE

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 99-159

Appeal of Merit System Civil Service Council decision regarding William Gillespie's records request.

**The Multnomah County Board of Commissioners Finds:**

- a. William Gillespie filed an appeal with the Merit System Civil Service Council (Merit Council) regarding his application for a deputy position with the Multnomah County Sheriff's Office and his request for documents regarding his background investigation. On May 11, 1999, the Merit Council, in a 2 to 1 decision, denied Mr. Gillespie's records request. Mr. Gillespie filed an appeal of this decision with the Multnomah County Board of Commissioners (Board).
- b. Mr. Gillespie also made a public records request to the District Attorney. On June 18, 1999, the District Attorney issued an opinion denying Mr. Gillespie's request for records.
- c. A public hearing was held on August 5, 1999, by the Board to review the Merit Council's decision regarding William Gillespie's records request. Kathryn Short, Assistant County Counsel represented the County, and Mr. Gillespie represented himself.
- d. The County and District Attorney assert that Mr. Gillespie is not entitled to receive the requested information as he signed a waiver relinquishing his right to review the material and such records are exempt from disclosure under ORS 192.502(4).

**The Multnomah County Board of Commissioners Orders:**

1. The records request of William Gillespie is denied based on the waiver signed by Mr. Gillespie and ORS 192.502(4).
2. The decision of the Merit System Civil Service Council is upheld, and the appeal of William Gillespie is dismissed.

APPROVED this 5th day of August, 1999.

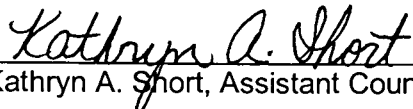


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By   
Kathryn A. Short, Assistant County Counsel

#1

## SPEAKER SIGN UP CARDS

DATE

8/5/99

NAME

Kevin Fitts

ADDRESS

2514 SE Ankeny #6

Portland, OR

PHONE

(503) 231-7324

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC

R-4

GIVE TO BOARD CLERK



#2

## SPEAKER SIGN UP CARDS

DATE August 5, 1999

NAME

Cecelia Vergaretti VERGA  
RETTI

ADDRESS

Mental Health Assoc. of Oregon  
620 SW Fifth Ave

PHONE

PDX 97204 243-2081

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Mental Health Task Force

R-4

GIVE TO BOARD CLERK

MEETING DATE: AUG 05 1999  
AGENDA NO: R-4  
ESTIMATED START TIME: 9:50

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

**SUBJECT:** Resolution Creating the Multnomah County Mental Health Task Force

**BOARD BRIEFING:**

DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

**REGULAR MEETING:**

DATE REQUESTED: August 5, 1999

AMOUNT OF TIME NEEDED: 15 Min.

**DEPARTMENT:** Nondepartmental

**DIVISION:** Chair's Office

**CONTACT:** Rhys Scholes

TELEPHONE #: 248-3928  
BLDG/ROOM #: 106/1515

**PERSON(S) MAKING PRESENTATION:** Rhys Scholes, Chair's Office

**ACTION REQUESTED:**

☐ INFORMATIONAL ONLY   ☐ POLICY DIRECTION   ☒ APPROVAL   ☐ OTHER

**SUGGESTED AGENDA TITLE:**

Resolution creating a Multnomah County Mental Health Task Force

8/9/99 copies to Rhys Scholes

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** Beverly Stein  
(OR)  
**DEPARTMENT**  
**MANAGER:** \_\_\_\_\_

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

**Any Questions: Call the Board Clerk @ 248-3277**

99 JUL 27 PM 3:08  
MULTNOMAH COUNTY  
CLERK OF COUNTY COMMISSIONERS



## Beverly Stein, Multnomah County Chair

Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

# SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Rhys Scholes, Chair's Office

DATE: July 28, 1999

RE: Resolution Creating the Multnomah County Mental Health Task Force

1. Recommendation/Action Requested:

Approve the Resolution.

2. Background/Analysis:

As part of the adoption of the 1999-2000 County Budget, the Board adopted the following budget note:

Chair Stein will appoint a Behavioral Health Work Group in collaboration with the Department of Community and Family Services and the Evaluation Unit of the Budget Office.

3. Financial Impact:

None. The recommendations of the Task Force could have financial implications.



4. Legal Issues:

None.

5. Controversial Issues:

The Behavioral Health system has a number of controversial issues including:

- the impact of deinstitutionalization on County service systems
- the adequacy of systems funding
- the provision of services by community based organizations through the County administration
- the use of county correctional resources on clients with mental health and/or alcohol and drug issues
- how to prioritize limited service dollars
- administrative charges

Many of these and others are covered in the study questions outlined in the resolution.

6. Link to Current County Policies:

Linked to several key county benchmarks including reduction of crime and provision of effective health, mental health and alcohol and drug services.

7. Citizen Participation:

The Resolution will authorize appointment of a task force of individuals with expertise in mental health and organizational development issues, including knowledgeable citizens.

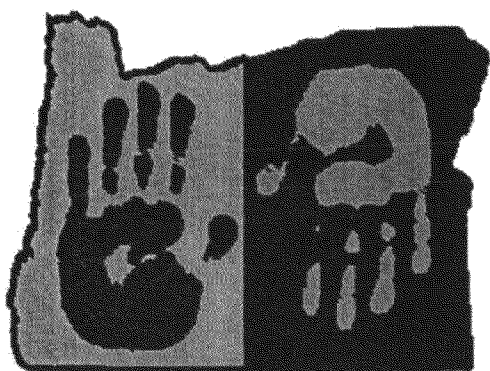
8. Other Government Participation:

The state is a major systems funder.

# Office of Consumer Technical Assistance

OCTA of Oregon

*“Individuals who need  
mental health services are the  
reason the systems exists;  
their needs, strength and  
experience should drive the  
system.”\**



\*From the Mental Health and Developmental  
Disabilities Services Department Values and  
Principles Statement - 1997

## What is the Office of Consumer\* Technical Assistance (OCTA)?

### Our mission:

OCTA is a consumer-run organization providing technical assistance to consumers and providers of mental health services throughout Oregon.

Technical assistance means providing consultations, trainings, workshops, resource and referral information, and funding opportunities, in order to increase consumer voice in the Oregon public mental health system.

### OCTA's mission is three-fold:

- ◆ To assist consumers in development of programs in their local communities.
- ◆ To increase consumer involvement in community mental health provider systems and managed behavioral health care organizations.
- ◆ To increase consumer impact on policy development and implementation of local, state and federal levels.

OCTA is affiliated with Network Behavioral HealthCare, Inc., primarily funded by the Mental Health and Developmental Disabilities Services Division

\* OCTA recognizes and respects the various terms individuals with experience of mental health services use to describe themselves (consumers, survivors, recipients, clients, ex-patients, etc). For brevity, "consumer" is used here.

## Who is OCTA?

**Kevin Fitts:** Program Manager,  
Managed Care Outreach  
Coordinator

**Miriam Gershow:** Resource and  
Communication Coordinator

**Scott Snedecor:** Consumer  
Networking Coordinator

## How to reach OCTA

The OCTA offices are open  
Monday - Friday, 9am- 5pm.

**Phone:** (503) 231-3052

**Toll-Free:** 1-888-790-9379

**Fax:** (503) 233-2861

**Email:** [info@orocta.org](mailto:info@orocta.org)

**Website:** <http://www.orocta.org>

**Mailing Address:**

OCTA

5415 SE Milwaukie, #3

Portland, OR 97202

## Resource and Referral

### Phone Line

OCTA's toll-free resource and referral line is answered Monday through Friday 9:00am-5:00pm.

Consumers and professionals from around the state and country can call for information regarding:

- ◆ Local and national consumer groups and activities
- ◆ Consumer involvement activities throughout Oregon
- ◆ Q & A's regarding Oregon's new managed care system

## Resource and Information

### Library

OCTA has a full array of information available to consumers and professionals:

- ◆ How-to brochures, books, audio and video-tapes
- ◆ Articles on managed care and consumer involvement
- ◆ Listing of local and national consumer events

## Quarterly Newsletter

OCTA distributes quarterly newsletters to consumers and providers with information about events, activities and system changes.



## What kind of technical assistance does OCTA provide?

### On-Site Trainings

#### For Consumers and Service Providers

OCTA is available for local, regional, and statewide trainings.

- ◆ How to Open and Operate a Consumer-Run Drop-In Center
- ◆ Effective Governance of Consumer-Run Groups
- ◆ Consumer Involvement with Community Mental Health Providers
- ◆ Best Practices for Involving Consumers in Managed Care Organizations
- ◆ Consumer Input in State Level Policy and Planning

### Mini-Grant Funding

#### For Consumers and Consumer-Run Groups

Monthly mini-grants are awarded to individual consumers and consumer-run organizations for programs or activities which increase consumer involvement and empowerment throughout Oregon. Applications are reviewed by a statewide panel of consumers.

Contact OCTA for an application and guidelines.

Office of Consumer Technical  
Assistance

5415 SE Milwaukie #3

Portland, OR 97202

(503) 231-3052

1-888-790-9379

[info@orocta.org](mailto:info@orocta.org)

<http://www.orocta.org>



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 99-160**

Creating a Multnomah County Mental Health Task Force

**The Multnomah County Board of Commissioners Finds:**

- a. As the local mental health authority, Multnomah County has primary responsibility for the administration of public mental health services in our community.
- b. Over the last five years there have been major changes in the funding of mental health services, primarily as a result of the implementation of managed care.
- c. The implementation of managed care has brought substantial structural changes in the mental health and substance abuse services delivery system.
- d. Demand for mental health services continues to exceed access to appropriate services.
- e. Some community non-profit agencies have had to reduce services as they transition to managed care.
- f. Many consumers require treatment for alcohol and drug as well as mental health issues but funding mechanisms for the two systems are not well coordinated.
- g. The increasing complexity of the system reduces public understanding of issues and raises new challenges.

**The Multnomah County Board of Commissioners Resolves:**

1. The Chair will appoint a Mental Health Task Force to study the local mental health system and make recommendations to the County Chair and the Board of County Commissioners. The Task Force will include up to twelve individuals with expertise in mental health and organizational development issues.
2. The task force will analyze the current system for public mental health treatment in Multnomah County and compare it with best practices at the national level. The task force will analyze strengths of the current system as well as problems.
3. The task force will collect input from stakeholders and from the public. It will establish working groups around specific topics and will provide opportunities for open public input.

4. After it has collected information about the current system and before it formulates recommendations, the Task Force will share the information about the current system with the Board of County Commissioners and the public.
5. The Task Force will utilize national experts to gain information about best practices and will share that information with the Board of County Commissioners and the public.
6. Within the context of the overall analysis, the task force will study questions including but not limited to: What are the causes of service reductions in recent years? What are the highest priority services? How can provision of those services be maximized with the constraints of existing funding? Can system overhead costs be reduced? What is the optimum administrative model for public mental health services in Multnomah County? Is the current mix of public and private entities appropriate? What are the additional costs of providing mental health services in an urban area and how should funding be adjusted? What is the interrelationship of mental health and alcohol and drug services and what system improvements would you suggest for the large proportion of dual diagnosis clients? What is the best way to provide mental health services to offenders in and out of correctional facilities and to reduce recidivism?
7. The task force will produce a written report including findings and recommendations by March 31, 2000.

Adopted this 5th day of August, 1999.



REVIEWED:

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By Thomas Sponsler  
Thomas Sponsler

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein  
Beverly Stein, Chair



MULTNOMAH  
COUNTY

## NEWS RELEASE

www.multnomah.lib.or.us/cc/bev

# MULTNOMAH COUNTY OREGON

## FOR IMMEDIATE RELEASE

**Contact:** Rhys Scholes, Chair's Office  
503-248-3928

Mike McCracken, Mental Health Task Force  
503-763-9585

September 8, 1999

## Stein Appoints Mental Health Task Force

Multnomah County, OR – Multnomah County Chair Beverly Stein today named 13 members to serve on a broad-based task force to study the public mental health system in the county and to make recommendations for change.

"Everyone knows there are big problems with the public mental health system, but there is no consensus regarding solutions," said Stein. "That's the difficulty this task force is going to address".

"We have not overcome centuries of stigmatization of people with mental illness. We have not incorporated emerging best practices for treatment and support. We have not confronted the effects that managed care has had on the treatment system. It is imperative that we face these issues squarely and honestly and figure out what changes we need," said Stein.

Multnomah County's Board of Commissioners authorized creation of the task force in August. They directed it to analyze the current system for public mental health treatment in Multnomah County and compare it with best practices at the national level. The task force will also analyze strengths and weaknesses of the current system, collect input from stakeholders, establish working groups on specific topics, and provide opportunities for open public input.

Lorenzo Poe, Director of Multnomah County's Department of Community and Family Services serves as the local mental health authority and has worked closely with Stein to create the task force. "We have carefully selected the members of the task force, making sure that it will bring an independent evaluation of county services. I expect an open public discussion of mental health needs in the county and look forward to the difficult challenge of bringing about needed changes," Poe said.

The task force is charged by the Board of Commissioners with answering several questions including: What are the causes of mental health service reductions in recent years? What are the highest priority services? Is the current mix of public and private entities appropriate? What are the additional costs of providing mental health services

Office of Beverly Stein  
Multnomah County Chair  
1120 SW Fifth Avenue, Suite 1515  
Portland, Oregon 97204  
(503) 248-3308 phone  
(503) 248-3903 fax

(more)

to offenders in and out of correctional facilities and to reduce recidivism?

"I believe state resources, particularly those using federal Medicaid funding, do not take into account the very serious needs of this large urban area with its growing population. We must do a much better job of reaching out to ethnic minorities, children and other people who need help," Poe said.

"Mental illness touches every person in our community," noted Stein. "Families of people with mental illness are too often in crisis because of inadequate treatment. Our jails are filled with people with mental illness because of inadequate treatment. And many people who could be productive workers and contributing members of the community are left on the sidelines because of inadequate treatment and services."

*Elsa A. Porter* will chair the task force. She is a teacher, lecturer and consultant to business and government on organizational innovation and effectiveness. She is one of the nation's leading experts on system analysis and reform. She has served in the federal government as Assistant Secretary of Commerce for Administration and as director of the clearinghouse on productivity and organizational effectiveness with the U.S. Civil Service Commission. She holds an M.P.A. degree from the Kennedy School of Government at Harvard University and was elected to the National Academy of Public Administration in 1978. Currently she serves as chair of the Subcommittee on Space Technology Commercialization in the Life and Microgravity Sciences Division of NASA, which is leading development of new products in space.

Other members of the task force include:

*Constance A. Powell, MD*, a psychiatrist in private practice. She is the current president of the Oregon Psychiatric Association and former chair of a mental health task force for the Oregon Medical Association.

*Carl Talton*, Director of Economic Development for Portland General Electric. He serves on the board of United Way and was a Mental Health Association of Oregon board member.

*Reverend Eugene Ross*, Associate Conference Minister for the Central Pacific Conference of the United Church of Christ. He serves on the board of FolkTime which provides socialization services to persons with mental illness and has staffed task forces dealing with local church congregations and services to the mentally ill.

*James Ward*, Dean of the School of Social Work at Portland State University.

*Anne L. Potter, Ph.D.*, a consumer of mental health services. She is editor of the Mental Health Association newsletter and active on the State Mental Health Division Planning and Advisory Council and the Employment Committee of the Oregon Disabilities Commission.

*Sylvia Caley*, an attorney with the Oregon Law Center. She is a registered nurse who formerly held a management position in a facility for developmentally disturbed and mentally ill children. She has worked as a legal advocate for low-income people, HIV-infected individuals and the mentally ill.

*Frank J. Baumeister Jr., MD*, a gastroenterologist in private practice. He is a former president of the Oregon Medical Association who provided leadership in advocating for mental health parity at the Oregon Legislature.

*Barry Kast*, Director of the State Mental Health and Developmental Disability Services Division.

*Kathy McCullough*, a corrections counselor with the Multnomah County Sheriff's Office. As a member of the Mental Health Multi-disciplinary team at the Multnomah County Detention Center, she has worked to improve coordination between jail staff, probation and parole officers and local mental health agencies.

*Sandy Hayden*, a consumer of mental health services. She has been involved with Project Equality, the Office of Consumer Technical Assistance and the Mental Health Association of Oregon.

*Michael Loy*, a Circuit Court Judge specializing in domestic relations.

*Alfonso López-Vasquez, M.Ed.*, Cultural Diversity and Outreach Coordinator for OHSU's School of Medicine. He is a lecturer in cross-cultural competency for health, mental health and social service providers.

Michael McCracken, a private consultant, will staff the task force. Most recently he was Executive Director of the Association of Oregon Community Mental Health Programs. Previously he served as a local public health and mental health administrator and in the legislature as a state representative from Albany.

The first meeting of the Mental Health Task Force will be Monday, September 13, 1999, at 5 PM in Conference Room A on the second floor of the Portland Building at 1120 SW 5<sup>th</sup> Avenue. Meetings of the task force are open to the public.

The final report of the task force is due March 31, 2000.

# # #

**ESTIMATED START TIME:** 10:05 AM

## AGENDA PLACEMENT FORM

**SUBJECT: How We Manage the County: A Report of the Organizational Self-Assessment Findings**

**AMOUNT OF TIME NEEDED:**

**AMOUNT OF TIME NEEDED:** 45 minutes

**BLDG/ROOM #:** 106/1430

**PERSON(S) MAKING PRESENTATION:** Beverly Stein, Department Directors, Joe Devlaeminck and Carla Gonzales

**ACTION REQUESTED:**

☒ INFORMATIONAL ONLY    ☐ POLICY DIRECTION    ☐ APPROVAL    ☐ OTHER

**SUGGESTED AGENDA TITLE:**

## How We Manage the County: A Report of the Organizational Self-Assessment Findings

**SIGNATURES REQUIRED:**

Beverly Stein

**MANAGER:**

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

***Any Questions? Call the Board Clerk @ 248-3277***

RECEIVED BY  
CLERK OF DISTRICT COURT  
JUL 23 PM 3:49  
MULTNOMAH COUNTY  
OREGON



## **HIGHLIGHTS OF MULTNOMAH COUNTY "RESULTS" INITIATIVE**

### ***Reaching Excellent Service Using Leadership and Team Strategies***

#### **1993**

- RESULTS begins as labor/management effort to achieve High Performance Government.
- RESULTS Advisory Group of business and education leaders guides RESULTS effort.

#### **1994**

- RESULTS Steering Committee of managers, employees, and union representatives lead development of RESULTS.
- Board approves funding for RESULTS Conference and grants program to motivate pilot quality team efforts.
- Official "kickoff" conference to implement RESULTS. Participants include 350 employees, managers, commissioners, union representatives and citizens.

#### **1995**

- Managers trained in budget preparation on achieving outcomes using tools of RESULTS; new Evaluation Specialist hired to guide outcome measurement.
- RESULTS Design Team delivers *RESULTS Roadmap*, Quality Training Manager hired, learning needs tied to Board goals in *RESULTS Roadmap*.
- Process Improvement Teams under way.

#### **1996**

- Department Managers, charged with ownership of RESULTS, form Departmental RESULTS Steering Committees to engage all employees.
- Various forums begin to support learning and engage managers and employees.
- Strategic Plan for Information Technology completed, providing guidance to the County's coordinated and systemic approach to technology.
- County-wide Cultural Diversity Conference begins integration of diversity and RESULTS.
- Departments conduct self-assessment based on Oregon Quality Award Criteria to provide baseline data against which to measure future improvements.
- County Commissioners, Department Managers, and other senior departmental leaders identify strategic goals for the next few years.
- Department Managers use RESULTS principles in responding to Measure 47.

#### **1997**

- Diversity, RESULTS, and Training Coordinators present "RESULTS from the Front Lines" to the Board to summarize RESULTS and Diversity activities and achievements.
- Results from RESULTS Board presentations begin.

#### **1998**

- First Multnomah County RESULTS Survey sent out to all County employees.
- Second self assessment using Oregon Quality Award criteria begins.
- HR Committee re-engineers County's Human Resources functions to better support RESULTS.

#### **1999**

- Application based on self assessment submitted for Oregon Quality Award.
- Second all-County employee survey distributed.

# OQA Self-Assessment: A Good Investment for Multnomah County

by Bethany Quillinan

The Oregon Quality Award (OQA) has always had strong membership and support from Multnomah County. County Chair Beverly Stein sits on the OQA Board of Advisors, Melinda Petersen, of the County Chair's Office is a member of the OQA Assessment Technical Advisory Team and has served as an OQA Examiner. Multnomah County employees who have also served as OQA Examiners most recently include Jim Munz, Lance Duncan, and Carla Gonzales.

Multnomah County is governed by a five person Board of County Commissioners who determine policy along with legislative leadership. As the County's Chief Executive Officer, Chair Stein is responsible for implementing policy and managing a diverse workforce of nearly 5,000 employees in over eighty locations with an annual operating budget of \$900 million.

As part of the County's RESULTS Initiative (Reaching Excellent Service Using Leadership and Team Strategies), the County performs an organizational assessment using the OQA Self-Assessment Criteria every two years, first in 1996, and in November, 1998. Representatives from 7 departments (Aging and Disability Services, Community and Family Services, Environmental Services, Support Services, Health Services, Community Justice, the Library) and 2 elected offices (District Attorney's Office and Chair's Office) participated in kick-off training sessions on the OQA Self-Assessment criteria. Each department then completed a report of their assessment, followed by workshops that assisted them in prioritizing the opportunities discovered and in creating action plans to implement improvements.

The departments and offices used the learnings from the self-assessments to inform strategic planning, budget development, and action planning



activities. Participants faced the same challenges as other organizations including short timelines, limited resources and translating the language of the Criteria into more familiar terms. In addition, all departments contain multiple divisions, often with very different mandates and customer bases. There is no "one" process for larger categories like Process Management and Customer and Market Focus, since the County has many and varied business functions.

Carla Gonzales, RESULTS Assessment Coordinator, is now in the process of compiling all reports into one assessment for the County. Carla reports that County-wide themes are emerging, which makes unifying the assessment a little easier. The County has found that:

- Valuing diversity is reflected in how they do their work
- The County is focused on gathering customer input
- Customer driven process improvement is increasing
- Partnering is a key leadership and operational strategy
- Employee recognition is informal
- Aligning a workforce of 5,000 to the same vision has its challenges

For more information on the County's RESULTS Initiative, contact Melinda Petersen of the Chair's Office at (503) 248-3971, or Carla Gonzales of the Training & Organizational Development Office at (503) 248-5051. For more information on the Oregon Quality Award, contact Carolyn Mark at The Performance Center, (503) 725-2804.

