



Multnomah County Oregon

Board of Commissioners & Agenda

connecting citizens with information and services

BOARD OF COMMISSIONERS

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DECEMBER 9 & 11, 2008

BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:00 a.m. Tuesday Executive Session
Pg 2	10:00 a.m. Tuesday Work Session on 2009 State and Federal Legislative Priorities Recommendations
Pg 3	9:30 a.m. Thursday Public Comment
Pg 3	9:30 a.m. Thursday Resolution Adopting a Memorandum of Understanding between the County Library and The Library Foundation
Pg 3	9:45 a.m. Thursday Second Reading/Adopt Smokefree Ordinance Amendment
Pg 3	9:50 a.m. Thursday Second Reading/Adopt Ordinance re Horse Boarding Amendments
Pg 3	9:55 a.m. Thursday Second Reading/Adopt Ordinance Amendments re Code Enforcement
December 25, 2008 & January 1, 2009 Board Meetings CANCELLED	

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

Saturday, 10:00 AM, Channel 29

Sunday, 11:00 AM, Channel 30

Tuesday, 8:15 PM, Channel 29

Produced through MetroEast Community Media

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Tuesday, December 9, 2008 - 9:00 AM
Multnomah Building, Sixth Floor Commissioners Conference Room 635
501 SE Hawthorne Boulevard, Portland

IF NEEDED EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(d),(e) and/or (h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by County Attorney Agnes Sowle. 15-55 MINUTES REQUESTED.
-

Tuesday, December 9, 2008 - 10:00 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

WORK SESSION

- WS-1 2009 State and Federal Legislative Priorities Recommendations. Presented by Phillip Kennedy-Wong. 2 HOURS REQUESTED.
-

Thursday, December 11, 2008 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM **DEPARTMENT OF COUNTY HUMAN SERVICES**

- C-1 BUDGET MODIFICATION DCHS-19 Reclassifying One Program Development Specialist Position to a Program Development Specialist Senior Position in the Aging and Disability Services Division, as Determined by Class/Comp Unit of Central Human Resources
- C-2 Amendment No. 1 to Intergovernmental Agreement 4600007218 with the Housing Authority of Portland to Add Additional State of Oregon, Oregon

Housing and Community Services Low-Income Rental Housing Fund
Award for the Current Fiscal Year

- C-3 ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

SHERIFF'S OFFICE

- C-4 RESOLUTION Recognizing the Annual Authorization for Designation of a Portion of Compensation as a Housing Allowance for Chaplains Serving Inmates and Employees of Multnomah County Sheriff's Office

REGULAR AGENDA

PUBLIC COMMENT - 9:30 AM

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

DEPARTMENT OF LIBRARY SERVICES – 9:30 AM

- R-1 RESOLUTION Adopting a Memorandum of Understanding between the Multnomah County Library and The Library Foundation

DEPARTMENT OF HEALTH – 9:45 AM

- R-2 Second Reading and Possible Adoption of an ORDINANCE Amending MCC Chapter 21 Relating to Smokefree Places of Employment and Public Places

DEPARTMENT OF COMMUNITY SERVICES – 9:50 AM

- R-3 Second Reading and Possible Adoption of an ORDINANCE Amending the Multnomah County Code Chapter 38, National Scenic Area, to Make Technical Corrections for Consistency with the Columbia River Gorge NSA Management Plan and to Update NSA Approval Criteria for Horse Boarding
- R-4 Second Reading and Possible Adoption of an ORDINANCE Amending MCC Chapter 37 Administration and Procedures, Chapter 29 Building Code, and Land Use Regulations Chapters 11.15, 33, 34, 35, 36, 38 Relating to Land Use Code Enforcement

SHERIFF'S OFFICE – 10:00 AM

- R-5 NOTICE OF INTENT to Submit a Request for the United States Department of Homeland Security Vulnerability Reduction Purchasing Plan Grant
- R-6 BUDGET MODIFICATION MCSO-04 Appropriating \$194,006 from the United States Department of Homeland Security Vulnerability Reduction Purchasing Plan Grant

COUNTY ATTORNEY'S OFFICE – 10:10 AM

- R-7 Authorization to File Amicus Brief
- R-8 Authorizing the Settlement of a Claim for Damages Against the County
- R-9 Authorizing Settlement of Wrongful Death Claim, Estate of Samantha Garnica

DEPARTMENT OF COUNTY HUMAN SERVICES – 10:15 AM

- R-10 BUDGET MODIFICATION DCHS-18 Increasing Aging and Disability Services Division Federal/State Appropriation by \$22,400 in One-time Supplemental Grant from Oregon Senior Health Insurance Benefits Assistance Program

BOARD COMMENT

Opportunity (as time allows) for Commissioners to provide informational comments to Board and public on non-agenda items of interest or to discuss legislative issues.



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
501 S.E. HAWTHORNE BLVD., Room 600
PORTLAND, OREGON 97204
(503) 988-5217

LISA NAITO • DISTRICT 3 COMMISSIONER

MEMORANDUM

TO: Chair Ted Wheeler
Commissioner Maria Rojo de Steffey
Commissioner Jeff Cogen
Commissioner Lonnie Roberts
Board Clerk Deb Bogstad

FROM: Keith Falkenberg
Staff to Commissioner Lisa Naito

DATE: November 18, 2008

RE: Commissioner Naito will be out of the office Dec. 9th-11th, 2008

Commissioner Naito will be out of the office Dec. 9th through the 11th, 2008. She will be leading a discussion about evidence based practices at the National Institute of Corrections.

Keith Falkenberg

BOGSTAD Deborah L

From: FALKENBERG Keith E
Sent: Wednesday, December 10, 2008 2:32 PM
To: BOGSTAD Deborah L
Subject: Lisa Phoning into Board meeting Dec 11th

Deb,
Commissioner Naito's schedule will allow her to phone into the Board meeting tomorrow. Since Maria will be out Lisa felt that she should participate by phone. The number for her is 503 234 1305.

Keith Falkenberg
Office of Commissioner Lisa Naito
501 SE Hawthorne Blvd, Suite 600
Portland, OR 97214
Phone: (503) 988-5217
Fax: (503) 988-5262

12/10/2008



Maria Rojo de Steffey
Multnomah County Commissioner, District 1

Suite 600, Multnomah Building
501 SE Hawthorne Boulevard
Portland, Oregon 97214

Phone: (503) 988-5220
FAX: (503) 988-5440
Email: district1@co.multnomah.or.us

MEMORANDUM

TO: Chair Ted Wheeler
Commissioner Jeff Cogen
Commissioner Lisa Naito
Commissioner Lonnie Roberts
Board Clerk Deb Bogstad

FROM: David Martinez
Staff to Commissioner Maria Rojo de Steffey

DATE: December 10, 2008

RE: Board Meeting/Meeting Absence

Commissioner Maria Rojo de Steffey will be unable to attend the December 11, 2008 Board meeting due to illness.



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST (revised 09/22/08)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-1 DATE 12/11/08
ANA KARNES, ASST BOARD CLERK

Board Clerk Use Only

Meeting Date: 12/11/08
Agenda Item #: C-1
Est. Start Time: 9:30 AM
Date Submitted: 12/01/08

BUDGET MODIFICATION: DCHS -19

BUDGET MODIFICATION DCHS-19 Reclassifying One Program Development Specialist Position to a Program Development Specialist Senior Position in the
Agenda Aging and Disability Services Division, as Determined by Class/Comp Unit of
Title: Central Human Resources

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date: December 11, 2008 Amount of Time: N/A

Department: County Human Services Division: Aging & Disabilities Services

Contact(s): Kathy Tinkle

Phone: (503) 988-3691 Ext. 26858 I/O Address: 167/620

Presenter(s): Consent Agenda

General Information

1. What action are you requesting from the Board?

The Department of County Human Services recommends approval of budget modification DCHS-19 reclassifying 1.00 FTE position in Aging and Disability Services Division (ADSD) from Program Development Specialist (PDS) to Program Development Specialist Senior (PDS Sr.), as determined by the Class/Comp unit of Central Human Resources on 10/08/2008.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

This modification reflects a Class/Comp decision on a reclassification request initiated by ADSD management (Program Offer 25020-ADS Access & Early Intervention Services).

Due to increasing federal and state requirements to develop and coordinate emergency/disaster preparedness activities to support seniors and people with disabilities at high risk in a disaster or emergency, the duties and responsibility of this position have increased over the last two years.

These added responsibilities are Division-wide and coordinate across the department and with other agencies. Essential functions include: develop program policies, procedures and eligibility criteria for Safety Net and Multnomah Project Independence (MPI) programs; collect and analyze information regarding community needs; coordinate interdivisional activities to promote access for ethnic minorities and people with limited English; assess and identify strategic needs for these populations; coordinate interdepartmental and interagency emergency planning activities; participate in local, regional, and state disaster planning exercises and special projects; and represent the division in department and regional housing initiatives. These functions and scope of responsibility are consistent with those of the Program Development Specialist Senior (6088) classification.

3. Explain the fiscal impact (current year and ongoing).

The reclassification request will result in an increase in personnel costs by \$2,959. The budget for professional services will be reduced to offset the increase in personnel costs. The pay scale for a PDS Sr. is (\$57,671 - \$70,992), while the pay scale for a PDS is (\$48,358 - \$59,445). Personnel costs will continue to increase over time, as the pay scale for the PDS Sr. is higher than a PDS.

There is no change in Aging and Disability Services (ADS) budget. However, the change increases risk fund by \$132, County General Fund contingency by \$31 and Department Director's budget by \$26.

4. Explain any legal and/or policy issues involved.

N/A

5. Explain any citizen and/or other government participation that has or will take place.

N/A

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- **What revenue is being changed and why?**

This budget modification increases risk fund by \$132, County General Fund contingency by \$31 and Department Director's indirect revenue by \$26.

- **What budgets are increased/decreased?**

There is no change in Aging and Disability Services (ADS) budget. However, the change increases risk fund by \$132, County General Fund contingency by \$31 and Department Director's budget by \$26.

- **What do the changes accomplish?**

Approval of a classification decision from Human Resources Class/Comp allows for a classification that better reflects the functions and duties of the position involved, and moves resources within ADS Community Services program to cover expanded workload.

- **Do any personnel actions result from this budget modification? Explain.**

Yes. The approval of this budget modification will result in reclassifying 1.00 FTE position in Aging and Disability Services Division (ADSD) from Program Development Specialist to Program Development Specialist Senior, as determined by the Class/Comp unit of Central Human Resources.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

This budget modification results in an increase in indirect costs by \$132. An adjustment to professional services allows these costs to be covered.

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

N/A

- **If a grant, what period does the grant cover?**

N/A

- **If a grant, when the grant expires, what are funding plans?**

N/A

<p><i>NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.</i></p>

ATTACHMENT B

BUDGET MODIFICATION: DCHS - 19

Required Signatures

**Elected Official
or Department/
Agency Director:**

Kathy Link for Joanne Fuller

Date: 11/26/08

Budget Analyst:

Angela Burdine

Date: 12/01/08

Department HR:

Paula Brent

Date: 12/01/08

Countywide HR:

Date:

Budget Modification ID: **DCHS-19****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with SAP.

Budget/Fiscal Year: 2009

Line No.	Fund Center	Fund Code	Program #	Func. Area	Internal Order	Accounting Unit		Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
						Cost Center	WBS Element						
1	30-45	20640	25020	40			ADSDIVCS201IIIB	60000		1,097	1,097		Permanent (701947 PDS Sr)
2	30-45	20640	25020	40			ADSDIVCS201IIIB	60130		318	318		Salary Related
3	30-45	20640	25020	40			ADSDIVCS201IIIB	60140		66	66		Insurance
4	30-45	20640	25020	40			ADSDIVCS201IIIB	60350		31	31		Central Indirect {2.07%}
5	30-45	20640	25020	40			ADSDIVCS201IIIB	60355		26	26		Dept Indirect {1.73%}
6	30-45	20640	25020	40			ADSDIVCS201IIIB	60170		(1,537)	(1,537)		Professional Svcs
7													
8	30-45	1000	25020	40			ADSDIVCS201GF	60000		1,096	1,096		Permanent (701947 PDS Sr)
9	30-45	1000	25020	40			ADSDIVCS201GF	60130		317	317		Salary Related
10	30-45	1000	25020	40			ADSDIVCS201GF	60140		66	66		Insurance
11	30-45	1000	25020	40			ADSDIVCS201GF	60170		(1,479)	(1,479)		Professional Svcs
12													
13													
14	72-10	3500		20		705210		50316		(132)	(132)		Svc Reimb F/S to Risk
15	72-10	3500		20		705210		60330		132	132		Claim Paid
16													
17	19	1000	20			9500001000		50310		(31)	(31)		Svc Reimb F/S to Gen Fund
18	19	1000	20			9500001000		60470		31	31		Contingency
19													
20	26-00	1000	40	2500			CHSDO.IND1000	50370		(26)	(26)		Dept Indirect
21	26-00	1000	40	2500			CHSDO.IND1000	60240		26	26		Supplies
22													
23													
24													
25													
26													
27													
28													
29													
											0	0	Total - Page 1
											0	0	GRAND TOTAL

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

							ANNUALIZED			
Fund	Job #	HR Org	CC/WBS/IO	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1000	6021	65183	ADSDIVCS201GF	PDS	701947	(0.50)	(29,493)	(8,544)	(7,244)	(45,281)
20640	6021	65183	ADSDIVCS201IIIB	PDS	701947	(0.50)	(29,493)	(8,544)	(7,244)	(45,281)
1000	6088	65183	ADSDIVCS201GF	PDS Sr.	701947	0.50	30,589	8,862	7,310	46,761
20640	6088	65183	ADSDIVCS201IIIB	PDS Sr.	701947	0.50	30,589	8,862	7,310	46,761
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
TOTAL ANNUALIZED CHANGES						0.00	2,192	635	132	2,960

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

							CURRENT YEAR			
Fund	Job #	HR Org	CC/WBS/IO	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1000	6021	65183	ADSDIVCS201GF	PDS	701947	(0.50)	(29,493)	(8,544)	(7,244)	(45,281)
20640	6021	65183	ADSDIVCS201IIIB	PDS	701947	(0.50)	(29,493)	(8,544)	(7,244)	(45,281)
1000	6088	65183	ADSDIVCS201GF	PDS Sr.	701947	0.50	30,589	8,862	7,310	46,761
20640	6088	65183	ADSDIVCS201IIIB	PDS Sr.	701947	0.50	30,589	8,862	7,310	46,761
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
TOTAL CURRENT FY CHANGES						0.00	2,192	636	132	2,960



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only

Meeting Date: 12/11/08
Agenda Item #: C-2
Est. Start Time: 9:30 AM
Date Submitted: 12/02/08

Agenda Title: **Amendment No. 1 to Intergovernmental Agreement 4600007218 with the Housing Authority of Portland to Add Additional State of Oregon, Oregon Housing and Community Services Low-Income Rental Housing Fund Award for the Current Fiscal Year**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date: December 11, 2008 **Amount of Time Needed:** N/A
Department: DCHS **Division:** Community Services Division
Contact(s): Tiffany Kingery / Mary Li
Phone: 503.988.6295 **Ext.** 22728 / 26787 **I/O Address:** 167/2/200
Presenter(s): Consent Calendar

General Information

1. What action are you requesting from the Board?

Review and approval of amendment to IGA with HAP for the addition of the State of Oregon Housing and Community Services (OHCS), Low Income Rental Housing Fund (LIRHF) award. CGF is being added to offset the lack of LIRHF admin funding.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Housing Authority of Portland administers the Short-Term Rental Assistance (STRA) Program, which provides rental assistance and emergency voucher funds to families and individuals.

The County recently received the LIRHF award from OHCS for the current fiscal year, and the actual allocation was higher than the original estimated amount of \$102,551 allocated during contract origination. As a result, we under allocated funding by \$20,523, which is now being added to the Agreement via this amendment. We are adjusting the County General Fund by \$12,306 to reflect the actual budget amount that was not included in the original contract. These funds are already included in the budget for HAP for the current fiscal year. This change impacts Program Offer #25133A.

3. Explain the fiscal impact (current year and ongoing).

As a result of the LIRHF award \$20,523 is being added to the contract for a new contract total of \$1,221,717. A budget modification will be processed to add these additional funds to the Department's budget.

4. Explain any legal and/or policy issues involved.

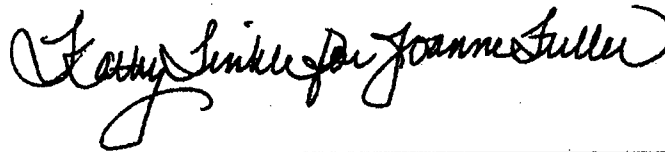
This IGA continues to bring current Clearinghouse functions into alignment with the new unified rent assistance system model as identified in the 10 year Plan to End Homelessness.

5. Explain any citizen and/or other government participation that has or will take place.

The unified rent assistance system was created in collaboration with the City of Gresham, the City of Portland, and the Housing Authority of Portland. Significant citizen and provider feedback was sought and used throughout the planning process. An Oversight Committee, representing the jurisdictions, providers, and community members was formed and will continue to provide accountability to the new system as it continues to be implemented.

Required Signature

**Elected Official
or Department/
Agency Director:**



Date: 11/24/08

MULTNOMAH COUNTY CONTRACT APPROVAL FORM (CAF)
(See Administrative Procedure CON-1)

Contract #: **4600007218**

Amendment #: **1**

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

Class I Based on Informal / Intermediate Procurement	Class II Based on Formal Procurement	Class III Intergovernmental Contract (IGA)
<input type="checkbox"/> Personal Services Contracts	<input type="checkbox"/> Personal Services Contracts	<input checked="" type="checkbox"/> Expenditure Contract <input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Financial Agreement
PCRB Contract <input type="checkbox"/> Goods or Services <input type="checkbox"/> Maintenance or Licensing Agreement <input type="checkbox"/> Public Works / Construction Contract <input type="checkbox"/> Architectural & Engineering Contract	PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts	
<input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	INTER-DEPARTMENTAL AGREEMENT (IDA)

Department: County Human Services Div/Prog: Community Services Division Date: November 7, 2008
 Originator: Tiffany Kingery Phone: 22728 Bldg/Rm: 167/2/200
 Contact: Sydney Bizzell Roberts Phone: 22701 Bldg/Rm: 167/1/620
 Description of Contract: This amendment will allow for an increase in funding due to a change in funding allocations from the State.

RENEWAL: <input type="checkbox"/>	PREVIOUS CONTRACT #(S):	EEO CERTIFICATION EXPIRES: <u>8.31.08</u>
PROCUREMENT: <u>IGA</u>		
EXEMPTION OR	ISSUE	EFFECTIVE
GITATION #	DATE	DATE
CONTRACTOR IS: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> ESB <input type="checkbox"/> QRF State Cert# or <input type="checkbox"/> Self Cert <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> N/A (Check all boxes that apply)		

Contractor	<u>Housing Authority of Portland</u>			Remittance Address	
Address	<u>135 SW Ash St</u>			(If different)	
City/State	<u>Portland, OR</u>			Payment Schedule / Terms	
Zip Code	<u>97204</u>			<input type="checkbox"/> Lump Sum \$	<input type="checkbox"/> Due on Receipt
Phone	<u>503.802.8300</u>			<input type="checkbox"/> Monthly \$	<input type="checkbox"/> Net 30
Employer ID# or SS#	<u>93.6001547</u>			<input type="checkbox"/> Other \$	<input type="checkbox"/> Other
Contract Effective Date	<u>July 1, 2008</u>	Term Date	<u>June 30, 2011</u>	<input type="checkbox"/> Price Agreement (PA) or Requirements Funding Info:	
Amendment Effect Date	<u>July 1, 2008</u>	New Term Date	<u>June 30, 2011</u>		
Original Contract Amount	<u>\$ 1,188,888.00</u>			Original Requirements Amount	<u>\$</u>
Total Amt of Previous Amendments	<u>\$ 0</u>			Requirements Amount Amendment	<u>\$</u>
Amount of Amendment	<u>\$ 32,829.00</u>			Requirements Changes Non-Amendment	<u>\$</u>
Total Amount of Agreement	<u>\$ 1,221,717.00</u>			Total Amount of Requirements	<u>\$</u>

REQUIRED SIGNATURES

Department Manager: [Signature] DATE: 11/24/08
 Purchasing Manager: _____ DATE: _____
 County Attorney: APPROVED BY PATRICK HENRY DATE: 10-14-08
 County Chair: _____ DATE: _____
 Sheriff: _____ DATE: _____
 Contract Administration: _____ DATE: _____

COMMENTS: SAP Vendor #24226

Exhibit A, Rev. 03/24/06

ROBERTS Sydney L

From: HENRY Patrick W
Sent: Tuesday, October 14, 2008 12:42 PM
To: ROBERTS Sydney L
Subject: RE: HAP #46-7218 Amendment 1

This contract has been reviewed and is approved for circulation for signature.

From: ROBERTS Sydney L
Sent: Wednesday, October 08, 2008 12:31 PM
To: HENRY Patrick W
Subject: HAP #46-7218 Amendment 1

Good afternoon Patrick - Please find attached amendment #1 to contract #4600007218 with the Housing Authority of Portland (HAP). This amendment will increase funding by \$32,829. This amendment is ready for the Director's signature pending your review and approval.

Thank you!

Sydney Bizzell Roberts, Contract Specialist
Multnomah County DCHS
421 SW Oak St., Suite 600 - 167/1/610
Portland, OR 97204
P: 503.988.6295, ext. 22701
F: 503.988.3476

10/14/2008

MULTNOMAH COUNTY SERVICES CONTRACT AMENDMENT
(Amendment to Change Contract Provisions During Contract Term)

CONTRACT NO. 4600007218 - AMENDMENT NO. 1

This is an amendment to Multnomah County Contract No. 4600007218 effective July 1, 2008 between Multnomah County, hereinafter referred to as County, and Housing Authority of Portland hereinafter referred to as Contractor.

The parties agree:

1. The following changes are made to Contract No. 4600007218 effective July 1, 2008 through June 30, 2009:
 - a. Funding for Clearing House Services are increased as described in the table below and detailed in the revised Attachment A: IGA Contract and Release Order.

IGA Line #	Item Description	RO#	RO Line#	Orig. Amt.	Increase	New Total
1	Clearinghouse Services	45-103259	1	\$194,170	\$3,484	\$197,654
2	Clearinghouse Services Admin	45-103259	2	\$99,575	\$8,822	\$108,397
1	Clearinghouse Services	45-103259	3	\$102,551	\$20,523	\$123,074

2. All other terms and conditions of the contract shall remain the same.

CONTRACTOR DATA AND SIGNATURE

Contractor Name Housing Authority of Portland
135 SW Ash St, Portland, OR 97204

Phone No. 503.802.8300

Federal Tax ID# or Social Security:

Is Contractor a Nonresident alien?

