



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(Revised: 8/18/11)

APPROVED: MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

AGENDA # C-1 DATE 1/12/12
MARINA BAKER, ASST BOARD CLERK

Board Clerk Use Only

Meeting Date: 1/12/12
Agenda Item #: C.1
Est. Start Time: 9:30 am
Date Submitted: 12/20/12

Agenda Title: **Approval of Auto Wrecker Certificate Renewal for Harold Milne of Loop Hi-Way Towing, 28609 SE Orient Drive, Gresham, OR 97080**

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>January 12, 2012</u>	Time Needed:	<u>N/A</u>
Department:	<u>Community Services</u>	Division:	<u>Land Use & Transportation</u>
Contact(s):	<u>Kevin Cook</u>		
Phone:	<u>503-988-3043</u>	Ext.	<u>26782</u>
Presenter Name(s) & Title(s):	<u>I/O Address: 455/1/116</u>		
	<u>Consent Calendar</u>		

General Information

1. What action are you requesting from the Board?

Approval of the renewal of a Wrecker (Dismantler) Certificate for Loop Hi-Way Towing located at 28609 SE Orient Drive. The renewed license would be valid from the date of issuance to December 31, 2013.

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.

Loop Hi-Way Towing is currently operating at 28609 SE Orient Drive. The most recent Wrecker (Dismantler) Certificate expires on December 31, 2011. In order to renew the license for 2012 - 2013, the wrecking yard must apply for a business certificate through the Department of Motor Vehicles. In order for the business certificate to be approved, the local governing body must authorize the business pursuant to ORS 822.140. Loop Hi-Way Towing has been authorized by Multnomah County since prior to 1977. A staff report is available at Multnomah County Land Use Planning detailing how the current proposal complies with County and State regulations for wrecking yard certificate renewal (Case No. T1-2011-2022). Multnomah County's approval is required on the attached DMV Applications for Business Certificate. The original DMV Application and the enclosed original surety bond must be returned to the business owner after a decision has been rendered.

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

None

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

The most recent certificate under which Loop Hi-Way Towing operates expires on December 31, 2011. In order to continue operation, the renewal must be approved.

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

Loop Hi-Way Towing has submitted all the materials necessary for the renewal application. County Land Use Planning staff has contacted both the Multnomah County Sheriff's Office and Assessment and Taxation Office to obtain information required by MCC 15.202. No other participation by citizens or governments has taken place. To date, no complaints have been received regarding Loop Hi-Way Towing.

Required Signature

**Elected
Official or
Department
Director:**



Date: 12/20/2011



**Staff Report
Determination of Compliance
2012 Wrecker Certificate Renewal
Loop Hi-Way Towing
28609 SE Orient Drive**

Case# T1-2011-2022

This Staff Report and Determination of Compliance is made pursuant to the requirements specified by Multnomah County Code (MCC) Section 15.200-15.207 Wrecker Certificates. An application for renewal of a Wrecker (Dismantler) Certificate as required by the State of Oregon Department of Motor Vehicles was submitted on December 2, 2011 by Irma Milne of Loop Hi-Way Towing, 28609 SE Orient Drive, Gresham, OR 97080.

I. Conditions of Approval:

1. The applicant shall obtain a Business Certificate as a Dismantler of Motor Vehicles (Dismantler Certificate) from the Oregon Department of Transportation. Applications for future Dismantler Certificate renewals shall include a copy of the Dismantler Certificate issued by the Oregon Department of Transportation the prior year.
2. If there are any changes to the property during the year prior to renewal of Dismantler Certificate, applications for future Dismantler Certificate renewals shall include submittal of a site plan, drawn to scale, showing the revisions. Expansion of the dimensions of the wrecking yard shall not occur without prior approval of the County.
3. Taxes shall be kept current prior to approval of future Dismantler Certificate renewals.
4. Any application for a Dismantler Certificate or renewal must be reviewed by staff and presented to the Board of County Commissioners as required under MCC 15.200 et. seq.

II. Applicable Code Considerations:

- A. MCC 15.202(A): The Sheriff shall coordinate and conduct an investigation of each application using the procedures set forth in division (B) of this section.**
MCC 15.202(B): The Sheriff shall:
- (1) Check for prior arrest records of owners on employees or violations of state statutes regulating wreckers;**
 - (2) Check for prior community relations problems**

Staff: Notice of this application was sent to the Multnomah County Sheriff on December 13, 2011. A recommendation of approval from the County Sheriff's

Office was received on December 14, 2011 based upon a clean background check.
A copy of the Sheriff's recommendation is contained in the permanent case file.