*Bethany Quillinan is a consultant with ETI Group and an external associate of The Performance Center. Bethany has been providing training and coaching to Multnomah County during the County's Oregon Quality Award self-assessment process.*

## Congratulations

*Congratulations to members of The Performance Center who were included in Oregon Business Magazine's "100 Best Companies to Work for in Oregon."*

*Alcatel Submarine Networks, Inc.  
Bear Creek Corporation  
DAT Services  
InFocus Systems, Inc.  
Integrated Measurement Systems, Inc.  
Intel Corporation (FIS)  
Mid-Columbia Medical Center  
St. Charles Medical Center  
Standard Insurance Company  
Sulzer Bingham Pumps, Inc.  
Tektronix, Video & Networking Division*



## Introduction

- **A Report on How We Manage the County**
- **Senior Leaders Responsible for Outcomes**
  - Help achieve Benchmarks and Vision**
    - Good values for tax dollars
    - Responsive customer service
    - Excellent place to work
- **We have a history of self-evaluation**
- **Organizational Self-assessment Findings**



## How We Assess Our Performance

- **OQA Performance Criteria Based on National Malcolm Baldrige Quality Award Criteria**
- **“Best Practice” tool**
- **Provides external guidance and validation**
- **The 7 categories of assessment**

<b>Leadership</b>	<b>Human Resource Focus</b>
<b>Strategic Planning</b>	<b>Process Management</b>
<b>Customer &amp; Market Focus</b>	<b>Organizational Results</b>
<b>Information and Analysis</b>	





# Leadership

**How do leaders set directions and provide guidance to achieve organizational goals, and address responsibilities to the public?**

**Strengths:**

- Community and workforce opportunities for safety, security and success
- Community ally and partner

**Opportunities for Improvement:**

- '98 Employee Survey shows the need to:
  - Improve manager/employee trust and problem solving
  - Recognize employee contributions to quality service
- Continue management transition to shared leadership, teams, and outcome focus



# Strategic Planning

**How do we plan for future organizational success?**

**Strengths:**

- Benchmarks and RESULTS Roadmap goals help guide formation of departmental plans
- Development or major updates of all department strategic plans by the end of the '99
- Departments use innovative methods to communicate and implement strategic objectives

**Opportunities for Improvement:**

- Effective linking of various strategic planning efforts
- The people resources needed to carry out strategic action plans consistently used as a factor to determine priorities





## Customer and Market Focus

**How do we understand and exceed customer expectations?**

**Strengths:**

- **Creative and customized methods used to:**
  - **Build customer relationships**
  - **Enhance customer satisfaction**
  - **Attract new customers**
- **Listen and learn from our customers**

**Opportunities for Improvement:**

- **Countywide process to determine and analyze customer data**
- **Countywide system to track and learn from customer complaints**



## Information and Analysis

**How do we use information and data to assess and improve organizational performance?**

**Strengths:**

- **Achievements in:**
  - **Providing technology to employees**
  - **Improving hardware and software**
  - **Developing internal technological expertise**
- **Comprehensive and integrated fiscal and HR performance management system (IES)**

**Opportunities for Improvement:**

- **Countywide comprehensive and integrated customer data system**
- **Organizational understanding of Key Results Measures and daily process performance**





## Human Resource Focus

**How do we support employees to develop their full potential to achieve organizational goals ?**

**Strengths:**

- **Innovative methods to support employees and use their full potential**
- **Comprehensive learning and skill development opportunities**
- **“Reengineering” of HR functions to departments**

**Opportunities for Improvement:**

- **Consistent formal performance appraisal of all employees**
- **Formal recognition programs for employee contributions to organizational success**



## Process Management

**How do we design and manage our work processes?**

**Strengths:**

- **Community partnerships and contractor relationships used to:**
  - **Improve service delivery**
  - **Increase customer satisfaction**
  - **Maximize limited resources**
- **Customers and stakeholders drive process improvement in many areas**

**Opportunities for Improvement:**

- **Continuous quality problem solving used in all areas**
- **Standardized countywide contracting practices are in early stages.**





## Organizational Results

**What are the outcomes of the approaches we use?**

**Strengths:**

- **50% of total budget devoted to Long-term Benchmark achievement**
- **Departmental performance measures show positive trends**
- **Process Improvement Teams are saving time and money**

**Opportunities for Improvement:**

- **Systematic integration of customer data across multiple service areas**
- **Report and measure impact of successful partnering efforts with other government agencies, businesses and organizations**



## Labor Perspective

- **Labor-Management Partnership on RESULTS**

- **Example of Collaboration:**

### **Employee Relations Committee**

- **Identifies Issues and Creates Dialogue**
- **Balances Participation**
- **Builds Relationships**
- **Provides Collaborative Problem Solving**
- **Results in Better Bargaining Experiences**
- **Improves Outcomes for Taxpayers, Customers, Employees**





## In Closing ...

- Our work will never be “done”
- We have made significant progress
- We are committed to the RESULTS vision:
  - Good value for tax dollars
  - Responsive customer service
  - Excellent place to work
- *and*
- Accountability through performance assessment





Meeting Date: JUL 29 1999 AUG 05 1999  
Agenda No: R-6 R-6  
Est. Start Time: 9:55 10:50

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

**SUBJECT:** Public Hearing of an Ordinance amending the Exclusive Farm Use (EFU) district to repeal the provision of Ordinance 903, expiration of certain single family dwelling approvals for applications received before August 7, 1993 under MCC 11.15.2030, and dwelling approval validation under MCC 11.15.2031. C 7-99

**BOARD BRIEFING** Date Requested:  
Amt. of Time Needed:  
Requested By:

**REGULAR MEETING** Date Requested: July 29, 1999  
Amt. of Time Needed: 15 Min.

**DEPARTMENT:** DES **DIVISION:** Land Use Planning  
**CONTACT:** Charles Beasley **TELEPHONE:** 248-3043  
**BLDG/ROOM:** 455 / 116

**PERSON(S) MAKING PRESENTATION:** Charles Beasley

### ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

### SUGGESTED AGENDA TITLE

Public Hearing of an Ordinance amending the Exclusive Farm Use (EFU) district to repeal the provision of Ordinance 903, expiration of certain single family dwelling approvals for applications received before August 7, 1993 under MCC 11.15.2030, and dwelling approval validation under MCC 11.15.2031. C 7-99

8/9/99 copies to Chuck Beasley & ORDINANCE  
Distribution List, SANDRA DUFFY & JEFF  
BACHMACH

### SIGNATURES REQUIRED

Elected Official: \_\_\_\_\_

or

Department Manager: KB Lou E. Nicholas

99 JUL 21 AM 11:46  
CLATSOP COUNTY  
BOARD OF  
COUNTY COMMISSIONERS

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM BRIEFING, STAFF REPORT**

**To:** Board of County Commissioners

**From:** Planning Staff

**Today's Date:** July 20, 1999

**Subject:** Public hearing to consider repeal of Ordinance 903, Dwelling Validation Ordinance.

**I. Recommendation/ Action Requested:**

Repeal Ordinance 903 because it can result in approval of building permits for farm dwellings under old farm management plans when the amount of farm activity does not meet the "day to day" standard of the Oregon Administrative Rule (OAR 660-05-030(4) (1986) in effect at the time.

**II. Background/ Analysis:**

This action is being considered after the Board decision in a prior hearing to find that Ordinance 903 is invalid after it was remanded back to the County by the Court of Appeals. This resulted in denial of the three applications. The Board's decision was based in part on the Board's policy to ensure that land use decisions must be based on criteria that are at least as strict as state law (see attached Board Order 99-113). The applications in the prior hearing were made under the approval criteria of Ordinance 903, which provides that a building permit for a dwelling in-conjunction with farm use can be approved when the activities called for during first two years of the farm management plan have been implemented. On the other hand, the OAR standard states that a parcel is currently employed for farm use when the "day-to-day activities on the subject land are principally directed to the farm use of the land." This standard is not addressed under the terms of Ordinance 903.

The sections of the EFU ordinance that would be repealed under this action are, MCC 11.15.2030 Expiration of Certain Single Family Dwelling Approvals for Applications Received Before August 7, 1993, and MCC 11.15.2031 Dwelling Approval Validation.

**III. Financial Impact:**

No fiscal impact to the County has been identified.

**IV. Legal Issues:**

Two cases which were previously approved, PRE 4-98 and 5-98, are currently on appeal to LUBA. The Board's denial of PRE 16-98, 17-98 and 18-98 has been appealed to LUBA.

**V. Controversial Issues:**

The issue with all 8 or 9 of the parcels that have approvals for dwellings in-conjunction with farm use under old farm management plans, and that have also not constructed the dwelling after 10 years time, is how to ensure that the state requirements are met. In the past, the County has informed individuals with approved farm management plans that those approvals have no expiration.

**VI. Link to Current County Policies:**

The County's policy is to protect farmland for farm use to the greatest extent possible.

**VII. Citizen Participation:**

The notification to affected property owners required under Ballot Measure 56 has been provided.

**VIII. Other Government Participation:**

None.

1                   BEFORE THE BOARD OF COUNTY COMMISSIONERS  
2                   FOR MULTNOMAH COUNTY, OREGON  
3                   ORDINANCE NO. 903  
4

5       An Ordinance amending MCC 11.15 by establishing an expiration period for certain single  
6       family dwelling approvals in the Exclusive Farm Use District.

7               (Underlined language is new or replacement; ~~struck-through~~ language is deleted.  
8       [Bracketed, underlined and bolded] is language added, and ~~strikethrough~~ is language  
9       removed in accordance with Board discussion on February 12, 1998.)  
10

11       Multnomah County Ordains as follows:  
12

13       SECTION I.   FINDINGS

14           (A)       The Board of County Commissioners recognizes that Oregon Administrative  
15       Rule 660-33-140(1) provides:

16                   "A discretionary decision, except for a land division,  
17                   made after the effective date of this division (August 7,  
18                   1993), approving a proposed development on  
19                   agricultural or forest lands outside an urban growth  
20                   boundary under ORS 215.010 to 215.293 and 215.317  
21                   to 215.428 or under county legislation or regulation  
22                   adopted pursuant thereto is void two years from the  
23                   date of the final approval if the development action is  
24                   not initiated in that period."

25               and became effective on August 7, 1993; and  
26

1 (B) The Board also recognizes that OAR 660-33-140(1) applies only to decisions  
2 made after its August 7, 1993 effective date; and

3 (C) The Board further recognizes there are approvals for single family dwellings  
4 in the Exclusive Farm Use District for applications received prior to August 7, 1993  
5 that do not contain an expiration date, have not been initiated, and are not governed  
6 by OAR 660-33-140(1); and

7 (D) The Board finds there would be parity between all dwelling approvals in the  
8 Exclusive Farm Use district if an expiration date for the pre-August 7, 1993 approvals  
9 were established.

10 (E) On December 1, 1997 and January 5, 1998, the Planning Commission held  
11 public hearings. Hearings before the Board of County Commissioners followed on  
12 February 12 and February 19, 1998. At each of the hearings all interested persons  
13 were given an opportunity to appear and be heard.  
14

## 15 SECTION II. AMENDMENT OF EFU DISTRICT

16 Multnomah County Code Chapter 11.15 is amended by adding subsections 11.15.2030  
17 through .2031 and amending 11.15.2032 as follows:

### 18 11.15.2030 Expiration of Certain Single Family Dwelling Approvals for 19 Applications Received Before August 7, 1993

20 The following provisions apply to all administrative and action proceedings involving  
21 discretionary land use decisions approving certain single family dwellings, as  
22 described in this subsection, for which applications and fees were collected before  
23 August 7, 1993:

24 (A) All single family dwellings approved as a residential use not in conjunction  
25 with farm use under the conditional use action proceedings provisions of MCC  
26

1 .2012(B)(3) then in effect, shall be subject to the permit expiration provisions and  
2 dates in effect at the time of approval as prescribed by MCC .7110(C).

3 (B) Except as provided in MCC .2031, the following approvals for single family  
4 dwelling shall expire two years from the effective date of this ordinance :

5 (1) All residences in conjunction with a farm use considered under the  
6 provisions of §3.103.2(c) Ordinance 100 or MCC .2010(C) for which  
7 applications were received between August 14, 1980 and February 19, 1990,  
8 and

9 (2) All residences customarily provided in conjunction with an existing  
10 use considered under the provisions of MCC .2010(A) for which applications  
11 were received between February 20, 1990 and August 6, 1993.

12 **11.15.2031 Dwelling Approval Validation**

13 Approvals described in MCC .2030(B) shall continue to be valid if:

14 (A) A dwelling has been constructed or placed on the property as approved prior  
15 to the effective date of this ordinance; or

16 (B) The property owner applies for a determination of substantial compliance with  
17 the approved farm management plan. That determination shall be initiated and  
18 processed as follows:

19 (1) Application shall be made on appropriate forms and filed with the  
20 Planning Director prior to two years after the effective date of this Ordinance;

21 (2) The Planning Director shall find substantial compliance with the  
22 approved farm management plan, based on evidence provided by the  
23 applicant, if the activities provided for in the first two years of the farm  
24 management plan have been implemented.

1           (3)       If the applicant applies for a dwelling location other than that approved  
2                   by the management plan or an approved and active lot line adjustment, the  
3                   new location shall:

4           (a)       Satisfy all applicable setback and siting standards including MCC  
5                   .2016, MCC.6400 through .6425, MCC .6700 through .6735, and MCC  
6                   9.40, and

7           (b)       Be on a portion of the property with a soil classification of no higher  
8                   value than the original approved location.

9           (4)       Notices of the application and decision of the Planning Director shall  
10                  be mailed to all individuals entitled to notice as defined in MCC .8220(C).

11          (5)       The decision of the Planning Director shall become final at the close of  
12                  business on the tenth day following mailed notice unless a party files a written  
13                  notice of appeal. Such notice of appeal and the decision shall be subject to the  
14                  provisions of MCC .8290 and .8295.

15          (6)       If the Planning Director issues a determination of substantial  
16                  compliance, the property owner shall, within [one year] 180-days of  
17                  the final date of that decision [or one year from the date of final  
18                  resolution of an appeal of the Planning Director's decision of  
19                  substantial compliance], apply for and obtain a building permit for  
20                  the dwelling under the permit regulations of the applicable government  
21                  issuer[.] [The property owner shall obtain a building permit for the  
22                  proposed dwelling within one year of application for that permit]  
23                  and continue to keep the building permit valid until completion of the  
24                  dwelling. Failure to obtain a building permit within the specified [one  
25                  year period, or the additional one year period allowed by MCC  
26                  11.15.2031(B)(7)] 180-days, [failure to continuously keep the

1                    building permit valid,] or failure to complete construction [or  
2                    placement] of the dwelling under the above described valid permit,  
3                    shall void the decision of the Planning Director.

4                    (7)        [The Planning Director may approve a singular, one year  
5                    extension to the time allowed for obtaining a building permit if the  
6                    property owner demonstrates that failure to obtain a building  
7                    permit was due to circumstances beyond the control of the  
8                    property owner and the property owner acted with due diligence  
9                    to obtain the building permit. Application for this one year  
10                   extension shall be made on appropriate forms and filed with the  
11                   Planning Director at least 30 days prior to the expiration of the  
12                   one year period following application for a building permit. The  
13                   Planning Director shall process the application pursuant to the  
14                   provisions of MCC 11.15.2031(B)(4) and (5).]

15        **11.15.2032 Permit Expiration of Applications Received on or after August 7, 1993**

16                All administrative and action proceedings involving discretionary decisions for which  
17                applications and fees have been collected on or after August 7, 1993, except land  
18                divisions and uses listed in MCC .2012, shall expire two years from the date of the  
19                Planning Director's or Hearing's Officer's decision in the matter, or two years from  
20                the date of final resolution of subsequent appeals, unless:

21                (A)        The project is completed as approved; or

22                (B)        A building permit has been obtained and is continuing to be kept valid under  
23                   the permit regulations of the applicable government issuer until completion of the  
24                   construction, or

25                (C)        The Planning Director determines that substantial construction or  
26                   development has taken place. That determination shall be processed as follows:



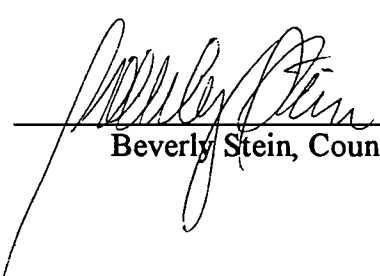
- 1           (1)       Application shall be made on appropriate forms and filed with the  
2                   Director at least 30 days prior to the expiration date.
- 3           (2)       The Director shall issue a written decision ~~on the application within 20~~  
4                   ~~days of filing. That decision shall be~~ based on findings that:
- 5                   (i)       Final Design Review approval has been granted under MCC .7845 on  
6                   the total project, if applicable; and
- 7                   (ii)      At least ten percent of the dollar cost of the total project value has been  
8                   expended for construction or development authorized under a sanitation,  
9                   building or other development permit. Project value shall be as determined  
10                  by MCC .9025(A) or .9027(A).
- 11          (3)       Notice of the Planning Director's decision shall be mailed to all parties  
12                  as defined in MCC .8225.
- 13          (4)       The decision of the Planning Director shall become final at the close  
14                  of business on the tenth day following mailed notice unless a party files a  
15                  written notice of appeal. Such notice of appeal and the decision shall be  
16                  subject to the provisions of MCC .8290 and .8295.
- 17          (D)       Uses listed in MCC .2012 shall expire two years from the date of the Board  
18                  Order on the matter, or two years from the date of final resolution of subsequent  
19                  appeals, unless one of the conditions of .7110(C) are met.
- 20  
21  
22  
23  
24  
25  
26

1     **SECTION III. ADOPTION**

2     ADOPTED this 2nd day of April, 1998, being the date of its third reading before the  
3     Multnomah County Board of Commissioners.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, County Chair

9     REVIEWED:

10    THOMAS SPONSLER, COUNTY COUNSEL  
11    FOR MULTNOMAH COUNTY, OREGON

12  
13    By   
14    Sandra N. Duffy, Chief Assistant County Counsel

15  
16  
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19  
20  
21  
22  
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24  
25    4/2/98 revision

## ORDINANCE FACT SHEET

### **Ordinance Title:**

An Ordinance amending the Exclusive Farm Use (EFU) district to repeal the provisions of Ordinance 903, Expiration of Certain Single Family Dwelling Approvals for Applications Received Before August 7, 1993 under MCC 11.15.2030, and Dwelling Approval Validation under MCC 11.15.2031.

### **Give a brief statement of the purpose of the ordinance including rationale for adoption, description of persons benefited, alternatives explored:**

Repeal of Ordinance 903 is being considered because the substantive provisions do not ensure that the minimum state requirements to establish farm dwellings are met. Ordinance 903 was adopted on April 2, 1998, and was intended to place an expiration date on old farm management plan approvals, and to define how much of the approved farm management plan needed to be implemented in order to demonstrate that the property was currently employed for farm use. State law requires that a property must be currently employed for farming precedent to approval of a building permit for a dwelling in-conjunction with farm use. Ordinance 903 was appealed to LUBA and finally remanded back to the County after hearing by the Court of Appeals. The remand was based on defects in the procedural provisions for processing applications under Ordinance 903.

### **What other local jurisdictions have enacted similar legislation?**

Not applicable to this repeal proceeding.

### **What has been the experience in other areas with this type of legislation?**

Unknown if other Counties have legislation similar to the ordinance subject to this repeal.

### **What is the fiscal impact, if any?**

None identified.

### SIGNATURES

Person filling out form: Cherish Beasley

Planning and Budget (if fiscal impact): \_\_\_\_\_

Department Manager/Elected Official: KB Lane E. Nicholas

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. \_\_\_\_\_

An ordinance repealing Multnomah County Ordinance 903 pertaining to expiration periods for certain single family dwellings approved in Exclusive Farm Use Districts.

**The Multnomah County Board of Commissioners Finds:**

a. Procedure and Procedural History:

1. In the 1980s, several development companies acquired large tracts of farm and forestland in Northwest Multnomah County. They divided the tracts into approximately 20-acre parcels and, for land zoned as farmland, obtained approvals of farm management plans for "dwellings in conjunction with farm use."

2. In 1998, a case came before a prior Board involving such a permit. Opponents requested that the permits be declared invalid because they were nine years old and had never been implemented. The Board was reluctant to declare the permits invalid and requested an ordinance be drafted to void unimplemented pre-1994 farm dwelling permits unless, within two years of adoption, there was a determination of substantial implementation of the first two years of the farm management plans.

3. Ordinance 903 was appealed by opponents to LUBA. LUBA found that the notice provisions of the ordinance were invalid because they did not comply with state law. LUBA remanded the ordinance back to the County. That

LUBA decision was appealed to the Court of Appeals. The Court of Appeals affirmed LUBA.

4. The remand from LUBA of Ordinance 903 coincided with the appeals to the Board of three PRE applications.

5. The preliminary procedural question before the Board on those appeals was what effect the remand of Ordinance 903 would have on the three PRE applications on appeal before the Board.

6. Board options were to sever and apply the substantive provisions of Ordinance 903 to the subject applications; or, to not sever the valid and invalid provisions, treating the entire ordinance as invalid on account of the remand of Ordinance 903.

7. Oregon case law allows severance and application of the valid portions of an ordinance when a part of an ordinance is declared invalid, if the invalid portions are not "inseparably connected." *City of Portland v. Dollarhide*, 300 Or 490, 504 (1986).

8. There are no cases mandating a jurisdiction apply the valid portions of an ordinance where other portions were held by an appellate court to be invalid.

9. The Board exercised its discretion to not sever Ordinance 903 and apply the valid portions of Ordinance 903 because it found that those portions found valid by LUBA were inconsistent with state administrative rule OAR 660-05-030(4) (1986).

10. The Board determined, as a matter of policy and as a matter of state law, that land use decisions must be based on criteria at least as strict as state law requires.

11. The Board determined that repeal of Ordinance 903 and application of the more strict state criteria to future decisions was appropriate.

**Multnomah County Ordains as follows:**

Section 1. Repeal

Ordinance 903 is repealed.

FIRST READING: \_\_\_\_\_

SECOND READING AND ADOPTION: \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By *Sandra N. Duffy*  
Sandra N. Duffy  
Chief Assistant County Counsel

H:\data\adv\duffy\ordinances\Repeal Ord 903

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**CREW**  
**CORRIGAN &**  
**BACHRACH, LLP**  
**ATTORNEYS AT LAW**

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WILLIAM E. GAAR\*  
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G. FRANK HAMMOND\*  
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BOARD OF  
COUNTY COMMISSIONERS  
99 JUL 28 AM 10:12  
CLATSOP COUNTY  
OREGON

July 27, 1999

Beverly Stein, Chair  
Diane Linn, Commissioner  
Serena Cruz, Commissioner  
Lisa Naito, Commissioner  
Sharron Kelley, Commissioner  
1120 SW Fifth Avenue  
Suites 1515 and 1500  
Portland, OR 97204

Re: Repeal of Ordinance 903

Dear Chair Stein and Commissioners:

The proposed ordinance to repeal Ordinance 903 that will be before you this Thursday (July 29) contains a legal finding that is contrary to the position taken by the board at your hearing June 10, 1999. The finding is unnecessary and should be deleted from the ordinance.

The legal finding concerns the 1986 Oregon Administrative Rule (OAR 660-05-030) that was discussed at the board's June 10 hearing. At that hearing, in response to a request for clarification that I made on behalf of Western States, the board expressly acknowledged that it was not taking any position regarding the 1986 OAR or whether or not the rule would apply to the new applications Western States would be submitting. Chair Stein stated that "our process is to have the hearings officer make the original decision which is then appealed to us and then we can make [the determination]."

As the transcript of the June 10 hearing makes clear, the board voted to deny Western States' three applications and to subsequently repeal Ordinance 903 because of LUBA's determination that Ordinance 903 contains procedural defects. Yet the ordinance repealing Ordinance 903, as currently drafted, would have this board make the finding that Ordinance 903 is also being repealed because it violates the 1986 OAR.

\*Also Admitted To Practice In Washington \*\*Also Admitted To Practice In California

\*\*\*Admitted to Practice in Utah Only ++Also Admitted To Practice In Washington and Montana +Also Admitted to Practice in Alaska

Beverly Stein, Chair  
July 27, 1999  
Page 2

The resolution of the legal questions about the 1986 OAR could significantly affect Western States' rights. The answer to those questions should be determined through the county's regular process. It is premature for the board to adopt any findings about the OAR until Western States has had an opportunity to submit the new applications and present the case, with a supporting legal memorandum, to the county's hearings officer. The issues can then be brought before this board on appeal if necessary. By slipping the findings about the 1986 OAR into the repeal ordinance, the process has been unfairly short-circuited to Western States' distinct disadvantage.

Western States' rights have already been prejudiced in this same manner. The final order denying Western States' three applications adopted by this board on June 17 included a similar finding indicating that the denial was also based on the 1986 OAR, rather than just on LUBA's remand decision. I did not appear at that hearing because neither Western States nor my office was given an advance copy of the final order nor were we even notified of the hearing date for adoption of the final order.

According to a transcript of the June 17 hearing, several commissioners commented that they too had just received the final order and had not had an opportunity to review it. The following is an excerpt from the transcript of that hearing:

Comm. Naito: This is just the adoption of the final order that we did adopt last week?

Sandra Duffy: Yes it is.

\* \* \*

Comm. Cruz: I just want to make sure that we're not stating that we found anything about the underlying farm management plans.

\* \* \*

Comm. Naito: To me it looks like it's all based on Ordinance 903.

Comm. Linn: That's what it looks like to me too. Approval of the ordinance because we . . . repealed 903.