Business Designation (check one):

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Sole Proprietorship			<input type="checkbox"/> Partnership
<input type="checkbox"/>	Corporation-for profit			<input type="checkbox"/> Corporation-Non-profit
<input type="checkbox"/>	Other, describe here: _____			

Federal tax ID numbers or Social Security numbers are required pursuant to ORS 305.385 and will be used for the administration of state, federal and local laws. Payment information will be reported to the Internal Revenue Service under the name and Federal tax ID number or, if none, the Social Security number provided above.

I have read this Contract Amendment. I understand the Contract Amendment and agree to be bound by its terms.

Signature _____

Title _____

Name (please print) _____

Date _____

MULTNOMAH COUNTY SIGNATURE

(This contract is not binding on the County until signed by the Chair or the Chair's designee)

County Chair or Designee _____

Date _____

Department and County Counsel Approval and Review

Approved: [Signature]
Department Manager or Designee

Date 11/24/08

Reviewed: APPROVED BY PATRICK HANLEY
Assistant County Counsel

Date 10-14-08



MULTNOMAH COUNTY OREGON

ATTACHMENT A

Page 1 of 2

Bill to and ship to addresses are the same unless otherwise specified below.

AMENDMENT 1

Release Order

Vendor Address

HOUSING AUTHORITY OF PORTLAND
135 SW ASH ST
PORTLAND OR 97204

Release Order **4500103259**
Date 04/17/2008
Vendor No. 24226
Buyer/Phone OSCP Services /
Validity End Date 06/30/2009
Incoterms FOB Destination

Ship To:

Multnomah County
County Human Services
421 SW Oak 6th Floor
Portland OR 97204
Fax: 503-988-3379

Bill To or Other Special Instructions:

Program Contact:
Tiffany Kingery
503.988.6295, ext. 22728

Item	Material/Description	Quantity	UM	Unit Price	Net Amount
	<i>For the services listed in this Release Order, the Net Amount lines are estimates only. During the term of this contract Multnomah County may unilaterally adjust the Net Amount of each line based on Contractor's documented service level and system-wide service level demands. County will notify Contractor by providing a revised Release Order of any Net Amount adjustments upon request.</i>				
	~~~~~				
	9/24/08 Amendment 1 Effective 7/1/08-6/30/09				
	Lines 1-3 were increased by a total of \$32,829 for the current fiscal year				
0001	H50030015 Clearinghouse Services (USD) Tracking# IGA G/L# 60160 WBS: SCPCHHHS.CGF Release order against contract 4600007218 Item 00001 Per Invoice/Cost Reimbursement/Req'ts Validity Period: 7/1/08 - 6/30/09	197,654.000	USD	\$ 1.0000	\$ 197,654.00
	~~~~~				
	9/24/08 Amendment 1				
	Increased line by \$3,484 from \$194,170 to \$197,654				
	*** Item partially delivered ***				
0002	H50030016 Clearinghouse Services Admin (USD) Tracking# IGA G/L# 60160 WBS: SCPCHHHS.CGF Release order against contract 4600007218 Item 00002 Per Invoice/Cost Reimbursement/Req'ts Validity Period: 7/1/08 - 6/30/09	108,397.000	USD	\$ 1.0000	\$ 108,397.00
	~~~~~				
	9/24/08 Amendment 1				



# MULTNOMAH COUNTY OREGON

Bill to and ship to addresses are the same unless otherwise specified below.

Page 2 of 2

## Release Order

### Vendor Address

HOUSING AUTHORITY OF PORTLAND  
135 SW ASH ST  
PORTLAND OR 97204

Release Order	<b>4500103259</b>
Date	04/17/2008
Vendor No.	24226
Buyer/Phone	OSCP Services /
Validity End Date	06/30/2009
Incoterms	FOB Destination

Item	Material/Description	Quantity	UM	Unit Price	Net Amount
	<i>Increased line by \$8,822 from \$99,575 to \$108,397</i>				
	*** Item partially delivered ***				
0003	H50030015 Clearinghouse Services (USD) Tracking# IGA G/L# 60160 WBS: SCPCHHHS.LIRHF Release order against contract 4600007218 Item 00001 Per Invoice/Cost Reimbursement/Req's Validity Period: 7/1/08 - 6/30/09 ~~~~~ 9/24/08 Amendment 1 <i>Increased line by \$20,523 from \$102,551 to \$123,074</i>  *** Item partially delivered ***	123,074.000	USD	\$ 1.0000	\$ 123,074.00
				Total	<u>\$ 429,125.00</u>

**MULTNOMAH COUNTY CONTRACT APPROVAL FORM (CAF)**  
(See Administrative Procedure CON-1)

Contract #: **4600007218**

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

Amendment #: **1**

<b>Class I</b> Based on Informal / Intermediate Procurement	<b>Class II</b> Based on Formal Procurement	<b>Class III</b> Intergovernmental Contract (IGA)
<input type="checkbox"/> Personal Services Contracts  PCRB Contract <input type="checkbox"/> Goods or Services <input type="checkbox"/> Maintenance or Licensing Agreement <input type="checkbox"/> Public Works / Construction Contract <input type="checkbox"/> Architectural & Engineering Contract	<input type="checkbox"/> Personal Services Contracts  PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts	<input checked="" type="checkbox"/> Expenditure Contract <input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Financial Agreement
<input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> <b>INTER-DEPARTMENTAL AGREEMENT (IDA)</b>

Department: County Human Services Div/Prog: Community Services Division Date: November 7, 2008  
 Originator: Tiffany Kingery Phone: 22728 Bldg/Rm: 167/2/200  
 Contact: Sydney Bizzell Roberts Phone: 22701 Bldg/Rm: 167/1/620  
 Description of Contract: This amendment will allow for an increase in funding due to a change in funding allocations from the State.

RENEWAL: ☐ PREVIOUS CONTRACT #(S): _____ EEO CERTIFICATION EXPIRES: 8.31.08  
 PROCUREMENT: IGA  
 EXEMPTION OR _____ ISSUE _____ EFFECTIVE _____ END _____  
 CITATION # _____ DATE: _____ DATE: _____ DATE: _____

CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF State Cert# or ☐ Self Cert ☒ Non-Profit ☐ N/A (Check all boxes that apply)

Contractor	<u>Housing Authority of Portland</u>			Remittance Address	
Address	<u>135 SW Ash St</u>			(If different)	
City/State	<u>Portland, OR</u>			Payment Schedule / Terms	
Zip Code	<u>97204</u>			<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt
Phone	<u>503.802.8300</u>			<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30
Employer ID# or SS#	<u>93.6001547</u>			<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other
Contract Effective Date	<u>July 1, 2008</u>	Term Date	<u>June 30, 2011</u>	<input type="checkbox"/> Price Agreement (PA) or Requirements Funding Info:	
Amendment Effect Date	<u>July 1, 2008</u>	New Term Date	<u>June 30, 2011</u>	Original Requirements Amount	\$ _____
Original Contract Amount	<u>\$ 1,188,888.00</u>			Requirements Amount Amendment:	\$ _____
Total Amt of Previous Amendments	<u>\$ 0</u>			Requirements Changes Non-Amendment:	\$ _____
Amount of Amendment	<u>\$ 32,829.00</u>			Total Amount of Requirements	\$ _____
Total Amount of Agreement	<u>\$ 1,221,717.00</u>				

**REQUIRED SIGNATURES**

Department Manager: [Signature] DATE: 11/24/08  
 Purchasing Manager: _____ DATE: _____  
 County Attorney: APPROVED BY PATZLUK HENRY DATE: 10-14-08  
 County Chair: [Signature] DATE: 12-11-08  
 Sheriff: _____ DATE: _____  
 Contract Administration: _____ DATE: _____

COMMENTS: SAP Vendor #24226

Exhibit A, Rev. 03/24/06



**MULTNOMAH COUNTY SERVICES CONTRACT AMENDMENT**  
(Amendment to Change Contract Provisions During Contract Term)

**CONTRACT NO. 4600007218 - AMENDMENT NO. 1**

This is an amendment to Multnomah County Contract No. 4600007218 effective July 1, 2008 between Multnomah County, hereinafter referred to as County, and Housing Authority of Portland hereinafter referred to as Contractor.

The parties agree:

1. The following changes are made to Contract No. 4600007218 effective July 1, 2008 through June 30, 2009:
  - a. Funding for Clearing House Services are increased as described in the table below and detailed in the revised Attachment A: IGA Contract and Release Order.

IGA Line #	Item Description	RO#	RO Line#	Orig. Amt.	Increase	New Total
1	Clearinghouse Services	45-103259	1	\$194,170	\$3,484	\$197,654
2	Clearinghouse Services Admin	45-103259	2	\$99,575	\$8,822	\$108,397
1	Clearinghouse Services	45-103259	3	\$102,551	\$20,523	\$123,074

2. All other terms and conditions of the contract shall remain the same.

**CONTRACTOR DATA AND SIGNATURE**

Contractor Name Housing Authority of Portland  
135 SW Ash St, Portland, OR 97204

Phone No. 503.802.8300

Federal Tax ID# or Social Security:

Is Contractor a Nonresident alien?

Business Designation (check one):

☐ Yes ☐ No  
☐ Sole Proprietorship  
☐ Corporation-for profit  
☐ Other, describe here:

☐ Partnership  
☐ Corporation-Non-profit

Federal tax ID numbers or Social Security numbers are required pursuant to ORS 305.385 and will be used for the administration of state, federal and local laws. Payment information will be reported to the Internal Revenue Service under the name and Federal tax ID number or, if none, the Social Security number provided above.

**I have read this Contract Amendment. I understand the Contract Amendment and agree to be bound by its terms.**

Signature

Title

Name (please print)

Date

**MULTNOMAH COUNTY SIGNATURE**

(This contract is not binding on the County until signed by the Chair or the Chair's designee)

County Chair or Designee

Date

12/11/08

**Department and County Counsel Approval and Review**

Approved:

Department Manager or Designee

Date

Reviewed:

Assistant County Counsel

Date

11/24/08

10-14-08



## MULTNOMAH COUNTY OREGON

## ATTACHMENT A

Bill to and ship to addresses are the same unless otherwise specified below.

Page 1 of 2

AMENDMENT 1

## Release Order

## Vendor Address

HOUSING AUTHORITY OF PORTLAND  
135 SW ASH ST  
PORTLAND OR 97204

## Release Order

4500103259

## Date

04/17/2008

## Vendor No.

24226

## Buyer/Phone

OSCP Services /

## Validity End Date

06/30/2009

## Incoterms

FOB Destination

Ship To:

Multnomah County  
County Human Services  
421 SW Oak 6th Floor  
Portland OR 97204  
Fax: 503-988-3379

Bill To or Other Special Instructions:

Program Contact:  
Tiffany Kingery  
503.988.6295, ext. 22728

Item	Material/Description	Quantity	UM	Unit Price	Net Amount
	<i>For the services listed in this Release Order, the Net Amount lines are estimates only. During the term of this contract Multnomah County may unilaterally adjust the Net Amount of each line based on Contractor's documented service level and system-wide service level demands. County will notify Contractor by providing a revised Release Order of any Net Amount adjustments upon request.</i> ~~~ 9/24/08 Amendment 1 Effective 7/1/08-6/30/09 Lines 1-3 were increased by a total of \$32,829 for the current fiscal year				
0001	H50030015 Clearinghouse Services (USD) Tracking# IGA G/L# 60160 WBS: SCPCHHHS.CGF Release order against contract 4600007218 Item 00001 Per Invoice/Cost Reimbursement/Req't's Validity Period: 7/1/08 - 6/30/09 ~~~ 9/24/08 Amendment 1 Increased line by \$3,484 from \$194,170 to \$197,654  *** Item partially delivered ***	197,654.000	USD	\$ 1.0000	\$ 197,654.00
0002	H50030016 Clearinghouse Services Admin (USD) Tracking# IGA G/L# 60160 WBS: SCPCHHHS.CGF Release order against contract 4600007218 Item 00002 Per Invoice/Cost Reimbursement/Req't's Validity Period: 7/1/08 - 6/30/09 ~~~ 9/24/08 Amendment 1	108,397.000	USD	\$ 1.0000	\$ 108,397.00



# MULTNOMAH COUNTY OREGON

Bill to and ship to addresses are the same unless otherwise specified below.

Page 2 of 2

## Release Order

### Vendor Address

HOUSING AUTHORITY OF PORTLAND  
135 SW ASH ST  
PORTLAND OR 97204

Release Order	<b>4500103259</b>
Date	04/17/2008
Vendor No.	24226
Buyer/Phone	OSCP Services /
Validity End Date	06/30/2009
Incoterms	FOB Destination

Item	Material/Description	Quantity	UM	Unit Price	Net Amount
	<i>Increased line by \$8,822 from \$99,575 to \$108,397</i>				
	*** Item partially delivered ***				
0003	H50030015 Clearinghouse Services (USD) Tracking# IGA G/L# 60160 WBS: SCPCHHHS.LIRHF Release order against contract 4600007218 Item 00001 <i>Per Invoice/Cost Reimbursement/Req't's</i> <i>Validity Period: 7/1/08 - 6/30/09</i> ~~~ <i>9/24/08 Amendment 1</i> <i>Increased line by \$20,523 from \$102,551 to \$123,074</i>  *** Item partially delivered ***	123,074.000	USD	\$ 1.0000	\$ 123,074.00
				Total	<u>\$ 429,125.00</u>





## MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: C-3  
Est. Start Time: 9:30 AM  
Date Submitted: 12/02/08

**Agenda Title:** ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

Requested Meeting Date: December 11, 2008 Amount of Time Needed: N/A  
Department: DCHS Division: MHASD  
Contact(s): Jean Dentinger/Karen Zarosinski (X 26468)  
Phone: (503) 988-5464 Ext. 27297 I/O Address: 167/1/520  
Presenter(s): Consent Calendar

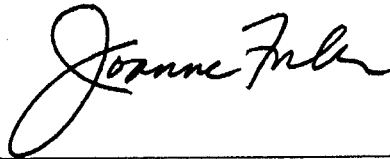
### General Information

- What action are you requesting from the Board?**  
Requesting adoption of order and approval of designees. The Mental Health and Addiction Services Division is recommending approval of the designees in the accordance with ORS 426.215.
- Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**  
Outpatient mental health agencies depend upon certain staff having the ability to assess clients for "Director Designee Custody". This certification allows the designee to direct a police officer or secure transportation provider to take into custody any individual with mental health issues who is found to be dangerous to self or to others. Police then transport the individual to a hospital or other approved treatment facility for further evaluation. As agencies experience staffing turnover or increases, new staff need to be trained and certified as designees.
- Explain the fiscal impact (current year and ongoing).**  
None.
- Explain any legal and/or policy issues involved.**  
In accordance with ORS 426.215.
- Explain any citizen and/or other government participation that has or will take place.**  
None.

**Required Signature**

---

**Elected Official or  
Department/  
Agency Director:**



---

**Date: 11/28/08**

---

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Authorizing a Designee of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

**The Multnomah County Board of Commissioners Finds:**

- a) If authorized by a county governing body, a designee of a mental health program director may direct a peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody, and treatment of mental illness.
- b) There is a current need for specified designees of the Multnomah County Mental Health Program Director to have the authority to direct a peace officer to take an allegedly mentally ill person into custody.
- c) The designee listed below has been specifically recommended by the Mental Health Program Director and meets the standards established by the Mental Health Division.

**The Multnomah County Board of Commissioners Orders:**

1. The individual listed below is authorized as a designee of the Mental Health Program Director for Multnomah County to direct any peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody or treatment for mental illness.
2. Added to the list of designees are:  
Marty Martin                      Jack Kelley                      Lawrence Ruhf  
Nicole Kiernan                      Deborah Meltzer  
Jennifer Edlredge                      Jeff Nelson

ADOPTED this 11th day of December, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

_____  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLES, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

BY: _____  
Patrick Henry, Assistant County Attorney

SUBMITTED BY:  
Joanne Fuller, Director, Dept. of County Human Services

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 08-157**

Authorizing a Designee of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

**The Multnomah County Board of Commissioners Finds:**

- a) If authorized by a county governing body, a designee of a mental health program director may direct a peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody, and treatment of mental illness.
- b) There is a current need for specified designees of the Multnomah County Mental Health Program Director to have the authority to direct a peace officer to take an allegedly mentally ill person into custody.
- c) The designee listed below has been specifically recommended by the Mental Health Program Director and meets the standards established by the Mental Health Division.

**The Multnomah County Board of Commissioners Orders:**

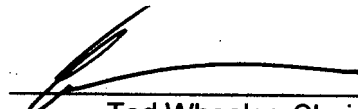
1. The individual listed below is authorized as a designee of the Mental Health Program Director for Multnomah County to direct any peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody or treatment for mental illness.
2. Added to the list of designees are:

Marty Martin	Jack Kelley	Lawrence Ruhf
Nicole Kiernan	Deborah Meltzer	
Jennifer Edlredge	Jeff Nelson	

ADOPTED this 11th day of December, 2008.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLES, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

BY:   
Patrick Henry, Assistant County Attorney

SUBMITTED BY:  
Joanne Fuller, Director, Dept. of County Human Services



## MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: C-4  
Est. Start Time: 9:30 AM  
Date Submitted: 12/03/08

**Agenda Title:** RESOLUTION Authorizing the Annual Designation of a Portion of Compensation as a Housing Allowance for Chaplains Serving Inmates and Employees of Multnomah County Sheriff's Office

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	December 11, 2008	<b>Time Requested:</b>	N/A
<b>Department:</b>	Sheriff's Office	<b>Division:</b>	Business Services
<b>Contact(s):</b>	Wanda Yantis		
<b>Phone:</b>	503-988-4455	<b>Ext.</b>	84455
<b>I/O Address:</b>	503/350		
<b>Presenter(s):</b>	Consent Calendar		

### General Information

**1. What action are you requesting from the Board?**

MCSO recommends the adoption of a resolution designating a portion of the compensation received by two of its Chaplains to be used as a Housing Allowance.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

The Multnomah County Sheriff's Office employs Edward Stelle and Lewis Kyle as Chaplains serving inmates and employees of Multnomah County Sheriff's Office. The Sheriff's Office does not provide housing to either Chaplain. Based on 26 USC § 107(2) allows clergy to exclude from the calculation of their gross income, the housing allowance paid as part of their compensation, to the extent used by them to rent or provide a home.

**3. Explain the fiscal impact (current year and ongoing).**

The following Chaplains are allowed to designate the following amounts of their compensation as a housing allowance for calendar year 2009, subject to the requirements and limitations of internal revenue law:

Housing Allowance

Chaplain  
Edward Stelle  
Lewis Kyle

Amount Per Annum  
\$10,000  
\$19,000

**4. Explain any legal and/or policy issues involved.**

Allowance is in accordance with (US Code) 26 USC § 107(2).

**5. Explain any citizen and/or other government participation that has or will take place.**

None.

---

**Required Signature**

---

Elected Official or  
Department/  
Agency Director:

/s/ *Bob Skipper / L.A.*

Date: 12/04/08

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. _____**

Authorizing the Annual Designation of a Portion of Compensation as a Housing Allowance for Chaplains Serving Inmates and Employees of Multnomah County Sheriff's Office

**The Multnomah County Board of Commissioners Finds:**

- a. The Multnomah County Sheriff's Office employs Edward Stelle and Lewis Kyle as chaplains serving inmates and employees of Multnomah County Sheriff's Office.
- b. The Sheriff's Office does not provide housing to either chaplain.
- c. 26 USC §107(2) allows clergy to exclude from the calculation of their gross income the housing allowance paid as part of their compensation, to the extent used by them to rent or provide a home.

**The Multnomah County Board of Commissioners Resolves:**

The following chaplains are allowed to designate the following amounts of their compensation as a housing allowance for calendar year 2009, subject to the requirements and limitations of internal revenue law:

<u>Chaplain</u>	<u>Housing Allowance Amount Per Annum</u>
Edward Stelle	\$10,000
Lewis Kyle	\$19,000

ADOPTED this 11th day of December, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

_____  
Ted Wheeler, Chair

REVIEWED:

AGNES A. SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By _____  
Jacquie Weber, Assistant County Attorney

SUBMITTED BY:  
Bob Skipper, Multnomah County Sheriff

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 08-158**

Authorizing the Annual Designation of a Portion of Compensation as a Housing Allowance for Chaplains Serving Inmates and Employees of Multnomah County Sheriff's Office

**The Multnomah County Board of Commissioners Finds:**

- a. The Multnomah County Sheriff's Office employs Edward Stelle and Lewis Kyle as chaplains serving inmates and employees of Multnomah County Sheriff's Office.
- b. The Sheriff's Office does not provide housing to either chaplain.
- c. 26 USC §107(2) allows clergy to exclude from the calculation of their gross income the housing allowance paid as part of their compensation, to the extent used by them to rent or provide a home.

**The Multnomah County Board of Commissioners Resolves:**

The following chaplains are allowed to designate the following amounts of their compensation as a housing allowance for calendar year 2009, subject to the requirements and limitations of internal revenue law:

<u>Chaplain</u>	<u>Housing Allowance Amount Per Annum</u>
Edward Stelle	\$10,000
Lewis Kyle	\$19,000

ADOPTED this 11th day of December, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON



  
Ted Wheeler, Chair

REVIEWED:

AGNES A. SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Jacquie Weber, Assistant County Attorney

SUBMITTED BY:  
Bob Skipper, Multnomah County Sheriff





# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST (revised 09/22/08)

**Board Clerk Use Only**

**Meeting Date:** 12/18/08  
**Agenda Item #:** R-1  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 11/26/08

**Agenda Title:** **RESOLUTION Adopting a Memorandum of Understanding between Multnomah County and The Library Foundation, Inc.**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.*

**Requested Meeting Date:** December 11, 2008 **Amount of Time Needed:** 15 minutes  
**Department:** Library **Division:** Director's Office  
**Contact(s):** Molly Raphael, Director of Libraries  
**Phone:** 503-988-5403 **Ext.** NA **I/O Address:** 317/Admin  
**Presenter(s):** Molly Raphael, Vailey Oehlke, Bernadette Nunley, Library Foundation Representatives

## General Information

**1. What action are you requesting from the Board?**

Adoption of Resolution Adopting a Memorandum of Understanding between Multnomah County Library and The Library Foundation, Inc.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

Multnomah County Library (MCL) is a department of Multnomah County, a municipal corporation, governed by the Board of County Commissioners. The Library Foundation (TLF) is a legally separate, independent entity, incorporated as a 501(c)(3) organization in Oregon. MCL and TLF developed a Memorandum of Understanding (MOU) to clarify roles, responsibilities, and general agreements.

The Library Foundation's stated mission is to raise and manage funds to assure a great library that reaches and serves all people in Multnomah County. Founded in 1995, TLF initially raised funds for the renovation of the Central Library as well as many branch libraries during the renovation and rebuilding years through 2003. In recent years, TLF has engaged in a five-year Campaign for a

Lifetime of Literacy, partially supporting the Library's work in the areas of early literacy (Raising a Reader), reading motivation for children and youth (Summer Reading, Books to You), and a variety of other programs. In 2009, TLF is funding nearly \$1 million worth of MCL programs and activities.

As the complexity of the relationship has grown over the years, the need to clarify roles, responsibilities, and general agreements has become more apparent so that the two parties have clear understandings and expectations. The MOU has been developed jointly with the participation of the County Attorney and County Budget Office. It has already been adopted by TLF Board of Directors.

The initial term of the MOU is for three years, with a planned review at that time.

**3. Explain the fiscal impact (current year and ongoing).**

None. The agreement simply clarifies the relationship of the two entities.

**4. Explain any legal and/or policy issues involved.**

1. Fundraising: The MOU formalizes the Foundation's fundraising role in relationship to the Library. The Foundation is a business entity completely separate from the Library, and as such, follows its own bylaws and organizing documents. Maintaining this separation is vital for the Foundation's tax status. As a separate business entity, the Foundation chooses to raise money to serve the Library. The Library supports the Foundation's efforts and the two groups work together to plan fundraising goals. To increase the Foundation's fundraising success, the Library agrees in this MOU to give any significant donations to the Library to the Foundation. This agreement does not affect the Library's ability to fundraise for efforts the Foundation does not choose to support. This agreement also recognizes that the Library is subject to County budget limitations.

2. Private/Public Partnership: The Foundation-Library relationship is an example of Private-Public Partnerships. The Foundation provides private funding for Library public programs, as well as political support for the levy campaigns. The Foundation offers political campaigning that the Library cannot legally pursue. This relationship is extremely important to the Library's continued success in providing public services to Multnomah County.

**5. Explain any citizen and/or other government participation that has or will take place.**

Negotiation of the agreement included the Board and staff leadership of The Library Foundation, the Director and Deputy Director of the Multnomah County Library, and the County Attorney's Office. Consultation with the County Budget and Finance Office was also included in the development of the MOU.

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**

*Molly Raphael*

**Date:** 11/26/08

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. _____**

Adopting a Memorandum of Understanding between Multnomah County and The Library Foundation, Inc.

**The Multnomah County Board of Commissioners Finds:**

- a. The Multnomah County Library and The Library Foundation, Inc. seek to clarify and formalize their roles, responsibilities and general agreements.
- b. It is in the best interest of the County that the relationship between Multnomah County Library and The Library Foundation, Inc. is formalized through a Memorandum of Understanding.

**The Multnomah County Board of Commissioners Resolves:**

1. The attached Memorandum of Understanding between Multnomah County and The Library Foundation, Inc. is approved.
2. The County Chair is authorized to execute the attached Memorandum of Understanding on behalf of Multnomah County.

ADOPTED this 11th day of December, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

_____  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By _____  
Bernadette Dieker Nunley, Assistant County Attorney

SUBMITTED BY:  
Molly Raphael, Multnomah County Director of Libraries



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MCL recognizes that, for the Foundation to operate as an independent entity under Section 501(c)(3) of the IRS Code and the Nonprofit Corporation Act of the State of Oregon, the Foundation must remain separate and apart from MCL.

2. **Collaborative Fundraising Agreement:** MCL recognizes the Foundation as its primary, private fundraising organization to provide charitable funds for library services. The Foundation funds enhance and do not supplant public support.
  - a. MCL agrees to consult with the Foundation about fundraising needs. The Foundation agrees to consult with MCL about the Foundation's fundraising plans through annual and long-range planning.
    - i. Both MCL and the Foundation recognize that the Library Director may have a conflict of interest as a Trustee of the Foundation. In her capacity as Trustee, the Library Director may be recused from voting or discussions when motions regarding the Library are raised. The Board of Trustees of the Foundation is solely responsible to determine the composition of the Board.
    - ii. Because MCL is a government department and accountable to Multnomah County taxpayers, citizens and MCL patrons, the Foundation may not commit MCL to any program or effort without explicit approval from MCL.
    - iii. MCL maintains the right to refuse funds if the funds are designated for purposes that are inconsistent with MCL's mission.
    - iv. Any funds MCL accepts from the Foundation are tracked separately from public funds.
  - b. The Foundation recognizes that MCL is bound by County Financial and Budget Policies. County Financial Budget Policies are based on government budgeting best practices set forth by the General Accounting Standards Board, the Government Financial Officers Association, and Oregon Budget Law.

- c. MCL recognizes that the Foundation is bound by the Oregon and federal laws governing tax-exempt organizations, Foundation Board policies, and by its representations to its donors.
- d. The Foundation will be the legal recipient for charitable donations, bequests, and significant in-kind gifts to MCL, unless a donor specifically requests that the donation not be distributed to the Foundation. MCL will give unsolicited donations to the Foundation, unless a donor specifically requests that the donation not be distributed to the Foundation. MCL will not encourage a donor to bypass the Foundation.
  - i. The Foundation's unrestricted assets raised for MCL are held for the benefit of MCL and shall be used by the Foundation at the discretion of the Foundation Board to support the mission of the Foundation, including direct support of MCL's programs and activities as well as providing for the administrative support of the Foundation, fundraising and financial development on behalf of MCL.
  - ii. The Foundation's restricted assets raised for MCL are held for the benefit of MCL and shall be disbursed at the discretion of the Foundation Board, consistent with the donors' wishes. Restricted gifts, with conditions that obligate MCL, will not be agreed to by the Foundation without MCL's agreement.
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  - iv. MCL depends upon the Foundation to manage these private donor gifts and donor relations.
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- h. This agreement is not retroactive.

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- a. MCL and the Foundation will develop a process to discuss strategic priorities, fundraising priorities, funding needs, fundraising strategy and reporting to support the Foundation's audit and IRS reporting.
- b. The fundraising process will include specific funding criteria from the Foundation and a timeframe for MCL to request funding from the Foundation. MCL and the Foundation will use a mutually acceptable form of written requests for funding and written reports on spending that meets the Foundation's needs to report to its donors and the IRS.
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- e. When developing fundraising and funding plans, MCL and the Foundation will discuss the way any program savings will reflect on Foundation funding reimbursement.
- f. This process will be reviewed and updated on an as needed basis.

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**5. Term of Agreement:** The parties agree to reexamine the terms set forth in this document every three years to determine whether they continue to meet the needs of both parties.

**6. Resolving Issues:** If the parties' own efforts fail to resolve issues arising under the terms set forth in this document, the parties agree to seek non-binding mediation to reach resolution.



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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 08-159**

Adopting a Memorandum of Understanding between Multnomah County and The Library Foundation, Inc.

**The Multnomah County Board of Commissioners Finds:**

- a. The Multnomah County Library and The Library Foundation, Inc. seek to clarify and formalize their roles, responsibilities and general agreements.
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**The Multnomah County Board of Commissioners Resolves:**

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ADOPTED this 11th day of December, 2008.

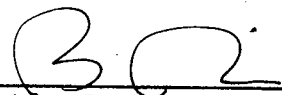


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Bernadette Dieker Nunley, Assistant County Attorney

SUBMITTED BY:  
Molly Raphael, Multnomah County Director of Libraries