B. MCC 15.202(B)(3): Check to see if the requirements of Oregon Revised Statutes (ORS) 822.110 are met;

ORS 822.110 Dismantler certificate;

(1) Except as provided in subsection (2) of this section, the Department of Transportation shall issue a dismantler certificate to any person if the person meets all of the following requirements:

- (a) The person establishes that the area in which the business is located and the place of business to be approved under the dismantler certificate for use in the motor vehicle dismantling business are zoned for industrial use or subject to another zoning classification that permits the type of business conducted by the dismantler.**
- (b) The person pays the fee required under ORS 822.700 for issuance of a dismantler certificate.**
- (c) The person completes the application for a dismantler certificate described under ORS 822.115.**
- (d) The person delivers to the department any approvals by local governments required under ORS 822.140.**
- (e) The person delivers to the department a bond or letter of credit that meets the requirements of ORS 822.120.**

(2) The department may refuse to issue a dismantler certificate to a person if:

- (a) The person has previously had a dismantler certificate or identification card revoked, canceled or suspended under ORS 822.145; or**
 - (b) The department determines that the application contains false or misleading information.**
- (3) The department may issue a duplicate dismantler certificate to a person who has lost or destroyed an original dismantler certificate if the person:**
- (a) Has complied with the requirements of this section for issuance of a certificate; and**
 - (b) Is within the renewal period of the original dismantler certificate.**

Finding: Loop Hi-Way Towing's non-conforming use status was verified recently through Case T2-07-055 under which an expansion of the shop area was approved. The property and business is compliant with the zoning regulations as a non-conforming use. More detailed findings for this non-conforming use can be found under Section D of this report.

The applicant has provided a Surety Bond by Old Republic Surety Company with a dated effectiveness of January 1, 2012 to January 31, 2015, which has met the requirements of ORS 822.110(1)(e). Compliance with the requirements of ORS 822.110 (1)(b-e),(2) will be ensured by obtaining a Dismantler Certificate issued by the Oregon Department of Transportation.

A 2007 Wreckers Certificate effective from January 14, 2009 to December 31, 2011 was submitted to the Land Use Planning Division and is in the case file.

C. MCC 15.202(B)(4): Check to see if the business location violates any prohibitions under ORS 822.135;

ORS 822.135 Improperly conducting motor vehicle dismantling business; penalty.

- (1) A person commits the offense of improperly conducting a motor vehicle dismantling business if the person holds a dismantler certificate issued under ORS 822.110 and the person does any of the following:**
- (b) Expands the dimensions of or moves any of the person's places of business or opens any additional places of business without obtaining a supplemental dismantler certificate by the procedure under ORS 822.125.**

Finding: Staff has found no evidence or indication that the dimensions of the wrecking yard have been expanded beyond that of the existing Dismantler Certificate. The applicant has submitted a site plan clearly identifying the dimensional boundaries of the wrecking yard (fenced and/or screened areas) in relation to property lines and setbacks. A site visit conducted by land use staff on December 14, 2011 confirmed the existing dimensions of the wrecking yard. Expansion of the dimensions of the wrecking yard shall not occur without prior approval of the County.

- (f) Fails to maintain, for the purposes of the person's motor vehicle dismantling business, a building or an enclosure or other barrier at least six feet in height that is constructed, established or formed in compliance with rules adopted by the department.**

Finding: Land Use Planning staff took photographs on December 14, 2011 demonstrating that the Loop Hi-Way Towing yard is enclosed by a six foot tall fence.

- (g) Fails to keep the premises on the outside of the establishment clear and clean at all times.**

Finding: Land Use Planning staff took photographs on December 14, 2011. Staff found that the premises on the outside of the establishment are being maintained in a clear and clean condition. Site photographs are contained in the permanent case file.

- (h) Conducts any wrecking, dismantling or altering of vehicles outside the building, enclosure or barrier on the premises of the business.**

Finding: Based on staff's field inspection on December 14, 2011, no dismantling or altering of vehicles outside the fenced area of the business was evident. Furthermore, there has been no indication since then that the dismantling or altering of vehicles has taken place outside the premises of the business.