\* \* \*



Beverly Stein, Chair  
July 27, 1999  
Page 3

Comm. Naito: It's really all related to 903, the Ordinance 903. . .

Sandra Duffy: That's right. . .

Comm. Naito: Is that correct in that we based our decision based on the fact that that ordinance had been declared partially invalid by the state? Okay.

Comm. Linn: Okay, are we ready to vote?

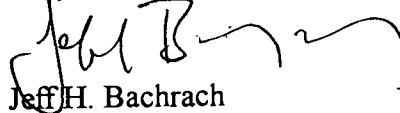
It was never pointed out to the commissioners that the order contained a finding about the 1986 OAR, despite the fact that the board said at the June 10 hearing it was not making any determination about the relevance or interpretation of the OAR.

If you go forward with the repeal of Ordinance 903, I would urge you to please make clear that you are doing so solely because of LUBA's remand decision and not because of any determinations you have reached regarding the 1986 OAR. That is the position set out by this board at the June 10 hearing.

Assuming that is still the board's position, then I would also ask that you reconsider the final order adopted on June 17 (No. 99-113) and delete finding 4(b), which contains a conclusion about the 1986 OAR. If finding 4(b) remains of record, then my client's rights will have been compromised without the benefit of a public notice or public hearing.

Thank you very much for your attention to this matter.

Very truly yours,



Jeff H. Bachrach

cc: Western States Development Corporation  
Thomas Sponsler

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 935**

An ordinance repealing Multnomah County Ordinance 903 pertaining to expiration periods for certain single family dwellings approved in Exclusive Farm Use Districts.

**The Multnomah County Board of Commissioners Finds:**

a. Procedure and Procedural History:

1. In the 1980s, several development companies acquired large tracts of farm and forestland in Northwest Multnomah County. They divided the tracts into approximately 20-acre parcels and, for land zoned as farmland, obtained approvals of farm management plans for "dwellings in conjunction with farm use."

2. In 1998, a case came before a prior Board involving such a permit. Opponents requested that the permits be declared invalid because they were nine years old and had never been implemented. The Board was reluctant to declare the permits invalid and requested an ordinance be drafted to void unimplemented pre-1994 farm dwelling permits unless, within two years of adoption, there was a determination of substantial implementation of the first two years of the farm management plans.

3. Ordinance 903 was appealed by opponents to LUBA. LUBA found that the notice provisions of the ordinance were invalid because they did not comply with state law. LUBA remanded the ordinance back to the County. That

LUBA decision was appealed to the Court of Appeals. The Court of Appeals affirmed LUBA.

4. The remand from LUBA of Ordinance 903 coincided with the appeals to the Board of three PRE applications.

5. The preliminary procedural question before the Board on those appeals was what effect the remand of Ordinance 903 would have on the three PRE applications on appeal before the Board.

6. Board options were to sever and apply the substantive provisions of Ordinance 903 to the subject applications; or, to not sever the valid and invalid provisions, treating the entire ordinance as invalid on account of the remand of Ordinance 903.

7. Oregon case law allows severance and application of the valid portions of an ordinance when a part of an ordinance is declared invalid, if the invalid portions are not "inseparably connected." *City of Portland v. Dollarhide*, 300 Or 490, 504 (1986).

8. There are no cases mandating a jurisdiction apply the valid portions of an ordinance where other portions were held by an appellate court to be invalid.

9. The Board determined, as a matter of policy and as a matter of state law, that land use decisions must be based on criteria at least as strict as state law requires.

10. The Board determined that repeal of Ordinance 903 and application of the more strict state criteria to future decisions was appropriate.

**Multnomah County Ordains as follows:**

Section 1. Repeal

Ordinance 903 is repealed.

FIRST READING:

July 29, 1999

SECOND READING AND ADOPTION:

August 5, 1999



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By

  
Sandra N. Duffy, Chief Assistant County Counsel

H:data/adv/duffy/ordinances/Repeal Ord 903

MEETING DATE: AUG 05 1999  
AGENDA NO: R-7  
ESTIMATED START TIME: 10:55

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

SUBJECT: Grant of Public Walkway Easement to the City of Portland

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: August 5, 1999  
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: DES DIVISION: Facilities & Property Management

CONTACT: Jennifer de Haro TELEPHONE #: 736-6094  
BLDG/ROOM #: 421/3rd

PERSON(S) MAKING PRESENTATION: Jennifer de Haro

### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

### SUGGESTED AGENDA TITLE:

Grant of Public Walkway Easement to the City of Portland

8/9/99 Original Easement & copies of  
all to Jennifer de Haro

CLERK OF  
COUNTY COMMISSIONERS  
99 AUG - 2 PM 4:09  
MULTI-NOMINAL COUNTY  
OREGON

### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT  
MANAGER: Louise Nicholas

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

# SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Jennifer De Haro  
Department of Environmental Services, Facilities Management  
Division

DATE: July 28, 1999

RE: **Grant of Public Walkway Easement to the City of Portland on  
Land situated in northeast one-quarter of Section 1, R1E, W.M.,  
City of Portland, Multnomah County, Oregon, on the Multnomah  
County Belmont Library property.**

1. Recommendation/Action Requested: Approval by the Multnomah County Board of Commissioners of a resolution authorizing grant of a public walkway easement to the City of Portland.
2. Background/Analysis: The requested easement is a strip of land approximately 4 to 5 feet in width, and 242 feet in length on the west boundary of the property. The proposed easement is shown on the accompanying attachment Exhibit A. The Public Walkway will serve the access needs of the public using the Belmont Library. The use of the property for the easement has been approved by Ginnie Cooper. It has been determined that use of this portion of the property for this purpose will enhance the use of the library.

3. Financial Impact: There will be no financial impact on the subject land.
4. Legal Issues: None known to Facilities and Property Management.
5. Controversial Issues: None known to Facilities and Property Management.
6. Link to Current County Policies: The County is presently engaged in the renovation of its branch libraries, and the project requiring the easement is part of this library responsibility.
7. Citizen Participation: None involved or expected with respect to this transaction
8. Other Government Participation: The City of Portland will be involved only to the extent that it issues the building permit needed to finish the library, and for this reason required the easement.

MEETING DATE: AUG 05 1999  
AGENDA NO: R-7  
ESTIMATED START TIME: 10:55

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: Grant of Public Walkway Easement to the City of Portland

BOARD BRIEFING:

DATE REQUESTED: \_\_\_\_\_

REQUESTED BY: \_\_\_\_\_

AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING:

DATE REQUESTED: August 5, 1999

AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: DES

DIVISION: Facilities & Property Management

CONTACT: Jennifer de Haro

TELEPHONE #: 736-6094

BLDG/ROOM #: 421/3rd

PERSON(S) MAKING PRESENTATION: Jennifer de Haro

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Grant of Public Walkway Easement to the City of Portland

SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_

(OR)

DEPARTMENT

MANAGER: \_\_\_\_\_

*Laurel Nicholas*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

BOARD OF  
JUNIOR COMMISSIONERS  
99 JUL 28 PM 3:39  
OREGON



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. \_\_\_\_\_**

Authorizing Grant of a Public Walkway Easement to the City of Portland, a Municipal Corporation of the State of Oregon.

**The Multnomah County Board of Commissioners Finds:**

a. The City of Portland has requested an easement approximately 4 feet wide and 242 feet long, for a public walkway, on County owned real property presently not in use, and more particularly described below, in order to facilitate the public's access to the Belmont Library.

b. The legal description of the proposed easement is as follows:

A parcel of land situated in northeast one-quarter of Section 1, T1S, R1E, W.M., City of Portland, Multnomah County, Oregon, described as follows:

Beginning at the intersection of the west line of Lot 1, Block 4, Eastland, a duly recorded subdivision in Multnomah County, and the north line of SE Taylor Street; thence northerly 242.03 feet along the west line of said Lot 1, and the west line of Lot 1, Block 6, Edendale, a duly recorded subdivision in Multnomah County; said west line also being the east line of SE 39th Avenue, to its intersection with the south line of SE Yamhill Street, said intersection also being the northwest corner of Lot 1, Block 6, Edendale; thence easterly 5.00 feet along the north line of Lot 1, Block 6, Edendale; thence southerly 110.55 feet parallel to the east line of SE 39th Avenue; thence westerly 1.00 feet parallel to the north line of Lot 1, Block 4, Eastland;; thence southerly 131.47 feet parallel to the east line of SE 39th Avenue to the north line of SE Taylor Street; thence westerly 4.00 feet along the north line of SE Taylor Street to the Point of Beginning.

c. The grant of the easement will be in the public's best interest and have little or no effect upon the use or value of the land upon which it would be located.

d. The land underlying the requested easement is not of size or configuration to permit other development construction of the surface and thus has no value greater than that attributable to the proposed public walkway.

**The Multnomah County Board of Commissioners Resolves:**

1. Multnomah County approves the attached Public Walkway Easement to the City of Portland, identified as Exhibit A, upon the terms and conditions herein stated.
2. The Chair is hereby directed to execute the attached Easement on behalf of Multnomah County.

ADOPTED this 5th day of August, 1999.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

---

Beverly Stein, Chair

REVIWED:

THOMAS SPONSER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy  
Sandra N. Duffy, Chief Assistant County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 99-161**

Authorizing Grant of a Public Walkway Easement to the City of Portland, a Municipal Corporation of the State of Oregon.

**The Multnomah County Board of Commissioners Finds:**

a. The City of Portland has requested an easement approximately 4 feet wide and 242 feet long, for a public walkway, on County owned real property presently not in use, and more particularly described below, in order to facilitate the public's access to the Belmont Library.

b. The legal description of the proposed easement is as follows:

A parcel of land situated in northeast one-quarter of Section 1, T1S, R1E, W.M., City of Portland, Multnomah County, Oregon, described as follows:

Beginning at the intersection of the west line of Lot 1, Block 4, Eastland, a duly recorded subdivision in Multnomah County, and the north line of SE Taylor Street; thence northerly 242.03 feet along the west line of said Lot 1, and the west line of Lot 1, Block 6, Edendale, a duly recorded subdivision in Multnomah County; said west line also being the east line of SE 39th Avenue, to its intersection with the south line of SE Yamhill Street, said intersection also being the northwest corner of Lot 1, Block 6, Edendale; thence easterly 5.00 feet along the north line of Lot 1, Block 6, Edendale; thence southerly 110.55 feet parallel to the east line of SE 39th Avenue; thence westerly 1.00 feet parallel to the north line of Lot 1, Block 4, Eastland; thence southerly 131.47 feet parallel to the east line of SE 39th Avenue to the north line of SE Taylor Street; thence westerly 4.00 feet along the north line of SE Taylor Street to the Point of Beginning.

c. The grant of the easement will be in the public's best interest and have little or no effect upon the use or value of the land upon which it would be located.

d. The land underlying the requested easement is not of size or configuration to permit other development construction of the surface and thus has no value greater than that attributable to the proposed public walkway.

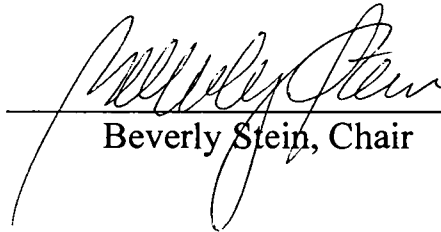
**The Multnomah County Board of Commissioners Resolves:**

1. Multnomah County approves the attached Public Walkway Easement to the City of Portland, identified as Exhibit A, upon the terms and conditions herein stated.
2. The Chair is hereby directed to execute the attached Easement on behalf of Multnomah County.

ADOPTED this 5th day of August, 1999.




BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By   
Matthew O. Ryan, Assistant County Counsel

## PUBLIC WALKWAY EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Multnomah County, a political subdivision of the State of Oregon, Grantor, in consideration of the sum of One and no/100 (\$1.00) Dollars, and other good and valuable consideration, to it paid by the City of Portland, a municipal corporation of the State of Oregon, the receipt whereof is hereby acknowledged, does hereby grant unto said City of Portland, an easement for construction and perpetual use by the public of a public walkway over and across real property in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

R/W #5865-R

A parcel of land situated in northeast one-quarter of Section 1, T1S, R1E, W.M., City of Portland, Multnomah County, Oregon, described as follows:

Beginning at the intersection of the west line of Lot 1, Block 4, Eastland, a duly recorded subdivision in Multnomah County, and the north line of SE Taylor Street; thence northerly 242.03 feet along the west line of said Lot 1, and the west line of Lot 1, Block 6, Edendale, a duly recorded subdivision in Multnomah County; said west line also being the east line of SE 39th Avenue, to its intersection with the south line of SE Yamhill Street, said intersection also being the northwest corner of Lot 1, Block 6, Edendale; thence easterly 5.00 feet along the north line of Lot 1, Block 6, Edendale; thence southerly 110.55 feet parallel to the east line of SE 39th Avenue; thence westerly 1.00 feet parallel to the north line of Lot 1, Block 4, Eastland; thence southerly 131.47 feet parallel to the east line of SE 39th Avenue to the north line of SE Taylor Street; thence westerly 4.00 feet along the north line of SE Taylor Street to the Point of Beginning.

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1S1E 01AD

After Recording Return to :

106/802/Ed Gillard

Tax Statement shall be sent to:

No Change

GRANTOR herein assumes responsibility for maintenance of the concrete walkway as though said walkway existed within a public street right-of-way.

GRANTOR shall permit public rights of pedestrian access and movement within this walkway easement as though said walkway existed within a public right-of-way.

GRANTOR reserves the right to occupy, use and cultivate said easement for all purposes not inconsistent with the rights herein granted, however, grantor shall comply with grantee's permit requirements.

THE RIGHTS, conditions and provisions of this easement shall insure to the benefit of and be binding upon the heirs, executor's, administrators, successors and assigns of the respective parties hereto.

TO HAVE AND TO HOLD, the above described and granted premises unto said City of Portland for the uses and purposes aforesaid forever.

IN WITNESS WHEREOF, the grantor above named, has hereunto set its hand, this  
5th day of August, 1999.



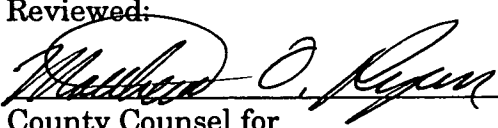
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY

By:

  
Beverly Stein, Chair

Reviewed:

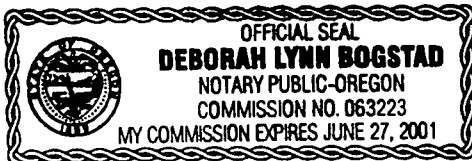
By:

  
County Counsel for  
Multnomah County, Oregon

STATE OF OREGON

County of Multnomah

On this 5th day of August A.D., 1999, personally appeared Beverly Stein, who being duly sworn did say that she is the Chair of the Board of Commissioners of Multnomah County, and that said instrument was signed on behalf of the Multnomah County by authority of its board of Commissioners; and she acknowledged said instrument to be her voluntary act and deed.



Deborah Lynn Bogstad  
Notary Public for Oregon  
My Commission expires 6/27/01

Approved as to form:

\_\_\_\_\_  
City Attorney

Approved:

\_\_\_\_\_  
City Engineer

\\5856\\PWE





## SPEAKER SIGN UP CARDS

DATE 8-5-99  
NAME PAUL NORR  
ADDRESS 931 SW KING  
PORTLAND, OR 97205  
PHONE (503) 228-3862  
SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC R-8: APPROX OF E 1-99  
GIVE TO BOARD CLERK

AUG 05 1999

Meeting Date: JUL 22 1999  
Agenda No: R-8  
Est. Start Time: 10:05am 11:00

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

**SUBJECT:** A DeNovo Hearing before the Board of County Commissioners regarding the Hearing Officer's decision on E 1-99.

**BOARD BRIEFING**      Date Requested:  
                                 Amt. of Time Needed:  
                                 Requested By:

**REGULAR MEETING**      Date Requested:      July 22, 1999  
                                 Amt. of Time Needed:      1 hour

**DEPARTMENT:**      DES      **DIVISION:** Land Use Planning  
**CONTACT:**      Tricia Sears      **TELEPHONE:** 248-3043  
                                 **BLDG/ROOM:** 455 / 116

**PERSON(S) MAKING PRESENTATION:** Tricia Sears and Deniece Won

### ACTION REQUESTED

☐ Informational Only      ☐ Policy Direction      ☒ Approval      ☐ Other

### SUGGESTED AGENDA TITLE

A DeNovo Hearing before the Board of County Commissioners regarding a **Denial** of E 1-99; a request for a retroactive exception to the Secondary Fire and Safety Zones and Forest Practices Setbacks for an illegal structure.

Paul Noller  
228-3862

### SIGNATURES REQUIRED

**Elected Official:** \_\_\_\_\_

or

**Department Manager:** KB Lawrence

BOARD OF  
COUNTY COMMISSIONERS  
99 JUL 14 AM 11:22  
MULTI-COUNTY  
OREGON



## BOARD HEARING OF July 22, 1999

TIME 9:30am

**CASE NAME:** Request for an Exception to the Secondary Fire Safety Zones and Forest Practices Setbacks.  
**NUMBER:** E 1-99.

**1. Applicant & Property Owner Name/ Address:**

Leslie and Florence Shields  
11272 NW Skyline Blvd.  
Portland, OR 97231-2633

**2. Appellant Name/ Address:**

Christopher Koback  
Davis Wright Tremaine LLP  
1300 SW Fifth Avenue, #2300  
Portland, OR 97201

**Action Requested of Board**

- ☐ Affirm Hearings Officer Decision  
☐ Hearing/Rehearing  
Scope of Review  
☐ On The Record  
☒ De Novo  
New information allowed

**3. Action Requested by Applicant:**

Request for approval of an Exception to the Secondary Fire Safety Zones and Forest Practices Setbacks. The applicant requested retroactive approval to have a setback of less than 130 feet, the required setback from the property line to a building in the CFU-2 zone. The retroactive request was submitted because the applicant built the horse/barn arena on the subject parcel without obtaining land use and building permit approval. The existing structure is approximately 64 feet from the east property line of the subject parcel.

**3. Planning Staff Recommendation**

Approval, with conditions, of the Request for an Exception to the Secondary Fire Safety Zones and Forest Practices Setbacks. The administrative decision was issued March 19, 1999. Deborah Nass appealed the administrative decision on March 28, 1999. Based on the information reviewed subsequent to the administrative decision, Staff now agrees with the Hearings Officer decision issued on May 6, 1999.

**4. Hearings Officer Decision**

Denial of the Request for an Exception to the Secondary Fires Safety Zones and Forest Practices Setbacks. The Hearings Officer referred to prior cases GEC 8-98 (approved), HV 13-97 (denied), and SEC 23-97 (withdrawn) in her decision document. The Hearings Officer's decision upholds the appellant's request for denial of the Exception, E 1-99. The Hearings Officer decision was issued on

May 6, 1999. The last day to appeal the Hearings Officer's decision was May 20, 1999 and it was appealed on that day by Christopher Koback. Koback is the representative for the applicant/property owners of the subject parcel, Les and Florence Shields.

## **5. If recommendation and decision are different, why?**

The administrative decision for E 1-99 was issued by Staff based on the information submitted by the applicant. Subsequently, several applicant responses to decision criteria were found to be inaccurate. In addition, additional research on the issue of a legal established access provided new information about the case to Staff. At the time of the public hearing on the appeal on April 21, 1999, Staff concurred with the Hearing's Officer's evaluation of the case.

## **6. Issues:**

The main issue raised by the appellant is in regards to the establishment of legal access to the subject parcel. The applicant states the subject parcel (formerly Tax Lots 29 and 30 but consolidated into one 10-acre parcel in October 1998) has a legal established access. The appellant argues "The property in question does not have easement to the existing private access road" under the criteria of MCC 11.15.2074 (D). Staff is required under Section .2074 (D) to make a finding that, "A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to..." exists for the subject parcel.

The applicant's attorney argued that "there is substantial evidence in the record upon which the Hearings Officer could conclude that the Shields have easement rights to the barn/ arena. An easement has been granted to the former Tax Lot 30. The former Tax Lots 29 and 30 have been consolidated into Tax Lot 30. He contends therefore, that the entirety of the consolidated Tax Lot 30 now has an access easement" (Hearings Officer decision May 6, 1999, page 4).

The appellant's attorney presented an argument based on two legal cases which he cited, Jones v. Edwards, and College Inns of America v. Cully. The cases presented by the attorney discuss, "for the proposition that the grantee of an easement may not grant to adjacent land which he owns a right of access across grantor's land. Mr. Norr contended that the grant of an easement to Tax Lot 30 to cross Tax Lot 28 was a grant to the dominant estate described in the metes and bounds legal description contained in the deed" (Hearings Officer decision May 6, 1999, page 5).

## **7. Do any of these issues have policy implications? Explain.**

Staff is required to make finding of legally established access to a subject parcel under Section .2074 (D). The issues cited above may have policy implications. If Staff cannot make the finding of legal established access for a subject parcel under review for a land use or building permit application, then Staff cannot make a finding of compliance with the required criteria. Hence, Staff would find the criteria have not been met. Staff, the Hearings Officer, the Planning Commission, or the Board of County Commissioners may deny the application when the applicant has not met the criteria of an application.



# Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE BOISE CHARLOTTE HONOLULU LOS ANGELES NEW YORK  
PORTLAND RICHLAND SAN FRANCISCO SEATTLE WASHINGTON, D.C. SHANGHAI

CHRISTOPHER P. KOBACK  
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SUITE 2300  
1300 SW FIFTH AVENUE  
PORTLAND, OR 97201-5682

TEL (503) 241-2300  
FAX (503) 778-5299  
www.dwt.com

July 19, 1999

**VIA FAX #248-3013**  
**And U.S. MAIL**

[ Beverly Stein, Chairperson  
Diane Linn, Commissioner  
Serena Cruz, Commissioner  
Lisa Naito, Commissioner  
Sharon Kelley, Commissioner  
MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
1120 S.W. Fifth Avenue, Rm. 1515  
Portland, OR 97233

BOARD OF  
COUNTY COMMISSIONERS  
99 JUL 21 PM 2:53  
MULTNOMAH COUNTY  
OREGON

Re: Case File E-1-99  
Applicants Les and Florence Shields

Dear Members of the Board:

This matter is set for a hearing before the Board on July 22, 1999, having been continued from the original date of June 17, 1999. Regrettably, a medical emergency has arisen which requires the Shieldses to request an additional continuance.

On Wednesday, July 14, 1999, Les Shields lost virtually all vision in one of his eyes. It was subsequently discovered that Mr. Shields suffered a partial detachment of his retina. On Thursday, July 15, 1999, Mr. Shields underwent emergency surgery to reattach his retina. I spoke with Mr. Shields this morning and he informs me that his surgery was determined to be successful. However, Mr. Shields is unable to do those tasks necessary to prepare for the hearing on July 22, 1999. Furthermore, given the restrictions placed upon Mr. Shields by his physician, it is unlikely that he would be able to attend the hearing and provide testimony, which I believe to be pertinent.

Accordingly, on behalf of Les and Florence Shields, I respectfully request the Board's indulgence in granting a further continuance of this matter.

MULTNOMAH COUNTY BOARD OF COMMISSIONERS

July 19, 1999

Page 2



Previously, the Shieldses acknowledged that their request for a continuance necessitated a waiver of the 120-day rule. I do not believe an additional waiver is necessary, but to the extent it is, the Shieldses have authorized me again to reiterate their acknowledgement that this current request for a continuance would likewise justify a further waiver of the 120-day rule.

Thank you in advance for your consideration of this request.

Very truly yours,

Davis Wright Tremaine LLP

Christopher P. Koback

CPK/lkt

cc: Les and Florence Shields  
Trisha Sears, Planner, Multnomah County (via facsimile)  
Paul Norr, Esq.