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# MULTNOMAH COUNTY

## AGENDA PLACEMENT REQUEST (short form)

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-2  
Est. Start Time: 9:45 AM  
Date Submitted: 10/23/08

**Agenda Title:** Second Reading and Possible Adoption of an ORDINANCE Amending MCC Chapter 21 Relating to Smokefree Places of Employment and Public Places

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** December 11, 2008  
**Amount of Time Needed:** 5 mins  
**Department:** Health  
**Division:** CHP3, Chronic Disease Prevention  
**Contact(s):** Sonia Manhas  
**Phone:** 503-988-3674 **Ext.** 26221 **I/O Address:** 448/2  
**Presenter(s):** Sonia Manhas, Rachael Banks

### General Information

**1. What action are you requesting from the Board?**

Adopt the Amended Multnomah County's Smokefree Worksite Ordinance; Second Reading

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

**Background:** In 1999 Multnomah County enacted its own smokefree worksite ordinance (MCC § 21.500). Earlier this year, the Health Department received an increase in funding from the Oregon Tobacco Prevention and Education Program. As a requirement of this funding, all counties were required to sign an intergovernmental agreement that delegates enforcement of the Oregon's smoke-free worksite law (Oregon Indoor Clean Air Act ORS 433.835 to 433.875) to the local health department. The Multnomah County Board of Commissioners signed the IGA in January 2008. Signing the IGA resulted in minor changes to the Health Department's current enforcement procedures, and the county ordinance did not need to be amended in any way. The Health Department receives about \$300,000 annually from the State for its tobacco prevention initiatives, including enforcement of the Oregon Indoor Clean Air Act. The State and County laws are complaint-driven; therefore, the Health Department takes action to investigate potential violations

only when a public complaint is received.

**Upcoming Changes:** In January 2009, the Oregon Indoor Clean Air Act expands to cover the following worksites not currently covered by the law:

- Every enclosed area under the control of a public or private employer
- Bars and taverns, including bar areas of restaurants
- Bowling centers
- Bingo halls
- Hotels and motels (up to 25% of sleeping rooms designated by entity in charge)
- Work vehicles that are not operated exclusively by one employee
- The Act will also restrict smoking within 10 feet of workplace entrances, exits, windows, and air vents.

Only one section of the County Ordinance is more stringent than the Oregon Indoor Clean Air Act: the county's 20 foot doorway requirement for hospitals.

**Action Needed:** Because of these changes, the County Attorney's Office has advised the Health Department to remove any sections of the County Ordinance that are different from State law to minimize confusion and streamline policy documents.

In this briefing, we will 1) provide an overview of the changes in the law, 2) describe the work we are doing to reach out and educate employers in Multnomah County about the changes in the law, and 3) present the amended county ordinance.

**3. Explain the fiscal impact (current year and ongoing).**

Enforcement of the Oregon Indoor Clean Air Act is tied to on-going state funding for the Health Department's tobacco prevention activities. The county receives approximately \$300,000 in annual funding.

**4. Explain any legal and/or policy issues involved.**

The County Attorney's Office has reviewed the current county ordinance as well as the state law, and then amended the county ordinance to remove any sections that were duplicative. Amendment of the county ordinance requires two readings by the Board.

**5. Explain any citizen and/or other government participation that has or will take place.**

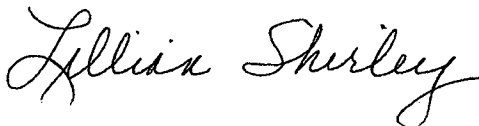
The Oregon Public Health Division convened a public rule-making process to develop the administrative rules for implementation of the Oregon Indoor Clean Air Act.

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



**Date:** 10/23/08

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending MCC Chapter 21 Relating to Smokefree Places of Employment and Public Places

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

**The Multnomah County Board of Commissioners Finds:**

- a. The 2007 Legislature enacted Chapter 602 Oregon Laws 2007 amending the Oregon's Indoor Clean Air Act effective January 1, 2009.
- b. The 2007 legislation essentially brings state law in line with County ordinances. Therefore, most of the County code sections regarding smokefree places of employment and those violation penalties are duplicative and should be removed. The only requirement more stringent than the 2007 legislation that the County wishes to retain is the County's smoking ban within 20 feet of hospital entrances, exits, etc., rather than the statutory 10 feet.

**Multnomah County Ordains as follows:**

**Section 1.** MCC. § 21.510 is amended and §§ 21.520, 21.530 and 21.545 are unchanged as follows:

**21.510 Definitions.**

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

~~———— **BILLIARD PARLOR.** An establishment in which income is primarily derived from pool/billiard table rental and other pool/billiard related sales and where the sale of other products or services is secondary.~~

~~———— **BUSINESS.** Any sole proprietorship, partnership, joint venture, corporation, or other business entity, including retail establishments where goods or services are sold, as well as professional corporations and other entities where professional services are delivered.~~

~~———— **EMPLOYEE.** Any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services to a non-profit entity.~~

~~———— **EMPLOYER.** Any person or entity who employs the services of one or more individuals.~~

~~———— **ENCLOSED AREA.** All space between a floor and a ceiling that is enclosed on all sides by solid walls or windows (exclusive of door or passageways) that extend from the floor to the ceiling, including all space therein screened by partitions that do not extend to the ceiling or are not solid, such as "office landscaping" or similar structures. Enclosed areas do not include breakrooms designated for smoking (smoking room) by employers if the following conditions are met:~~



1. ~~The smoking room is not accessible to minors.~~
2. ~~Air from the smoking room is exhausted directly to the outside by an exhaust fan and not recirculated to other parts of the building.~~
3. ~~The smoking room is in compliance with ventilation standards established by the Department of Health by administrative rule.~~
4. ~~The smoking room is located in a non-work area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this paragraph, "work responsibilities" does not include custodial or maintenance work carried out in the smoking room when it is unoccupied.~~
5. ~~There are sufficient nonsmoking breakrooms to accommodate nonsmokers.~~

**HOSPITAL.** Any facility that meets the definition of "Hospital" in ORS 442.015.

**OUTDOOR PUBLIC AREA.** Any public area immediately adjacent to a Hospital building or buildings, including but not limited to sidewalks, walkways, seating areas and courtyards.

~~**PLACE OF EMPLOYMENT.** Any enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and rest rooms, conference and class rooms, cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care facility as defined in ORS 442.015.~~

~~**RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco products and accessories and where the sale of other products is secondary.~~

~~**SMOKING.** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, plant, or other tobacco-like product or substances in any manner or in any form.~~

~~**TOBACCO PRODUCT.** Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco or any other form of tobacco which may be utilized for smoking, inhalation, or other means of ingestion.~~

~~**TRUCK STOP.** A facility that provides all of the following: fuel service for vehicles up to ninety feet in length; off-street parking for trucks and trailers; a twenty-four hour restaurant; and driver support services, such as showers, laundry, and truck supplies.~~

## **21.520 Hospital Outdoor No Smoking Policy.**

(A) Hospitals are required to adopt policies prohibiting smoking in outdoor public areas. These policies must meet the following minimum guidelines:

(1) Prohibits smoking within at least 20 feet of building entrances and exits, air intake vents, and windows that are capable of opening to the outside.

(2) Requires posting of signs that include the international no smoking symbol and the words "no smoking" in outdoor public areas where smoking is prohibited.

- (3) Includes a formal mechanism for the hospital to enforce the policy.

(B) Hospitals may adopt policies allowing smoking in designated outdoor smoking areas as long as they are at least 20 feet away from building entrances and exits, air intake vents, and windows that are capable of opening to the outside.

#### **21.545 Other Laws.**

This subchapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

**Section 2.** MCC. §§ 21.515, 21.525, 21.530, 21.535 and 21.540 are repealed and deleted as follows:

#### **~~21.515 Smoking Prohibited in Places of Employment.~~**

~~Every employer shall provide a place of employment free of tobacco smoke for all employees.~~

#### **~~21.525 Places Where Smoking Is Not Regulated.~~**

~~Notwithstanding any other provision of this section to the contrary, the following areas shall not be subject to any smoking restrictions contained within this subchapter:~~

~~(A) Private residences, unless the private residence is used as a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care facility as defined in ORS 442.015;~~

~~(B) Rented motel or hotel rooms that are designated in some manner as smoking allowed rooms by the owners of the establishment renting the rooms;~~

~~(C) Private rooms rented for an occupancy that exceeds one month and that are not located in a private residence used as a child care, adult day care or health facility;~~

~~(D) Any facility or facility area licensed by the Oregon Liquor Control Commission to serve alcohol by the drink for consumption on the premises that is posted to prohibit the presence of minors at all times;~~

~~(E) Any facility or facility area licensed by the Oregon Liquor Control Commission to serve alcohol by the drink for consumption on the premises that is posted to prohibit the presence of minors during some hours, during those hours that minors are prohibited;~~

~~(F) Bingo operations licensed pursuant to ORS 464.250 et seq. and race courses operated by a licensee licensed under ORS chapter 462;~~

~~(G) Retail tobacco stores;~~

~~(H) Truck stops; and~~

~~———— (1) ——— Billiard parlors.~~

**21.530 Posting "No Smoking" Signs.**

~~———— "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across the cigarette) shall be clearly, sufficiently, and conspicuously posted in every building or other area where smoking is prohibited by this subchapter, by the owner, manager, or other person having control of such building or other area, including private residences used as a child care, adult day care or health care facility.~~

**21.535 Other Violations.**

~~———— It shall be a violation of this subchapter for every day any person, who owns, manages, operates or otherwise controls the use of any premises, subject to regulation under §§ 21.500 et seq., fails to comply with any provisions therein. Each day shall be a separate violation.~~

**21.540 Smoking In Workplace Prohibited.**

~~———— It shall be a violation of §§ 21.500 et seq. for any person to smoke in any area where smoking in the workplace is prohibited.~~

**Section 3.** MCC § 21.999 is amended to delete Smoke Free workplace violation penalties as follows:

**21.999 Penalty.**

* * * * *

~~(D) ——— Smoke Free workplace violations.~~

~~Any person who violates §§ 21.501 et seq. will be subject to the following penalties imposed by the Multnomah County Department of Health:~~

~~———— (1) ——— For a first complaint of a violation, a notice and warning, with educational materials and a referral phone number for the Tobacco Prevention Program. The Tobacco Prevention Program will provide technical assistance to achieve compliance upon request.~~

~~———— (2) ——— For a second complaint of a violation, the employer and Tobacco Prevention staff will jointly develop a smoke-free workplace remediation plan if indicated. If a complaint indicates a person other than the employer committed the second violation, the Tobacco Prevention Program staff will provide additional services and referral information designed to achieve compliance by that person, if indicated.~~

~~———— (3) ——— For subsequent complaints, if the Health Department substantiates the violation through investigation, a civil fine consistent with the fine schedule adopted by the Director of the Department of Health by administrative rule.~~

~~———— (4) ——— Fines imposed under (3) may be appealed in writing to the Director of the Multnomah County Department of Health. The Director's decision shall be final.~~

**Section 4.      This ordinance shall take effect on January 1, 2009.**

FIRST READING:

December 4, 2008

SECOND READING AND ADOPTION:

December 11, 2008

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By Jacqueline A. Weber, Assistant County Attorney

SUBMITTED BY:  
Lillian Shirley, Director, Multnomah County Health Department

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1124**

Amending MCC Chapter 21 Relating to Smokefree Places of Employment and Public Places

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

**The Multnomah County Board of Commissioners Finds:**

- a. The 2007 Legislature enacted Chapter 602 Oregon Laws 2007 amending the Oregon's Indoor Clean Air Act effective January 1, 2009.
- b. The 2007 legislation essentially brings state law in line with County ordinances. Therefore, most of the County code sections regarding smokefree places of employment and those violation penalties are duplicative and should be removed. The only requirement more stringent than the 2007 legislation that the County wishes to retain is the County's smoking ban within 20 feet of hospital entrances, exits, etc., rather than the statutory 10 feet.

**Multnomah County Ordains as follows:**

**Section 1.** MCC. § 21.510 is amended and §§ 21.520, 21.530 and 21.545 are unchanged as follows:

**21.510 Definitions.**

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

~~———— **BILLIARD PARLOR.** An establishment in which income is primarily derived from pool/billiard table rental and other pool/billiard related sales and where the sale of other products or services is secondary.~~

~~———— **BUSINESS.** Any sole proprietorship, partnership, joint venture, corporation, or other business entity, including retail establishments where goods or services are sold, as well as professional corporations and other entities where professional services are delivered.~~

~~———— **EMPLOYEE.** Any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services to a non-profit entity.~~

~~———— **EMPLOYER.** Any person or entity who employs the services of one or more individuals.~~

~~———— **ENCLOSED AREA.** All space between a floor and a ceiling that is enclosed on all sides by solid walls or windows (exclusive of door or passageways) that extend from the floor to the ceiling, including all space therein screened by partitions that do not extend to the ceiling or are not solid, such as "office landscaping" or similar structures. Enclosed areas do not include breakrooms designated for smoking (smoking room) by employers if the following conditions are met:~~

- ~~1. The smoking room is not accessible to minors.~~
- ~~2. Air from the smoking room is exhausted directly to the outside by an exhaust fan and not recirculated to other parts of the building.~~
- ~~3. The smoking room is in compliance with ventilation standards established by the Department of Health by administrative rule.~~
- ~~4. The smoking room is located in a non-work area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this paragraph, "work responsibilities" does not include custodial or maintenance work carried out in the smoking room when it is unoccupied.~~
- ~~5. There are sufficient nonsmoking breakrooms to accommodate nonsmokers.~~

**HOSPITAL.** Any facility that meets the definition of "Hospital" in ORS 442.015.

**OUTDOOR PUBLIC AREA.** Any public area immediately adjacent to a Hospital building or buildings, including but not limited to sidewalks, walkways, seating areas and courtyards.

~~**PLACE OF EMPLOYMENT.** Any enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and rest rooms, conference and class rooms, cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care facility as defined in ORS 442.015.~~

~~**RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco products and accessories and where the sale of other products is secondary.~~

~~**SMOKING.** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, plant, or other tobacco-like product or substances in any manner or in any form.~~

~~**TOBACCO PRODUCT.** Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco or any other form of tobacco which may be utilized for smoking, inhalation, or other means of ingestion.~~

~~**TRUCK STOP.** A facility that provides all of the following: fuel service for vehicles up to ninety feet in length; off street parking for trucks and trailers; a twenty four hour restaurant; and driver support services, such as showers, laundry, and truck supplies.~~

## **21.520 Hospital Outdoor No Smoking Policy.**

(A) Hospitals are required to adopt policies prohibiting smoking in outdoor public areas. These policies must meet the following minimum guidelines:

- (1) Prohibits smoking within at least 20 feet of building entrances and exits, air intake vents, and windows that are capable of opening to the outside.
- (2) Requires posting of signs that include the international no smoking symbol and the words "no smoking" in outdoor public areas where smoking is prohibited.

- (3) Includes a formal mechanism for the hospital to enforce the policy.

(B) Hospitals may adopt policies allowing smoking in designated outdoor smoking areas as long as they are at least 20 feet away from building entrances and exits, air intake vents, and windows that are capable of opening to the outside.

#### **21.545 Other Laws.**

This subchapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

**Section 2.** MCC. §§ 21.515, 21.525, 21.530, 21.535 and 21.540 are repealed and deleted as follows:

#### **~~21.515 Smoking Prohibited in Places of Employment.~~**

~~Every employer shall provide a place of employment free of tobacco smoke for all employees.~~

#### **~~21.525 Places Where Smoking Is Not Regulated.~~**

~~Notwithstanding any other provision of this section to the contrary, the following areas shall not be subject to any smoking restrictions contained within this subchapter:~~

~~(A) Private residences, unless the private residence is used as a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care facility as defined in ORS 442.015;~~

~~(B) Rented motel or hotel rooms that are designated in some manner as smoking allowed rooms by the owners of the establishment renting the rooms;~~

~~(C) Private rooms rented for an occupancy that exceeds one month and that are not located in a private residence used as a child care, adult day care or health facility;~~

~~(D) Any facility or facility area licensed by the Oregon Liquor Control Commission to serve alcohol by the drink for consumption on the premises that is posted to prohibit the presence of minors at all times;~~

~~(E) Any facility or facility area licensed by the Oregon Liquor Control Commission to serve alcohol by the drink for consumption on the premises that is posted to prohibit the presence of minors during some hours, during those hours that minors are prohibited;~~

~~(F) Bingo operations licensed pursuant to ORS 464.250 et seq. and race courses operated by a licensee licensed under ORS chapter 462;~~

~~(G) Retail tobacco stores;~~

~~(H) Truck stops; and~~

~~———— (1) ——— Billiard parlors.~~

**21.530 Posting "No Smoking" Signs.**

~~———— "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across the cigarette) shall be clearly, sufficiently, and conspicuously posted in every building or other area where smoking is prohibited by this subchapter, by the owner, manager, or other person having control of such building or other area, including private residences used as a child care, adult day care or health care facility.~~

**21.535 Other Violations.**

~~———— It shall be a violation of this subchapter for every day any person, who owns, manages, operates or otherwise controls the use of any premises, subject to regulation under §§ 21.500 et seq., fails to comply with any provisions therein. Each day shall be a separate violation.~~

**21.540 Smoking In Workplace Prohibited.**

~~———— It shall be a violation of §§ 21.500 et seq. for any person to smoke in any area where smoking in the workplace is prohibited.~~

**Section 3.** MCC § 21.999 is amended to delete Smoke Free workplace violation penalties as follows:

**21.999 Penalty.**

* * * * *

~~(D) ——— Smoke Free workplace violations.~~

~~Any person who violates §§ 21.501 et seq. will be subject to the following penalties imposed by the Multnomah County Department of Health:~~

~~———— (1) ——— For a first complaint of a violation, a notice and warning, with educational materials and a referral phone number for the Tobacco Prevention Program. The Tobacco Prevention Program will provide technical assistance to achieve compliance upon request.~~

~~———— (2) ——— For a second complaint of a violation, the employer and Tobacco Prevention staff will jointly develop a smoke free workplace remediation plan if indicated. If a complaint indicates a person other than the employer committed the second violation, the Tobacco Prevention Program staff will provide additional services and referral information designed to achieve compliance by that person, if indicated.~~

~~———— (3) ——— For subsequent complaints, if the Health Department substantiates the violation through investigation, a civil fine consistent with the fine schedule adopted by the Director of the Department of Health by administrative rule.~~

~~———— (4) ——— Fines imposed under (3) may be appealed in writing to the Director of the Multnomah County Department of Health. The Director's decision shall be final.~~



**Section 4.**      **This ordinance shall take effect on January 1, 2009.**

FIRST READING:

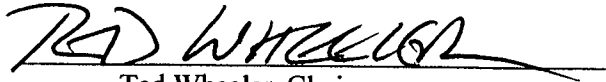
December 4, 2008

SECOND READING AND ADOPTION:

December 11, 2008



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON



Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By 

Jacqueline A. Weber, Assistant County Attorney

SUBMITTED BY:

Lillian Shirley, Director, Multnomah County Health Department



# MULTNOMAH COUNTY

## AGENDA PLACEMENT REQUEST (revised 09/22/08)

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-3  
Est. Start Time: 9:50 AM  
Date Submitted: 11/18/08

**Agenda Title:** Second Reading and Possible Adoption of an ORDINANCE Amending the Multnomah County Code Chapter 38, National Scenic Area, to Make Technical Corrections for Consistency with the Columbia River Gorge NSA Management Plan and to Update NSA Approval Criteria for Horse Boarding

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.*

Requested Meeting Date: December 11, 2008 Amount of Time Needed: 5 minutes  
Department: Community Services Division: Land Use Planning  
Contact(s): Lisa Estrin  
Phone: 503.988.3043 Ext. 22597 I/O Address: 455/116  
Presenter(s): Adam Barber and/or Lisa Estrin

### General Information

#### 1. What action are you requesting from the Board?

Adopt the amendments to the Multnomah County Code Chapter 38, National Scenic Area, to Make Technical Corrections for Consistency with the Columbia River Gorge National Scenic Area (NSA) Management Plan and to Update NSA Approval Criteria for Horse Boarding.

#### 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Long Range Planning is located within the Land Use and Transportation Planning Program, part of the Vibrant Communities Program Offer. These amendments incorporate changes made to the National Scenic Area Management Plan and help to coordinate with the Gorge Commission. These changes will strengthen the County's ability to protect the Columbia River Gorge National Scenic Area and promote a vibrant sense of community.

*NSA Horse Boarding* – The proposed code language will implement a recent update to the National Scenic Area Management Plan to ensure that horse boarding uses do not impact adjacent property owners, adjacent and on-site natural & cultural resources and key viewing areas. The proposed changes add to certain zones non-profit horse rescue facilities in addition to the current for-profit horse boarding uses. Adds approval criteria and requires the development of a stewardship plan to

establish a maximum number of horses to be boarded.

*NSA Technical Corrections* - The proposed amendment corrects cross-reference, typographical and grammatical errors and outdated non-regulatory text language in the various sections of Chapter 38 Columbia River Gorge National Scenic Area Zoning Ordinance. These changes were missed in the 2005 Update to bring Chapter 38 into compliance with the 2004 National Scenic Area Management Plan Update.

**3. Explain the fiscal impact (current year and ongoing).**

*NSA Horse Boarding* - There is no significant fiscal impact anticipated either now or in the future. Land Use Planning staff currently process administrative decisions and conditional use permits for the National Scenic Area and will continue to do so.

*NSA Technical Corrections* - There is no significant fiscal impact anticipated either now or in the future. The proposed amendments typically clarify code language. Land Use Planning staff currently process land divisions and administrative decisions for these areas of the County. Staff will continue to process land use applications in these areas.

**4. Explain any legal and/or policy issues involved.**

*NSA Horse Boarding* - There are no legal issues identified. Policy 4 of the Comprehensive Framework Plan states that, "It is the County's Policy to participate in intergovernmental coordination efforts..." Policy 4C states, "The County has a responsibility to support the planning process for unincorporated areas..." The County may choose whether or not to add horse boarding and non-profit horse rescue facility uses to the Gorge General Management Residential - 10 (GGR-10) zone. The Planning Commission has recommended that these two uses be added as conditional uses. The adoption of the proposed horse boarding ordinance will help to achieve the goals and policies on the National Scenic Area Management Plan.

*NSA Technical Corrections* - There are no legal issues identified. It is Multnomah County's policy to amend Chapter 38 of the Multnomah County Code as needed to be consistent with the Management Plan.

**5. Explain any citizen and/or other government participation that has or will take place.**

*NSA Horse Boarding* - On May 5, 2008 the Planning Commission held a work session with planning staff on the NSA Horse Boarding ordinance. On June 2, 2008 and September 8, 2008, the Planning Commission held a public hearing on the subject; oral testimony was given by one individual on September 8th. The proposed ordinance addresses the concerns he outlined. At the conclusion of the September 8th hearing, the Planning Commission voted to recommend approval of the proposed code amendments. See attached Planning Commission Resolution.

*NSA Technical Corrections* - On April 7, 2008 the Planning Commission held a work session with planning staff on the NSA technical corrections. On June 2, 2008 the Planning Commission held a public hearing on the subject; there was no public testimony either orally or in writing. At the conclusion of the hearing the Planning Commission voted to recommend approval of the proposed code amendments. See attached Planning Commission Resolution.

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**Required Signature**

---

Elected Official or  
Department/  
Agency Director:



Date: 11/18/08

## BOGSTAD Deborah L

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**From:** ESTRIN Lisa M  
**Sent:** Thursday, December 04, 2008 4:32 PM  
**To:** BOGSTAD Deborah L  
**Subject:** RE: Agenda Item R9 ord. modifications revised

Section 24, 26 & Section 27 was added.

Lisa Estrin  
Planner

-----Original Message-----

**From:** BOGSTAD Deborah L  
**Sent:** Thursday, December 04, 2008 4:28 PM  
**To:** ESTRIN Lisa M  
**Subject:** RE: Agenda Item R9 ord. modifications revised

Lisa, can you tell me which sections or pages were revised? Thank you!

**Deb Bogstad, Board Clerk**  
**Multnomah County Commissioners**  
**501 SE Hawthorne Boulevard, Suite 600**  
**Portland, Oregon 97214-3587**  
**(503) 988-3277 phone**  
**(503) 988-3013 fax**  
**[deborah.l.bogstad@co.multnomah.or.us](mailto:deborah.l.bogstad@co.multnomah.or.us)**  
**<http://www.co.multnomah.or.us/cc/index.shtml>**

-----Original Message-----

**From:** ESTRIN Lisa M  
**Sent:** Thursday, December 04, 2008 4:02 PM  
**To:** BOGSTAD Deborah L  
**Cc:** SCHILLING Karen C  
**Subject:** Agenda Item R9 ord. modifications revised

Deb,

Please dismiss the last email on these revisions. Please post the attached document.

Thank you.

Lisa Estrin  
Planner  
Multnomah County  
Land Use Planning  
503.988.3043 ext. 22597

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending the Multnomah County Code Chapter 38, National Scenic Area, to Make Technical Corrections for Consistency with the Columbia River Gorge NSA Management Plan and to Update NSA Approval Criteria for Horse Boarding

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

**Multnomah County Ordains as follows:**

**Section 1.**      § 38.0030 is amended as follows:

**38.0030 Existing Uses and Discontinued Uses**

* * *

(C) Replacement of Existing Structures Damaged or Destroyed by Disaster: An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

* * *

(5) The replacement structure shall be subject to (B)(1), ~~and (B)(2), and (B)(3)~~ above if it would not comply with (C)(2) and (C)(3) above.

* * *

**Section 2.**      § 38.0045 is amended as follows:

**38.0045 Review and Conditional Use Applications - Submittal Requirements**

(A) The following additional information shall be submitted for all review and conditional uses:

* * *

(4) In the General Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes ~~between greater than 10 and 30~~ percent shall include a grading plan. In the Special Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent (except trails) shall include a grading plan. Grading plans shall include the following:

* * *

**Section 3.**      **§ 38.0080 is amended as follows:**

**38.0080 Signs**

(A) The following signs may be permitted without review in the General Management Area, and in the Special Management Area subject to MCC 38.0080 (E):

