

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1096

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

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

The Multnomah County Board of Commissioners Finds:

a. The proposed revisions to the code compliance provisions of Multnomah County Code Administrative Chapter 37 would:

- (1) Improve the consistency of the code language related to enforcement of transportation regulations;
- (2) Clarify enforcement of regulations and County issued permits through a Stop Work Order process;
- (3) Clarify the Hearings Officer authority to order corrective actions for a Notice of Violation not appealed; and to order reimbursement for costs expended by the County to remediate a violation; and
- (4) ~~Delete the requirement to provide a Notice of Hearing to surrounding properties when a Notice of Violation is appealed.~~

b. The proposed code revisions are in the best interests of the County.

Multnomah County Ordains as follows:

Section 1. § 37.0915 is amended as follows:

37.0915 Violations

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

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

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

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

Section 2. § 37.0930 is amended as follows:

37.0930 Enforcement Levels

The levels of enforcement are:

(A) Voluntary compliance;

(B) Stop Work Order;

~~(C) Correction Notice;~~

~~(D) Notice of Violation and fine;~~

~~(E) Petition for injunction and other remedies in state court.~~

Section 3. § 37.0945 is amended as follows:

37.0945 Emergency Enforcement

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

Section 4. § 37.0946 is added as follows:

37.0946 Stop Work Orders

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

Section 5. § 37.0950 is amended as follows:

37.0950 Failure to Appeal

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

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

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

(2) Install any equipment necessary to achieve compliance;

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

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

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

(6) Pay a reduced fine;

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

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

Section 6. § 37.0955 is amended as follows:

37.0955 Appeal

(A) Persons Authorized to Appeal Notice of Violation

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

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

(B) Notice of Hearing

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

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

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

(C) Appeal Hearing

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

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

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

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

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

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

FIRST READING: July 12, 2007

SECOND READING AND ADOPTION: July 26, 2007



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler
Ted Wheeler, Chair

REVIEWED:

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SUBMITTED BY:

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