## Davis Wright Tremaine LLP

ANCHORAGE    BELLEVUE    BOISE    CHARLOTTE    HONOLULU    LOS ANGELES    NEW YORK  
PORTLAND    RICHLAND    SAN FRANCISCO    SEATTLE    WASHINGTON, D.C.    SHANGHAI

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June 15, 1999

**VIA FAX #248-3013**  
**And U.S. MAIL**

Beverly Stein, Chairperson  
Diane Linn, Commissioner  
Serena Cruz, Commissioner  
Lisa Naito, Commissioner  
Sharon Kelley, Commissioner  
MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
1120 S.W. Fifth Avenue, Rm. 1515  
Portland, OR 97233

Re: Case File E-1-99  
Applicants Les and Florence Shields

Dear Members of the Board:

This firm represents Les and Florence Shields, who have appealed a hearings officer's decision in the above-referenced case to the Board of County Commissioners. This matter is set for hearing before the Board on June 17, 1999. The purpose of this letter is to request that the hearing before the Board be continued to a later date.

The reasons appellants request an extension are two-fold. First, one of the central issues involved in this appeal is whether the appellants have adequate access to serve the structure for which they seek approval. The Hearings Officer found that appellants did not present evidence of an easement or other access to the structure. Applicants are in the process of attempting to address the access issue by obtaining an easement to that portion of their property upon which the proposed structure sits. Incidentally, in a related case, SEC-10-99, another applicant who owns a parcel of property in the same area has proposed to develop that property and faces the same issue regarding access. That landowner has also undertaken negotiations to obtain an easement that would provide access to his proposed structure. It is the hope of the appellants in this case that together with the landowner in Case No. SEC-10-

MULTNOMAH COUNTY BOARD OF COMMISSIONERS

June 15, 1999

Page 2



99, that they will be able to obtain the necessary easement to prove access exists to both structures. Appellants believe additional time is needed to resolve the access issue. Appellants believe that if the access issue can be resolved with an easement, the issues before the Board will be greatly narrowed and the resources of all parties involved can be preserved.

The second basis for the requested continuance is that I am unavailable on June 17, 1999. Prior to receiving notice of the hearing, I scheduled to depart on a vacation with my family the afternoon of June 16, 1999. After receiving the notice of hearing, I spoke with staff to address the available procedures for requesting an extension. Today, staff informed me that a written request to the Board is required and, thus, I am hereby submitting that request.

Appellants fully understand that, along with their request for an extension, they also must request a waiver of the 120-day rule and have authorized me to make that request at this time.

For the foregoing reasons, the appellants, Les and Florence Shields, respectfully request that the Board grant a continuance of the June 17, 1999 hearing in this matter to a date in the future that is convenient to the Board. Neither appellants nor myself anticipate any conflict in a continued date, but do believe that thirty (30) days would be an appropriate time frame to permit negotiations regarding the easement to culminate.

Thank you in advance for your consideration of this request.

Very truly yours,

Davis Wright Tremaine LLP

Christopher P. Koback

CPK/ikt

cc: Les and Florence Shields  
Trisha Sears, Planner, Multnomah County (via facsimile)  
Paul Norr, Esq.



**Deniece Birdseye Won  
Attorney at Law  
6295 SW 155<sup>th</sup> Avenue  
Beaverton, Or 97007  
(503) 643-5346**

June 14, 1999

Board of County Commissioners  
Beverly Stein, Chair  
Portland Building, Room 1515  
1120 SW Fourth Ave.  
Portland, OR 97204

VIA FACSIMILE

Re: E 1-99 appeal, Les and Florence Shields

Chair Stein and Commissioners,

I write to respond to the assertion in the notice of review for Les and Florence Shields that the hearings officer erred by basing her decision upon grounds not raised in the appeal from the Administrative Decision violating MCC 11.15.8295. I did consider issues not raised in the notice of appeal. I believe I was obligated to do so to provide a legally required right to a full evidentiary hearing on an application for a "permit" under ORS 215.416. Further, I was the Hearings Officer on an earlier application to establish the same structure on the same property. For purposes of this application, that earlier hearing was like an ex parte contact and I was obligated to identify what I had earlier heard. I did that by entering into the record the entire record on the earlier application. Finally, I am required to make findings of fact and conclusions on relevant criteria based on substantial evidence in the whole record. Under ORS 215.416 the relevant criteria are all the land use regulations applicable to approval of the requested permit, not just the issues raised in the applicant's notice of appeal. Substantial evidence is evidence a reasonable prudent person would rely on in reaching a decision. A reasonable person would not rely on only the applicant's evidence submitted in this case that conflicted with the findings of fact adopted by the Hearings Officer and the Board of County Commissioners after hearings on the former application.

This letter addresses my conclusion that the provisions in the County Code for appeals from an administrative decision violate mandatory statutory requirements for a full evidentiary hearing on an application for a "permit." Under the statute, the initial hearing on the Shields' application, held by me, needed to address all applicable criteria.

Hearings Officer Letter Concerning Appeal of E 1-99  
Page 1 of 10

**Background.**

The Shields' application and all evidence in support of it were filed by the applicant. The planning staff prepared an administrative Decision, based on the evidence submitted by the applicant. The administrative decision was to deny the application. That decision was mailed to persons entitled to notice and provided a statement about appeal rights. The surrounding property owners whom the application might affect if it were approved, had no reason to file a notice of appeal, even if based on findings of fact they might think incorrect. The only persons having a reason to appeal the decision were the applicants.

The applicants identified the basis for their appeal in their notice of appeal. Under the applicant's challenge contending that the petition for review would frame all the issues that could be considered, other affected parties would be prohibited from asserting issues other than those raised by the applicant. Following this approach would result in prohibiting opponents from responding to evidence on criteria not raised in the applicants' notice of appeal or to present argument based on evidence in the Planning Director's Decision, violating the opponents' substantial rights to present and rebut evidence and to a full and fair hearing.

**ORS 215.416 Requires An Opportunity for an Evidentiary Hearing on All Applicable Criteria.**

The Hearings Officer must follow the provisions of the County Code unless the Code is inconsistent with state law. ORS 215.416 contains the procedures for decisions on applications for permits. It requires an opportunity for an evidentiary hearing on all applicable criteria.

The subject application was for a land use decision for a permit as defined in ORS 215.402(4). ORS 215.402(3) allows counties to appoint hearings officers to conduct hearings on matters such as the permit involved here. ORS 215.416, which contains procedures for permits, provides in part:

- (3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least one public hearing on the application.
- (4) The application shall not be approved if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions . . .
- (5) Hearings under this section shall be held only after notice . . . and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

\* \* \*

- (8) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and

comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

\* \* \*

- (9) Approval or denial of a permit . . . shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

ORS 215.416, thus requires at least one public hearing on a permit application, unless the exception in subsection (11) applies. It also prohibits approval if a permit would conflict with any land use regulation criterion applicable to the permit. The approval must be based on findings of fact and conclusions on all applicable approval criteria.

The exception to the required public hearing requirement in ORS 215.416(11) allows an administrative decision on a permit to be final but there must be notice and an opportunity for a hearing:

- (11)(a) The . . . person as the governing body designates, may approve or deny an application for a permit without a hearing if the . . . designated person gives notice of the decision and provides an opportunity for appeal of the decision to those persons who would have had a right to notice if a hearing had been scheduled or who are adversely affected or aggrieved by the decision . . . An appeal from [the designated person] shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be a de novo hearing.

ORS 215.416(11)(a) allows the decision to approve a permit without a hearing to be made by either a "hearings officer, or such other person as the governing body designates." Multnomah County has designated the planning director as the initial decision-maker. If the designated person is a hearings officer, an appeal from that decision-maker may be made to the Planning Commission or the Board. If the initial decision maker is "such other person as the governing body designates," an appeal may be made to a hearings officer, the planning commission or Board. Multnomah County has provided that the appeal of the planning director's administrative decision is made to a hearings officer. An appeal from the hearings officer decision is covered in ORS 215.422, discussed below. It provides that the appeal may be made to the Planning Commission or the Board. The Board has provided that the appeal shall be to the Board.

A decision made without a hearing may be final if persons who were entitled to notice of the permit application or who are adversely affected or aggrieved have an opportunity for a hearing. The appeal is required to be a "de novo" hearing. The statute gives counties the option not to conduct a hearing "in the first instance if a de novo hearing and a meaningful ability to pursue it are provided for at a later stage of the county process." *Tarjoto v. Lane County*, 137 Or App 305, 309, 904 P.2d 641 (1995).

The Appeals Court explained this process, stating:

"In the event that the right to an appeal is invoked, ORS 215.416(11)(a) provides further that depending on the circumstances, the appeal shall take the form of a de novo hearing before a hearings officer or the county planning commission or governing body. In effect, once the right is pursued, the hearing process that is mandated by ORS 215.402 et seq comes into operation in more or less the same way it would have if the county had not initially exercised the no-hearing option under ORS 215.416(11)(a). ORS 215.416(5) requires, as part of that process, that prehearing notice be given "to the applicant and \* \* \* to other persons as otherwise provided by law." Under ORS 215.416(10), those persons who participate in the hearing are also entitled to a post-decision notice of the county's approval or denial of the application. The statutory right to notice and to participate in or pursue hearing and appeal procedures are interconnected, with each serving to assure that the others cannot be rendered illusory. See *Flowers v. Klamath County*, 98 Or.App. 384, 780 P.2d 277, rev. den. 308 Or 592, 784 P.2d 1099(1998)."

"\* \* \* The clear purpose of the notice and appeal provision in ORS 2215.416(11)(a) is to safeguard opportunities to pursue and participate in hearing and appeal procedures in cases where a county elects to make an initial decision without a hearing . . . "

*Wilber Residents for a Clean Neighborhood v. Douglas County*, 151 Or App 523, 528-529, 950 P2d 368, (1997).

ORS 215.416(11)(a) authorizes an exception to the mandatory hearing requirement for permits. The administrative decision can be final if there is an opportunity for notice and a hearing. ORS 215.416(11)(a) does not alter the provisions that require the permit to comply with all applicable criteria and to be based on findings of fact and conclusions concerning all applicable criteria. If there is a request for a hearing, the provisions in ORS 215.416(1) through (10) remain applicable, including the provision that there be at least one hearing and that the application comply with all criteria applicable to the permit.

ORS 215.412 authorizes the County to adopt procedures of the conduct of hearings. Nonetheless, certain other statutory requirements are mandatory. The authorization to adopt procedures relates to procedures not to limiting the substantive requirements contained in the statutes or County regulations. The notice and hearing requirements of ORS 215.416 are legislative mandates. *Doughton v. Douglas County*, 88 Or App 198, 744 P2d 1299 (1987), citing *League of Women Voters v. Coos County*, 82 Or App 673, 729 P.2d 588 (1986); *Overton v. Benton County*, 61 Or App 667, 658 P.2d 574 (1983). In *Doughton*, the Court of appeals stated:

The notice and hearing requirements of ORS 215.416 are legislative mandates. Moreover, they are directly tied to the LUBA appeal rights and appellate procedures which ORS 215.422 and ORS 197.930 to 197.845 require with respect to discretionary county land use decisions involving the issuance of permits. As respondent argues, the term "[w]hen required or authorized by [county legislation]" in ORS 215.416(1) is not a condition precedent to the county's compliance with the requirements of ORS 215.416; the term relates to what the applicant must do to obtain a discretionary permit, not to what the county must do in deciding whether to issue one. The other subsections of the statute answer the latter question.

The appeal hearing is required by statute to be a "de novo hearing." "Hearing de novo" is defined in Black's Law Dictionary as follows:

"Generally, a new hearing or a hearing for the second time, contemplating an entire trial in the same manner in which the matter was originally heard and a review of previous hearing. On hearing 'de novo' court hears matter as a court of original and not appellate jurisdiction. \* \* \* Black's Law Dictionary, p. 649 (5<sup>th</sup> ed 1979).

The most recent case involving ORS 215.416 is *Hugo v. Columbia County*, 157 Or App 1 (1998). In *Hugo*, a rock quarry operator applied to increase the area of their mining operation exempt from the county's surface mining ordinance regulations in the county's Surface Mining Ordinance (SMO). Under the SMO, applications were first reviewed by a Surface Mining Advisory committee (committee), which makes recommendations to the county board of commissioners (commissioners). The commissioners make a decision on the application during a 'public meeting,' but are not required to hold a hearing. Landowners or applicants adversely affected by the decision could appeal the decision to the commissioners and receive an evidentiary hearing. At the hearing, only the appellant could present evidence and argument; the commissioners were not required to consider evidence or testimony from other persons. At the Board of County Commissioner's hearings on the application the applicant and other proponents were permitted to present evidence and testimony supporting approval, but opponents Hugo and others present at the proceeding were not allowed to present evidence and argument opposing the application. The County approved the requested expanded exemption. LUBA agreed with Hugo's arguments that the procedures followed by the county violated ORS 197.763, ORS 215.416 and ORS 215.422. In rejecting petitioners' contrary arguments, LUBA observed:

"ORS 197.763 and 215.416 are designed to ensure that citizens have the opportunity to participate in local land use decisions. That opportunity is a substantive right, perhaps the most fundamental right extended by Oregon's land use system. The county's refusal to allow [Hugo] and other opponents to participate in the proceedings it conducted denied [Hugo] that substantive right."

The appeals court agreed with that opinion in its entirety and reiterated its statement in *Flowers* that counties must comply with the requirements of ORS 215.416 without modification or deviation.

#### **ORS 215.422 Authorizes Limited Scope Appeals After an Evidentiary Hearing.**

ORS 215.422 provides that counties may provide for review of decisions made by "hearings officers or other decision-making authority" by the planning commission or the county board or provide that the decision of the hearings officer is final. If counties choose to provide for such reviews, they are required to adopt procedures for such an appeal. Specifically ORS 215.422 states:

- (1) (a) A party aggrieved by the action of a hearings officer or other decision-making authority may appeal the action to the planning commission or county governing body, or both, however the governing body prescribes. The appellate authority on its own motion may review the action. The procedure and type of hearing for such an appeal or review shall be prescribed by the governing body . . .

- (B) Notwithstanding paragraph (a) of this subsection, the governing body may provide that the decision of a hearings officer or other decision-making authority is the final determination of the county.

Thus, ORS 215.422 authorizes counties to adopt procedures for reviewing a decision made after a hearing. Addressing ORS 215.416, 215.412 and 215.422 the supreme Court has stated that:

Initial land use decision-making authority is granted to the county governing body within whose jurisdiction the affected land is found. ORS Chapter 215. Counties are directed to . . . conduct initial quasi-judicial hearings on individual land use requests. See ORS 215.416.

Counties are required to adopt procedures for conducting local land use hearings (ORS 215.412) and may create a local appeal procedure for appeals of decisions of hearings officers or planning commissions. Furthermore, a county may provide that the decision of the hearings officer is the final determination of the county. ORS 215.422(1)(b) . . . "

*Columbia River Television v. Multnomah County*, 299 Or 325, 702 P.2d 1065 (1985).

ORS is confusing because the legislature has provided alternatives for counties to choose from concerning what body can make an initial decision, then what body can conduct an initial hearing on appeal from the initial decision and finally what body can decide an appeal after an initial evidentiary hearing. Reading ORS 215.422(1)(a) alone, the use of the terms "hearings officer or other decision-making authority" could be understood to refer to any decision made by a "decision making authority," here, the Planning Director. If so read, the reader might conclude that an appeal from a planning director's decision may be proscribed solely by procedures adopted by the governing body. However, read in context with ORS 215.416 it becomes clear that ORS 215.416 concerns the initial evidentiary hearing and ORS 215.422 concerns an appeal from the decision rendered in the initial evidentiary hearing. ORS 215.422 does not apply to appeals from an administrative decision to a hearings officer or other decision making authority. It specifically relates to an appeal of a "hearings officer or other decision-making authority." Given the choice that Multnomah County has made to have the initial evidentiary hearing held on appeal from the Planning Director's decision held by the hearings officer, the "other decision-making authority" refers to the planning commission. Therefore, the appeal from the evidentiary hearing may not be made not to a hearings officer, it may be made either to the planning commission or the Board. Multnomah County has chosen the option to have the appeal from the Hearings Officer made to the Board.

ORS 215.412 authorizes counties to adopt procedures for the conduct of hearings. ORS 215.422(1)(a) authorizes counties to adopt the procedure and type of hearing for an appeal after an evidentiary hearing. ORS 215.422(1)(a) was adopted by the 1979 Legislature and amended in 1983. According to the Supreme Court in *Menges v. Board of County Com'rs of Jackson County*, 290 Or 251, 621 P2d 562 (1980), ORS 215.422 was amended to clarify that a county has discretion to hear an appeal de novo or on the evidentiary hearing record. In *Menges* there had been a full evidentiary hearing before the planning

commission. *Menges* does not say that no evidentiary hearing is required but that an appeal from an evidentiary hearing can be on the record.

There is a line of cases that uphold appeal provisions that limit the issues raised on appeal beginning with *Smith v. Douglas County*, 16 Or LUBA 731, *rev'd* 93 Or App 503, 63 P2d 169; *rev'd on other grounds* 308 Or 191; 777 P2d 1377 (1989). However, in each of those cases a full evidentiary hearing preceded the appeal hearing. The decisions upholding the appeals were based on the provisions in ORS 125.422 concerning appeals from a body that held an evidentiary hearing, not ORS 215.416 which concerns appeals from administrative decisions without a public hearing. *Murray v. City of Beaverton*, 17 Or LUBA 723 (1990); *Choban v. Washington County*, 25 Or LUBA 572 (1993); *Andrews v. City of Prineville*, 28 Or LUBA 653 (1995).

**Multnomah County Code Provisions for Appeals from Administrative Decisions Violates Statute.**

MCC 11.15.8115 provides that except as otherwise provided the Hearings Officer shall:

- (A) Exercise the authority of a Planning and Zoning Hearings Officer under ORS 215.402 through 215.422.

\* \* \*

- (I) Exercise such other powers and perform such other duties as may be given to the Hearings Officer by this or other Ordinance.

This Code section recognizes that the provisions of ORS 215.402 and ORS 215.422 are binding upon the Hearings Officer. The County has determined that decisions by the Planning Director are final unless appealed. Specifically, MCC 11.15.8290(A) states:

"A decision by the Planning Director on an administrative matter made appealable under this Section by ordinance provision, shall be final at the close of business on the tenth calendar day following the filing of the written Decision, Findings and Conclusions with the Director or the Department of Environmental Services unless prior thereto, the applicant files a Notice of Appeal with the Department, under subsections (B) and (C)."

Emphasis added. I note that this provision is not consistent with ORS 215.416(11)(a) because the Code provides an opportunity for an appeal hearing only by the applicant but not by "those persons who would have had a right to notice if a hearing had been scheduled or who are adversely affected or aggrieved by the decision."

MCC 11.15.8290(B) contains items that must be included in the notice of appeal including "The specific grounds relied on for reversal or modification of the decision." If an appeal is filed it is scheduled for a "hearing" by the Hearings Officer. Notice is given to the applicant and to surrounding property owners. The Multnomah County Code impermissibly limits the issues that may be heard on an appeal from the planning director's decision to the hearings

Hearings Officer Letter Concerning Appeal of E 1-99

Page 7 of 10

officer. The Code contains procedures for proceedings on appealed administrative decisions at MCC 11.15.8295:

Except as otherwise provided in this Section, proceedings before the Hearings Officer on matters appealed under MCC .8290(A) and appeals therefrom to the Board of County Commissioners shall be conducted according to the provisions of MCC .8230 through .8290.

- (A) A hearing before the Hearings Officer on a matter appealed under MCC .8290(A) shall be limited to the specific grounds relied on for reversal or modification of the decision on the Notice of Appeal.

If an application is for a permit as defined in ORS 215.402(4), the permit applicant and other persons are entitled to a public hearing before the decision, or to notice of the decision and a right to obtain a public hearing through an appeal. ORS 215.416(3) and (11). ORS 215.416 requires "hearings," and prescribes participatory and other procedures for them, in connection with applications to counties for permits. ORS 197.763, together with ORS 215.416(5), prescribe notice, hearing and other procedural requirements applicable to quasi-judicial hearings on individual land use requests. Counties are required to adopt procedures for conducting local land use hearings (ORS 215.412) and may create a local appeal procedure for appeals of decisions of hearings officers. The Appeals Court has stated that "[t]he clear purpose of the notice and appeal provision in ORS 215.416(11)(a) is to safeguard opportunities to pursue and participate in hearing and appeal procedures in cases where a county elects to make an initial decision without a hearing." *Wilbur Residents for a Clean Neighborhood v. Douglas County*, 151 Or App 523, 950 P2d 368 (1997).

The Code's provision that all appeal hearings are limited to issues raised in the notice of appeal is analogous to appellate court practice. However, this analogy fails to recognize critical differences between the function performed by local governments in its quasi-judicial land use decision making and the function performed by appellate courts. More important, it fails to comply with the hearing requirements in ORS 215.416 for permit applications.

Once the County has made a final determination on a land use matter, a party may appeal the decision to LUBA if the decision were made without a hearing or ability to participate in the hearing or if a party is aggrieved by the decision. It is evident from the statutory scheme that the legislature intended local governments to have the first opportunity both to hear and to reach a final determination on land use matters within their respective jurisdictions, before those decisions are reviewed by LUBA. When a local government fails to provide an opportunity for a hearing, by right or through appeal, when issuing a permit, LUBA is required to remand on appeal if someone's substantial rights are prejudiced. *Flowers v. Klamath County*, 18 Or LUBA 647 (1990). LUBA has described these "substantial rights" as the rights to an adequate opportunity to prepare and submit one's case and a full and fair hearing.



Parties affected by an application for a permit must be provided at least an opportunity not just for a hearing, but for a full and fair evidentiary hearing. Once a right to a hearing after an administrative hearing is invoked the hearing process that is mandated by ORS 215.402 *et seq* comes into operation. The hearing required is the same hearing that would be held if the county had not initially exercised the no-hearing option under ORS 215.416(11)(a). ORS 215.416(3) - (9); *Wilber Residents for a Clean Neighborhood, supra*; *Fasano v. Board of County Com'rs of Washington County*, 264 Or 574, 507 P.2d 23 (1973).

The County Code provisions are not consistent with the mandatory provisions in ORS 215.416 which requires an opportunity for a hearing on all applicable approval criteria.

If the Hearings Officer followed the procedures in the County Code, the opponents would have been unable to present evidence on all applicable approval criteria and to rebut the applicant's evidence on many approval criteria. Failure to provide an opportunity to rebut would have been a substantive error and opponents substantial rights would have been prejudiced. See *Caine v. Tillamook County*, 25 Or LUBA 209 (1993):

"[LUBA] has not yet determined whether the requirements of ORS 197.763(4)(b) apply to local proceedings . . . or whether such proceedings are instead governed by the right to rebuttal first extended to parties in quasi-judicial land use proceedings under *Fasano v. Washington Co. Comm.*, 264 Or 574 588, 507 P2d 23 (1973). . . [T]he county was required to provide petitioner with an opportunity to rebut the [applicant's evidence] under either ORS 197.763(4)(b) or *Fasano*, and it committed procedural error by failing to do so. . . Here, petitioner's substantial rights were prejudiced because he never had an opportunity to rebut the information. . . "

*Stotter v. City of Eugene*, 18 Or LUBA 135 (1989).

A hearing was provided. The issue is whether a hearing in which the applicant/appellant limits the scope of the issues that may be considered at the hearing satisfies the requirement for a hearing. A hearing is defined in ORS 215.402(2) as follows:

"Hearing" means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.213, 215.215 to 215.263, 215.283 to 215.293, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780:

- (a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or
- (b) To determine a contested case.

As already noted, ORS 215.416(4) provides that an application cannot be approved if it conflicts with any applicable land use regulations. ORS 215.416(8) requires a decision on a permit to be based on applicable standards and criteria. In addition, ORS 197.643 contains minimum requirements applicable to hearings. Reading these provisions together shows that an hearing needs to be provided that allows all affected persons to participate, to provide evidence on all applicable criteria, to rebut evidence and to fully present their case.

The requirement of a full and fair hearing is implicit in the very requirement for a hearing. A purpose of a hearing is to obtain evidence upon which findings of fact and conclusions can be based, concerning whether all applicable approval criteria are satisfied. Another purpose of a hearing is to provide due process rights to affected persons. The Hearings Officer concluded that the rights of opponents to a hearing on all criteria relevant to the application would be violated if the hearing were limited to the issues raised in the appeal notice, precluding submission of evidence on all the criteria relevant to the establishment of the barn/arena structure on the applicants property. In other words it would be error to limit the scope of the hearing to the issues raised by the applicant. The Hearings Officer also concluded that to obtain evidence on all applicable criteria, the hearing needed to be unlimited concerning the issues addressed.