* * *

(4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided:

(a) signs are not greater than 6 square feet in the General Management Area ~~and the Special Management Area Open Space zone district.~~

(b) signs are not greater than 2 square feet in all Special Management zones, ~~except the Open Space zone district.~~

* * *

**Section 4.**      **§ 38.1005 is amended as follows:**

**38.1005 Allowed Uses**

(A) The following uses may be allowed without review in all zone districts except General Management Area Open Space (GGO, GGO-GW, and GGO-SP) and Special Management Area Open Space (GSO) zone districts.

* * *

(4) Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, transportation facilities, or utility facilities.

(5) Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to 500 feet in length and less than or equal to 10 feet in height that are accessory to an existing dwelling, provided woven-wire fences (posts and wire) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

* * *

**Section 5.**      **§ 38.1010 is amended as follows:**

**38.1010 Expedited Uses.**

(A) The following development may be reviewed using the expedited process listed in MCC 38.0530(B), and are permitted when found to satisfy the applicable approval criteria pursuant to the provisions of MCC 38.7100.

(1) Except in Open Space zoning districts, accessory structures between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

* * *

(13) Removal/Demolition of structures that are less than 50 years old, including wells, septic tanks and fuel tanks.

* * *

**Section 6.**      **§ 38.2025 is amended as follows:**

**38.2025 Review Uses**

(A) The following uses may be allowed on lands designated GGF, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(17) The following uses when found to comply with MCC 38.7310:

* * *

(g) Boarding of horses or non-profit horse rescue facility, subject to MCC 38.7385.

* * *

(B) The following uses may be allowed on lands designated GSF pursuant to MCC 38.0530 (B) when the use or development will be sited to minimize the loss of land suitable for the production of forest products and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(13) Removal/Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

* * *

**Section 7.**      **§ 38.2030 is amended as follows:**

**38.2030 Conditional Uses**

(A) The following conditional uses may be allowed on lands designated GGF, pursuant to the provisions of MCC 38.0045 and 38.7300:

* * *

(4) ~~Life Estates on lands designated GGF—20,~~ pursuant to MCC 38.7355.

* * *

**Section 8.**      **§ 38.2225 is amended as follows:**

**38.2225 Review Uses**

* * *

(B) The following uses may be allowed on lands designated GSA—40 pursuant to MCC 38.0530 (B), provided that the use or development will be sited to minimize the loss of land suitable for the production of agricultural crops or livestock and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(19) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(20) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

**Section 9.**      **§ 38.2625 is amended as follows:**

**38.2625 Review Uses**

* * *

(D) The following uses may be allowed on lands designated GSO, pursuant to MCC 38.0530 (B), when consistent with an open space plan approved by the U.S. Forest Service and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(6) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks, and fuel tanks.

* * *



**Section 10.**     § 38.3025 is amended as follows:

**38.3025 Review Uses**

* * *

(B) The following uses may be allowed on lands designated GSR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(10) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

* * *

**Section 11.**     § 38.2825 is amended as follows:

**38.2825 Review Uses**

* * *

(C) The following uses are allowed on all lands designated GS- PR pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(1) ~~Forest u~~Uses and practices in the Gorge Special Forestry (GSF) district as allowed in MCC 38.2025 (B), except (B)(8) and (B)(9).

* * *

(7) ~~Agricultural u~~Uses in the gorge Special Agriculture (GSA) district as allowed in MCC 38.2225(B), except (B)(7) and B(8).

* * *

(11) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(12) Docks and boathouses, subject to MCC 38.7325.

(13) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

**Section 12.**     § 38.7035 is amended as follows:

**38.7035 GMA Scenic Review Criteria**

The following scenic review standards shall apply to all Review and Conditional Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

* * *

(B) All Review Uses and Conditional Uses topographically visible from Key Viewing Areas:

* * *

(13) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors~~specified in the landscape setting for the subject property.~~

* * *

(C) All Review Uses and Conditional Uses within the following landscape settings, regardless of visibility from KVAs:

* * *

(6) Village

* * *

(f) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements:

1. Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway.
2. The landscape strip required in subsection (ef) 1. above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.

* * *

(8) Gorge Walls, Canyons and Wildlands

* * *

(d) All ~~structures~~ buildings shall be limited in height to 1 1/2 stories.

* * *

(D) All Review Uses and Conditional Uses within scenic travel corridors:

* * *

(6) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the

vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in MCC 38.7035 (B) (~~2829~~).

(7) Expansion of existing quarries may be allowed pursuant to MCC 38.7035 (B) (~~2526~~). Compliance with visual subordination requirements shall be achieved within time frames specified in MCC 38.7035 (B) (~~2728~~).

**Section 13.     § 38.7040 is amended as follows:**

**38.7040 SMA Scenic Review Criteria**

The following scenic review standards shall apply to all Review and Conditional Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

(A) All Review Uses and Conditional Uses visible from KVAs. This section shall apply to proposed development on sites topographically visible from KVAs:

* * *

(5) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

* * *

(b) Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for ~~are visually subordinate to~~ their setting as seen from key viewing areas, including but not limited to:

1. Siting (location of development on the subject property, building orientation, and other elements),

* * *

(11) The exterior of ~~buildings-structures~~ on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. The *Scenic Resources Implementation Handbook* will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure meeting the scenic standard. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.

* * *

**Section 14.     § 38.7045 is amended as follows:**

**38.7045 GMA Cultural Resource Review Criteria**

* * *

(H) An Assessment of Effect shall meet the following standards:

(1) The Assessment of Effect shall be based on the criteria published in *Protection of Historic Properties* (36 CFR Part 800.9~~5~~) and shall incorporate the results of the Reconnaissance or Historic Survey and the Evaluation of Significance. All documentation shall follow the requirements listed in 36 CFR Part 800.8~~11~~.

(a) Proposed uses have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR Part 800.9(a)~~5~~].

(b) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR Part 800.9(b)~~5~~]. Adverse effects on cultural resources include, but are not limited to:

1. Physical destruction, damage, or alteration of all or part of the cultural resource;
2. Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant;
3. Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting;
4. Neglect of a significant cultural resource resulting in its deterioration or destruction except as described in 36 CFR 800.5; or
5. ~~Transfer, lease, or sale of the cultural resource.~~

* * *

(J) Mitigation plans shall meet the following standards:

* * *

(3) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR Part 800.8(d)~~11~~, including, but not limited to:

* * *

(L) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to

the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

* * *

(3) Survey and Evaluation – The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from SHPO (~~see ORS 273.705 and~~ ORS 358.905 to 358.955). It will gather enough information to evaluate the significance of the cultural resources. The survey and evaluation will be documented in a report that generally follows the standards in MCC 38.7045 (C) (2) and MCC 38.7045 (E).

* * *

**Section 15.**     § 38.7050 is amended as follows:

**38.7050 SMA Cultural Resource Review Criteria**

* * *

(G) If the U.S. Forest Service or Planning Director determines that a cultural resource survey is required for a new development or land use on all Federal lands, federally assisted projects and forest practices, it shall consist of the following:

* * *

**(4) Assessment of Effect**

(a) For each significant (*i.e.*, National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.9-5 *Assessing Effects*. Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for subsections (b) through (d) below. The U.S. Forest Service shall review each determination for adequacy and appropriate action.

(b) If the proposed development or change in use will have "No Adverse Effect" (36 CFR 800.84) to a significant cultural resource, documentation for that finding shall be completed, following the "~~Documentation Requirements~~Standards" of 36 CFR 800.8(a)11. ~~If the proposed development or change in use will have an effect, then the Resolution of Adverse Effects criteria of adverse effect must be applied (36 CFR 800.5).~~

(c) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.9(b)5 to a cultural resource, the type and extent of "Adverse Effect" upon the qualities of the property that make it eligible to the National Register shall be documented 36 CFR 800.6 "Resolution of Adverse Effects." This documentation shall follow the process outlined under 36 CFR 800.5(e)11 "Failure to Resolve Adverse Effects."

(d) If the "effect" appears to be beneficial (*i.e.*, an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the significant cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.8-11 Documentation Requirements~~Standards~~.

(5) Mitigation

(a) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects pursuant to 36 CFR 800.6 "Resolution of Adverse Effects." These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

* * *

**Section 16.**     § 38.7055 is amended as follows:

**38.7055 GMA Wetland Review Criteria**

* * *

(C) The following uses may be allowed in wetlands and wetland buffer zones when approved pursuant to the provisions of MCC 38.0045, MCC 38.7055 (E), and reviewed under the applicable provisions of MCC 38.7035 through 38.7085:

(1) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(a) Increase the size of an existing structure by more than 100 percent,

(b) Result in a loss of wetlands acreage or functions, ~~or~~ and

(c) Intrude further into a wetland or wetlands buffer zone.

* * *

**Section 17.**     § 38.7075 is amended as follows:

**38.7075 SMA Natural Resource Review Criteria**

All new developments and land uses shall be evaluated using the following standards to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered.

* * *

(H) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 feet of a sensitive wildlife/plant site and/or area. Sensitive Wildlife Areas are those areas depicted in the wildlife inventory and listed in Table 4-2 of the Management Plan titled "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge", including all Priority Habitats Table. Sensitive Plants are listed in Table 7-3 of the Management Plan, titled "Columbia Gorge and Vicinity Endemic Plant Species." The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

* * *

**Section 18.**     § 38.7090 is amended as follows:

**38.7090 Responses to an Emergency/Disaster Event**

Responses to an emergency/disaster event are allowed in all zoning districts within the Columbia River Gorge National Scenic Area when in compliance with the following standards:

* * *

**(E) Post-Emergency/Disaster Response Site Review Approval Criteria**

Actions taken in all land use designations that are in response to an emergency/disaster event shall be reviewed for compliance with the following standards:

**(1) Scenic Resources**

(a) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable, except for actions located in the Corbett Rural Center zoning district. In the SMA, such actions shall meet the scenic standard to the greatest extent practicable.

* * *

**Section 19.**     § 38.7100 is amended as follows:

**38.7100 Expedited Development Review Criteria**

(A) Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

**(1) Scenic.**

(a) In the General Management Area, the scenic resource protection provisions MCC 38.7100 (A)(1)(b) through (f) shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.

(b) Except signs, ~~T~~he colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.

(c) Except signs, ~~S~~tructures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.

* * *

**(2) Cultural**

(a) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The GMA

Cultural Resources Reconnaissance Survey Criteria in MCC 38.7045(A)(1), (2), and (3) shall be used to determine if a reconnaissance and/or historic survey is required for a proposed development.

* * *

**Section 20.**     **§ 38.7355 is amended as follows:**

**38.7355 Life Estates**

A landowner who sells or otherwise transfers real property on lands designated GGA or GGF may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in MCC 38.0015. A second dwelling may be allowed subject to compliance with MCC 38.7000 to 38.7085, and upon findings that:

(A) The proposed dwelling is in conjunction with agricultural use as determined by MCC 38.2225 (A) (5) (c); or

(B) On lands designated GGF—20, one single-family dwelling on a legally created parcel upon enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of the dwelling shall comply with MCC 38.7305 and 38.7315. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated GGF— 80, GGF— 20, GGA— 40, or GGA— 20.

(C) Upon termination of the life estate, either the original or second dwelling shall be removed.

**Section 21.**     **§ 38.7360 is amended as follows:**

**38.7360 Cluster Development**

* * *

(C) Cluster development may create up to 25 percent more parcels (rounded to the nearest whole number) than otherwise allowed by the minimum parcel size on lands designated GGR— 5 or GGR— 10 and up to 50 percent more on parcels (rounded to the nearest whole number) on lands designated GGA— 20, GGF— 20, or GGF—40.

* * *

**Section 22.**     **§ 38.7970 is amended as follows:**

**38.7970 Property Line Adjustment (Lot Line Adjustment)**

* * *

(B) In the Special Management Area:

* * *



(6) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection provisions, including, but not limited to requirements for buffer zones and landscaping.

**Section 23.**     § 38.0015 is amended as follows:

**38.0015 Definitions**

As used in MCC Chapter 38, unless otherwise noted, the following words and their derivations shall have the following meanings:

* * *

**Agricultural use:** The current employment of land for the primary purpose of obtaining a profit in money by the raising, harvesting and selling of crops, or by the feeding, breeding, management and sale of livestock, poultry, fur-bearing animals or honeybees, or dairying and the sale of dairy products, or any other agricultural or horticultural use including Christmas trees. Agricultural use does not include livestock feedlots, the boarding of horses or non-profit horse rescue facility and their accessory uses. Current employment of land for agricultural use includes:

- (a) The operation or use of farmland subject to any government agricultural program;
- (b) Land lying fallow for one year as a normal and regular requirement of good agricultural management;
- (c) Land planted to orchards or to other perennial crops prior to maturity; and
- (d) Land under buildings supporting accepted agricultural practices.
- ~~(e) Current employment does not include livestock feed lots.~~

* * *

**Animal-unit-month:** The amount of forage or feed required to feed one horse, one cow/calf pair, 5 sheep/ 5 goats, 4 llamas/alpacas or other livestock for 30 days.

* * *

**Horses, ~~b~~Boarding of Horses (GMA):** The stabling, feeding and grooming for a fee, or the renting of stalls and related facilities, such as training arenas, corrals and exercise tracks, for the care of horses not belonging to the owner of the property. The leasing, renting or use of a pasture for horses by an individual or family does not constitute the boarding of horses provided the use of the pasture is for a single individual or family's animals.

* * *

**Non-profit Horse Rescue Facility (GMA):** The stabling, feeding, grooming, and provision of care for sick, abandoned, or rescued horses, operated by a non-profit organization to facilitate the rehabilitation, adoption, and permanent placement of abused, neglected or unwanted horses.

* * *

**Section 24.**     § 38.2230 is amended as follows:

**38.2230 Conditional Uses**

(A) The following conditional uses may be allowed on lands designated GGA, pursuant to the provisions of MCC 38.0045 and 38.7300.

* * *

(9) Boarding of horses or non-profit horse rescue facility, subject to MCC 38.7385.

* * *

**Section 25.**     § 38.3030 is amended as follows:

**38.3030 Conditional Uses**

(A) The following conditional uses may be allowed on lands designated GGR, pursuant to the provisions of MCC 38.0045 and MCC 38.7300 (C):

* * *

(14) Special uses in historic buildings, subject to MCC 38.7380.

(15) Boarding of horses or non-profit horse rescue facility on lands designated GGR-10, subject to MCC 38.7385.

**Section 26.**     § 38.7385 is added as follows:

**38.7385 Boarding of Horses or Non-Profit Horse Rescue Facility**

(A) The boarding of horses or a non-profit horse rescue facility may be established as authorized in various districts provided the approval authority finds that the property characteristics, parcel size and impacts to neighbors shall be considered in establishing the use on the proposed property and setting a maximum number of horses that may be boarded at any one time.

(B) The applicant shall submit the following information with related supporting evidence to demonstrate compliance with the criteria under (A):

(1) A description of the proposed horse facility with all accompanying accessory uses shall be provided. This shall include the maximum number of horses to be boarded on site, number of employees, accessory uses and services to be provided and hours that the facility will be available to the horse owners. The description shall include a site plan identifying the uses intended for a specific area, and floor plans and building elevations for all proposed buildings.

(2) A Stewardship Plan consisting of an Operations Plan and Maximum Usage Plan shall be created by the applicant in consultation with the Oregon Department of Agriculture, East Multnomah Soil and Water Conservation District or Oregon Extension Service for the proposed

site of the horse boarding facility.

(a) The Operation Plan shall include the following:

1. Soil types and its animal-unit-month rating for all pastures to be used as part of the operation;
2. Irrigation techniques, if proposed;
3. Off-stream stock watering;
4. Pasture management;
5. Manure, waste and compost management;
6. Mud, dust and fly control;
7. Dedicated all-weather paddock;
8. Stream bank and riparian vegetation preservation;
9. Capture and reuse rainwater and snowmelt on the site from areas of animal confinement and impervious surfaces.

(b) The Maximum Usage Plan shall specify the maximum number of horses to be boarded based upon the animal-units-month rating of the site.

1. The plan shall:

- a. Consider all livestock to be pastured on the site in establishing the number of horses to be boarded.
- b. Maintain adequate ground cover and vegetation for all areas to be used as part of the horse boarding use to prevent soil erosion.
- c. Provide basic measurements to verify that the operation plan is achieving the necessary impact reductions for erosion & sediment control, dust control and insect control.

(C) The following accessory uses, if proposed, shall be evaluated as part of the boarding of horses use or non-profit horse rescue facility:

- (1) Riding arena, covered or uncovered;
- (2) Lessons to boarders (minor component)
- (3) Training tracks;
- (4) Hot walkers, covered or uncovered;
- (5) Horse pool, covered or uncovered;

(6) Storage building for hay and grains;

(7) Farrier services & veterinarian services on an intermittent basis provided only for the use of owners of horses boarded at the facility;

(8) Horse trailer storage only for the use of owners of horses boarded at the facility. The area where the horse trailers are to be stored shall be screened by evergreen vegetation or topography from the public road, adjacent properties and from all key viewing areas.

(9) The hosting of fund-raising events for a non-profit horse rescue operation.

**Section 27.** The amendments to Chapter 38 Columbia River Gorge National Scenic Area shall be effective upon notification of approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

FIRST READING:

December 4, 2008

SECOND READING AND ADOPTION:

December 11, 2008

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By _____  
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

#1

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

***This form is a public record***

MEETING DATE: 12/11/2008

SUBJECT: R-3 - National Scenic Area

AGENDA NUMBER OR TOPIC: R-3

FOR: NEUTRAL AGAINST: _____ THE ABOVE AGENDA ITEM NEUTRAL ✓

NAME: Nathan Baker

ADDRESS: 522 SW 5th Ave, Suite 720

CITY/STATE/ZIP: Portland, OR 97204

PHONE: DAYS: 503-241-3762 x101 EVES: _____

EMAIL: nathan@gorgefriends.org FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1125**

Amending the Multnomah County Code Chapter 38, National Scenic Area, to Make Technical Corrections for Consistency with the Columbia River Gorge NSA Management Plan and to Update NSA Approval Criteria for Horse Boarding

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

**Multnomah County Ordains as follows:**

**Section 1.**      **§ 38.0030 is amended as follows:**

**38.0030 Existing Uses and Discontinued Uses**

* * *

(C) Replacement of Existing Structures Damaged or Destroyed by Disaster: An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

* * *

(5) The replacement structure shall be subject to (B)(1), ~~and (B)(2), and (B)(3)~~ above if it would not comply with (C)(2) and (C)(3) above.

* * *

**Section 2.**      **§ 38.0045 is amended as follows:**

**38.0045 Review and Conditional Use Applications - Submittal Requirements**

(A) The following additional information shall be submitted for all review and conditional uses:

* * *

(4) In the General Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes between greater than 10 and 30 percent shall include a grading plan. In the Special Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent (except trails) shall include a grading plan. Grading plans shall include the following:

* * *

**Section 3.**      **§ 38.0080 is amended as follows:**

**38.0080 Signs**

(A) The following signs may be permitted without review in the General Management Area, and in the Special Management Area subject to MCC 38.0080 (E):

* * *

(4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided:

(a) signs are not greater than 6 square feet in the General Management Area ~~and the Special Management Area Open Space zone district.~~

(b) signs are not greater than 2 square feet in all Special Management zones, ~~except the Open Space zone district.~~

* * *

**Section 4.**      **§ 38.1005 is amended as follows:**

**38.1005 Allowed Uses**

(A) The following uses may be allowed without review in all zone districts except General Management Area Open Space (GGO, GGO-GW, and GGO-SP) and Special Management Area Open Space (GSO) zone districts.

* * *

(4) Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, transportation facilities, or utility facilities.

(5) Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to 500 feet in length and less than or equal to 10 feet in height that are accessory to an existing dwelling, provided woven-wire fences (posts and wire) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

* * *

**Section 5.**      § 38.1010 is amended as follows:

**38.1010 Expedited Uses.**

(A) The following development may be reviewed using the expedited process listed in MCC 38.0530(B), and are permitted when found to satisfy the applicable approval criteria pursuant to the provisions of MCC 38.7100.

(1) Except in Open Space zoning districts, accessory structures between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

* * *

(13) Removal/Demolition of structures that are less than 50 years old, including wells, septic tanks and fuel tanks.

* * *

**Section 6.**      § 38.2025 is amended as follows:

**38.2025 Review Uses**

(A) The following uses may be allowed on lands designated GGF, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(17) The following uses when found to comply with MCC 38.7310:

* * *

(g) Boarding of horses or non-profit horse rescue facility, subject to MCC 38.7385.

* * *

(B) The following uses may be allowed on lands designated GSF pursuant to MCC 38.0530 (B) when the use or development will be sited to minimize the loss of land suitable for the production of forest products and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(13) Removal/Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

* * *



**Section 7.**     **§ 38.2030 is amended as follows:**

**38.2030 Conditional Uses**

(A) The following conditional uses may be allowed on lands designated GGF, pursuant to the provisions of MCC 38.0045 and 38.7300:

* * *

(4) Life Estates ~~on lands designated GGF—20,~~ pursuant to MCC 38.7355.

* * *

**Section 8.**     **§ 38.2225 is amended as follows:**

**38.2225 Review Uses**

* * *

(B) The following uses may be allowed on lands designated GSA—40 pursuant to MCC 38.0530 (B), provided that the use or development will be sited to minimize the loss of land suitable for the production of agricultural crops or livestock and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(19) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(20) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

**Section 9.**     **§ 38.2625 is amended as follows:**

**38.2625 Review Uses**

* * *

(D) The following uses may be allowed on lands designated GSO, pursuant to MCC 38.0530 (B), when consistent with an open space plan approved by the U.S. Forest Service and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(6) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks, and fuel tanks.

* * *

**Section 10.**     § 38.3025 is amended as follows:

**38.3025 Review Uses**

* * *

(B) The following uses may be allowed on lands designated GSR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(10) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

* * *

**Section 11.**     § 38.2825 is amended as follows:

**38.2825 Review Uses**

* * *

(C) The following uses are allowed on all lands designated GS- PR pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(1) ~~Forest-u~~Uses and practices in the Gorge Special Forestry (GSF) district as allowed in MCC 38.2025 (B), except (B)(8) and (B)(9).

* * *

(7) ~~Agricultural-u~~Uses in the gorge Special Agriculture (GSA) district as allowed in MCC 38.2225(B), except (B)(7) and B(8).

* * *

(11) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(12) Docks and boathouses, subject to MCC 38.7325.

(13) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

**Section 12.**     § 38.7035 is amended as follows:

**38.7035 GMA Scenic Review Criteria**

The following scenic review standards shall apply to all Review and Conditional Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

* * *

(B) All Review Uses and Conditional Uses topographically visible from Key Viewing Areas:

* * *

(13) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors~~specified in the landscape setting for the subject property.~~

* * *

(C) All Review Uses and Conditional Uses within the following landscape settings, regardless of visibility from KVAs:

* * *

(6) Village

* * *

(f) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements:

1. Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway.
2. The landscape strip required in subsection (ef) 1. above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.

* * *

(8) Gorge Walls, Canyons and Wildlands

* * *

(d) All ~~structures~~ buildings shall be limited in height to 1 1/2 stories.

* * *

(D) All Review Uses and Conditional Uses within scenic travel corridors:

* * *

(6) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the

vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in MCC 38.7035 (B) (2829).

(7) Expansion of existing quarries may be allowed pursuant to MCC 38.7035 (B) (2526). Compliance with visual subordination requirements shall be achieved within time frames specified in MCC 38.7035 (B) (2728).

**Section 13.**     § 38.7040 is amended as follows:

**38.7040 SMA Scenic Review Criteria**

The following scenic review standards shall apply to all Review and Conditional Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

(A) All Review Uses and Conditional Uses visible from KVAs. This section shall apply to proposed development on sites topographically visible from KVAs::

* * *

(5) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

* * *

(b) Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for ~~are visually subordinate to~~ their setting as seen from key viewing areas, including but not limited to:

1. Siting (location of development on the subject property, building orientation, and other elements),

* * *

(11) The exterior of ~~buildings-structures~~ on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. The *Scenic Resources Implementation Handbook* will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure meeting the scenic standard. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.

* * *

**Section 14.**     § 38.7045 is amended as follows:

**38.7045 GMA Cultural Resource Review Criteria**

* * *

(H) An Assessment of Effect shall meet the following standards:

(1) The Assessment of Effect shall be based on the criteria published in *Protection of Historic Properties* (36 CFR Part 800.9~~5~~) and shall incorporate the results of the Reconnaissance or Historic Survey and the Evaluation of Significance. All documentation shall follow the requirements listed in 36 CFR Part 800.8~~11~~.

(a) Proposed uses have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR Part 800.9(a)~~5~~].

(b) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR Part 800.9(b)~~5~~]. Adverse effects on cultural resources include, but are not limited to:

1. Physical destruction, damage, or alteration of all or part of the cultural resource;
2. Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant;
3. Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting;
4. Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5; ~~or~~
5. ~~Transfer, lease, or sale of the cultural resource.~~

* * *

(J) Mitigation plans shall meet the following standards:

* * *

(3) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR Part 800.8(d)~~11~~, including, but not limited to:

* * *

(L) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to

the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

* * *

(3) Survey and Evaluation – The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from SHPO (~~see ORS 273.705 and~~ ORS 358.905 to 358.955). It will gather enough information to evaluate the significance of the cultural resources. The survey and evaluation will be documented in a report that generally follows the standards in MCC 38.7045 (C) (2) and MCC 38.7045 (E).

* * *

**Section 15.**     § 38.7050 is amended as follows:

**38.7050 SMA Cultural Resource Review Criteria**

* * *

(G) If the U.S. Forest Service or Planning Director determines that a cultural resource survey is required for a new development or land use on all Federal lands, federally assisted projects and forest practices, it shall consist of the following:

* * *

**(4) Assessment of Effect**

(a) For each significant (*i.e.*, National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.9-5 Assessing Effects. Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for subsections (b) through (d) below. The U.S. Forest Service shall review each determination for adequacy and appropriate action.

(b) If the proposed development or change in use will have "No Adverse Effect" (36 CFR 800.84) to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Requirements Standards" of 36 CFR 800.8(a)11. If the proposed development or change in use will have an effect, then the Resolution of Adverse Effect criteria of adverse effect must be applied (36 CFR 800.5).

(c) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.9(b)5 to a cultural resource, the type and extent of "Adverse Effect" upon the qualities of the property that make it eligible to the National Register shall be documented 36 CFR 800.6 "Resolution of Adverse Effects." This documentation shall follow the process outlined under 36 CFR 800.5(e)11 "Failure to Resolve Adverse Effects."

(d) If the "effect" appears to be beneficial (*i.e.*, an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the significant cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.8-11 Documentation Requirements Standards.

(5) Mitigation

(a) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects pursuant to 36 CFR 800.6 "Resolution of Adverse Effects." These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

* * *

**Section 16.** § 38.7055 is amended as follows:

**38.7055 GMA Wetland Review Criteria**

* * *

(C) The following uses may be allowed in wetlands and wetland buffer zones when approved pursuant to the provisions of MCC 38.0045, MCC 38.7055 (E), and reviewed under the applicable provisions of MCC 38.7035 through 38.7085:

(1) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

- (a) Increase the size of an existing structure by more than 100 percent,
- (b) Result in a loss of wetlands acreage or functions, ~~or~~ and
- (c) Intrude further into a wetland or wetlands buffer zone.

* * *

**Section 17.** § 38.7075 is amended as follows:

**38.7075 SMA Natural Resource Review Criteria**

All new developments and land uses shall be evaluated using the following standards to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered.

* * *

(H) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 feet of a sensitive wildlife/plant site and/or area. Sensitive Wildlife Areas are those areas depicted in the wildlife inventory and listed in Table 4-2 of the Management Plan titled "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge", including all Priority Habitats Table. Sensitive Plants are listed in Table 7-3 of the Management Plan, titled "Columbia Gorge and Vicinity Endemic Plant Species." The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

* * *

**Section 18.**     § 38.7090 is amended as follows:

**38.7090 Responses to an Emergency/Disaster Event**

Responses to an emergency/disaster event are allowed in all zoning districts within the Columbia River Gorge National Scenic Area when in compliance with the following standards:

* * *

**(E) Post-Emergency/Disaster Response Site Review Approval Criteria**

Actions taken in all land use designations that are in response to an emergency/disaster event shall be reviewed for compliance with the following standards:

**(1) Scenic Resources**

(a) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable, except for actions located in the Corbett Rural Center zoning district. In the SMA, such actions shall meet the scenic standard to the greatest extent practicable.

* * *

**Section 19.**     § 38.7100 is amended as follows:

**38.7100 Expedited Development Review Criteria**

(A) Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

**(1) Scenic**

(a) In the General Management Area, the scenic resource protection provisions MCC 38.7100 (A)(1)(b) through (f) shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.

(b) Except signs, ~~T~~the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.

(c) Except signs, ~~S~~structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.

* * *

**(2) Cultural**

(a) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The GMA



Cultural Resources Reconnaissance Survey Criteria in MCC 38.7045(A)(1), (2), and (3) shall be used to determine if a reconnaissance and/or historic survey is required for a proposed development.

* * *

**Section 20.**     § 38.7355 is amended as follows:

**38.7355 Life Estates**

A landowner who sells or otherwise transfers real property on lands designated GGA or GGF may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in MCC 38.0015. A second dwelling may be allowed subject to compliance with MCC 38.7000 to 38.7085, and upon findings that:

(A) The proposed dwelling is in conjunction with agricultural use as determined by MCC 38.2225 (A) (5) (c); or

(B) On lands designated GGF—20, one single-family dwelling on a legally created parcel upon enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of the dwelling shall comply with MCC 38.7305 and 38.7315. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated GGF— 80, GGF— 20, GGA— 40, or GGA— 20.

(C) Upon termination of the life estate, either the original or second dwelling shall be removed.

**Section 21.**     § 38.7360 is amended as follows:

**38.7360 Cluster Development**

* * *

(C) Cluster development may create up to 25 percent more parcels (rounded to the nearest whole number) than otherwise allowed by the minimum parcel size on lands designated GGR— 5 or GGR— 10 and up to 50 percent more on parcels (rounded to the nearest whole number) on lands designated GGA— 20, GGF— 20, or GGF-40.

* * *

**Section 22.**     § 38.7970 is amended as follows:

**38.7970 Property Line Adjustment (Lot Line Adjustment)**

* * *

(B) In the Special Management Area:

* * *

(6) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection provisions, including, but not limited to requirements for buffer zones and landscaping.

**Section 23.**     **§ 38.0015 is amended as follows:**

**38.0015 Definitions**

As used in MCC Chapter 38, unless otherwise noted, the following words and their derivations shall have the following meanings:

* * *

**Agricultural use:** The current employment of land for the primary purpose of obtaining a profit in money by the raising, harvesting and selling of crops, or by the feeding, breeding, management and sale of livestock, poultry, fur-bearing animals or honeybees, or dairying and the sale of dairy products, or any other agricultural or horticultural use including Christmas trees. Agricultural use does not include livestock feedlots, the boarding of horses or non-profit horse rescue facility and their accessory uses. Current employment of land for agricultural use includes:

- (a) The operation or use of farmland subject to any government agricultural program;
- (b) Land lying fallow for one year as a normal and regular requirement of good agricultural management;
- (c) Land planted to orchards or to other perennial crops prior to maturity; and
- (d) Land under buildings supporting accepted agricultural practices.
- (e) ~~Current employment does not include livestock feed lots.~~

* * *

**Animal-unit-month:** The amount of forage or feed required to feed one horse, one cow/calf pair, 5 sheep/ 5 goats, 4 llamas/alpacas or other livestock for 30 days.

* * *

**Horses, bBoarding of Horses (GMA):** The stabling, feeding and grooming for a fee, or the renting of stalls and related facilities, such as training arenas, corrals and exercise tracks, for the care of horses not belonging to the owner of the property. The leasing, renting or use of a pasture for horses by an individual or family does not constitute the boarding of horses provided the use of the pasture is for a single individual or family's animals.

* * *

**Non-profit Horse Rescue Facility (GMA):** The stabling, feeding, grooming, and provision of care for sick, abandoned, or rescued horses, operated by a non-profit organization to facilitate the rehabilitation, adoption, and permanent placement of abused, neglected or unwanted horses.

* * *

**Section 24.**     § 38.2230 is amended as follows:

**38.2230 Conditional Uses**

(A) The following conditional uses may be allowed on lands designated GGA, pursuant to the provisions of MCC 38.0045 and 38.7300.

* * *

(9) Boarding of horses or non-profit horse rescue facility, subject to MCC 38.7385.

* * *

**Section 25.**     § 38.3030 is amended as follows:

**38.3030 Conditional Uses**

(A) The following conditional uses may be allowed on lands designated GGR, pursuant to the provisions of MCC 38.0045 and MCC 38.7300 (C):

* * *

(14) Special uses in historic buildings, subject to MCC 38.7380.

(15) Boarding of horses or non-profit horse rescue facility on lands designated GGR-10, subject to MCC 38.7385.

**Section 26.**     § 38.7385 is added as follows:

**38.7385 Boarding of Horses or Non-Profit Horse Rescue Facility**

(A) The boarding of horses or a non-profit horse rescue facility may be established as authorized in various districts provided the approval authority makes findings on the property characteristics, parcel size and impacts to neighbors and sets a maximum number of horses that may be boarded at any one time based upon those findings.

(B) The applicant shall submit the following information with related supporting evidence to demonstrate compliance with the criteria under (A):

(1) A description of the proposed horse facility with all accompanying accessory uses shall be provided. This shall include the maximum number of horses to be boarded on site, number of employees, accessory uses and services to be provided and hours that the facility will be available to the horse owners. The description shall include a site plan identifying the uses intended for a specific area, and floor plans and building elevations for all proposed buildings.

(2) A Stewardship Plan consisting of an Operations Plan and Maximum Usage Plan shall be created by the applicant in consultation with the Oregon Department of Agriculture, East Multnomah Soil and Water Conservation District or Oregon Extension Service for the proposed

site of the horse boarding facility.

(a) The Operation Plan shall include the following:

1. Soil types and its animal-unit-month rating for all pastures to be used as part of the operation;
2. Irrigation techniques, if proposed;
3. Off-stream stock watering;
4. Pasture management;
5. Manure, waste and compost management;
6. Mud, dust and fly control;
7. Dedicated all-weather paddock;
8. Stream bank and riparian vegetation preservation;
9. Capture and reuse rainwater and snowmelt on the site from areas of animal confinement and impervious surfaces.

(b) The Maximum Usage Plan shall specify the maximum number of horses to be boarded based upon the animal-units-month rating of the site.

1. The plan shall:

- a. Consider all livestock to be pastured on the site in establishing the number of horses to be boarded.
- b. Maintain adequate ground cover and vegetation for all areas to be used as part of the horse boarding use to prevent soil erosion.
- c. Provide basic measurements to verify that the operation plan is achieving the necessary impact reductions for erosion & sediment control, dust control and insect control.

(C) The following accessory uses, if proposed, shall be evaluated as part of the boarding of horses use or non-profit horse rescue facility:

- (1) Riding arena, covered or uncovered;
- (2) Lessons to boarders (minor component)
- (3) Training tracks;
- (4) Hot walkers, covered or uncovered;
- (5) Horse pool, covered or uncovered;

(6) Storage building for hay and grains;

(7) Farrier services & veterinarian services on an intermittent basis provided only for the use of owners of horses boarded at the facility;

(8) Horse trailer storage only for the use of owners of horses boarded at the facility. The area where the horse trailers are to be stored shall be screened by evergreen vegetation or topography from the public road, adjacent properties and from all key viewing areas.

(9) The hosting of fund-raising events for a non-profit horse rescue operation.

**Section 27.** The amendments to Chapter 38 Columbia River Gorge National Scenic Area shall be effective upon notification of approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

FIRST READING:

December 4, 2008

SECOND READING AND ADOPTION:

December 11, 2008



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services



# MULTNOMAH COUNTY

## AGENDA PLACEMENT REQUEST (revised 09/22/08)

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-4  
Est. Start Time: 9:55 AM  
Date Submitted: 11/18/08

**Second Reading and Possible Adoption of an ORDINANCE Amending MCC Chapter 37 Administration and Procedures, Chapter 29 Building Code, and**  
**Agenda Land Use Regulations Chapters 11.15, 33, 34, 35, 36, 38 Relating to Land Use**  
**Title: Code Enforcement**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.*

**Requested Meeting Date:** December 11, 2008 **Amount of Time Needed:** 5 minutes  
**Department:** Community Services **Division:** Land Use & Transportation  
**Contact(s):** Karen Schilling and Michael Grimmatt  
**Phone:** 988-3043 29635 **Ext.** 29604 **I/O Address:** 455/116  
**Presenter(s):** Michael Grimmatt, Karen Schilling, Jed Tomkins

### General Information

#### 1. What action are you requesting from the Board?

Adopt an ordinance amending the Multnomah County Code Amending MCC Chapter 37 Administration and Procedures, Chapter 29 Building Code, and Land Use Regulations Chapters 11.15, 33, 34, 35, 36, 38 Relating to Land Use Code Enforcement.

#### 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Code Compliance office is located within the Land Use and Transportation Planning Program, part of the Vibrant Communities Program Offer. An amended enforcement code will strengthen the County's ability to ensure clean, healthy neighborhoods and promote a vibrant sense of community.

The Ordinance includes revisions to sections of the MCC Chapter 37 Administration and Procedures, Chapter 29 Building Code, and Land Use Regulations Chapters 11.15, 33, 34, 35, 36,

and 38 relating to Land Use Code Enforcement, as discussed during the September 8, 2008, Planning Commission work session and the November 3, 2008 hearing.

The Code Compliance Program has been in operation since May 2004. As the program has developed and operated over the past few years, we have noted specific areas of the enforcement code that need clarification to improve consistency between the code and Code Compliance program operations. The proposed amendments cap the maximum fine amount and provide new authority to the Planning Director to adjust fine amounts to reflect the County's policy choice of prioritizing voluntary compliance as the preferred remedy.

The proposed revisions to the Code Enforcement provisions of Multnomah County Code Chapters 11.15, 29, 33, 34, 35, 36, 37, and 38 would:

- (1) Add a title for the code section, define *Violation*, and remove language that is inaccurate or inconsistent with the code enforcement program operations;
- (2) Incorporate urban plan areas and land division regulations within the enforcement code authority;
- (3) Provide Director Authority to settle a fine amount;
- (4) Clarify the Notice of Violation Appeal process and fine limits;
- (5) Remove the code violation fine amounts in Chapter 29 transportation and plumbing code regulations and remove the enforcement related language in Chapters 11.15, 33, 34, 35, 36, 37, and 38 for consistency with the Chapter 37 enforcement code for consistency with the Chapter 37 enforcement code.

**3. Explain the fiscal impact (current year and ongoing).**

There is no expected increase in County expenditures for this program related to the amended ordinance. Funds may be generated by civil fines assessed and collected, or liens placed by the County for non-compliance with County regulations, however significant new revenue is not expected.

**4. Explain any legal and/or policy issues involved.**

The authority of the Director to adjust fine amounts before or after a Hearings Officer decision may reduce litigation costs for resolving appeals of violations and provides another tool consistent with the County's philosophy of seeking voluntary compliance before litigation. The fine amount cap of \$10,000 per violation is a new policy decision.

In their hearing on this matter, the Planning Commission directed staff to make the Board aware of reservations the Commission had on the adequacy of the \$10,000 fine cap per violation amount. The Commission felt the fine cap was an appropriate policy change. However, the Commission had reservations on whether the \$10,000 cap per violation amount would be incentive enough for higher income property owners to voluntarily comply with County regulations, or if paying a \$10,000 fine per violation would be considered a business cost for a high profit non-permitted commercial activity instead of voluntarily ceasing the commercial use.

**5. Explain any citizen and/or other government participation that has or will take place.**

September 4, 2008: Copy of proposed enforcement code amendment provided to the Columbia River Gorge commission for review and comment.

September 5, 2008: Notice of proposed enforcement code amendment sent to the Oregon Department of Land Conservation and Development. The Department had no official concerns or recommendations.

September 8, 2008: First review of proposed enforcement code amendments by the Planning Commission.

September 17, 2008: Receipt of written public comment on proposed revisions.

November 3, 2008: The Planning Commission held a Public Hearing and received public comments on the proposed enforcement code amendments. During this meeting the Planning Commission adopted a Resolution to recommend the Board of County Commissioners adopt the proposed enforcement code amendments.

If adopted by the Board of County Commissioners, the revised enforcement related codes will be reviewed by the Columbia River Gorge Commission to ensure the revisions are compatible with the National Scenic Area regulations.

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



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**Date:** 11/18/08

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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending MCC Chapter 37 Administration and Procedures, Chapter 29 Building Code, and Land Use Regulations Chapters 11.15, 33, 34, 35, 36, 38 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 Enforcement provisions of Multnomah County Code Chapters 11.15, 29, 32, 33, 34, 35, 36, 37, and 38 would:
- (1) Add a title for the code section, define *Violation*, and remove language that is inaccurate or inconsistent with the code enforcement program operations;
  - (2) Incorporate urban plan areas and land division regulations within the enforcement code authority;
  - (3) Provide Director Authority to settle a fine amount;
  - (4) Clarify the Notice of Violation Appeal process and fine limits;
  - (5) Delete the requirement to provide a Notice of Hearing to surrounding properties when a Notice of Violation is appealed; and
  - (6) Remove the code violation fine amounts in transportation and plumbing code regulations, and the enforcement related language in Chapters 11.15, 33, 34, 35, 36, 37, and 38 for consistency with the Chapter 37 enforcement code.
- b. The proposed code revisions are in the best interests of the County.

**Multnomah County Ordains as follows:**

**Section 1.** A new § 37.0905 is added as follows:

**37.0905** _____ **Title**

This subchapter, MCC 37.0905–MCC 37.0970, shall be known as the Enforcement Code and may be so cited and referred to.

**Section 2.** § 37.0910 is amended as follows:

**37.0910** _____ **Definitions**

As used in MCC 37.0910 – 37.0970, the following words mean:

* * *

**Violation:** Any act or failure to act that is prohibited or not allowed, including any failure to take any required action, under the goals, laws, rules, regulations or permits specified in MCC § 37.0915.

**Section 3.**      **§ 37.0915 is amended as follows:**

**37.0915**          **Violations**

Any use of land, land division, 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 11.15, 11.45, 33, 34, 35, 36 and 38; §§ 29.001 through 29.365 and 29.500 through 29.611; Multnomah County 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 4.**      **§ 37.0920 is repealed and §37.0925 is amended as follows:**

**~~37.0920 Policy and Purpose~~**

~~Multnomah County's policy shall be to seek voluntary compliance in addressing code violations and use an enforcement approach when voluntary compliance fails. The purpose of these code compliance provisions is to implement this policy and provide prompt, effective and efficient enforcement of the County's land use and transportation codes~~

**37.0925**          **Rules; Code Compliance Specialist Policy; Purpose; Powers of Director**

It is county policy and the Director shall be charged with the responsibility to:

(A) Seek voluntary compliance in addressing violations and to use an enforcement approach when voluntary compliance fails or is not practicable. The purpose of the Enforcement Code is to implement this policy in a prompt, effective and efficient manner.

(AB) The Director may adopt rules necessary for the administration of the code compliance Enforcement Program.

(BC) Exercise the county's authority under the Enforcement Code and all rules adopted under it. The Director may appoint one or more Code Compliance Specialists (CCS) for purposes of administering the program administering the county's authority under the Enforcement Code and all rules adopted under it. The Director may delegate the duties of the CCS to other staff of the Department of Community Services. When an alleged violation is reported to, or discovered by the County, the CCS will evaluate the complaint and conduct a preliminary investigation to identify the priority level of the

~~violation. The CCS will not proceed further if it is determined that there is not sufficient evidence to support the allegation. If it is determined that a violation exists, the CCS will first seek voluntary compliance and may issue a Notice of Violation and fine when voluntary compliance fails.~~

**Section 5.**      **§ 37.0930 is repealed as follows:**

**37.0930 Enforcement Levels**

- ~~(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 6.**      **§ 37.0935 is amended as follows:**

**37.0935 Voluntary Compliance Agreement**

(A) The County may enter into a written voluntary compliance agreement with respondent, and the property owner, if different, before or after a Notice of Violation is issued. The agreement shall include the applicable code provision(s), required corrective action, time limits for compliance, fines if applicable and shall be binding.

(B) As part of a voluntary compliance agreement, the Director may agree to accept in full satisfaction of any fine, costs, fees or other debt due and owing to the County under the Enforcement Code payment in an amount less than the total amount due and owing and may agree to terms of payment. The Director shall establish factors to be considered prior to making the agreement authorized in this paragraph.

~~(B)~~ The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation.

~~(C)~~ The CCS will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the required corrective action.

~~(D)~~ Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by these provisions, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The CCS may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.

**Section 7.**      § 37.0940 is amended as follows:

**37.0940 Notice of Violation, Abatement, Fine and Right to Appeal**

* * *

(C) ~~An appeal, if any, from a Notice of Violation If the violation is disputed, respondent or property owner may file~~ shall be made in accordance with MCC 37.0955(A) and by submitting to the CCS a written request for an appeal hearing ~~together with the appeal fee indicated in the Notice of Violation~~ with the CCS within 14 days of the date ~~when of service of~~ the Notice of Violation was served or mailed. Such appeal requests must be accompanied by the appeal fee as indicated in the Notice to help defray the cost of the appeal

* * *

**Section 8.**      § 37.0955 is amended as follows:

**37.0955 Appeal**

* * *

(C) Appeal Hearing

* * *

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

**Section 9.**      § 37.0965 is amended as follows:

**37.0965 Civil Fine**

Violations as defined in MCC 37.0915 may be subject to fines and liens. Fines may be assessed for each violation each day.

(A) ~~The M~~maximum fines per violation shall not exceed \$3,500 for each day of noncompliance, the minimum fine per violation shall not be less than \$45 for each day of noncompliance.

(B) The Director shall set criteria for determining the fines, appeal fees and administrative fees as appropriate.

**Section 10.**      §§ 33.0915, 34.0915, 35.0915, 36.0915 and 38.0915, Penalties, are repealed as follows:

**33.0915 Penalties**

~~Violations as defined in MCC 33.0910 shall be subject to a fine of up to \$500.00 per day.~~

**34.0915 Penalties**

~~Violations as defined in MCC 34.0910 shall be subject to a fine of up to \$500.00 per day.~~

### **35.0915 Penalties**

~~Violations as defined in MCC 35.0910 shall be subject to a fine of up to \$500.00 per day.~~

### **36.0915 Penalties.**

~~Violations as defined in MCC 36.0910 shall be subject to a fine of up to \$500.00 per day.~~

### **38.0915 Penalties**

~~Violations as defined in MCC 38.0910 shall be subject to a fine of up to \$500.00 per day.~~

## **Section 11.     § 29.999 is amended as follows:**

### **29.999 Penalty.**

~~——— (A) ——— *Plumbing Code violations.* A person who violates § 29.206 of this chapter will be subject to a civil penalty of not to exceed \$100 per violation. In the case of a continuing violation, every day's continuance of the violation is a separate violation. (ORS 456.885) ('90 Code; § 9.30.090) (Ord. 362, passed 1983)~~

~~——— (B) ——— *Street standards violations.* No person shall violate any requirement of §§ 29.500 through 29.583 of this chapter or rule adopted under it. Each violation is subject to a civil penalty not to exceed \$500. It is a separate violation for each day during any portion of which a violation of any provision of this subchapter or rule adopted under it occurs.~~

~~——— (C) ——— *Bridge Special Events violations.* No person shall violate any requirement of Bridge Special Events §§ 29.700 et. seq. or rule adopted under it. Each violation is subject to a civil penalty not to exceed \$500.00. It is a separate violation for each day during any portion of which a violation of any provision of this subchapter or rule adopted under it occurs.~~

## **Section 12.     § 11.15.9045 - .9055 are repealed as follows:**

### **Interpretations, Prior Permits, Violations, Enforcement and Savings Clause**

#### **11.15.9045 Planning Commission Duty**

~~It shall be the duty of the Planning Commission to interpret the Zoning Ordinance. These interpretations shall be in writing and shall be established as policy of the Planning Commission.~~

#### **11.15.9050 Effect of Prior Permits**

~~A building or structure for which a permit was issued prior to the effective date of this Chapter shall be permitted to be constructed or erected in accordance with such permit.~~

## **11.15.9052 Violations and Enforcement**

Any use of land in violation of any provision of MCC 11.15, MCC 11.45, Chapter 29 or the terms and conditions of any permit issued under those code provisions by a person shall be subject to penalties as provided by MCC 11.15.9053.

### **(A) Definitions**

- (1) "County Ordinance" means all ordinances duly enacted by Multnomah County, including but not limited to zoning, planning, and building ordinances, as specified above.
- (2) "Notice of Violation": A written notice given to a person or persons whose action, conduct or omission constitutes a violation of any provision of the Multnomah County Code or the terms and conditions of a development permit. A stop work order constitutes a Notice of Violation, notwithstanding any subsequent notice or letter given to a person or persons. A Notice of Violation does not constitute a "land use decision" under ORS Ch. 197.
- (3) "Violator" means any person who has admitted violation of a County Ordinance or a person who has been found to have violated a County Ordinance.
- (4) "Person" includes:
  - (a) The owner, title holder, contract seller, contract buyer, possessor or user of the land upon which the violation is occurring; or, the person taking the action, or responsible for the conduct or omission which constitutes a violation of any County Ordinance; and
  - (b) The United States or agencies thereof, any state, public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof. For the purposes of this ordinance, "person" also includes those residing in or conducting business or activities in the unincorporated areas of Multnomah County.
- (5) "Decision of Appeal": The decision of the Planning Director in the appeal of the Notice of Violation. A Decision of Appeal does not constitute a land use decision under ORS Ch. 197.
- (6) "Grace Period": Time allotted to a person by the Code Enforcement Planner to correct a violation without assessment of additional penalties, or legal action being taken for the cited violation during that assigned time period. A Grace Period begins from the date the written Notice of Violation is mailed or given. Unless otherwise specified by the Code Enforcement Planner, the grace period for a Notice of Violation shall be 30 days and the grace period for a stop work order shall be 15 days. If notice is mailed, the grace period shall be extended by an additional three days. A grace period for a noticed violation does not grant a property owner the right to continue a use for the time period specified or prevent inspection or citation of new or other land use violations.