- (i) Stores or displays any motor vehicles or major component parts or conducts the motor vehicle dismantling business outside of the building, enclosure or barrier of the place of business.**

Finding: Based on staff's field inspection on December 14, 2011, no activities related to the business were evident outside of the fenced area. Furthermore, there has been no indication since then that any business activities have taken place outside the fenced premises of the business.

- (k) Except as otherwise provided in this paragraph, fails to keep the business hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other appropriate means so as not to be visible from the main traveled way of the highway in accordance with the rules of the Director of Transportation. This paragraph does not apply to a business that is:**
 - (A) Located in an area zoned for industrial use under authority of the laws of this state; or**

(B) A business established before June 30, 1967.

Finding: The site visit conducted by staff on December 14, 2011 confirmed that both natural vegetation and a site obscuring fence screen vehicles from adjacent roads. A well maintained fence separates the property from Orient Drive and a well maintained fence and vegetation separates the property from Dodge Park Blvd. Together, these elements provide the screening required by this criterion.

(L) Expands or moves any place of business approved under a dismantler certificate or opens any additional locations for the business without obtaining a supplemental certificate under ORS 822.125 or obtaining an additional dismantler certificate.

Finding: The operation size has not been expanded.

D. MCC 15.202(B)(5): Check to see that the location meets zoning regulations of the county

Finding: Loop Hi-Way Towing's non-conforming use status was verified recently through Case T2-07-055 under which an expansion of the shop area was approved. The property and business is compliant with the zoning regulations as a non-conforming use.

In determinations and previous cases staff has found that the towing/wrecking yard business was legally established prior to 1977 on the property. A towing/wrecking yard business includes towing truck maintenance and the following services: towing, vehicle recovery operations, repair service, storage of motor vehicles and trailers (including but not limited to police impounds), recycling of used automotive parts, and sales of recovered vehicles. Prior to 1977 the property was in the General Manufacturing Zone District under which wrecking yard was an allowed use. In a staff report titled Determination of Compliance 1999 Wrecker's License Renewal staff made the following finding under compliance:

"The file contains a record of license renewal requests from 1961 to the current time, however some years are missing. Examination of Planning Division land use inventory maps and zoning maps indicates that the business was in existence on the property before 1977, at which time the property was zoned M-2, which allowed the use. The property was re-zoned on October 6, 1977 (Ordinance 148) to Rural Center (RC), a district which does not allow the use, therefore it became non-conforming at that time."

In the compliance findings for a Case T1-05-068 for a Renewal of an Auto Wrecker's License Renewal, staff stated that:

"The wrecking yard was determined to be a non-conforming use in the 12/16/91 "Report of Site Inspection" contained in the wrecking yard file on the subject property, a copy of which is kept in the Land Use Planning Office. The file contains a record of license renewal requests from 1986 forward. Examination of department land use inventory maps and zoning maps indicates that the business was in existence on the property in 1975, at which time the property was zoned M-1, which allowed the use."

County Land Use has issued Wrecker Renewal approvals continuously from 1986 to 2008 demonstrating that use has not been discontinued for a period of two years since 1986. The property is in compliance with zoning through the non-conforming use provisions of the zoning code.

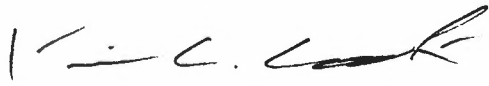
E. MCC 15.202(B)(6) Check to see that there are no delinquent personal or real property taxes due and owing.

Finding: The previous Wrecker Certificate renewal was approved with a condition that taxes shall be kept current prior to approval of future Dismantler Certificate renewals. No outstanding taxes are associated with the property according to the Multnomah County Department of Assessment and Taxation office on December 16, 2011.

III. Recommendation:

The staff of the Land Use Planning Section respectfully recommends that the above Dismantler Certificate renewal be approved, based upon findings that the business satisfies the applicable requirements contained in MCC 15.200-15.207, ORS 822.110, and ORS 822.135 and continues to retain a non-conforming status.

Dated this 19th day of December, 2011.

A handwritten signature in black ink, appearing to read 'Kevin Cook', is written over a horizontal line.

By: Kevin Cook, *Planner*

For: Karen Schilling, *Planning Director*