Sincerely,



Deniece Won  
Hearings Officer

cc: Tom Sponsler  
Stuart Farmer



DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING AND DEVELOPMENT

2115 SE MORRISON STREET 1100 SE 19th Ave  
PORTLAND, OREGON 97214 (503) 248-3043  
97233

NOTICE OF REVIEW

11#  
ZONING 530.00  
TOTAL 530.00  
0000-001 5/20/99  
0072 TRICIA 2:58PM

1. Name: Christopher P. Koback, \_\_\_\_\_, \_\_\_\_\_

2. Address: 1300 S.W. Fifth Ave., #2300, Portland, OR, 97201

3. Telephone: ( 503 ) 241 - 2300

4. If serving as a representative of other persons, list their names and addresses:

Christopher P. Koback is representing the Applicants, Les and  
Florence Shields, as their attorney. The Shields' address is  
11272 Skyline Blvd., Portland, OR 97231.

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?

Denial of Request for exception from secondary fire safety zone and  
the forest practices setback requirements of the Commercial  
Forest Use Zone. A copy of the Decision for which review is sought is  
attached hereto.

6. The decision was announced by the Hearing Officer on May 10, 19 99

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?

Les and Florence Shields are the Applicants in this matter  
and thus are parties entitled to notice under MCC 11.15.8220 (C) (1).  
The Shieldses also appeared before the approval authority at the  
hearing on this matter.

8. Grounds for Reversal of Decision (use additional sheets if necessary):

See attached.

9. Scope of Review (Check One):

(a) ☐ On the Record

(b) ☐ On the Record plus Additional Testimony and Evidence

(c) ☒ De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

See attached.

Signed:

*Christopher P. Kelch*

Date:

5/20/99

**For Staff Use Only**

Fee:

Notice of Review = \$530.00

Received by:

*Francis J. Davis*

Date:

5/20/99

Case No.

E 1-99

DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF LAND USE  
1600 SE 190<sup>TH</sup> AVE  
PORTLAND, OREGON 97233 (503) 248-3043

**NOTICE OF REVIEW**

ATTACHMENT. (Applicants: Les and Florence Shields)

**8. Grounds for Reversal of Decision.**

- A. The Hearings Officer erred in basing her decision upon grounds not raised in the appeal from the Administrative Decision. Specifically, the Hearings Officer found that Applicants' failed to present evidence that their proposal met the criteria in MCC 11 WH.2074(A)(1), (2), (3) and (4). The Director concluded that Applicants had met the above criteria. The issue of whether the Director erred in rendering that that conclusion was not raised on appeal. Thus, it was error for the Hearings Officer to require Applicants to present evidence on that criteria. It was also error for the Hearings Officer to incorporate prior findings that related to issues not raised on appeal. Applicants consented to incorporating prior findings relevant to the issues on appeal, but did not agree to expand the issues on appeal. Applicants were prejudiced by the above errors.
- B. Additionally, even if compliance with 11 WH.2074(A)(4) had been properly raised on appeal, the Hearings Officer erred in applying the criteria of 11 WH.2074(A)(4) in that said criteria only applies to access roads. Applicants' property is not served by an access road; it is served by a private driveway.

- C. The Hearings Officer erred in finding that the subject parcel was not a lot of record and basing her decision to reverse the Director's decision, in part, upon that finding. The issue of whether the subject parcel was a lot of record was not raised on appeal. Thus, it was error for the Hearings Officer to consider it. Additionally, the requirement that the subject parcel be a lot of record does not apply to accessory structures like the one proposed.
- D. The Hearings Officer erred in finding that the Applicants did not satisfy the criteria of 11 WH.2074(D). The criteria in 11 WH.2074(D) applies to private roads or driveways serving dwellings. Applicants' request does not relate to a dwelling, but rather to an accessory structure.

**9. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.**

Grounds for *De Novo* Review.

Following the Planning Director's Administrative Decision to conditionally approve Applicants' request for exception from the secondary fire safety zone, Deborah Nass appealed that decision raising six specific grounds for reversal. MCC 11.15.8290.

Applicants prepared to present evidence and argument on those six grounds. Before the Hearings Officer, Applicants addressed the grounds for reversal raised on appeal.

However, the Hearings Officer reversed the Planning Director's decision, in part, upon grounds never raised in any appeal. The Hearings Officer found that Applicants failed to present evidence that their application met criteria that were not the subject matter of the appeal. Applicants had no notice that they needed to present evidence on said criteria.

Applicants are requesting the Board to limit its review to the grounds raised in the appeal and strike those portions of the Hearings Officer's decision that address criteria not part of the appeal. However, if the Board is inclined to review the merits of the entirety of the Hearings Officer's decision, Applicants believe they are entitled to a *de novo* hearing to undo the prejudice created by the Hearings Officer's inclusion of issues not raised on appeal.

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**MULTNOMAH COUNTY, OREGON**  
**PLANNING SECTION**  
**HEARINGS OFFICER DECISION**

**Case File:** E 1-99

**WHAT:** Request for an exception from the secondary fire safety zone and the forest practices setback requirements of the Commercial Forest Use zone to allow a 96' X 120' Barn/Arena which was constructed without necessary approval.

**PROPERTY LOCATION:** Approximate address: 11272 NW Skyline Boulevard  
T2N, R1W, Section 32, Tax lot '30'

**APPLICANT PROPERTY OWNER:** Les & Florence Shields  
11272 NW Skyline Blvd.  
Portland, OR 97231-2633

**Site Size:** 10.04 acres

**Plan Designation:** Commercial Forest Use

**Zoning District:** Commercial Forest Use (CFU-2)  
Significant Environmental Concern for Wildlife Habitat and View (SEC-h, v)

**Hearings Officer:** Deniece B. Won

**I. Decision**

The Hearings Officer hereby denies the applicant's Request for an exception from the secondary fire safety zone and the forest practices setback requirements of the Commercial Forest Use zone to allow a 96' X 120' Barn/Arena based on the findings and conclusions contained in this decision.

**II. Summary of the Request and Background**

The Shields' property is found just below the ridge-line of the Tualatin Mountains, east of Skyline Blvd. and McNamee Road, and north of Newberry Road. The applicants acquired



two (2) contiguous parcels of approximately five (5) acres each (Tax Lots 29 and 30). The two parcels have been consolidated, now identified by the Department of Assessment and Taxation as Tax Lot 30. The applicants have a residence on former Tax Lot 30 which was approved approximately twelve (12) years ago, when the property was zoned Multiple Use Farm-19 (MUF-19). The applicants have built a 96' x 120' barn/arena ("farm structure") on former Tax Lot 29. This barn/arena is the subject of this application. The applicants intend, after this application is approved, to use the barn/arena for the primary purpose of obtaining a profit in money by stabling, breeding and training equines, including but not limited to providing riding lessons, training clinics and schooling shows.

The barn was placed slightly diagonally so that it is set back 64-feet from the east property line; 132-feet from the north property line; 500-feet from the west property line; and 120-feet from the Shield's dwelling and 423- to 440-feet from the south property line of the Shields' ownership. The appellant owns the adjacent parcel to the west, Tax Lot 28. Another opponent, Karen Anderson, owns the adjacent parcel to the east, Tax Lot 33.

In 1997 the applicants applied for a variance and a significant environmental concern permit. The planning director denied HV 13-97, the variance request from the required yard setback of 200 feet. The Shields appealed that denial and the Hearings officer denied the appeal. The County Board of Commissioners denied the Shields' appeal of the Hearings Officer's denial of the variance request. SEC 23-97 was withdrawn because the County determined that they do not require a SEC permit for farm use structures under Code Section .6406. The applicant then applied for a Grading and Erosion Control Permit, GEC 8-98, for approval of the grading activity done on the site to accommodate the barn/arena construction. The GEC request was approved. A condition of approval required that the barn "shall be substantially disassembled by July 31, 1998." The Land Use Planning Department extended the removal order subject to the outcome of proposed Zoning Code changes.

Multnomah County amended the Zoning Code on August 8, 1998. The amendments altered some approval criteria and added a provision for the county to grant exceptions to the secondary fire safety zone and forest practices setback requirements. The changes to the zoning code included a change to the side yard setback requirements from 200 feet to 130 feet. On October 14, 1998, the applicant consolidated the two tax lots. The applicant then filed this second application to legitimate the barn/arena, requesting an exception from the requirement to have a 130-foot setback from a structure to a tract boundary. The staff deemed this application complete on March 16, 1999. The planning director administratively approved the application. The appellant filed this appeal of the planning director's decision.

### III. Basis for Appeal

In the notice of appeal, the appellant lists the following points of appeal.

1. The property in question does not have easement to the existing private access road [Section 11.15.2074 (D)].
2. There is no fire hydrant in close proximity to the property in question [Section 11.15.2074 (A)(5)(b)].
3. There does not exist adequate turnaround space for fire department vehicles [Section 11.15.2074 (D)(6)].
4. The existing access road is unsuitable for heavy vehicles [Section 11.15.2074 (D)(1)].
5. The secondary fire safety zone is inadequate [Section 11.15.2074 (B)(2)].
6. The width of the access road is inadequate [Section 11.15.2074 (D)(2)].

The appellant's attorney, Paul Norr stated, in a letter dated April 14, 1999, that the following development standards in 11.WH.2074 and exceptions to secondary fire safety zones and forest practices setbacks in 11.WH.2075 cannot be satisfied:

- (A)(2) Adverse impacts will not be minimized because without adequate access the fire hazard to farm and forest operations will be increased.
- (A)(3) There is no demonstrated legal access.
- (A)(4) There is no demonstrated legal access. In addition, even the access claimed by the applicant is in excess of 500 feet and the applicant has not demonstrated that this is the absolute minimum length required for a new barn on this property.
- (A)(5)(b) There is no demonstrated legal access for pumping fire trucks. There is no demonstrated legal access which meets the driveway standards.
- (D)(2) There is no demonstrated private road or approved easement serving the former Tax Lot 29, nor the former Tax Lot 30.
- (D)(5) There is no demonstrated private road or approved easement serving the former Tax Lot 29, nor the former Tax Lot 30.
- (D)(6) There is no demonstrated legal access serving the former Tax Lot 29, nor the former Tax Lot 30.

- (D)(7) There is no demonstrated private road or approved easement providing for the safe and convenient passage of vehicles to the former Tax Lot 29, nor the former Tax Lot 30.
- (A)(2) There is no documentation in the record that the proposed barn/arena is located within the required 130 feet of a public or private road that can legally provide access to the structure for fire fighting or other purposes.
- (B)(6) There is no demonstrated easement across Tax Lot 28 over which access can legally be gained to the former Tax Lot 29 in order to install the required central monitored alarm system in the barn/arena. The applicant has not demonstrated this requirement can be met.

### III. Hearing and Testimony

1. The Hearings Officer announced in her introductory comments that she was the Hearings Officer for the appeal of HV 13-97. She stated that she noticed during her preparation for this public hearing that the findings of facts and conclusions in the staff's decision were not consistent with the findings of fact and conclusions ultimately adopted by the Board of County Commissioners on appeal of HV 13-97 on criteria that were not affected by the Zoning Code changes. She asked if anyone objected to incorporating the record on HV 13-98 into the record on E-199. Mrs. Shields asked whether the Hearings Officer was aware that the zoning had changed. The Hearings Officer responded that she was. There was no objection to the incorporation and the Hearings Officer thus incorporates the record of HV 13-97 into this record.
2. Tricia Sears, County Planner, summarized the staff report and showed slides of the barn/arena structure, access road, driveway, and area surrounding the barn/arena. She entered Exhibits H1 through H5 into the record.
3. Christopher Koback, attorney representing Mr. and Mrs. Shields, testified. In summary he said the primary issue was access. He argued that there is substantial evidence in the record upon which the Hearings Officer could conclude that the Shields have easement rights to the barn/arena area. An easement has been granted to the former Tax Lot 30. The former Tax Lots 29 and 30 have been consolidated into Tax Lot 30. He contends therefore, that the entirety of the consolidated Tax Lot 30 now has an access easement.

He argued that consolidation of the parcels equates to a change in the dominant estate. He cited Jones v. Edwards, 219 Or 429, 347 P2d 846 (1959) for the proposition that reasonably foreseeable changes in the dominant estate have easement rights. The Hearings Officer notes that the issue in that case was

whether the owner of the servient estate, not the dominant estate, had the right to place additional burdens on an easement granted to the owner of the dominant estate. He also contended that the use of an easement is properly resolved in a civil action, not in a land use action.

Concerning the dimensional issues, he said that the staff concluded that those problems can be cured with conditions of approval and he agrees. He said that the Shields need a 12-foot wide driveway with 20 to 40-foot turnouts. A condition of approval could require inspection by an enforcement officer before the County issues a building permit and for the Tualatin Valley Fire and Rescue District to reinspect the property.

Concerning whether the structure needs to meet class 1 or Class 2 construction requirements, he said the issue relates to whether there needs to be a sprinkler or only monitoring and the issue relates to the space on the east side of the structure. If necessary, the Shields would remove part of the structure to provide a 50-foot setback from the east property line.

4. Paul Norr, attorney representing Deborah Nass, testified. He submitted a letter dated April 19, 1999 with exhibits. His testimony focused on the access issue. He Cited College Inns of America v. Cully, 254 Or 375, 460 P2d 360 (1969), which was decided after Jones v. Edwards, for the proposition that the grantee of an easement may not grant to adjacent land which he owns a right of access across grantor's land. Mr. Norr contended that the grant of an easement to Tax Lot 30 to cross Tax Lot 28 was a grant to the dominant estate described in the metes and bounds legal description contained in the deed.
5. Karen Anderson, owner of Tax Lot 33, located east of the subject property, testified. She stated that she hopes no exceptions will be made to the fire safety zone standards. She said the private road is only 10-feet wide, not 20-feet as required by the zoning code.
6. A letter, dated April 14, 1999, was received from Mr. Treitsworth and Ms. Buchanan, owners of a parcel directly west of former Tax Lot 29. In their letter they challenge the applicants' statements concerning the location of fire hydrants, their right to use the private road, the ability of the private road and driveway to support a gross vehicle weight of 52,000 pounds, the width of the private road and driveway, the existence of turnarounds and turnouts, compliance with fire safety zone requirements and concerns about parking.

With respect to parking they state that the barn/arena structure was built to be used commercially for the stabling or training of horses including providing riding lessons, training clinics and schooling shows. The structure contains 20 stalls and could board up to 20 horses whose owners would need to drive 800 feet up a narrow (less than 20-feet wide) and in places a quite steep private road to reach the

beginning of the Shield's 349 +-foot driveway. They ask where these cars will park.

Concerning the impact of the use on the private road, they state that the additional traffic of cars, trucks pulling horse trailers, trucks delivering feed and trucks hauling away manure on the private road will result in higher maintenance costs. They state that the Shields have never approached the other three households with access rights to the private road with an offer to pay the additional maintenance costs that will result from the Shields' use of the barn/arena.

#### **IV. Approval Criteria, Findings and Conclusions**

The Hearings Officer must find that the proposal meets the applicable approval criteria of the Zoning Code. In this section the applicable code sections are set out in a bold font, followed by findings of fact and conclusions of law for each criterion.

##### **11.WH.2042 Purposes**

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land, the Commercial Forest Use policies of the West Hills Rural Area Plan, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

##### **11.WH.2044 Area Affected**

MCC .2042 through .2075 shall apply to those lands designated CFU-2 on the Multnomah County Zoning Map.

Findings and Conclusions. The parcel is zoned CFU-2. The applicable provisions in MCC .2042 through .2075 are considered in this decision.

## 11.WH.2046 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC .2048 through .2056.

Findings and Conclusions. The applicant has constructed the barn/arena without the required land use approval and building permits. The County has issued a Grading and Erosion Control permit, GEC 8-98, for the site. During the review of GEC 8-98, no determination of the use of the site was made or required to be made. The use of the barn/arena is farm use, which is a use allowed outright in MCC .2048. However, the locational standards are applicable to outright permitted uses.

## 11.WH.2048 Uses Permitted Outright

\* \* \*

(C) Farm use, as defined in ORS 215.203

\* \* \*

Findings and Conclusions. Under Section 11.WH.2048 and 11.WH.2054 of the Code "Farm use, as defined in ORS 215.203" is a Use Permitted Outright. The proposed use falls within the definition of farm use under ORS 215.203 (2)(a). What is under review is its location and its compliance with the County's dimensional requirements in MCC .2058, Development standards in MCC .2074 and criteria for exceptions to secondary fire safety zones and forest practices setbacks in MCC .2075.

## 11.WH.2058 Dimensional Requirements

(A) Except as provided in MCC .2060, .2061, .2062, and .2064, the minimum lot size shall be 80 acres.

\* \* \*

(C) Minimum Forest Practices Setback from tract boundary - Feet:

Road Frontage	Other Front	Side	Rear
60 from centerline of road from which access is gained	130	130	130

Maximum Structure Height -35 feet

**Minimum Front Lot Line Length - 50 feet**

Forest practices setback dimensions shall not be applied to the extent they would have the effect of prohibiting a use permitted outright. Exceptions to forest practices setback dimensions shall be pursuant to MCC 11.WR.2075, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 11.WR.2074(A)(5)(c)(ii).

\* \* \*

- (G) Agricultural buildings, as specified in ORS 455.315(2) and allowed under MCC .2048(C), may have minimum side and rear yard setbacks of 30 feet, but in no case shall any setback be less than the minimum primary fire safety zone required by MCC .2074(A)(5)(c)(ii).

Findings and Conclusions. The parcel contains 10.04 acres, thus it does not meet the minimum lot size of 80 acres. As discussed below, it does not meet any of the exceptions, most notably the exception applicable to lots of record in MCC .2062. See discussion below on MCC .2062.

The applicant has constructed a barn/arena on a portion (formerly identified as Tax Lot 29) of Tax Lot 30 of Section 32, Map 2N 1W. They built the barn/arena structure illegally (without land use and building permit approval), violating sideyard setback requirements of the zoning district. The barn/arena was set back 64 feet from the east property line, while the zoning Code required a setback of 200 feet. On August 8, 1998, the County changed the zoning of the parcel from CFU to CFU-2. The CFU-2 zone requires a sideyard setback of 130-feet instead of the formerly required 200-feet. The structure meets the dimensional requirements on the other sides. It is set back 132 feet from the north property line, 423 to 440 feet from the south property line, and 500 feet from the west property line.

The applicant applied for an exception to the 130-foot sideyard setback from the east property line. The planning director's decision reviewed the application as though the applicable setbacks were those set out in subsection (C). Under subsection (C) of this Code section, exceptions to setbacks are made pursuant to MCC 11.WH.2075. However, the approved setback under an exception may not be less than the required minimum primary fire safety zone under MCC 11.WH.2074(A)(5)(c)(iii).

The former zoning code section .2058(C) related to minimum yard dimensions in the zone and did not contain a separate provision for agricultural buildings. In the amended zoning code section, applicable to this application, .2058(C) concerns setbacks applicable to "minimum forest practices" and it contains a new subsection (H) applicable to "agricultural buildings." Agricultural buildings are those defined in ORS 455.315 and allowed under MCC .2048(C). ORS 455.315(2) defines an agricultural building as:

" . . . a structure located on a farm and used in the operation of such farm . . . in the feeding, breeding, management and sale of, or the produce of, livestock . . . or any

other agricultural . . . or animal husbandry, or any combination thereof . . .  
"Agricultural building" does not include:

\* \* \*

(c) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;

(d) A structure used by the public;

\* \* \*

Because the public will use the structure, the Hearings Officer concludes that the set back requirements in MCC .2058(H) do not apply here. The Hearings Officer agrees with the planning staff that the applicable dimensional standards are contained in MCC .2058(C). As noted, the applicant meets the dimensional standards on all sides except the east side where the set back is 64 feet, not the required 130 feet. The deviation from the required set back amounts to 66 feet or 50 percent. If they moved the structure 66 feet west, it would comply with all forest practices set back requirements. The amended zoning code contains a provision for the County to approve an exception to these setback requirements at MCC .2075. This decision discusses the applicant's request for an exception below under the section addressing MCC .2075.

#### **11.WH.2062 Lot of Record**

(A) For the purposes of this district, a Lot of Record is

(1) A parcel of land:

- (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 15, 1980;
- (b) Which satisfied all applicable laws when the parcel was created; and
- (c) Which satisfies the minimum lot size requirements of MCC .2058, or

(2) A parcel of land:

- (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;



- (b) Which satisfied all applicable laws when the parcel was created;
  - (c) Does not meet the minimum lot size requirements of MCC .2058; and
  - (d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or
- (3) A group of contiguous parcels of land:
  - (a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;
  - (b) Which satisfied all applicable laws when the parcels were created;
  - (c) Which individually do not meet the minimum lot size requirements of MCC .2058, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and
  - (d) Which are held under the same ownership.
- (B) For purposes of this subsection:
  - (1) Contiguous refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
  - (2) Substandard Parcel refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2058; and
  - (3) Same Ownership refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.
- (C) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

\* \* \*

Findings and Conclusions. The Planning Director's decision applied the Lot of Record criteria in the former CFU zone instead of the amended criteria for the CFU-2 zone. Subsection (1) applies to parcels that satisfy the 80-acre minimum lot size requirement. The applicant's property contains only 10.04 acres. Therefore, subsection (1) does not apply. Subsection (2) applies to parcels that do not satisfy the 80-acre minimum lot size and the subject tax lot is all the property in this area owned by the applicants. Therefore, the criteria of subsection (2) must be satisfied.

The two parcels that the Shields acquired, comprising the subject parcel, were apparently created in 1963 by deed. A more detailed discussion of the chain of title is contained below under MCC .2070(D). The parent parcel is described in a deed recorded in Book 2172, Page 552. From the parent parcel, former Tax Lot 30 was deeded to Luella (Eunice) Weich Hannigan from a parcel owned by Mable Weich and George Smith, recorded in Book 2172, Page 557. The Smiths also conveyed a parcel in trust to Robert Walsh. That parcel was for the area on which the barn/arena is located, described in a metes and bounds legal description recorded in Book 2172 page 555. The conveyance of former Tax Lot 29 did not include access rights. The deed creating Tax Lot 30 granted an easement across Tax Lot 28 for access to Skyline Boulevard. There is no evidence in the record that former Tax Lot 29 was ever granted any access rights.

In 1963 the area was zoned Suburban Residential (SR). The SR zone required parcels created in 1963 to have a minimum lot size of 2 acres and frontage on a public street or other access approved by the planning commission. (Former Code section 3.1536). From the evidence in the record, the Hearings Officer concludes that Former Tax Lot 29 undoubtedly does not qualify as a lot of record because it has no documented access. Tax Lot 30 also does not qualify as a lot of record because it lacks frontage on a public street and there is no evidence that the planning commission approved its easement access.

Mr. Norr argues in his April 14, 1999 letter (Exhibit 4), that "neither the former Tax Lot 29, the former Tax Lot 30, nor the newly created Tax Lot 30, can be found to be a Lot of Record since there is no documentation in the record of this case which would allow the finding that any of the parcels satisfied all applicable laws when the respective parcel was created, since none of them have a demonstrated legal access to a public road."

In the Decision document for HV 13-97 the Hearings Officer concluded that the entire contiguous area owned by Les and Florence Shields was a tract. The Shields have since consolidated their parcels. In reaching that conclusion, the Hearings Officer was focused on whether Tax Lot 29 was a lot of record or whether Tax Lots 29 and 30 were a tract, requiring consolidation of the parcels. In the proceedings on HV 13-97 the Hearings Officer did not have evidence concerning whether the lots satisfied applicable laws when they were created.

In conclusion, the deeds creating the parcel were recorded before February 20, 1990. The parcels did not satisfy all applicable laws when created. The tax lot does not meet the minimum lot size requirements of MCC .2058. The parcel is not contiguous to another substandard parcel under the same ownership. Because all applicable laws have not been

shown to have been satisfied when the lots were created, the subsection (2) criteria are not satisfied.