### **(B) Compliance Required**

No application for use or development of land shall be approved for a site which is subject to an enforcement action pursuant to the provisions of this section. A permit for the use or development of land may only be issued if it is necessary to correct the land use violation contained in the Notice of

## **Violation.**

### **(C) Code Enforcement Planner**

The Planning Director shall appoint one or more persons to act as the code enforcement planner(s) for purposes of issuing Notices of Violation, and for the enforcement of MCC 11.15, MCC 11.45, MCC 9.10 and MCC 9.40 or the terms and conditions of any permit issued under those code provisions.

### **(D) Enforcement Action**

1. An enforcement action may be initiated by the Code Enforcement Planner(s) on their own action, when the Division of Transportation and Land Use Planning receives a complaint, known or anonymous or receives a directive from the Board of County Commissioners. All complaints are confidential, until such time as the violation is closed.
2. If the Code Enforcement Planner determines the existence of a violation, the Code Enforcement Planner shall provide a written Notice of Violation to the person(s) suspected of committing a violation and the property owner if different. The notice shall:
  - a. Outline the nature of the violation(s), including cites to the applicable county code sections, and set forth options to correct the violation(s);
  - b. Notify the property owner and the operator/tenant that failure to comply with the Ordinance within the grace period will result in enforcement under MCC 11.15.9052(D)(3) and that a penalty of up to \$500.00 per day may be assessed per MCC 11.15.9053; and
  - c. Notify the property owner and the operator/tenant of the right to appeal the determination of a land use violation and the time limits established by this section.
3. If the person(s) notified fails to correct the violation within the grace period, the Code Enforcement Planner may impose a penalty in accordance with MCC 11.15.9053. The penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notification of the property owner and operator/tenant of the issuance of the penalty.
4. A person who receives a notice of violation may file a written appeal of the Notice of Violation with the Land Use Planning section to the Planning Director within the grace period as stipulated in the Notice of Violation. The following procedures apply to the appeal of the Planning Director:
  - a. The appellant has 45 days from the date of filing the written appeal to provide written documentation to the Planning Director in support of the appeal;
  - b. All enforcement actions, except for emergency actions taken under MCC .9052(E), shall be stayed until the Planning Director decides the appeal. In the event that the Planning Director finds in the favor of the appellant, the Notice of Violation will be rescinded.
  - c. Upon filing of an appeal by the property owner, written notice and opportunity to comment on the appeal of the Notice of Violation shall be provided to the complainant, if known, and the surrounding property owners within:
    - i. 100 feet of the subject property when inside the Urban Growth Boundary; or

- ii. ~~250 feet of the subject property where the subject property is outside the Urban Growth Boundary and not within a farm or forest resource zone; or~~
- iii. ~~500 feet of the subject property where the subject property is within a farm or forest resource zone.~~

- d. ~~The Planning Director shall consider any other written testimony submitted in support of and in opposition to the Notice of Violation;~~
- e. ~~The Planning Director shall review all written evidence and determine by a preponderance of the evidence whether a violation has occurred;~~
- f. ~~After review of the written testimony, the Planning Director shall serve the appellant and anyone who submitted evidence with a Decision of Appeal;~~
- g. ~~If the Notice of Violation is upheld, penalties as provided in MCC.9053 shall be assessed by the Planning Director;~~
- h. ~~The Planning Director may delay additional penalties at the time of the Decision of Appeal by specifying an additional grace period to allow the property owner to remove the violation from the property. If an additional grace period is granted, it shall not be less than five days; and~~
- i. ~~The penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notifying of the property owner and violator of the issuance of the penalty.~~

5. ~~If the property owner chooses to correct the violation by applying for a required permit, penalties shall accrue during the application process time period as provided in MCC.9053.~~

- a. ~~Penalties assessed from the date of application, not including any Pre-Initiation Conference, for a required permit to completion of the project, including final inspection, may be waived by the Planning Director provided the property owner completes the application process within 180 days of filing and complies with all timelines established as conditions of approval of the project and if no additional violations occur during the completion of the conditions of approval.~~
- b. ~~Timelines for compliance with the land use permit shall be included as a condition of approval of the land use permit and, if possible, shall not extend past a single construction season.~~

#### (E) Emergency Enforcement

- 1. ~~If the Code Enforcement Planner determines, as a result of a site visit by the Code Enforcement Planner or Code Enforcement Inspector, that the violation is such that irreparable harm will result, will be difficult to correct if allowed to continue, or presents an immediate health and safety danger, the Code Enforcement Planner may, without notice, issue a Stop Work Order which shall also serve as the Notice of Violation.~~
- 2. ~~The Stop Work Order shall require the property owner to immediately discontinue the use and shall impose a fine as provided in MCC.9053 pursuant to which the property owner must~~



cease all uses listed in the Stop Work Order. Penalties may be imposed pursuant to MCC 11.15.9053 for each 24 hour period in which work continues in violation of the Stop Work Order. The penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notifying the property owner and violator of the issuance of the penalty.

3. The property owner shall submit an application or correct the violation within the grace period. If the property owner fails to submit an application or correct the violation within the grace period, the Code Enforcement Planner may impose a penalty in accordance with MCC 11.15.9053. The penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notifying the property owner and violator of the issuance of the penalty.

4. If the property owner files an appeal under MCC 11.15.9052(D)(4), the property owner shall not resume the use(s) subject to the stop work order until such time as a Decision of Appeal has been issued and the Stop Work Order is removed from the property by the Planning Director.

5. The Planning Director or Code Enforcement Planner may require the placement of erosion and sediment control devices and/or other health and safety corrections to occur at his discretion.

#### (F) Notice of Violation; Occurrence; Other Remedies

1. Except as otherwise specifically provided in this ordinance, a Notice of Violation shall be used for violation of MCC 11.15, 11.45, 9.10 and 9.40.

2. Each day (24 hour period) a violation exists shall be a separate citable offense.

3. The remedies and procedures provided in this ordinance shall be in addition to any other remedy or procedure provided by any applicable law. In addition to any other remedy provided by law to the County, the County shall be entitled to its reasonable administrative costs and attorney fees. *[Amended 1998, Ord. 908 § III]*

#### (G) Judicial Review

Review of the Decision of Appeal of the Planning Director under this section by any aggrieved party, including the County of Multnomah, shall be by writ of review as provided in ORS 34.010—34.100 *[1998]*.

#### (H) Comprehensive Framework Plan and Zoning or Land Division Ordinance Interpretations

If the Notice of Violation involves a Comprehensive Framework Plan, Zoning or Land Division Ordinance interpretation by the Planning Staff, not previously decided by the Planning Commission or the Board of County Commissioners, in order to appeal Planning staff's interpretation, the property owner must include the request for interpretation by the Planning Commission in the appeal of the Notice of Violation. The property owner shall deposit with the Land Use Planning section at the time of appeal, the fee established for a Planning Commission Interpretation. The Planning Director shall initiate an action for an interpretation per MCC 11.15.9045 prior to the Decision of the Appeal. An interpretation by the Planning Commission shall be rendered within 45 days of initial Planning Commission meeting in which the item was presented. The Planning Director shall utilize the Planning Commission's Interpretation in making the determination of the Decision of Appeal.

**(1) Reporting to the Planning Commission**

~~The Land Use Planning section shall report to the Planning Commission on code enforcement activities every six months.~~

**11.15.9053 Penalties**

~~Violations as defined in MCC .9052 shall be subject to a fine of up to \$500.00 per day.~~

**11.15.9055 Savings Clause**

~~If the article, section, subsection, subdivision, phrase, clause, sentence or work in the ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of this ordinance, but shall be confined to the article, section, subsection, subdivision, phrase, clause, sentence or work held invalid or unconstitutional.~~

**Section 13.** The amendments to Chapter 38 Columbia River Gorge National Scenic Area shall be effective upon notification of approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

FIRST READING:

December 4, 2008

SECOND READING AND ADOPTION:

December 11, 2008

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

---

Please complete this form and return to the Board Clerk

***This form is a public record***

MEETING DATE: 11 DEC 08

SUBJECT: BAILOUT FOR LAND USE VIOLATORS

AGENDA NUMBER OR TOPIC: R-4

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: BOB LEPPER

ADDRESS: PO BOX 94

CITY/STATE/ZIP: TROUTDALE, OR 97060

PHONE: DAYS: 503-695-5276

EVES: _____

EMAIL: _____

FAX: _____

SPECIFIC ISSUE: PC-08-009

WRITTEN TESTIMONY: YES - SEE ATTACHED

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

11 December 2008  
Multnomah County Board of Commissioners

RE: R-4, PC-08-009, bailout reward for land use violators

The people of Oregon passed Measure 11. The message: get tough on crime. The people of Oregon passed Measure 57. The message: get tough on crime not covered by Measure 11. Every single district attorney in Oregon signed a letter saying Measure 57 would save taxpayer dollars in the long run. Governor Kulongoski wants to increase fees for increased revenue. This board has gone on record saying Multnomah County is facing a budget revenue crisis.

So what does the planning division propose? A bailout reward for the worst of the worst land use violators and keep putting off any adjustments to permit fees to insure the planning division remains a revenue depleting agency rather than a revenue neutral or revenue producing agency. And they want to continue the policy of keeping enforcement files off-limits to public scrutiny. No accountability, no transparency. Give the planning director unlimited authority without any oversight. Henry Paulson could not have written a more obnoxious bailout proposal.

At the first reading of this proposal on 4 December, my understanding is that some commissioners exercised common sense and eliminated the \$10,000 cap originally proposed. If that is the case, thank you. But this board should be aware of how this cap was originally proposed before the public and the planning commission. The cap was proposed in order to be "consistent" with the Columbia River Gorge Commission \$10,000 violation limit. Except that the Gorge Commission defines each day as a separate violation, so there is no overall cap as the planning division implied. Assistant county attorney, Jed Tomkins, conveniently failed to mention that fact before the public and the planning commission until it was mentioned by a Friends of the Gorge attorney and myself during public comment. The public has a right to expect accurate, fact-based, objective legal information from the county attorney's office and they didn't get it. Moreover, this same attorney later inserted his own personal opinion that any violation fine amounts should be "within the means" of the violator, regardless of the type of violation. Even with the removal of the cap, this proposal still gives the Director authority to reduce or eliminate any fine amount, even one imposed by a Hearings Officer and could even include "costs, fees or other debt due and owing to the County". Without any public oversight. The planning division insists on playing a hide-the-bean shell game and this proposal reflects the attitude of keeping the public in the dark. Why reduce or eliminate any fines, costs, fees, etc. when a violator has thumbed his nose at laws and regulations for 18 years, racked up at least 10 violations and cost other taxpayers tens of thousands of dollars. That is a real case and one of the primary targets for this bailout. The property owner lost his final appeal before the Oregon Court of Appeals several months ago but is still operating an illegal business without a permit (and still receiving income from that illegal business) because the planning division continues to drag their feet on enforcement. So what if fine amounts under the current process have "accumulations with potential to be more than the value of the property"? Have a sheriff's sale of the violator's property and then go after any other assets. Other law-abiding taxpayers should not have to foot the bill because the planning director wants to protect a land use violator. This commission should also be aware that under the old "mandatory" enforcement process fines were collected. Under the new "voluntary" process (in effect for over four years) not one single dollar has been collected and the backlog of cases is several hundred and growing. So any claim that the voluntary approach is working is false. Watering it down even further by giving bailout authority to the director won't solve the enforcement problem. Changing the attitude of the planning division and apparently the county attorney's office, including pink slips for some personnel, might. And it would certainly help your claimed budget crisis.

Bob Leipper PO Box 94 Troutdale OR 97060

503-695-5276

#2

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

***This form is a public record***

MEETING DATE: 12/11/2008

SUBJECT: R-4 National Scenic Area Enforcement

AGENDA NUMBER OR TOPIC: R-4

FOR: ☒ AGAINST: ☐ THE ABOVE AGENDA ITEM

NAME: Nathan Baker

ADDRESS: 522 SW 5th Ave. Suite 720

CITY/STATE/ZIP: Portland, OR 97204

PHONE: DAYS: 503-241-3762 x101 EVES: _____

EMAIL: Nathan @ gogetfriendly.org FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

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2. Written testimony will be entered into the official record.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1126**

Amending MCC Chapter 37 Administration and Procedures, Chapter 29 Building Code, and Land Use Regulations Chapters 11.15, 33, 34, 35, 36, 38 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 Enforcement provisions of Multnomah County Code Chapters 11.15, 29, 32, 33, 34, 35, 36, 37, and 38 would:

- (1) Add a title for the code section, define *Violation*, and remove language that is inaccurate or inconsistent with the code enforcement program operations;
- (2) Incorporate urban plan areas and land division regulations within the enforcement code authority;
- (3) Provide Director Authority to settle a fine amount;
- (4) Clarify the Notice of Violation Appeal process and fine limits;
- (5) Delete the requirement to provide a Notice of Hearing to surrounding properties when a Notice of Violation is appealed; and
- (6) Remove the code violation fine amounts in transportation and plumbing code regulations, and the enforcement related language in Chapters 11.15, 33, 34, 35, 36, 37, and 38 for consistency with the Chapter 37 enforcement code.

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

**Multnomah County Ordains as follows:**

**Section 1.** A new § 37.0905 is added as follows:

**37.0905 Title**

This subchapter, MCC 37.0905–MCC 37.0970, shall be known as the Enforcement Code and may be so cited and referred to.

**Section 2.** § 37.0910 is amended as follows:

**37.0910 Definitions**

As used in MCC 37.0910 – 37.0970, the following words mean:

* * *

**Violation:** Any act or failure to act that is prohibited or not allowed, including any failure to take any required action, under the goals, laws, rules, regulations or permits specified in MCC § 37.0915.

**Section 3.**      **§ 37.0915 is amended as follows:**

**37.0915**          **Violations**

Any use of land, land division, 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 11.15, 11.45, 33, 34, 35, 36 and 38; §§ 29.001 through 29.365 and 29.500 through 29.611; Multnomah County 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 4.**      **§ 37.0920 is repealed and §37.0925 is amended as follows:**

**~~37.0920 Policy and Purpose~~**

~~Multnomah County's policy shall be to seek voluntary compliance in addressing code violations and use an enforcement approach when voluntary compliance fails. The purpose of these code compliance provisions is to implement this policy and provide prompt, effective and efficient enforcement of the County's land use and transportation codes~~

**37.0925**          **~~Rules; Code Compliance Specialist~~Policy; Purpose; Powers of Director**

It is county policy and the Director shall ~~be charged with the responsibility to:~~

(A) Seek voluntary compliance in addressing violations and to use an enforcement approach when voluntary compliance fails or is not practicable. The purpose of the Enforcement Code is to implement this policy in a prompt, effective and efficient manner.

~~(AB) The Director may a~~Adopt rules necessary for the administration of the ~~code compliance~~Enforcement pProgram.

~~(BC) Exercise the county's authority under the Enforcement Code and all rules adopted under it. The Director may appoint one or more Code Compliance Specialists (CCS) for purposes of administering the program~~administering the county's authority under the Enforcement Code and all rules adopted under it. The Director may delegate the duties of the CCS to other staff of ~~DBCS~~Department of Community Services. ~~When an alleged violation is reported to, or discovered by the County, the CCS will evaluate the complaint and conduct a preliminary investigation to identify the priority level of the~~

violation. The CCS will not proceed further if it is determined that there is not sufficient evidence to support the allegation. If it is determined that a violation exists, the CCS will first seek voluntary compliance and may issue a Notice of Violation and fine when voluntary compliance fails.

**Section 5.**      § 37.0930 is repealed as follows:

**37.0930 Enforcement Levels**

- (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 6.**      § 37.0935 is amended as follows:

**37.0935 Voluntary Compliance Agreement**

- (A) The County may enter into a written voluntary compliance agreement with respondent, and the property owner, if different, before or after a Notice of Violation is issued. The agreement shall include the applicable code provision(s), required corrective action, time limits for compliance, fines if applicable and shall be binding.
- (B) As part of a voluntary compliance agreement, the Director may agree to accept in full satisfaction of any fine, costs, fees or other debt due and owing to the County under the Enforcement Code payment in an amount less than the total amount due and owing and may agree to terms of payment. The Director shall establish factors to be considered prior to making the agreement authorized in this paragraph.
- (~~B~~C) The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation.
- (~~E~~D) The CCS will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the required corrective action.
- (~~D~~E) Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by these provisions, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The CCS may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.



**Section 7.**      § 37.0940 is amended as follows:

**37.0940 Notice of Violation, Abatement, Fine and Right to Appeal**

* * *

(C) An appeal, if any, from a Notice of Violation ~~If the violation is disputed, respondent or property owner may file~~ shall be made in accordance with MCC 37.0955(A) and by submitting to the CCS a written request for an appeal hearing together with the appeal fee indicated in the Notice of Violation ~~with the CCS within 14 days of the date when of service of the Notice of Violation was served or mailed. Such appeal requests must be accompanied by the appeal fee as indicated in the Notice to help defray the cost of the appeal~~

* * *

**Section 8.**      § 37.0955 is amended as follows:

**37.0955 Appeal**

* * *

(C) Appeal Hearing

* * *

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

**Section 9.**      § 37.0965 is amended as follows:

**37.0965 Civil Fine**

Violations as defined in MCC 37.0915 may be subject to fines and liens. Fines may be assessed for each violation each day.

(A) The ~~M~~maximum fines per violation shall not exceed \$3,500 for each day of noncompliance, the minimum fine per violation shall not be less than \$45 for each day of noncompliance.

(B) The Director shall set criteria for determining the fines, appeal fees and administrative fees as appropriate.

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### **29.999 Penalty.**

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~~——— (B) ——— *Street standards violations.* No person shall violate any requirement of §§ 29.500 through 29.583 of this chapter or rule adopted under it. Each violation is subject to a civil penalty not to exceed \$500. It is a separate violation for each day during any portion of which a violation of any provision of this subchapter or rule adopted under it occurs.~~

~~——— (C) ——— *Bridge Special Events violations.* No person shall violate any requirement of Bridge Special Events §§ 29.700 et. seq. or rule adopted under it. Each violation is subject to a civil penalty not to exceed \$500.00. It is a separate violation for each day during any portion of which a violation of any provision of this subchapter or rule adopted under it occurs.~~

## **Section 12.     § 11.15.9045 - .9055 are repealed as follows:**

### **Interpretations, Prior Permits, Violations, Enforcement and Savings Clause**

#### **11.15.9045 Planning Commission Duty**

~~It shall be the duty of the Planning Commission to interpret the Zoning Ordinance. These interpretations shall be in writing and shall be established as policy of the Planning Commission.~~

#### **11.15.9050 Effect of Prior Permits**

~~A building or structure for which a permit was issued prior to the effective date of this Chapter shall be permitted to be constructed or erected in accordance with such permit.~~

## **11.15.9052 Violations and Enforcement**

Any use of land in violation of any provision of MCC 11.15, MCC 11.45, Chapter 29 or the terms and conditions of any permit issued under these code provisions by a person shall be subject to penalties as provided by MCC 11.15.9053.

### **(A) Definitions**

(1) "County Ordinance" means all ordinances duly enacted by Multnomah County, including but not limited to zoning, planning, and building ordinances, as specified above.

(2) "Notice of Violation": A written notice given to a person or persons whose action, conduct or omission constitutes a violation of any provision of the Multnomah County Code or the terms and conditions of a development permit. A stop work order constitutes a Notice of Violation, notwithstanding any subsequent notice or letter given to a person or persons. A Notice of Violation does not constitute a "land use decision" under ORS Ch. 197.

(3) "Violator" means any person who has admitted violation of a County Ordinance or a person who has been found to have violated a County Ordinance.

(4) "Person" includes:

(a) The owner, title holder, contract seller, contract buyer, possessor or user of the land upon which the violation is occurring; or, the person taking the action, or responsible for the conduct or omission which constitutes a violation of any County Ordinance; and

(b) The United States or agencies thereof, any state, public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof. For the purposes of this ordinance, "person" also includes those residing in or conducting business or activities in the unincorporated areas of Multnomah County.

(5) "Decision of Appeal": The decision of the Planning Director in the appeal of the Notice of Violation. A Decision of Appeal does not constitute a land use decision under ORS Ch. 197.

(6) "Grace Period": Time allotted to a person by the Code Enforcement Planner to correct a violation without assessment of additional penalties, or legal action being taken for the cited violation during that assigned time period. A Grace Period begins from the date the written Notice of Violation is mailed or given. Unless otherwise specified by the Code Enforcement Planner, the grace period for a Notice of Violation shall be 30 days and the grace period for a stop work order shall be 15 days. If notice is mailed, the grace period shall be extended by an additional three days. A grace period for a noticed violation does not grant a property owner the right to continue a use for the time period specified or prevent inspection or citation of new or other land use violations.

### **(B) Compliance Required**

No application for use or development of land shall be approved for a site which is subject to an enforcement action pursuant to the provisions of this section. A permit for the use or development of land may only be issued if it is necessary to correct the land use violation contained in the Notice of

~~Violation.~~

~~(C) Code Enforcement Planner~~

~~The Planning Director shall appoint one or more persons to act as the code enforcement planner(s) for purposes of issuing Notices of Violation, and for the enforcement of MCC 11.15, MCC 11.45, MCC 9.10 and MCC 9.40 or the terms and conditions of any permit issued under those code provisions.~~

~~(D) Enforcement Action~~

~~1. An enforcement action may be initiated by the Code Enforcement Planner(s) on their own action, when the Division of Transportation and Land Use Planning receives a complaint, known or anonymous or receives a directive from the Board of County Commissioners. All complaints are confidential, until such time as the violation is closed.~~

~~2. If the Code Enforcement Planner determines the existence of a violation, the Code Enforcement Planner shall provide a written Notice of Violation to the person(s) suspected of committing a violation and the property owner if different. The notice shall:~~

- ~~a. Outline the nature of the violation(s), including cites to the applicable county code sections, and set forth options to correct the violation(s);~~
- ~~b. Notify the property owner and the operator/tenant that failure to comply with the Ordinance within the grace period will result in enforcement under MCC 11.15.9052(D)(3) and that a penalty of up to \$500.00 per day may be assessed per MCC 11.15.9053; and~~
- ~~c. Notify the property owner and the operator/tenant of the right to appeal the determination of a land use violation and the time limits established by this section.~~

~~3. If the person(s) notified fails to correct the violation within the grace period, the Code Enforcement Planner may impose a penalty in accordance with MCC 11.15.9053. The penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notification of the property owner and operator/tenant of the issuance of the penalty.~~

~~4. A person who receives a notice of violation may file a written appeal of the Notice of Violation with the Land Use Planning section to the Planning Director within the grace period as stipulated in the Notice of Violation. The following procedures apply to the appeal of the Planning Director:~~

- ~~a. The appellant has 45 days from the date of filing the written appeal to provide written documentation to the Planning Director in support of the appeal;~~
- ~~b. All enforcement actions, except for emergency actions taken under MCC 9052(E), shall be stayed until the Planning Director decides the appeal. In the event that the Planning Director finds in the favor of the appellant, the Notice of Violation will be rescinded.~~
- ~~c. Upon filing of an appeal by the property owner, written notice and opportunity to comment on the appeal of the Notice of Violation shall be provided to the complainant, if known, and the surrounding property owners within:~~

- ~~i. 100 feet of the subject property when inside the Urban Growth Boundary; or~~

- ii. ~~250 feet of the subject property where the subject property is outside the Urban Growth Boundary and not within a farm or forest resource zone; or~~
- iii. ~~500 feet of the subject property where the subject property is within a farm or forest resource zone.~~
- d. ~~The Planning Director shall consider any other written testimony submitted in support of and in opposition to the Notice of Violation;~~
- e. ~~The Planning Director shall review all written evidence and determine by a preponderance of the evidence whether a violation has occurred;~~
- f. ~~After review of the written testimony, the Planning Director shall serve the appellant and anyone who submitted evidence with a Decision of Appeal;~~
- g. ~~If the Notice of Violation is upheld, penalties as provided in MCC.9053 shall be assessed by the Planning Director;~~
- h. ~~The Planning Director may delay additional penalties at the time of the Decision of Appeal by specifying an additional grace period to allow the property owner to remove the violation from the property. If an additional grace period is granted, it shall not be less than five days; and~~
- i. ~~The penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notifying of the property owner and violator of the issuance of the penalty.~~
- 5. ~~If the property owner chooses to correct the violation by applying for a required permit, penalties shall accrue during the application process time period as provided in MCC.9053.~~