The zone specifically requires large acreage dwellings and template dwellings to meet the lot of record standards. However, farm uses are not specifically required to meet the lot of record standards. Section .2062 is essentially a definition of a lot of record applicable in those circumstances where a use is required to comply with the lot of record provisions. However, MCC .2058 provides that the minimum lot size in the CFU-2 zone shall be 80 acres except as set forth in the provisions for lots of exception (MCC .2060), lot line adjustments (MCC .2060), lots of record (MCC .2062) and lot size for conditional uses (MCC .2064). None of the exceptions to the minimum lot size applies to this application. Therefore, to be eligible for a land use approval, the parcel must have been legally created meeting the zoning requirements at the time the parcel was created. As stated above, the evidence in the record does not prove that the parcels were legally created.

#### **11.WH.2074 Development Standards for Dwellings and Structures**

Except as provided for the alteration, replacement or restoration of dwellings under MCC .2048(D), .2048(E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

- (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058(C) through (G);

**Findings and Conclusions.** The applicants stated in their application that the barn/arena location has the least impact on nearby or adjoining forest lands because it meets minimum yard setbacks and is a use permitted outright. They noted that the County may not apply the Dimensional Requirements to the extent that they would prohibit a use permitted outright. The staff noted that the applicant has illustrated the location of the primary and secondary fire safety zones on the submitted site plan, and submitted a letter from the TVF&R as part of their evidence the structure meets the required fire safety standards. The staff concluded that the applicant met this criterion.

First, the statement that the yard setbacks are satisfied is not correct, it will only be correct if the requested exception is approved. Second, the "least impact" prong of this standard is additional to the requirement that the minimum yard and set back standards be satisfied. The fact that the yard and set back standards are satisfied is no proof that the structure was placed so that it has the least impact on nearby or adjoining lands. Similarly, the fact that the structure is a permitted use is no proof that it is located such that it has the least impact on nearby and adjoining lands. The staff's findings that the applicant addressed the fire safety zone standards and submitted a letter from the fire district that the structure meets fire safety standards also fail to address the issue of placing the

structure such that it has the least impact on nearby or adjoining lands. The applicants completely failed to meet their burden of proof on this criterion.

Neither the applicant nor the staff addressed the findings of fact and conclusions contained in the Hearings Officer's decision on HV 13-97 which the Board of County Commissioners adopted. Those findings and conclusions concerning this criterion are provided below:

"This application involves the siting of a structure, not a dwelling. The subject parcel abuts lands to the north, south and east designated Commercial Forest Use and protected for forest uses. The territory to the west is within the regional urban growth boundary and the City of Portland. Although some of the CFU designated parcels are currently used for residential purposes, they are forest lands, not residential lands.

"This criteria requires a finding of "least impact" on "nearby or adjoining forest" or agricultural lands. The controlling factor is the adjoining lands' land use designation as Commercial Forest land. . .

"Mr. Norr argued, and the Hearings Officer finds, that there are substantial impacts from having the building located where it is. Fire protection is one. The general activities associated with this facility, even though it may be a structure that is allowed in the CFU zone, are not allowed this close to a neighbor's property. There are more reasons for the setback than just fire protection. One is concern for the impact on the neighbor. The impact of the noise and the activities associated with the use that will take place within this building. The open side of the building that will attract the most activity, is the side that faces Ms. Anderson's property. The hub of the activity associated with the building is on the side of the structure facing the Anderson's property. That is where the vehicles and horse trailers will have to come in and where deliveries will be made. There is no information in the record about the impacts from the manure pile, the smell from the horses, the general activity, and the noise, all within 64 feet from Ms. Anderson's property.

"The applicants have not provided basic information regarding the intensity of the proposed commercial operation, such as the hours of operation, the days of operation, the number of horses and people that will be using the facility at any one time, where the manure piles would be stored, how the dust will be controlled, the number of vehicle trips per day, the anticipated level of noise and smell, etc. The Hearings Officer cannot determine what the impact is, let alone how the impact at this location compares to other locations on the applicants' property.

"Mr. Norr argues that view is an issue because protection of views is one of the purposes of the Code's setback requirement . . . Based on a drawing to general scale, Exhibit H14, showing the impact from the perspective of a person five feet tall standing at the Anderson property line looking at the building, the building would have to be 55 feet tall to have the same impact that it has at its existing location, while the maximum structure height in the CFU zone is 35 feet. The proximity of

the building has a substantial impact on adjoining property even though there is no specified view corridor. He argues that the view affect should be taken into account on the impacts caused on the neighboring property by violating the setback requirement.

"The applicants presented evidence showing that the proposed location of the building is the best location for themselves. They have not, however, presented any evidence proving that the proposed structure cannot physically be placed at least [130] feet from Karen Anderson's property or at some other location having the least impact on adjoining forest land. The evidence shows that the [130] foot setback requirement can be observed without placing the structure within [130] feet of any other property.

"The [appellants] in their September 24, 1997, letter state under paragraph 2 on page 4:

"The Shields propose a farm use, a use permitted as right in the district [which is] inherently compatible with the existing farm and forest practices on adjoining lands. (Emphasis added in original).

"The fact that the use is permitted outright is not evidence that this arena was sited so that it has the least impact on nearby and adjoining farm and forest lands. The proposed use could be inherently compatible only if the Code required minimum yard setback requirements of MCC .2058 are met.

"The east side yard has been reduced to [49]% of the required [130] feet. The County in adopting the [130] foot yard requirements made the policy choice that [130] feet was the separation between structures and property lines that provides the minimum protection from impact on adjoining forest lands. Reducing the required side yard and secondary fire safety break by more than 50% on this hillside site places the Anderson property in jeopardy. The applicants have not demonstrated this location has the "least impact" on the Anderson property.

"In his October 7, 1997 letter Christopher Brand responded that from a construction, grading, and erosion control standpoint, the current location of the farm structure is the best location on the property. The written and oral testimony of Mr. Rondema, Mr. Korocho, Mr. Naussbaum, and Mr. Wood, all indicate that the current location minimizes the possibility of future erosion problems and future subsidence problems. Those conclusions are based on considering only a portion of the Shields' ownership and without considering alternate building construction or structure size.

"In minimizing the potential for erosion and subsidence problems, the current site of the farm structure minimizes potential adverse impacts on downhill adjoining lands. Erosion problems and/or a land slide on the property could adversely impact downhill lands, including the applicants' dwelling. Earth movement could also affect the uphill property, including the Anderson's, by removing support. Nonetheless, the

applicants have not shown that a different building could not be built so that it was safe and has less impact on the adjoining properties.

"The applicant contends that the Property Owner Consent to Variance Request form signed by all neighbors, except Ms. Anderson, shows that the existing barn location has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements. The fact that all but one of the adjoining property owners consented to the variance request is not proof that the structure is sited at a location that has the least impact on nearby and adjoining farm and forest lands. It is no proof at all that the yard requirements are met.

"The Shields have not shown that the arena's location has the least impact on neighboring and adjacent farm and forest uses. Mr. Norr and Ms. Anderson's testimony that Ms. Anderson's views may be impaired, wildfire spread may be increased, as well as other arguments of alleged adverse impacts, are relevant and uncontroverted."

The applicants have failed to prove that the proposed location has the least impact on adjoining forest or agricultural lands when compared with other possible locations on their own property and considering different building sizes and construction methods.

- (2) **Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**

Findings and Conclusions. The applicants stated in their application that they minimized adverse impacts on forest operations and accepted farming practices because the structure is for farm use. They stated that they sited the structure on the best and most logical location that minimized the necessary fill and grading. This siting left the maximum remaining area for pasture use.

This criterion requires the applicant to site the structure such that it will minimize adverse impacts on the tract. The arena is a farm use. The applicants considered the circumstances of the site as a whole concerning the best place to place this building. The steeper the area the more fill that will be required. This is the best location on the property for this type of structure from the Shields' point of view. The location of the arena, by intruding into the yard setbacks, leaves the maximum remaining area for pasture and the riding and training of horses. The applicant has placed the structure where they reduce the impacts on the tract, at the expense of noncompliance with other Code criteria.

- (3) **The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**

Findings and Conclusions. The applicants stated in their application that they minimized how much forest land was used for siting the structure and access because the road they extended to the structure was only an additional 135 feet to their driveway and ties directly to the driveway to their dwelling. In addition, they stated that the portion of land

where the structure was located was sparsely treed and was the most efficient site for the proposed use.

Neither the applicant nor the staff addressed the findings of fact and conclusions contained in the Hearings Officer's decision on HV 13-97 which the Board of County Commissioners adopted. Those findings and conclusions concerning this criterion are provided below:

"Mr. Norr argued that the access road is longer than necessary and therefore, consumes more forest land than necessary. The applicant responded that they could not shorten the access road by placing the structure closer to the existing house on Tax Lot 29 and closer to SW Skyline Boulevard. The applicant testified that the sloping topography of the land, the amount of cut and fill required to site the structure closer to the existing house, the conditions of the soils on the west end of the property, make placing the building closer to the house and the existing drive less feasible than where they built it. However, the applicant did not demonstrate that the building could not have been at a location that had a shorter access . . .

The Hearings Officer concludes that the applicants have failed to meet their burden to prove that they minimized the land area used to site the structure and its service corridor.

- (4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and;

Findings and Conclusions. The applicant states the additional access to the structure does not exceed 500 feet in length. It is true that the access distance from the Shields' house to the barn/arena does not exceed 500 feet. However, the access to the barn from NW Skyline Boulevard is first taken approximately 268.5-feet through an adjacent parcel identified as Tax Lot 28, then across the frontage of Tax Lot 30, approximately 600 feet, then from the private road north through the subject parcel. The total distance from NW Skyline Boulevard to the barn exceeds 500 feet in length. The staff concluded that the application partially meets the criterion.

The Hearings Officer notes that each decision-making criterion must be satisfied either by evidence in the record or the imposition of a condition of approval that will assure compliance. If a criterion is not fully satisfied, the application must be denied. Here, the access to the structure exceeds 500 feet. Consequently, the applicant must prove that they minimize the access length.

In HV 13-97 the applicant argued that this provision does not apply at all to the Shields' driveway extension. Here, they address their driveway but not the private road that serves their driveway. MCC 11.15.2074 refers to "access road or service corridor." While the Multnomah Code does not define "access road" or "service corridor," "roads" are defined in MCC 11.15.0010 as "Every public way, thoroughfare, road, street or easement within the

County used or intended for use by the general public for vehicular travel, but excluding private driveways" and an "accessway" is defined as "[a] private street which is not a part of a lot or parcel and which provides access to more than one lot or parcel." The Shield's driveway is not a public way, thoroughfare, road, street or easement used or intended for use by the general public. It is intended for use of the Shields and their guests and invitees. The shields' driveway also is not an accessway because the driveway is part of their lot. Similarly, the applicants maintain that this provision does not apply to the private road portion of their access. The easement is used or intended for access use by the owners of the dominant estates benefitted by the easement and their guests and invitees. It is not intended to provide for use by the general public. Therefore, the private access road does not meet the definition of a "road." The subject private road is not an "access way" because it is an easement, a part of a lot or parcel.

In HV 13-97, the Hearings Officer concluded that the access requirements of 11.15.2074(D) apply and that the applicant needs to prove that the MCC 11.15.2074(A)(4) requirement that any access road greater than 500 feet in length is necessary due to physical limitations unique to the property and is the minimum length required. The focus of the criterion is on the "access" to the proposed development. If the Code provision were interpreted as the applicant's contend, it would never apply to any access that is privately owned. In other EFU cases, the County has applied this criterion to private access, including both private roads and private driveways cumulatively. The terms road or service corridor refer to two types of access, access for vehicles (roads) and access for utilities (service corridor).

The applicant has not proved that the access is the minimum necessary. Neither the applicant nor the staff addressed the findings of fact and conclusions contained in the Hearings Officer's decision on HV 13-97 which the Board of County Commissioners adopted. Those findings and conclusions concerning this criterion are provided below:

"An extension of the existing access was built to serve the farm structure. Mr. Norr argues that the access is far in excess of 500 feet from Skyline Road and there is an absolute requirement that the minimum be used. If the barn had been located further down the hill, closer to the house it would not have required extension of the access. The applicant contends the access does not exceed 500 feet in length. The applicant argues that this criteria applies only to the access which must be created in order to facilitate the farm structure. . . He argues the driveway which was created to access the farm structure does not exceed 500 feet. The Hearings Officer disagrees, the length of the access should consider the entire access to the structure, not just the length of the extension of an access to get from the end of an existing access to a new structure. The entire length of the access should be considered because a purpose of the requirement is to minimize the distance from a public road to a structure for emergency response vehicles [and to protect the maximum amount of forest zoned land].

"The record shows that access to the site is provided from Skyline Blvd. The record does not show the total length of the access. The Tax Assessors map shows the



access is on an easement. The record does not contain any information about the width, surface conditions, signage, etc., of the access. The applicant has not demonstrated that the amount of land for the access is minimized.

In this appeal, the Hearings Officer maintains her interpretation that MCC .2074(A)(4) requires the applicant to prove that the length of the access to the structure is the minimum length required. The applicant has provided no evidence that they minimized the length required. This criterion is not satisfied.

- (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

\* \* \*

- (b) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC .2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;

Findings and Conclusions. The territory is within the Tualatin Valley Fire and Rescue District (TVF&R). TVF&R provides service to this area by tankers. The property is approximately 1-1/2 miles from TVF&R Station 198. Equipments housed at the station are:

Brush Rig 198	90 gpm	300 gallons of water
Engine 198	750 gpm	500 gallons of water
Water Tender 198	750 gpm	3000 gallons of water

Fire hydrants are found at the intersection of Skyline Boulevard and Newberry Road, and at the intersection of Skyline Boulevard and McNamee Road. The applicant stated that there was a fire hydrant at the point of the private road access to Skyline Boulevard. This is incorrect. The staff of TVF&R inspected the applicant's property on September 19, 1997. The District concluded that fire department access to all structures on the property is adequate for fire suppression operations. See September 19, 1997 Letter from Arthur E. Thurber, Deputy Fire Marshal.

This criterion applies to "Access for a pumping fire truck to . . . any perennial water source on the lot." The subject parcel does not contain a perennial water source. Consequently, this criterion is not applicable.

- (c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

- (I) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced

with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

- (ii) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance In Feet
Less than 10	Not required
Less than 20	50
Less than 25	75
Less than 40	100

- (iii) A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. . . The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 11.WH.2058(D) and .2075.

- (iv) No requirement in (i), (ii), or (iii) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

- (v) Maintenance of a primary and a secondary fire safety zone is required only to the extent possible within the area of an approved yard (setback to property line).

- (d) The building site must have a slope less than 40 percent.

Findings and Conclusions. The applicants stated in their application that there are less than five trees within the 30-foot primary fire safety zone around the structure and these trees are spaced farther than 15 feet between the crowns.

The primary and secondary fire buffer zone setbacks are measured from the structure out on all sides for a minimum distance of 30 feet for the primary fire safety zone. The minimum distance for the primary fire safety zone increases as the slope increases. Because the distance is based on slopes, the primary zone may be different on each side of the structure. According to the applicant, the slope of the site of the barn/arena is less than 10%. According to the soils maps on file at Multnomah County, the soil types for the portion of the property around the subject horse-barn include Cascade silt loam, 8 to 15 percent slopes (7C), requiring a primary fire safety zone of 30 or 50 feet, and Cascade silt loam, 15 to 30 percent slopes (7D), requiring a primary fire safety zone of 50, 75 or 100 feet. In addition, Karl Koroch of CIDA, Inc. stated in the application for the Grading and Erosion Control permit, GEC 8-98 for the subject site, dated March 26, 1998, that the "average slope is 12.3%" for the site. Consequently, it appears the primary fire safety zone is required to be 50-feet, based on the more detailed analysis of the site for the GEC permit.

The applicant showed the buffer zone on the subject property by marking the 50-foot buffer with posts tied with orange tape. These markers are visible in the photos taken by the Staff at site visits on April 1, 1999 and April 5, 1999. However, the applicants have not provided documentation concerning the percentage of the slope immediately next to the building site (barn/arena). Although the average slope of the parcel is 12.3%, the slopes may be more or less around the barn/arena site. There is no evidence in the record concerning the slopes around the structure.

The fire zone requirements require a primary fire safety zone of a minimum of 30 feet in all directions from a structure, plus a secondary fire safety zone extending a minimum of 100 feet in all directions around the primary safety zone. Thus, there is a total fire safety zone of at least 130 feet required by MCC .2074(5)(b). If the slopes require a greater primary fire safety zone, the total requirement could be as much as 200 feet. However, the County cannot require the fire safety zone to exceed the area of an approved side yard. The Code approves a side yard of 130 feet, so that is the maximum total fire safety zone that the County may require. If the Code requires a 50-foot primary fire safety zone on the east side of the structure, 16-feet would remain between the structure and the east property line for a secondary fire safety zone. To completely comply, the structure could be relocated 66-feet farther west. Another alternative would be to remove the portion of the structure that intrudes into the setback.

The zoning code contains a provision allowing the County to approve an exception to the setback and secondary fire safety zone standards at MCC .2075. The applicant's have requested an exception for the east side of the structure. The exception provision from the secondary fire safety zone standards was added to the zoning code by the amendments adopted after HV 13-97 was decided. These new provisions provide for protection from fire by higher construction standards for structures placed within the secondary fire safety zone, including sprinklers.

The exception requirements are addressed below. The Hearings Officer concluded that the applicant meets the exception criteria and the structure must meet the Class 1 construction requirements, including a sprinkler system.

The building site of the barn/arena has a slope less than 40 percent.

The applicants stated in their narrative, submitted April 7, 1999, that they intend to comply with the applicable fire safety zone requirements. A condition of approval could be imposed to require the applicants to 1) provide evidence of the slope for each side of the barn/arena, and 2) a site plan illustrating the location of the required primary and secondary fire safety buffer zones, based upon the slope of the site, before the County issues a building permit. Upon compliance with those conditions these criteria would be satisfied.

(B) The dwelling or structure shall:

\* \* \*

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

Findings and Conclusions. The staff determined that section (B) does not apply because the structure is not a mobile home. However, the provisions in (3) and (4) apply to all structures. As discussed below, under MCC .2075, the structure will be required to have a fire retardant roof and no chimney is present on the structure. These criteria can be met with conditions of approval.

(C) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 11 stream as defined in the Forest Practices Rules.

Findings and Conclusions. The applicants stated in their application that the water supply to the barn/arena will be from a private well on their property that serves their dwelling. The applicants stated that they will provide water to the barn/arena site for stock watering purposes only. The proposed stock watering is not a "domestic water" use.

The Hearings Officer notes that it is likely that they will require water at the arena for the public who will be attending events at the arena. The applicant has provided well log evidence that the domestic water supply is from a source authorized according to the Department of Water Resources Oregon Administrative rules for the appropriation of groundwater. The applicants meet this criterion.

- (D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:

Findings and Conclusions. The appellant, Deborah Nass, contends that the barn/arena site does not have an easement right to the private road across her property which serves the applicant's dwelling. Ms. Nass' property is identified by the Multnomah County Department of Taxation and Assessment as Tax Lot 28.

The planning staff researched the history of the Shield's chain of title. The record contains several recorded documents related to the creation of the parcels and easement rights. The following findings and conclusions are based on those documents.

A predecessor in interest to Ms. Nass' property, Mable Weich Smith and her husband (the Smiths) conveyed a parcel to Myrna Weich McShirely, a predecessor in interest to the property on which the Applicants' dwelling is located (Book 2172, Page 558). That 1963 conveyance created a 12.5-foot easement for the benefit of the conveyed property for "road purposes." The conveyed property was described by a metes and bounds legal description, containing a parcel 609.2 feet wide (east and west) and 357.5 feet deep (north and south). The conveyed parcel was identified by the Multnomah County Department of Assessment and Taxation as "Tax Lot 30." In 1963, the Smiths also conveyed a parcel which is now identified by Assessment and Taxation as Tax Lots 28 and 49 to Luella (Eunice) Weich Hannigan (Book 2172, Page 557). That deed noted that the parcel was subject to a 12.5-foot right of way easement. Also in 1963, the Smiths conveyed to Robert Walsh in trust for Nancy Lee Walsh, Teresa Eileen Walsh and Alice Marie Walsh, a parcel (on which the barn/arena subject to this application is located) described in a metes and bounds legal description (Book 2172, Page 555) that was identified by the Department of Assessment and Taxation as Tax Lot 29. That conveyance did not include access rights for the conveyed parcel, Tax Lot 29.

The Smiths conveyed the parcel immediately east of Tax Lot 30 to David Frederick Weich (Book 2172, Page 556), also in 1963. The conveyance to David Weich did not contain an access easement.

David Weich obtained easements to his property, in 1972, from Luella (Eunice) Weich Hannigan (Book 896 page 930) and Myrna Weich McShirley (Book 896 Page 932). Those easements were for a 50-foot wide strip for "private access and utility rights." Those easement documents describe by metes and bounds the easement strip and the burdened properties (the servient estates) but do not describe the benefitted property (the dominant estate). Consequently, the 50-foot easement was for the benefit of David Weich only. It did not grant an additional easement right for the benefit of the property owned by Myrna Weich McShirley (Tax Lot 30). The easement for Tax Lot 30 continued to be a 12.5-foot easement.

In 1980 Luella (Eunice) Weich Hannigan partitioned her parcel into the two parcels now identified by Assessment and Taxation as Tax Lots 28 and 49. Apparently, Luella (Eunice)

Weich Hannigan acquired the parcel identified by Assessment and Taxation as Tax Lot 30 sometime between 1972 and 1980. In November 1980 she sold the partitioned parcel and Tax Lot 30, the parcel on which the applicant's dwelling is located, to Jack and Barbara Myers. There is no reference in the deeds to easements. When the same owner holds title of the dominant and servient estates, merger extinguishes an easement. Merger occurs at the time the fee owner of the dominant parcel acquires the fee in the servient parcel. In Witt v. Reavis, 284 Or. 503, 508, 587 P.2d 1005 (1978) the Oregon Supreme Court held that the effect of merger is a complete destruction of the easement. Thus, it appears that the easement across Tax Lot 28 to provide access to Tax Lot 30 was extinguished when Luella Hannigan, owner of the servient estate acquired Tax Lot 30, the dominant estate.

In 1984, Robert Walsh, trustee, conveyed Tax Lot 29 (on which the barn/arena is located and is subject to this application), to Alice Marie Walsh Laney, also known as Barbara Alice Weich, (Book 1798, Page 2378). That conveyance also does not contain any reference to access to the conveyed parcel.

The applicants obtained the parcel on which their dwelling is located (Tax Lot 30) from Jack and Barbara Meyers (Book 1783, Page 1169). Their deed includes a reference to an easement recorded in Book 896, Page 930. From the documents in the record, it appears that the easement for Tax Lot 30 was extinguished and that the conveyer should have granted a new easement. (Note that the record does not include a complete chain of title for Tax Lot 28. The Hearings Officer assumes, without knowing, that Jack and Barbara Meyers still owned both parcels when they sold Tax Lot 30 to the applicants and therefore, could have granted access to Skyline Road when they sold Tax Lot 30 to the applicants). As there is uncertainty about the grant of an easement to Tax Lot 30, a court would look beyond the wording of the deed to decide the intent of the parties. Because the deed included a reference to an easement which burdened seller's adjoining property, it appears that it was the seller's intent to transfer an easement to the applicants. Also, because the referenced easement in Book 896, Page 930 is to a 50-foot easement, it appears likely that the easement they intended to convey is 50-feet wide. Even if the Meyers sold Tax Lot 28 before selling Tax Lot 30, it appears more likely than not that the Meyer's would have reserved an easement for Tax Lot 30. No one has asserted that Tax Lot 30 does not have a right of easement. The Hearings Officer concludes that the land area described in the conveyance from Meyers to Shields does have a 50-foot easement across Tax Lot 28.

The appellant, the current owner of Tax Lot 28, the servient property, contends that Tax Lot 29 has never been granted an easement to the access road across her property. The record contains no evidence that an easement was ever granted to Tax Lot 29. It appears that the parcel identified as Tax Lot 29 was created by deed in 1963 by a conveyance from the Smiths to Robert Walsh, trustee. Robert Walsh then conveyed Tax Lot 29 to Barbara Alice Laney Weich in 1984, who conveyed the property to Eldon Shields in March 1993. Neither the 1963 nor the 1984 deeds contain a reference to access rights to the property. The 1993 statutory warranty deed conveying the property to Eldon Shields contains the following note:

"This property is free of liens and encumbrances, EXCEPT: No apparent means of record ingress or egress to or from the property."

Eldon Shields conveyed his parcel to the applicants in May 1993 by quit claim deed. In October 1998, the applicants consolidated the two parcels into one parcel. Thus, the former Tax Lot 29 to the north where the subject barn/arena is located and the former Tax Lot 30 to the south where the applicant's dwelling is located are now one parcel for assessment and taxation purposes. The Department of Assessment and Taxation identifies the parcel as Tax Lot 30.

In their General Application Form for Variance, HV 13-97, and in this proceeding, the Shields cited an Agreement for Easement, Book 896, Page 932, as proof of their having been granted an easement. As discussed above, this agreement granted an easement across Tax Lot 30 to David Weich, it was not an access easement for the benefit of the former Tax Lot 30. It does not mention lot 29. The Hearings Officer has already concluded that the reference in the deed conveying Tax Lot 30 to the Shields by the Meyers to the easement described in Book 896, Page 930 was intended to create access to the area identified formerly as Tax Lot 30. However, nothing in the deed grants access to former Tax Lot 29. There is no evidence in the record that the area contained in former Tax Lot 29 was ever granted access across Tax Lot 28, or any other access.

The applicant argues that the area in former Tax Lot 29 has rights to the easement granted to the area within the former Tax Lot 30 by virtue of the applicants' consolidation of Tax Lot 29 with Tax Lot 30. In reaching this conclusion they rely in part on a conclusion reached by Mary Pfau, Public Researcher in the Multnomah County Assessment and Taxation Department, that their perpetual easement to Tax Lot 30 automatically applies to Tax Lot 29 after the tax lots are consolidated. The applicant also relied on Jones v. Edwards for the proposition that the scope of an easement is subject to changing circumstances.

The applicants confused the easement law concepts of dominant estate and scope of easements. The scope of an easement concerns the dominant estate's use of the easement. The scope of an easement is subject to adjustment consistent with normal development of the dominant estate. The dominant estate which has the easement rights is the area described in the easement grant. Here, the dominant estate is the area described in the deed the Shields acquired from Meyers, former Tax Lot 30. The dominant estate is not adjusted because a dominant estate is consolidated with another parcel(s).

After researching the access to the barn/arena site, the county planning staff concluded in its March 19, 1999 decision that the site of the barn/arena has a legally established access. The Access for Easement on Tax Lot 28, attached as Exhibit #7, states that the property owner of Tax Lots 28 and 49 (formerly one parcel) was the lawful property owner and thus qualified to convey the right of the easement across the said property. The easement agreement describes the area of the access easement and it grants "Private Access and Utility Rights." The document further states, "the statement described above shall continue for a period of Permanent, always subject, however, to the following

specified conditions, restrictions, and considerations: None." The staff concluded that it thus it appears that the easement runs with the land. Additionally, the easement is granted for "Private Access and Utility Rights" and does not restrict the use of the properties that are accessed by the easement. The staff failed to note that the easement was granted to David Weich, the owner of the land east of the applicant's property, not to the applicants or any of their predecessors. Therefore, the staff incorrectly concluded that the easement agreement was for the benefit of applicants' land.

The appellant argued that a notation on the 1993 deed conveying Tax Lot 29 to Eldon Shields is conclusive that the easement across Tax Lot 28 does not serve Tax Lot 29. That notation includes the statement:

"This property is free of liens and encumbrances, EXCEPT: No apparent means of record ingress or egress to or from the property."

The staff concluded that former Tax Lot 29 does have access. The staff correctly found that agreements for access are not always "of record" and that a grant of access could legally exist but not be recorded. However, there is no evidence in the record that there was ever a grant of access to Tax Lot 29, recorded or unrecorded.

The staff relied on an excerpt from Evidence and Procedures for Boundary Location (3rd edition), Section 12-15, Location of Easements, which states, "Easements necessary for the enjoyment of a property may automatically be transferred, whether mentioned in a conveyance or not" to draw the conclusion that the access that was granted to Tax Lot 30 could be "transferred" to the area in former Tax Lot 29. The planning staff misunderstood the language on transferring an easement. The excerpt is a correct statement of Oregon easement law in the sense that a perpetual easement granted to a property can be transferred to subsequent owners of the property whether or not the easement is mentioned in the conveyance. However, the language does not apply to the situation where the owner of a dominant estate wants to "transfer" an easement to lands beyond the territory described as the dominant estate in the grant of easement rights. The owner of a dominant estate has no right to grant to another dominant estate a right to use the land of the servient estate which he does not own.

The staff reasoned that the appellant's contention, taken to its logical end, leads to an illogical result. The staff reasoned that if the easement can only serve land area served at the time of the easement is granted, then any land area added to the original parcel through a lot line adjustment or consolidation would be precluded from being accessed by the easement. The staff further reasoned that the access easement granted access to Tax Lot 30 and cannot restrict access within Tax Lot 30, even if Tax Lot 30 gains land area.

The staff is incorrect that the easement was granted to Tax Lot 30. The easement was granted to an area specifically described in a metes and bounds legal description that correlates to the area identified by the Department of Assessment and Taxation as the former Tax Lot 30. The dominant estate is the land area described by metes and bounds



on the deed which created the easement. The dominant estate is not "Tax Lot 30" which may become a larger area by consolidation of tax lots.

For purposes of easing the development of land, it may be desirable for access rights for an area to be expanded to other areas when lots or parcels are consolidated. However, an easement is a limitation on the property rights of the burdened estate to exclude others from using his land. An owner of a property granted an easement does not have the right to grant to the owners of other property a right to cross the property of the landowner who granted him a right of access. Concerning any easement across Tax Lot 28 for access to Tax Lot 30, the easement would be an "easement appurtenant" to the former Tax Lot 30, and the former Tax Lot 30 would be the "dominant tenement" or estate. The Oregon Supreme Court in College Inns of America, Inc. v. Cully, 254 Or 375, at 376, 460 P2d 360 (1969) addressed the situation where the owner of a dominant estate acquired property next to the dominant estate and constructed a large dormitory on his entire property. The court held:

"It is well established law that 'a right of way appurtenant to land conveyed cannot be used by the owner of the dominant tenement to pass to or from other land adjacent to or beyond that to which the easement is appurtenant.'"

The current Oregon State Bar CLE materials summarize Oregon law as follows:

"An easement holder may not use the easement for the benefit of property other than the dominant estate . . . even if the other property is adjacent to the dominant estate and is owned by the easement holder. See Principles of Real Estate Law (Oregon CLE 1995), Section 3.28. Page 3-20).

Thus, the owner of the former Tax Lot 30, who has been granted access rights across Tax Lot 28 cannot extend those access rights to the former Tax Lot 29, even if the same people own the former Tax Lot 29 and 30.

The staff found that the easement was not granted for the sole benefit of Tax Lot 30 because it provides access to five properties. There is no evidence in the record as to the basis for the rights of access to the other properties using the easement. Those properties may have independent grants of easement, prescriptive easements, or no legal access rights. The fact that other properties use the private road is not evidence that Tax Lot 29 has an easement right to use the private road.

Finally, the staff relied on the decision document from the Hearings Officer for HV 13-97, a variance request for the subject barn/arena, issued October 20, 1997, in which the Hearings Officer discussed access to former Tax Lot 29. The Hearings Officer stated, "The access is an easement. The access provides access to a dwelling on Tax Lot 30 (the Shields residence) and on Tax Lot 33 (Ms. Anderson). [It t]hus meets the definition of 'a private road (including approved easements) access two dwellings.' The Hearings Officer concludes that the access requirements of 11.15.2074(D) apply..." This statement of the

Hearings Officer provides that the criterion applies, it does not state that the criterion is satisfied.

The access to the barn/arena structure is a private road. The site of the structure does not have any demonstrated easement rights to this access. This criterion implicitly requires that the land subject to the land use action have access rights. The site of the structure does not. Consequently, the applicants do not meet this criterion.

- (1) **Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;**

Findings and Conclusions. The applicants stated that they experienced no problems on the private road from heavy construction trucks during the building of their home 16 years ago, the construction of their new structure or the two other homes along the private road. The applicants stated that their experience with the access road over the last 14 years, is that it has supported the weight of all construction vehicles weighing more than the 52,000-pound requirement. There have been four homes plus two additional structures constructed along this private road. The applicants stated that they contacted a concrete supplier who told them that the nine trucks delivering concrete to the subject barn/arena site weighed from 52,000 to 60,000 pounds each. The supervisor told them that the road never posed a problem except once when one truck tried to avoid a broken low-hanging tree limb partially over the road (which has since been removed). They say this was the cause of the "partial collapse" noted in the appeal. This "collapse" was only the width of one truck tire which measured 6 inches wide by approximately 5 feet long and 4 inches deep. It has long since disappeared due to one of their neighbor's routine road maintenance, which has smoothed out this minor depression.

In a September 19, 1997 letter, Arthur Thurber, Deputy Fire Marshal for Tualatin Valley Fire and Rescue district stated that "Fire department access to all structures on [the] property is adequate for fire suppression operations." The Fire Marshall's letter contains no factual evidence to support this conclusion.

The Tualatin Valley Fire and Rescue district has adopted minimum roadway design criteria for fire apparatus access to all proposed and newly constructed structures. These requirements are contained in the record in the document titled "Fire & Life Safety Requirements for Fire Department Access and Water Supplies." These design criteria require the applicant to construct access roads adequate to support a minimum weight of 12,500 pounds wheel point load and a gross vehicle weight of 50,000 pounds. The Hearings Officer notes that the District's access road design criteria are less restrictive than the Multnomah County Code criterion - 50,000 rather than 52,000 gross vehicle weight. The District requires road design and compaction reports to be submitted verifying load carrying capacity. To meet the District's load bearing requirements, an applicant can provide either: 1) a soil compaction report certifying a bearing capacity of 2,000 pounds per square foot for the roadbed, plus a minimum depth of 5-inches of 1-1/2-inch minus

gravel, 2) a minimum depth of 8-inches of uncompacted 1-1/2-inch minus gravel, or 3) construction plans prepared and stamped by a registered engineer. The fire district requires an access road to extend to within 150-feet of the structure and a turnaround if the excess distance to an intersecting roadway is greater than 150-feet and/or the access road is a dead-end road. Here, the intersecting roadway is the intersection of the private road access to the structure with Skyline Road which is approximately 800 feet from the structure. Consequently the Fire District requires a turnaround. The District's standards provide that the district can modify the access standards if the applicants protect the structure with an approved automatic sprinkler system.

There is no direct evidence in the record that the District's standards are satisfied. The Hearings Officer finds that the District's letter concluding that there is adequate access is not credible because they do not base the conclusion on evidence that the District's own adopted design criteria are met. For example the District's criteria require a turnaround and none is present and there is no evidence of a soil compaction report on the required amount of 1 1/2-inch minus gravel on the road (5 inches for compacted or 8-inches for uncompacted road beds.) In addition, even if there is evidence that the District's criteria are satisfied, that would not necessarily be evidence that the Zoning Code criteria are satisfied, because the Zoning Code requires a load-bearing capacity greater than required by the District's criteria.

The appellant contends that the private road is unsuitable for heavy vehicles and stated that there was an incident during construction of the Shield's barn when a construction vehicle caused a partial collapse of the road. The appellant argues that the applicant's statement that the road is adequate is merely the applicant's opinion unsupported by an engineering study.

A letter was received from Scott Teitsworth and Deborah Buchanan, owners of the parcel directly to the west of Tax Lot 29, dated March 28, 1999. They argue in their letter that the applicant's statement that the road can "support a minimum gross vehicle weight of 52,000 pounds is merely an opinion of the Shields and not that of an engineer or other qualified professional. They state that there were problems with large heavy vehicles during the construction of the barn/arena. They said that a cement truck was forced to dump part of a load of wet cement to get up the hill which is quite steep, and that another heavy vehicle drove too close to the northern drainage ditch and collapsed about a 2-foot wide section of the road into the ditch. They also said that another vehicle was too long to negotiate the turns on the portion of the driveway crossing Tax Lot 30. Mr. Treitsworth stated that as an experienced firefighter he can assure that "no full sized fire engine will ever even attempt to negotiate the Shield's driveway.

The planning staff, in its administrative decision, did not request a written verification of the private road's or driveway's load-bearing capacity from an Oregon Professional Engineer because the fire district had twice evaluated the site and found that "Fire department access to all structures on property is adequate for fire suppression operations" and because a written verification of compliance with the 52,000 lb. GVW standard from

an Oregon Professional Engineer is required only for bridges or culverts and the applicant for E 1-99 does not request to construct a bridge or a culvert.

Although the Zoning Code requires written verification from a registered engineer only when an access road has bridges or culverts, there needs to be credible evidence, upon which a reasonable person would rely, that the Zoning Code's requirement that the access road has 52,000 pound load-bearing capacity is complied with. The applicants' evidence that the 52,000 pound load-bearing standard is satisfied consists of statements that trucks of or exceeding this weight have successfully used the access road. The opponents, however state that on at least one occasion the private road did not support the weight of a cement truck. The applicant responds that this was because the cement truck got too close to the edge of the road bed.

Imposing a condition of approval may satisfy compliance with a code standard to assure that the requirement will be satisfied. However, to satisfy a decision-making criterion by a condition of approval, the decision-maker must have evidence that satisfying the criterion is likely, or feasible. Here, the access to the structure includes approximately 800 feet of private road access across the south part of Tax Lots 28 and 30 plus more than 400 feet of access through Tax Lot 30. There is no evidence in the record that improving the access to meet the 52,000 pound load-bearing capacity is financially feasible. The Hearings Officer concludes that the applicants have failed to meet the burden to prove that the criterion is satisfied.

- (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;

Findings and Conclusions. This criterion requires a private road to have an all-weather surface of 20-feet in width and a private driveway to have an all-weather surface of at least 12-feet in width. Here, the private road is the access easement across Tax Lots 28 and 30 and the driveway is the access across applicants' property from the private road to the structure. The Tualatin Valley Fire and Rescue district's adopted minimum access roadway design criteria requires an access road having an all-weather surface and an unobstructed width of not less than 20-feet. The District's criteria appear to apply to entire access - the private road and the driveway both need to be 20-feet in width meeting the District's load bearing requirements.

The applicants stated in their application that their driveway surface is covered with ¾-inch-minus gravel and has a minimum width of 12-feet. The applicant stated that they understood that TVF&R deemed their current access road acceptable for their fire suppression access. The County Planning Staff had an inspector for the Multnomah County Right-of-Way Division measure the width of the applicant's driveway and the turnaround area on March 17, 1999. On April 1, 1999, the Staff Planner visited the site and measured the driveway and the turnaround area. The driveway is approximately 9-feet in width for most of the length of the driveway. The applicant stated in a letter dated April 7, 1999, that they will meet the Code requirements for the driveway.

Staff recommended the Hearings Officer establish a Condition of Approval to require the applicant to construct the 12-foot wide driveway before the County issues a building permit.

The appellant contends that the applicant has not satisfied this criterion because the private access road is less than 20 feet in width. Mr. Treitsworth and Ms. Buchanan state in their letter that the Shields driveway is reached by driving approximately 800 feet along the private road which is used by 3 other households. They also said that this road is not 20-feet wide.

The record contains no evidence concerning the width of construction of the private road from which the Shield's driveway obtains access. The applicant has failed to meet its burden to prove that the criterion is satisfied.

**(3) Provide minimum curve radii of 48 feet or greater;**

Findings and Conclusions. The applicant stated that a minimum curve radii of 48 feet or more is provided. The staff concluded that the application meets this criterion. This conclusion is not challenged on appeal.

**(4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;**

Findings and Conclusions. The applicant stated that an unobstructed vertical clearance of at least 13 feet 6 inches is provided. The staff concluded that the application meets this criterion. This conclusion is not challenged on appeal.

**(5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments . . .**

Findings and Conclusions. The applicants stated in their application that the driveway does not exceed more than 8 percent grade except on short segments. They noted that the Tualatin Valley Fire and Rescue had stated in a letter, dated September 19, 1997, that the access to all structures on the property is adequate for fire suppression operations. The staff noted that the applicant does not state whether or not the driveway exceeds 12% grade at any given slope on the site. The staff concluded that the application partially meets the criterion.

The Fire District's adopted access design criteria requires the roadway grades to not exceed an average grade of 10 percent with a maximum grade of 15 percent for lengths of no more than 200 feet.

The Fire District's criteria permit a greater maximum grade than the Zoning Code allows. The District's criteria may be met while the County Code is not. There is insufficient evidence in the record from which the Hearings Officer can conclude that the grades of either the private road or the driveway meet this criterion. The applicant's statement that

the 8 percent grade is held not to be reliable evidence because other statements made by them have proved to be inaccurate, it is unsupported by any evidence and other evidence submitted by opponents suggests that the grade is steep.

- (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;

Findings and Conclusions. In their application the applicants stated that they have provided turnarounds with a minimum radius of 48 feet. The appellant contends that the applicant has not provided turnarounds and stated that when a fire occurred at her house in February 1997, the Portland Fire Bureau refused to drive their trucks up the private road because it lacked turnaround space. The Right-of-Way Inspector, the Code Enforcement Inspector, and Planning Staff visited the site and found that the required turnaround does not currently exist.

The applicants responded that they have adequate space to provide the necessary turnaround with a minimum 48-foot radius at the end of their driveway. They stated that they would provide a turnaround, if required by Multnomah County. The County Planning staff visited the site and found that the portion of the property next to the barn/arena, on the east side of the subject parcel, contains room for the applicant to establish the required 48-foot radius turnaround. Mr. Treitsworth and Ms. Buchanan question whether they can provide an adequate turnaround in the area surrounding the barn. They say that this area is quite muddy even in dry weather because there are many springs on this hillside. They believe that a vehicle the size and weight of a fire engine would most likely sink into the mud and be stuck, although he doubts that an engine could even get to the turnaround.

The applicants responded to appellants' comments about the Portland Fire bureau's response to her fire in February 1997. They noted that it was the Portland Fire Bureau that responded to Ms. Nass' fire, not the Tualatin Valley Fire and Rescue District which is responsible for serving their fire needs because her property is within the City of Portland and theirs is in Multnomah County. The Hearings Officer note that fire equipment is dispatched according to which entity has the closest equipment, not according to jurisdictional boundaries. They also said that the Portland Fire Bureau did indeed bring trucks onto the private road from Skyline Blvd. and then into Ms. Nass' driveway.

The Staff recommended the Hearings Officer establish a condition requiring inspection of the site for compliance with the requirement to have a 48-foot radius turnaround before issuance of building permits. A condition of approval could satisfy this condition.

- (7) Provide for the safe and convenient passage of vehicles by the placement of:

- (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or

- (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of  $\frac{1}{2}$  the driveway length or 400 feet whichever is less.

Findings and Conclusions. In their application the applicant stated that their driveway has appropriate turnouts for safe passage of vehicles along its length. The appellant contended that no turnarounds or turnouts exist. The staff confirmed on site visits that the applicants have constructed no turnouts the subject parcel. The applicants stated that if the current "turnout" places that already exist along the main driveway are not acceptable after additional review by Multnomah County and/or TVF&R, they will provide any necessary changes to allow for safe passage of vehicles. Mr. Treitsworth and Ms. Buchanan state that the two private driveways along the private road don't measure 20 feet by 40 feet. He believes that there are not adequate turnouts along the private road.

The turnout requirement applies to driveways, not to private roads. The Staff recommended the Hearings Officer establish a condition requiring inspection of the site for compliance with the requirement to have turnouts on the Shields' driveway, as required by subsection (7), before the county issues building permits.

The applicants did not address the requirement that a private road provide additional turnarounds at a maximum spacing of 500 feet. They addressed only requirements relating to their own driveway. The Hearings Officer notes that the fire access requirements apply to "a private road . . . accessing two or more dwellings, or a driveway accessing a single dwelling." The Hearings Officer does not believe that these requirements are meant to be in the alternative when both a private road and a driveway are involved in reaching a development. The Hearings Officer believes that private road standards apply to private roads and the driveway standards apply to driveways. Where there is both a private road and a driveway, the standards for both need to be satisfied.

There is no evidence that there is any turnaround along the private road which exceeds 800 feet in length. The Code requires at least one turnaround along the private road in addition to a turnaround at the end of the applicants' driveway. It appears that the additional turnarounds must also have a radius of 48-feet. As the private road easement is at most 50-feet in width, there is inadequate space within the easement to provide a turnaround having a 48-foot radius. Consequently, the applicant has failed to prove that this requirement could be satisfied.

#### **11.15.2075 Exceptions to Secondary Fire Safety Zones and Forest Practices Setbacks**

- (A) The secondary fire safety zone and forest practices tract setbacks for dwellings and structures may be reduced pursuant to the provisions of .2075(B) when:

- (1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or

- (2) The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road servicing two or more properties including the subject site, or
- (3) The proposed dwelling or structure is intended to be located within 130 feet of a legally existing dwelling or structure.

Findings and Conclusions. The average lot width and depth exceeds 330 feet. The barn/arena structure is located within 130 feet of a legally existing dwelling. To be eligible for an exception to the secondary fire safety zones and forest practices setback requirements, the applicant needs to meet one of the three listed criteria. The applicant meets two of the criteria for eligibility for approval of an exception. The criteria in .2075(B) apply to whether or not the County can approve such an exception.

(B) Exceptions to secondary fire safety zones and forest practices setbacks shall only be granted upon satisfaction of the following standards:

- (1) If the proposed secondary fire safety zone is between 50 and 100 feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or
- (2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and

**Definitions from the 1997 Urban-Wildland Interface Code:**

**Ignition-Resistant Construction, Class 1,** is a schedule of additional requirements for construction in urban-wildland interface areas based on extreme fire hazard.

**Ignition-Resistant Construction, Class 2,** is a schedule of additional requirements for construction in urban-wildland areas based on high fire hazard.

Findings and Conclusions. According to the applicant, their secondary fire safety zone will be between 50 and 100 feet, therefore the structure will consequently need to comply with the International Fire Code Institute - Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction Standards. The applicant provided a letter from Drew DeBois of the Tualatin Valley Fire and Rescue (TVF&R) Department and has provided a narrative response to Section .2075 requirements - based on the review as a Class 2 structure:



**Roof Covering:** Roof covering material is predominantly metal with some fiberglass panels serving as skylights. Although Chapter 15 of the 1994 Uniform Building Code recognizes the metal panels as a Class B roof covering, it is not possible to confirm the fiberglass panels without the benefit of the manufacturers test data. Please forward this information to this office for review. If confirmation cannot be made, replace the panels with an approved Class B roof covering material.

**Protection of Eaves:** Not applicable. No eaves present.

**Gutters and Downspouts:** Gutters and downspouts are plastic and are presumed to be combustible. Remove plastic gutters and downspouts. If replaced, utilize non-combustible materials.

**Exterior Walls:** Approximately 60% of the structure is open with combustible wood structural members exposed to atmosphere. The balance of the building (south side) consists of wood studs covered with metal and fiberglass panels on the exterior side only. The upper 18" of the exterior wall covering near the intersection of the roof is fiberglass and serves as a light opening. The exterior walls, where present, are combustible and do not appear to meet the criteria for one-hour fire-resistive. Enclose the structure with one-hour fire-resistive construction on the exterior side. Such material shall extend from the top of the foundation to the bottom side of the roof sheathing.

**Unenclosed Underfloor Protection:** Not applicable. Structure rests on grade.

**Appendages and Projections:** Not applicable. No projections beyond the exterior walls.

**Windows:** Not applicable. No conventional windows were observed.

**Exterior Doors:** The exit door near the southwest corner of the building is a 1 3/4" hollow metal door. The sliding doors (livestock entrance) along the south and east sides of the building are framed with metal cladding on the exterior side only. Replace the sliding doors with noncombustible or solid core wood doors not less than 1 3/8" thick.