  - a. ~~Penalties assessed from the date of application, not including any Pre-Initiation Conference, for a required permit to completion of the project, including final inspection, may be waived by the Planning Director provided the property owner completes the application process within 180 days of filing and complies with all timelines established as conditions of approval of the project and if no additional violations occur during the completion of the conditions of approval.~~
  - b. ~~Timelines for compliance with the land use permit shall be included as a condition of approval of the land use permit and, if possible, shall not extend past a single construction season.~~

**(E) Emergency Enforcement**

- 1. ~~If the Code Enforcement Planner determines, as a result of a site visit by the Code Enforcement Planner or Code Enforcement Inspector, that the violation is such that irreparable harm will result, will be difficult to correct if allowed to continue, or presents an immediate health and safety danger, the Code Enforcement Planner may, without notice, issue a Stop Work Order which shall also serve as the Notice of Violation.~~
- 2. ~~The Stop Work Order shall require the property owner to immediately discontinue the use and shall impose a fine as provided in MCC.9053 pursuant to which the property owner must~~

cease all uses listed in the Stop Work Order. Penalties may be imposed pursuant to MCC 11.15.9053 for each 24 hour period in which work continues in violation of the Stop Work Order. The penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notifying the property owner and violator of the issuance of the penalty.

3. The property owner shall submit an application or correct the violation within the grace period. If the property owner fails to submit an application or correct the violation within the grace period, the Code Enforcement Planner may impose a penalty in accordance with MCC 11.15.9053. The penalty shall be recorded as a lien against real property in the Office of the County Recorder if not paid within sixty days of notifying the property owner and violator of the issuance of the penalty.

4. If the property owner files an appeal under MCC 11.15.9052(D)(4), the property owner shall not resume the use(s) subject to the stop work order until such time as a Decision of Appeal has been issued and the Stop Work Order is removed from the property by the Planning Director.

5. The Planning Director or Code Enforcement Planner may require the placement of erosion and sediment control devices and/or other health and safety corrections to occur at his discretion.

#### (F) Notice of Violation; Occurrence; Other Remedies

1. Except as otherwise specifically provided in this ordinance, a Notice of Violation shall be used for violation of MCC 11.15, 11.45, 9.10 and 9.40.

2. Each day (24 hour period) a violation exists shall be a separate citable offense.

3. The remedies and procedures provided in this ordinance shall be in addition to any other remedy or procedure provided by any applicable law. In addition to any other remedy provided by law to the County, the County shall be entitled to its reasonable administrative costs and attorney fees. *[Amended 1998, Ord. 908 § III]*

#### (G) Judicial Review

Review of the Decision of Appeal of the Planning Director under this section by any aggrieved party, including the County of Multnomah, shall be by writ of review as provided in ORS 34.010-34.100 *[1998]*.

#### (H) Comprehensive Framework Plan and Zoning or Land Division Ordinance Interpretations

If the Notice of Violation involves a Comprehensive Framework Plan, Zoning or Land Division Ordinance interpretation by the Planning Staff, not previously decided by the Planning Commission or the Board of County Commissioners, in order to appeal Planning staff's interpretation, the property owner must include the request for interpretation by the Planning Commission in the appeal of the Notice of Violation. The property owner shall deposit with the Land Use Planning section at the time of appeal, the fee established for a Planning Commission Interpretation. The Planning Director shall initiate an action for an interpretation per MCC 11.15.9045 prior to the Decision of the Appeal. An interpretation by the Planning Commission shall be rendered within 45 days of initial Planning Commission meeting in which the item was presented. The Planning Director shall utilize the Planning Commission's Interpretation in making the determination of the Decision of Appeal.

**(I) Reporting to the Planning Commission**

~~The Land Use Planning section shall report to the Planning Commission on code enforcement activities every six months.~~

**11.15.9053 Penalties**

~~Violations as defined in MCC 9052 shall be subject to a fine of up to \$500.00 per day.~~

**11.15.9055 Savings Clause**

~~If the article, section, subsection, subdivision, phrase, clause, sentence or work in the ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of this ordinance, but shall be confined to the article, section, subsection, subdivision, phrase, clause, sentence or work held invalid or unconstitutional.~~

**Section 13.** The amendments to Chapter 38 Columbia River Gorge National Scenic Area shall be effective upon notification of approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

FIRST READING:

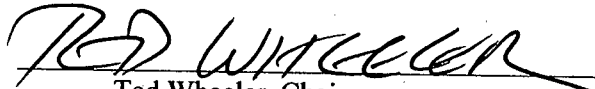
December 4, 2008

SECOND READING AND ADOPTION:

December 11, 2008



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By 

Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services



# MULTNOMAH COUNTY

## AGENDA PLACEMENT REQUEST (revised 09/22/08)

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-5 DATE 12/11/08  
ANA KARNES, ASST BOARD CLERK

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-5  
Est. Start Time: 10:00 AM  
Date Submitted: 12/26/08

**Agenda Title:** NOTICE OF INTENT to Submit a Request for the United States Department of Homeland Security Vulnerability Reduction Purchasing Plan Grant (VRPP)

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.*

Requested Meeting Date:	<u>December 11, 2008</u>	Amount of Time Needed:	<u>5 Minutes</u>
Department:	<u>Sheriff's Office</u>	Division:	<u>Enforcement</u>
Contact(s):	<u>Lt. Michael Shults</u>		
Phone:	<u>503-988-6788</u>	Ext.	<u>86788</u>
		I/O Address:	<u>313/1</u>
Presenter(s):	<u>Lt. Michael Shults</u>		

### General Information

**1. What action are you requesting from the Board?**

Authorize the Sheriff's Office to submit a request for the United States Dept. of Homeland Security Vulnerability Reduction Purchasing Plan Grant (VRPP) for funding in the amount of \$194,006 to support security of Bonneville Dam infrastructure on safety and security issues.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The Buffer Zone Protection Program (BZPP) is based on the premise that State and local law enforcement (LLE) agencies and first responders are first preventers on the front lines in preparing, preventing, defending against, and mitigating the impacts of terrorist attacks against our Nation. To this end, the BZPP was conceived to increase the general awareness, protective capacity and preparedness of State law enforcement, LLE, and other first responders as first preventers in communities surrounding Critical Infrastructure/Key Resources (CI/KR) facilities. This affects FY 09 Program Offer MCSO River Patrol 60065A.

**3. Explain the fiscal impact (current year and ongoing).**

The fiscal impact is an increase of Fed/State Funding in the amount of \$194,006 to the Enforcement Division of the Sheriff's Office Budget. This is anticipated to be a one-time-only grant.

**4. Explain any legal and/or policy issues involved.**

N/A

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A



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## ATTACHMENT A

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### Grant Application/Notice of Intent

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If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- **Who is the granting agency?**

The granting agency is the United States Dept. of Homeland Security.

- **Specify grant (matching, reporting and other) requirements and goals.**

The purpose of a BZP is to assist State law enforcement, LLE, and other first responders in the analysis of threats and vulnerabilities to a CI/KR site and its significant assets in order to develop effective site-specific preventive and protective measures that make it more difficult for terrorists to target and attach CI/KR sites successfully. Specifically, a BZP will assist in:

- Identifying significant assets at a particular site that may be targeted by terrorists for attack;
- Identifying specific threats and vulnerabilities associated with the site and its significant assets;
- Developing an appropriate buffer zone extending outward from the facility in which protective measures can be employed to make it more difficult for terrorists to conduct site surveillance, engage in other preliminary activities, or initiate attacks;
- Identifying all responsible law enforcement jurisdictions-to include Federal, State, and local agencies-with a role in the prevention of, protection against, and response to terrorist threats or attacks specific to the CI/DR site and identifying the appropriate points of contact within these organizations;
- Evaluating the capabilities of the responsible law enforcement jurisdictions with respect to terrorism prevention and response; and
- Identifying specific planning, equipment, training, and/or exercise capabilities needed by the responsible jurisdictions to mitigate the threats and vulnerabilities of the site and its buffer zone.

- **Explain grant funding detail – is this a one time only or long term commitment?**

We will request \$194,006 to support one-time-only purchases which include cold water safety gear for big water rescue and rope rescue, communications upgrades and a boat house to be located at the Bonneville Dam.

- **What are the estimated filing timelines?**

The grant application was due on November 30, 2008.

- **If a grant, what period does the grant cover?**

Fiscal Year 2009.

- **When the grant expires, what are funding plans?**

This funding is for the purchase of one-time-only items. This is not funding ongoing expenses.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

Indirect is not covered by this grant.

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## ATTACHMENT B

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### Required Signatures

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Elected Official or  
Department/  
Agency Director:

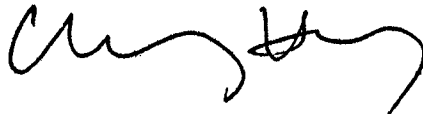
/s/ *Bob Skipper / L.A.*

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Date: 11/26/08

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Budget Analyst:



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Date: 11/26/08

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# MULTNOMAH COUNTY

## AGENDA PLACEMENT REQUEST (long form)

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-6 DATE 12/11/08  
ANA KARNES, ASST BOARD CLERK

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-6  
Est. Start Time: 10:05 AM  
Date Submitted: 11/26/08

### BUDGET MODIFICATION: MCSO - 04

**BUDGET MODIFICATION MCSO-04 Appropriating \$194,006 from the United States Department of Homeland Security Vulnerability Reduction Purchasing Plan Grant (VRPP)**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

Requested Meeting Date:	<u>December 11, 2008</u>	Amount of Time Needed:	<u>5 Minutes</u>
Department:	<u>Sheriff's Office</u>	Division:	<u>Enforcement</u>
Contact(s):	<u>Wanda Yantis</u>		
Phone:	<u>503-988-4455</u>	Ext.	<u>24455</u>
	I/O Address:		<u>503-350</u>
Presenter(s):	<u>Lt. Michael Shults &amp; Wanda Yantis</u>		

### General Information

#### 1. What action are you requesting from the Board?

The Sheriff's Office is seeking approval to accept the revenue from the United States Dept. of Homeland Security Vulnerability Reduction Purchasing Plan Grant (VRPP) in the amount of \$194,006. The funds will support security of Bonneville Dam infrastructure on safety and security issues.

#### 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Buffer Zone Protection Program (BZPP) is based on the premise that State and local law enforcement (LLE) agencies and first responders are first preventers on the front lines in preparing, preventing, defending against, and mitigating the impacts of terrorist attacks against our Nation. To this end, the BZPP was conceived to increase the general awareness, protective capacity and preparedness of State law enforcement, LLE, and other first responders as first preventers in communities surrounding Critical Infrastructure/Key Resources (CI/KR) facilities. This affects FY 09 Program Offer MCSO River Patrol 60065A.

**3. Explain the fiscal impact (current year and ongoing).**

The fiscal impact in an increase of Fed/State Funding in the amount of \$194,006 to the Enforcement Division of the Sheriff's Office Budget. This is anticipated to be a one-time-only grant.

**4. Explain any legal and/or policy issues involved.**

N/A

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A

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## ATTACHMENT A

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### Budget Modification

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If the request is a **Budget Modification**, please answer **all** of the following in detail:

- **What revenue is being changed and why?**

This is an increase to the Enforcement Division's revenue by \$194,006 in the Federal/State fund due to the award from the VRPP Grant.

- **What budgets are increased/decreased?**

The Enforcement Division will increase their Fed/State Fund budget by \$194,006.

- **What do the changes accomplish?**

This is an increase to the Enforcement Division's revenue by \$194,006 in the Federal/State fund due to the award from the VRPP Grant.

- **Do any personnel actions result from this budget modification? Explain.**

No

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

Indirect is not covered by this grant.

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

This grant is one-time-only and will be used for the purchase of one-time-only items necessary for the safety and security of the Bonneville Dam infrastructure.

- **If a grant, what period does the grant cover?**

Fiscal Year 2009

- **If a grant, when the grant expires, what are funding plans?**

In anticipation of this being one-time-only, the funding is not being used for ongoing costs but rather one-time-only supply/equipment items.

*NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.*

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### Grant Application/Notice of Intent

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If the request is a **Grant Application** or **Notice of Intent**, please answer **all** of the following in detail:

- **Who is the granting agency?**

The granting agency is the United States Dept. of Homeland Security.

- **Specify grant (matching, reporting and other) requirements and goals.**

The purpose of a BZP is to assist State law enforcement, LLE, and other first responders in the analysis of threats and vulnerabilities to a CI/KR site and its significant assets in order to develop effective site-specific preventive and protective measures that make it more difficult for terrorists to target and attach CI/KR sites successfully. Specifically, a BZP will assist in:

- Identifying significant assets at a particular site that may be targeted by terrorists for attack;
- Identifying specific threats and vulnerabilities associated with the site and its significant assets;
- Developing an appropriate buffer zone extending outward from the facility in which protective measures can be employed to make it more difficult for terrorists to conduct site surveillance, engage in other preliminary activities, or initiate attacks;
- Identifying all responsible law enforcement jurisdictions-to include Federal, State, and local agencies-with a role in the prevention of, protection against, and response to terrorist threats or attacks specific to the CI/DR site and identifying the appropriate points of contact within these organizations;
- Evaluating the capabilities of the responsible law enforcement jurisdictions with respect to terrorism prevention and response; and

Identifying specific planning, equipment, training, and/or exercise capabilities needed by the responsible jurisdictions to mitigate the threats and vulnerabilities of the site and its buffer zone.

- **Explain grant funding detail – is this a one time only or long term commitment?**

We will request \$194,006 to support one-time-only purchases which include cold water safety gear for big water rescue and rope rescue, communications upgrades and a boat house to be located at the Bonneville Dam.

- **What are the estimated filing timelines?**

The grant application was due on November 30, 2008.

- **If a grant, what period does the grant cover?**

Fiscal Year 2009.

- **When the grant expires, what are funding plans?**

This funding is for the purchase of one-time-only items. This is not funding ongoing expenses.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

Indirect is not covered by this grant.

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## ATTACHMENT B

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**BUDGET MODIFICATION: MCSO -04**

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### Required Signatures

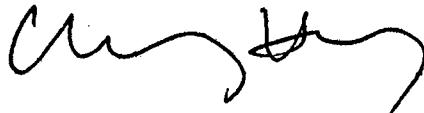
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**Elected Official or  
Department/  
Agency Director:**

/s/ *Bob Skipper / L.A.*

**Date:** 11/26/08

**Budget Analyst:**



**Date:** 11/26/08

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

Budget Modification ID: **MCSO-04****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with SAP.

Budget/Fiscal Year: 2009

Line No.	Fund Center	Fund Code	Program #	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
					Internal Order	Cost Center	WBS Element						
1	60-50	99999	60065A	50			SOENF.VRPP	50170	-	(194,006)	(194,006)		IG-OP-Direct Fed
2										0			
3	60-50	99999	60065A	50			SOENF.VRPP	60200	0	16,775	16,775		Communications
4	60-50	99999	60065A	50			SOENF.VRPP	60240	0	50,572	50,572		Supplies
5	60-50	99999	60065A	50			SOENF.VRPP	60290	0	5,773	5,773		Ext. Data Processing
6	60-50	99999	60065A	50			SOENF.VRPP	60550	0	120,886	120,886		Capital Equipment
7										0			
8										0			
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29										0			
											0	0	Total - Page 1
											0	0	GRAND TOTAL





## MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-7 DATE 12-11-08  
ANA KARNES, ASST BOARD CLERK

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-7  
Est. Start Time: 10:10 AM  
Date Submitted: 12/02/08

**Agenda Title:** Authorization to File Amicus Brief

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

Requested Meeting Date:	<u>December 11, 2008</u>	Amount of Time Needed:	<u>5 minutes</u>
Department:	<u>Non-Departmental</u>	Division:	<u>County Attorney</u>
Contact(s):	<u>Agnes Sowle</u>		
Phone:	<u>503-988-3138</u>	Ext.	<u>83138</u>
	I/O Address:		<u>503/500</u>
Presenter(s):	<u>Agnes Sowle, County Attorney</u>		

### General Information

**1. What action are you requesting from the Board?**

Authorize participation in the filing of an amicus brief on behalf of the County in the matter of Vaughn v. First Transit, Inc., et al.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

This case involves the scope of a public body's liability under the Oregon Tort Claims Act for the acts of the public body's contractors, and the public body's ability to obtain contractual indemnity from such contractors.

**3. Explain the fiscal impact (current year and ongoing).**

N/A

**4. Explain any legal and/or policy issues involved.**

Under MCC §7.201 and Resolution 07-037, the County Attorney's Office shall "Initiate, defend, appear or appeal any legal action, matter or proceeding in any court or tribunal when requested by the Board or as delegated by Board resolution."

5. Explain any citizen and/or other government participation that has or will take place.

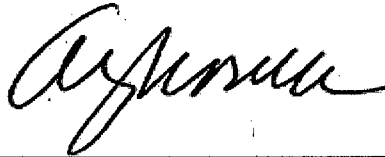
N/A

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**

A handwritten signature in cursive script, appearing to read "A. J. Smith", written over a horizontal line.

**Date:** 12/02/2008



# MULTNOMAH COUNTY

## AGENDA PLACEMENT REQUEST (short form)

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-8 DATE 12-11-08  
ANA KARNES, ASST BOARD CLERK

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-8  
Est. Start Time: 10:12 AM  
Date Submitted: 12/02/08

**Agenda Title:** Authorizing the Settlement of a Claim for Damages Against the County

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

Requested Meeting Date: December 11, 2008 Amount of Time Needed: 5 minutes  
Department: Non-Departmental Division: County Attorney  
Contact(s): Agnes Sowle  
Phone: 503-988-3138 Ext. 83138 Phone: 503-988-3138  
Presenter(s): Stephen L. Madkour, Assistant County Attorney

### General Information

**1. What action are you requesting from the Board?**

Authorize settlement of the case Goddard, Christina R. v. Multnomah County (0512-12760) for the amount of \$65,000, inclusive of all costs, fees and medical expenses.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The case concerns a claim for personal injuries arising from a December 2003 motor vehicle accident involving a vehicle operated by plaintiff and a county vehicle operated by personnel from the medical examiner's office. As a result of that accident, plaintiff claims to have suffered injuries and has also incurred relatively significant medical expenses associated with the treatment of those injuries. The settlement of this case would resolve all claims against the county as a result of this accident.

**3. Explain the fiscal impact (current year and ongoing).**

N/A

**4. Explain any legal and/or policy issues involved.**

On December 18, 2003, the Board adopted Resolution 03-171 delegating authority to the County

Attorney to settle claims and litigation against the County or its employees in amounts up to \$25,000 per case. The County Attorney must obtain Board approval for all settlements of over \$25,000.

**5. Explain any citizen and/or other government participation that has or will take place.**

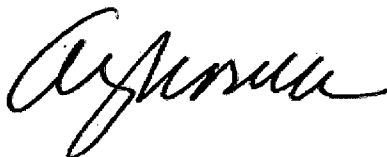
N/A

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**

A handwritten signature in black ink, appearing to be "A. J. Smith", written over a horizontal line.

**Date: 12/2/2008**



# MULTNOMAH COUNTY

## AGENDA PLACEMENT REQUEST (short form)

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-9 DATE 12-11-08  
ANA KARNES, ASST BOARD CLERK

### Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-9  
Est. Start Time: 10:13 AM  
Date Submitted: 12/02/08

**Agenda Title:** Authorizing Settlement of Wrongful Death Claim, Estate of Samantha Garnica

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

Requested Meeting Date: December 11, 2008 Amount of Time Needed: 5 minutes  
Department: Non-Departmental Division: County Attorney  
Contact(s): Agnes Sowle  
Phone: 503-988-3138 Ext. 83138 I/O Address: 503/500  
Presenter(s): Jacqueline Weber

### General Information

**1. What action are you requesting from the Board?**

Authorize settlement of the personal injury claim of Estate of Samantha Garnica (deceased), and Karla Ramos-Delgadillo, mother of Samantha Garnica, against Multnomah County in the amount of \$205,000.00 plus payment of medical lien in the amount of \$4,580.52.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

Board approval would authorize full and final settlement of all claims by Karla Ramos-Delgadillo and Armando Garnica-Alatorre, and the Estate of Samantha Garnica, based upon a claim for wrongful death of Samantha Garnica based on medical malpractice.

**3. Explain the fiscal impact (current year and ongoing).**

N/A

**4. Explain any legal and/or policy issues involved.**

On December 18, 2003, the Board adopted Resolution 03-171 delegating authority to the County Attorney to settle claims and litigation against the County or its employees in amounts up to \$25,000 per case. The County Attorney must obtain Board approval for all settlements of over \$25,000.

5. Explain any citizen and/or other government participation that has or will take place.

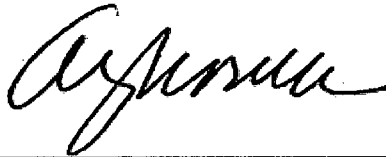
N/A

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**

A handwritten signature in cursive script, appearing to read "A. J. Smith", written over a horizontal line.

**Date:** 12/02/08



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST (revised 09/22/08)

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-10 DATE 12/11/08  
ANA KARNES, ASST BOARD CLERK

## Board Clerk Use Only

Meeting Date: 12/11/08  
Agenda Item #: R-10  
Est. Start Time: 10:15 AM  
Date Submitted: 12/01/08

## BUDGET MODIFICATION: DCHS -18

**BUDGET MODIFICATION DCHS-18 Increasing Aging and Disability Services**  
**Agenda Division Federal/State Appropriation by \$22,400 in One-time Supplemental**  
**Title: Grant from Oregon Senior Health Insurance Benefits Assistance Program**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.*

Requested Meeting Date: December 11, 2008 Amount of Time: 5 minutes  
Department: County Human Services Division: Aging & Disabilities Services  
Contact(s): Kathy Tinkle  
Phone: (503) 988-3691 Ext. 26858 I/O Address: 167/620  
Presenter(s): Mary Shortall

## General Information

### 1. What action are you requesting from the Board?

The Department of County Human Services recommends approval of budget modification DCHS-18 increasing Aging and Disability Services (ADS) appropriation by \$22,400

### 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

These funds have been made available to local Senior Health Insurance Benefits Assistance (SHIBA) programs through a supplemental grant award to the State Health Insurance Program resulting from the Medicare, Medicaid, and SCHIP Extension Acts of 2007 (MMSEA). The one-time supplemental grant for \$22,400 awarded to ADS is made up of \$13,400 for Low Income Subsidy (LIS) Outreach, and \$9,000 for technology upgrade purchases.

This action impacts program offer #25020 – ADS Access and Early Intervention Services. LIS Outreach funds will enable ADS to provide additional targeted outreach and enrollment of low-

income seniors eligible for assistance in accessing non-county programs; and resources to pay for Medicare premiums and prescription assistance. These outreach venues will take place in neighborhood settings, which will be coordinated by ADS and staffed by volunteers.

The technology funds will allow ADS to upgrade existing insurance counseling sites with new equipment and computers, and provide better customer service for clients.

**3. Explain the fiscal impact (current year and ongoing).**

This grant would cover additional ADS expenditures that may result in increased enrollment of eligible beneficiaries for the SSA Low-Income Subsidy in Multnomah County area. The grant would also cover any technology upgrade costs incurred to improve volunteer network's ability to reach and locally serve Medicare beneficiaries. Purchases will include computers, printers, ink cartridges, LCD projectors, and/or internet access.

Temporary personnel costs increase by \$13,400; Pass-Through & Program Support increase by \$2,890; and Supplies increase by \$6,110.

**4. Explain any legal and/or policy issues involved.**

N/A

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A



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## ATTACHMENT A

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### Budget Modification

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If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**

Program offer #25020 – ADS Access and Early Intervention Services will receive \$22,400 in new revenue from the State of Oregon SHIBA program.

- **What budgets are increased/decreased?**

The following budgets within ADS Access and Early Intervention Services will increase: Temporary personnel by \$13,400, Pass-Through & Program Support by \$2,890, and Supplies by \$6,110.

Risk fund increase by \$319.

- **What do the changes accomplish?**

The grant would cover additional ADS expenditures that may result from increased call volume and assistance requests for the SSA Low income Subsidy in Multnomah County area. In addition, the grant also covers any technology upgrades identified by volunteers that will improve the network's ability to reach and serve local Medicare beneficiaries.

- **Do any personnel actions result from this budget modification? Explain.**

No personnel actions result from this budget modification.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

Grant does not pay indirect.

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

Grant is a one-time-only special fund only

- **If a grant, what period does the grant cover?**

June 1, 2008 to March 31, 2009

- **If a grant, when the grant expires, what are funding plans?**

The project related to this one-time-only grant will end.

<p><i>NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense &amp; Revenues Worksheet and/or a Budget Modification Personnel Worksheet.</i></p>
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## ATTACHMENT B

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**BUDGET MODIFICATION: DCHS - 18**

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### Required Signatures

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**Elected Official  
or Department/  
Agency Director:**

*Harry Linker for Joanne Fuller*

**Date:** 11/26/08

**Budget Analyst:**

*Angela Burdine*

**Date:** 12/01/08

**Department HR:**

*Paula Brunst*

**Date:** 12/01/08

**Countywide HR:**

**Date:**

Budget Modification ID: **DCHS-18****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with SAP.

Budget/Fiscal Year: 2009

Line No.	Fund Center	Fund Code	Program #	Func. Area	Accounting Unit		WBS Element	Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
					Internal Order	Cost Center							
1	30-45	26080	25020	40			ADSDIVCS201SHIBA	50190		(13,400)	(13,400)		IG - OP Direct St
2	30-45	26080	25020	40			ADSDIVCS201SHIBA	60100		12,100	12,100		Temporary (Personnel)
3	30-45	26080	25020	40			ADSDIVCS201SHIBA	60135		1,003	1,003		Non Base Fringe (8.29%)
4	30-45	26080	25020	40			ADSDIVCS201SHIBA	60145		297	297		Non Base Insurance (2.45%)
5													
6													
7	30-45	26080	25020	40			ADSDIVCS201TMGSHIBA	50190		(9,000)	(9,000)		IG - OP Direct St
8	30-45	26080	25020	40			ADSDIVCS201TMGSHIBA	60160		2,890	2,890		Pass-Through & Prog Sup
9	30-45	26080	25020	40			ADSDIVCS201TMGSHIBA	60240		6,110	6,110		Supplies
10													
11													
12	72-10	3500		20		705210		50316		(297)	(297)		Svc Reimb F/S to Risk
13	72-10	3500		20		702510		60330		297	297		Claim Paid
14													
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