**Vents:** Not applicable. No conventional attic or foundation vents were observed.

**Spark Arrestors:** Not applicable. No wood or solid burning appliances were observed.

The applicant stated that if the roof panels prove to be non-compliant, they will replace them with metal similar to the existing roof or with a conforming light panel. A letter from Econ-O-Fab Buildings, Inc., dated August 6, 1998 states:

"Enclosed is data and specifications for a light panel that could be used to replace existing light panels in the Shields arena. The panel is not a stock item and would have to be special ordered out of Canada. It has a fire rating of Class A. Cost for materials and labor to replace panels would be approximately \$1,800.00 - 30 12' panels in roof, 32 2' panels in side walls."

The applicant stated that they will make the exterior walls to be one-hour fire resistive by use of the conforming light panel noted in #1 above, replace the plastic gutters and downspouts with non-combustible materials and make the exterior doors non-combustible or remove them if necessary.

The appellant contends that the secondary fire safety zone on the east side of the barn is 34 feet, not between 50 feet and 100 feet as proposed by the applicant. The Hearings Officer has found that, based on the evidence in the record, the secondary fire safety zone would be at most 16 feet on the east side of the barn/arena structure. Thus, the criterion is MCC .2075(B)(2) section is applicable.

According to this subsection (2) the structure must be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 as a structure classified by Class 1 Ignition Resistant Construction. Exhibit #3 is the Ignition Resistant Construction Categories from the International Fire Code Institute 1997 Urban - Wildland Interface Code. Exhibit #5 is the letter from TVFR showing the evaluation of the barn/arena as a Class 2 structure. Staff contacted DeBois, who reviewed the site in 1998 and wrote the letter attached as Exhibit #5, at TVFR. Staff asked why the barn/ arena was reviewed under Ignition Class 2 standards and DeBois said the request to TVFR was to review the site as a Class 2 structure.

The Ignition Resistant Construction Categories show the differences between Class 1 and Class 2. The main differences, as they concern this structure, is that Class 1 requires Class A roof Covering rather than Class B; Class 1 requires a structure to have a Central Station monitored 13D sprinkler system rather than a Central Station monitored approved alarm system; the Class 1 exterior door requirement is for 1 3/4" thick rather than a 1 3/8" thick noncombustible or solid core; and class 1 requires 1-hour fascia protected on backside or 2" thick for Class 1 rather than 3/4" thick and no exposed rafters unless heavy timbers. See Exhibit #3.

The June 1, 1998 letter from DeBois states that no eaves are present, so this requirement is not applicable. The June 1st letter states "the exit door near the southwest corner of the building is a 1 3/4" hollow metal door. The sliding doors (livestock entrance) along the south and east sides of the building are wood framed with metal cladding on the exterior side only. Replace the sliding doors with noncombustible or solid core wood doors not less than 1 3/8" thick."

At the applicants' request the Tualatin Valley Fire and Rescue District reviewed the structure for compliance with Class 2 standards. The Tualatin Valley Fire and Rescue District found that there is no Central Station monitored alarm system at the barn/arena

structure. The district recommended that the County should require the applicant to provide a fire alarm system that is monitored by an approved Central Station service. The applicant stated that they will extend the Central Station Monitored alarm system in their home to the barn/arena structure. However, Class 2 construction standards do not apply here, Class 1 standards apply. A sprinkler system is required for Class 1 construction.

The staff recommended the Hearings Officer establish a condition of approval to require the applicant to install the necessary items to meet the Class 1 Ignition Resistant Construction Category including roofing materials, the exterior door standard and the automatic fire sprinkler system. The staff also recommended the Hearings Officer establish a condition to require the applicant to show the slope on the subject property around the building site for each direction (west, east, north, south) a distance of 30 feet out from the structure. Finally, the Staff recommended the Hearings Officer establish a condition to require the applicant to show they have met the requirements for a Class 1 structure, as described by the International Fire Code Institute 1997 Urban-Wildland Interface Code.

In the alternative, the structure could be constructed to Class 2 standards if the structure were moved further east or if the east portion of the structure were removed, to provide at least 50-feet of secondary fire safety zone. A central station monitored alarm system would then be required, but a sprinkler system would not. The applicants testified that they would remove the east part of the structure if necessary to provide a 50-foot secondary fire safety zone and connect the structure to the dwelling's central station monitored alarm system. The Hearings Officer understands from that testimony that the applicant does not wish to meet the Class 1 construction standards, presumably because the installation of a sprinkler system is financially infeasible. They would rather remove part of the structure to comply with a 50-foot secondary fire safety zone than meet the Class 1 construction standards.

The criterion can be satisfied by the recommended conditions of approval requiring the applicant to provide at least 50-feet of secondary fire safety zone or meet the Class 1 construction standards.

- (4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC .2075(B)(1) are utilized, or
- (5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of MCC .2075(B)(2) are utilized. Exception: Expansions of existing single family dwellings as allowed by MCC .2048(D) shall not be required to meet this standard, but shall satisfy the standard of MCC .2074(B)(4) above.

Findings and Conclusions. The structure is not a dwelling, therefore the requirements in (4) and (5) do not apply.

- (6) All accessory structures within the fire safety zone setbacks required by MCC .2074 shall have a central monitored alarm system.

Findings and Conclusions. The primary use of the property is residential. The barn/arena structure is accessory to the primary use. The accessory structure is located within the secondary fire safety zone setbacks required by MCC .2074. This code section requires the accessory structure to have a central monitored alarm system. The applicants stated that they would connect the structure to the dwelling's central monitored alarm system. This criterion can be satisfied with a condition of approval.

- (8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban-Wildland Interface Code Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, or underfloor protection in accordance with Section 504.6 of that same publication.

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy-timber construction.

Findings and Conclusions. The structure rests on grade on a concrete slab. This criterion is not applicable.

### **Conclusion:**


1. Lot of Record (11.WH.2062(A)(2) and .2058). The CFU-2 zone specifically requires large acreage dwellings and template dwellings to meet the lot of record standards. However, farm uses are not specifically required to meet the lot of record standards. Section .2062 is essentially a definition of a lot of record applicable in those circumstances where a use is required to comply with the lot of record provisions. However, MCC .2058 provides that the minimum lot size in the CFU-2 zone shall be 80 acres except as set forth in the provisions for lots of exception (MCC .2060), lot line adjustments (MCC .2060), lots of record (MCC .2062) and lot size for conditional uses (MCC .2064). None of the exceptions to the minimum lot size applies to this application. Therefore, to be eligible for a land use approval, the parcel must have been legally created meeting the zoning requirements at the time the parcel was created. The evidence in the record does not prove that the parcels were legally created.

2. Least Impact (11.WH.2074(A)(1)). The applicants have failed to demonstrate that the proposed location has the least impact on adjoining forest or agricultural lands when compared to other possible locations on their own property and considering different building sizes and construction methods.
3. Amount of Forest land used is minimized (11.WH.2074(A)(3)). The applicants failed to meet their burden to prove that the land area used to site structure and its service corridor was minimized.
4. Access Length is minimized (11.WH.2074(A)(4)). The applicant has provided no evidence that the access length is the minimum required.
5. Primary and Secondary Fire Safety Zones (11.WH.2074(A)(5) and 11.WH.2075). The zoning code contains new provisions allowing the County to approve an exception to the setback and secondary fire safety zone standards. The applicant meets the exception criteria and the structure will have to meet the Class 1 construction requirements including a sprinkler system. In the alternative, the structure could be constructed to Class 2 standards if the structure were moved or the east part of the structure were removed, to provide at least 50-feet of secondary fire safety zone. Consequently the applicants could comply with the primary and secondary fire safety zone standards upon compliance with conditions of approval to assure such compliance.
6. Access Rights (11.WH.2074(D)). The access to the barn/arena structure is a private road. However, the site of the structure does not have any demonstrated easement rights to this access. This criterion implicitly requires that the land subject to the land use action have access rights. The site of the structure does not.
7. Load Bearing Capacity of 52,000 pounds (11.WH.2074(I)(1)). The applicant's only evidence tending to show that the load bearing capacity of the road will support a vehicle weighing 52,000 pounds is that the road has supported vehicles of or exceeding that weight. The opponents state that the road has on at least one occasion failed to support a heavy vehicle. The applicant provides no evidence concerning the structure of the road bed to demonstrate that in fact has the required load bearing capacity.
8. Private Road has 20-foot width and driveway has 12-foot width (11.WH.2074(D)(2)). The applicants evidence on this criteria addresses only their driveway, which has 9 feet, not the required 12-feet of width. The record contains no evidence concerning the width of construction of the private road from which the Shield's driveway obtains access. The applicant failed to meet their burden to prove that the criterion is satisfied.

9. Road Grades (11.WH.2074(D)(5)). There is insufficient evidence in the record from with the Hearings Officer can conclude that the grades of either the private road or the driveway meet this criterion.
10. Turnarounds (11.WH.2074(D)(7)(a)). The applicants did not address the requirement that a private road provide additional turnarounds at a maximum spacing of 500 feet. They addressed only requirements relating to their own driveway. The Hearings Officer notes that the fire access standards apply to "a private road . . . accessing two or more dwellings, or a driveway accessing a single dwelling." The Hearings Officer does not believe that these requirements are meant to be in the alternative when both a private road and a driveway are involved in accessing a development. The Hearings Officer believes that private road standards apply to private roads and the driveway standards apply to driveways. Where there is both a private road and a driveway, the standards for both need to be satisfied.

There is no evidence that there is any turn around along the private road which is approximately 600 feet in length and which the Code requires at least one turnaround in addition to the turnaround at the end of the applicants' driveway. It appears that the additional turnarounds must also have a radius of 48-feet. As the private road easement is at most 50-feet in width, there is inadequate space within the easement to provide a turnaround having a 48-foot radius. Consequently, the applicant has failed to demonstrate that this requirement could be satisfied.

Dated this 6<sup>th</sup> Day of May, 1999



Deniece B. Won, Attorney at Law  
Hearings Officer

**List of Exhibits:**

1. Reduced copy of applicant site plan
  2. Elevation of barn/ arena
  3. Ignition Resistant Construction Categories
  4. September 19, 1997 letter from Tualatin Valley Fire & Rescue (TVFR)
  5. June 1, 1998 letter from TVFR
  6. Vicinity Map
  7. Easement for Access through Tax Lot 28 of Section 32, 2N, 1W
  8. Statutory Warranty Deed for Tax Lot 29 of Section 32, 2N, 1W (dated March 31, 1993).
- 
- H1 Affidavit of Posting
  - H2 Tracy Waters telephone call notes dated April 19, 1999
  - H3 Scott Teitsworth letter dated March 28, 1999
  - H4 Paul Norr Letter dated April 14, 1999
  - H5 Paul Norr letter dated April 13, 1999
  - H6 Staff proposed conditions of approval
  - H7 Legal description of Tax Lot 30
  - H8 Paul Norr letter dated April 19, 1999

LAWYERS



## Davis Wright Tremaine LLP

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August 2, 1999

Beverly Stein, Chairperson  
Diane Linn, Commissioner  
Serena Cruz, Commissioner  
Lisa Naito, Commissioner  
Sharon Kelley, Commissioner  
MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
1120 S.W. Fifth Avenue, Rm. 1515  
Portland, OR 97233

**VIA FAX #248-3013**  
**And U.S. MAIL**

Re: Case File E-1-99; Applicants Les and Florence Shields

Dear Members of the Board:

This matter is scheduled to come before you on August 5, 1999 for a hearing *de novo* on the Hearings Officer's decision in the above-captioned matter. On two previous occasions, the Shieldses have requested a continuance, once due to issues surrounding the negotiation of an easement, and once because of a health emergency that affected Les Shields' ability to prepare for and attend the hearing.

For several reasons, including Les Shields' continued disability, the Shieldses have authorized me to inform the Board that they are withdrawing their appeal in this matter. On behalf of the Shieldses and myself, thank you for your prior indulgence in this matter.

Very truly yours,

Davis Wright Tremaine LLP

  
Christopher P. Koback

CPK/lkt

cc: Les and Florence Shields  
Trisha Sears, Planner, Multnomah County (via facsimile)  
Paul Norr, Esq.

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Portland

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MULTNOMAH COUNTY  
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COUNTY CLERK'S OFFICE





# Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE BOISE CHARLOTTE HONOLULU LOS ANGELES NEW YORK  
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August 2, 1999

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Re: Case File E-1-99; Applicants Les and Florence Shields

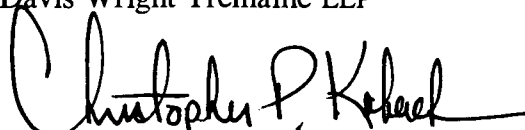
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Very truly yours,

Davis Wright Tremaine LLP

  
Christopher P. Koback

CPK/lkt

cc: Les and Florence Shields  
Trisha Sears, Planner, Multnomah County (via facsimile)  
Paul Norr, Esq.

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MULTNOMAH COUNTY  
OREGON  
COUNTY COMMISSIONERS

**PAUL NORR**

ATTORNEY AND COUNSELOR AT LAW

THE HISTORIC WILCOX HOUSE  
931 S.W. KING AVENUE, SECOND FLOOR  
PORTLAND, OREGON 97205

TELEPHONE: (503) 228-3862

FAX: (503) 225-1028

August 5, 1999

Beverly Stein, Chair  
Diane Linn, Commissioner  
Serena Cruz, Commissioner  
Lisa Naito, Commissioner  
Sharron Kelley, Commissioner  
1120 S.W. Fifth Ave., Room 1515  
Portland, OR 97204

Re: Appeal of Planning Case File E-1-99  
(Shields' Horse Barn)

Dear Members of the Boards:

I represent Deborah Nass, one of the participants in this case. I understand that the applicants/appellants, Les and Florence Shields, have withdrawn their appeal of the Hearings Officer's Decision dated May 6, 1999.

I am writing to request that at the time the Board dismisses the appeal and accepts the Hearings Officer's Decision, that the Board direct the appropriate County staff to take immediate action to enforce the County code by requiring that the illegally constructed horse barn be removed as soon as possible.

The barn was constructed illegally in August, 1996, making it now 3 years that neighbors have had to tolerate this illegal structure. The first complaint from a neighbor to the County, requesting code enforcement, was made back in September, 1996.

In addition, by letter dated February 20, 1998, almost 1 1/2 years ago, from the Shields' lawyers to Lisa Estrin of the County enforcement staff, which letter was also signed personally by Les and Florence Shields, the Shieldses were able to delay code enforcement by making the following commitment to the County:

- "3. The Shields will hire a contractor to disassemble the barn/arena.

Board of County Commissioners  
August 4, 1999  
page 2

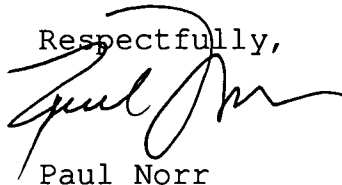
(Re: Shields' Case E-1-99)

4. The Shields will request that the contractor begin work on disassembling the barn/arena when the weather permits, but no later than June 1, 1998.
5. The Shields will use best efforts to have the barn substantially disassembled by July 21, 1998."

Obviously, Les and Florence Shields have not followed through on the commitment they made on February 20, 1998, to have this illegal structure removed by July 31, 1998. Attached for your convenience is a copy of this February 20, 1998, letter.

Please direct your staff to have this structure removed without any delays and without any further concessions to Mr. and Ms. Shields. The neighbors are entitled to have the County code enforced.

Respectfully,



Paul Norr

PN/2

c: Deborah Nass  
Christopher Koback, Atty.

Post-it® Fax Note	7671	Date	5-18-98	# of pages	3
To	PAUL NORR		From	MULT. CO. LAND USE PLAN	
Co./Dept.			Co.	ESTRIN	
Phone #	228-3862		Phone #	248-3043	
Fax #	224-1123		Fax #	248-3389	

Davis Wright Tremaine LLP

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CHRISTOPHER C. BRAND  
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chriscbrand@dwt.com

February 20, 1998

**VIA FAX NO. 248-3389**  
**AND U.S. MAIL**

Ms. Lisa Estrin  
Transportation and Land Use Planning  
Multnomah County  
2115 S.E. Morrison Street  
Portland, Oregon 97214

Re: Les and Florence Shields - 11272 N.W. Skyline Boulevard  
Multnomah County Case HV 13-97

Dear Ms. Estrin:

As you requested, this letter sets forth the commitment of Les and Florence Shields, the owners of the above-referenced property, to use best efforts to remedy alleged zoning violations related to the barn/arena located on Tax Lot 29 of their property.

1. The Shields will discontinue construction of the barn/arena as of the date of this letter.
2. The Shields will submit a Grading and Erosion Control Permit application to Multnomah County no later than the end of the week of March 9, 1998.
3. The Shields will hire a contractor to disassemble the barn/arena.
4. The Shields will request that the contractor begin work on disassembling the barn/arena when the weather permits, but no later than June 1, 1998.
5. The Shields will use best efforts to have the barn substantially disassembled by July 31, 1998.

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PAGE: 2

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SHIELDS

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P. 2

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DWT Portland, OR

003

Ms. Lisa Estrin  
February 20, 1998  
Page 2

With respect to the Grading and Erosion Control Permit, the Shields will be requesting to leave the site in its current state, and employ any drainage or erosion control measures required under the Grading and Erosion Control Permit application criteria. It is likely that the Shields will leave the structural poles, currently set in concrete, in the ground, cut them off and place a rail on the top of the poles, creating an outdoor riding ring. Accordingly, disassembly of this barn/arena will not necessarily entail removal of the poles from the existing building pad.

As noted above, this letter sets forth the Shields' commitment to use best efforts to complete the tasks according to the above schedule. Because of events outside of the control of the Shields, including but not limited to weather, reliability of contractors or the press of business, this letter cannot set forth a guaranteed commitment.

Thank you for your courtesies in this matter. Please do not hesitate to call me if you have any questions with respect to this letter.

Sincerely,

Davis Wright Tremaine LLP



Christopher C. Brand

CCB:bcd

AGREED TO BY:

\_\_\_\_\_  
Les Shields

AGREED TO BY:



\_\_\_\_\_  
Florence Shields

FROM:

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TO: 5289

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PAGE 02

Ms Lisa Estrin  
February 20, 1998  
Page 2

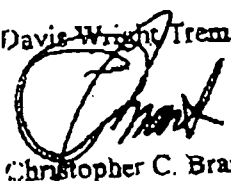
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As noted above, this letter sets forth the Shields' commitment to use best efforts to complete the tasks according to the above schedule. Because of events outside of the control of the Shields, including but not limited to weather, reliability of contractors or the price of business, this letter cannot set forth a guaranteed commitment.

Thank you for your courtesies in this matter. Please do not hesitate to call me if you have any questions with respect to this letter.

Sincerely,

Davis Wright Tremaine LLP

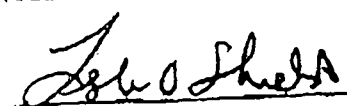


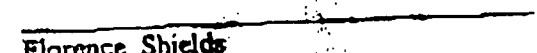
Christopher C. Brand

CCB:bcd

AGREED TO BY:

AGREED TO BY:

  
 Les Shields

  
 Florence Shields

LAWYERS



## Davis Wright Tremaine LLP

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MULTNOMAH COUNTY  
OREGON

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BOARD OF  
COUNTY COMMISSIONERS

August 6, 1999

Beverly Stein, Chairperson  
Diane Linn, Commissioner  
Serena Cruz, Commissioner  
Lisa Naito, Commissioner  
Sharon Kelley, Commissioner  
MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
1120 S.W. Fifth Avenue, Rm. 1515  
Portland, OR 97233

**VIA FAX #248-3013**  
**And U.S. MAIL**

Re: Case File E-1-99; Applicants Les and Florence Shields

Dear Members of the Board:

As you are aware, I represent Les and Florence Shields in the above-referenced case. I am in receipt of Mr. Paul Norr's August 5, 1999 letter to the Board. This letter is a response to Mr. Norr's submission.

Mr. Norr either misunderstands or is mischaracterizing the relevant background. This case began just prior to September 1996, when the Shieldses contracted with a builder to have a pole barn built on their property. That builder represented in writing to the Shieldses that the building he proposed to construct was "permit-exempt." Relying upon the builder, the Shieldses did not obtain prior land use approval or any building permits. The Shieldses are now in litigation with the builder over his representation and the consequences that followed.

The Shieldses did not receive any notice in September 1996 that the building they were having constructed was in violation of any County regulation. Indeed, had the County advised the Shieldses at that time that the building was in violation of any regulation, the Shieldses would have ceased construction at that time and would not have completed the building.

In January 1997, after the structure was complete, the County notified the Shieldses that it was not in compliance with the County Code. At that time, the Shieldses filed an application for a variance and entered into the agreement set forth in the February 20, 1998 letter to which Mr. Norr refers. The agreement to which Mr. Norr refers was an agreement

## MULTNOMAH COUNTY BOARD OF COMMISSIONERS

August 6, 1999

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that contemplated a course of action in the event the Shieldses' variance request was denied. The February 20, 1998 letter specifically refers to the variance proceeding—Case File No. HV-13-97.

However, there was a very significant intervening fact that impacted how this case proceeded to its present context. Following the denial of the Shieldses' variance request, their property was subject to a new zoning regulation. It was perceived by both the Shieldses and Planning staff that the Shieldses could obtain approval for their structure under the new zoning. Accordingly, staff permitted the Shieldses to prepare and file a new land use application under the new zoning requirements (Case File No. E-1-99). The Shieldses' new application superseded the February 20, 1998 agreement. Everyone involved in this case was aware that given the new application, the Shieldses would not be proceeding pursuant to the February 20, 1998 letter, but rather would be seeking approval for a new application based upon new zoning requirements. It is disingenuous for Mr. Norr to claim that an agreement that expressly related to Case File No. HV-13-97 is still applicable in this case.

The Shieldses' new application received a positive staff recommendation and ultimately a positive administrative decision. After the administrative decision, the Shieldses reasonably refrained from making any changes to their structure. The administrative decision approving the Shieldses' structure was appealed and reversed by the Hearings Officer. Subsequently, the Shieldses appealed that decision to the Board and have now withdrawn their appeal.

There is no question that the Shieldses are obligated to disassemble the structure on their property; however, I believe that Mr. Norr is absolutely incorrect in asserting that the Shieldses are in violation of a superseded agreement dated February 20, 1998. The Shieldses fully intend to remove the existing structure as soon as practicable. The Shieldses intend to either store the components until they can proceed with a new proposal to reconstruct it on Lot 30, or sell the components and construct an entirely new structure on Lot 30.

As the Board is aware, Les Shields recently had a medical emergency which has significantly impacted his sight. Mr. Shields has been in consultation with his physician and has been told that he will be able to begin physical activity in approximately one week. At that time, Mr. Shields will personally begin disassembling those parts of the structure that are within his capabilities. In addition, Mr. and Mrs. Shields have already contacted several builders and solicited bids for disassembling the structure. The Shieldses are hopeful that they will be able to find a builder who will be able to disassemble the existing structure for a reasonable cost and within a reasonable period of time. Also, as an additional step, the Shieldses have prepared, and will be submitting to two publications, advertisements offering to sell the existing structure to persons with the ability and willingness to remove it from their premises. Those publications are the Oregon Equestrian Trail and the Nickel Ads.



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As you can see, the Shieldses are pursuing multiple avenues toward compliance and have already undertaken significant efforts directed toward that end. The Shieldses will continue with all due diligence to work toward the removal of the structure and fully intend to keep the appropriate Multnomah County agency advised of each and every effort they undertake. The only request the Shieldses make to the Board is that the Board give them a reasonable time to accomplish their objective.

Thank you for your consideration of this matter.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in black ink that reads "Christopher P. Koback". The signature is written in a cursive style with a long horizontal line extending from the end.

Christopher P. Koback

CPK/ikt

cc: Les and Florence Shields  
Trisha Sears, Planner, Multnomah County (via facsimile)  
Paul Norr, Esq. (via facsimile)