

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1140

Amending MCC Chapters 37, Administration and Procedures, and 38, Columbia River Gorge National Scenic Area; and Re-adopting Certain Ordinances, Relating to Notice Requirements for Legislative Items Provided in ORS 203.045(5), 215.060 and 215.503

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

The Multnomah County Board of Commissioners Finds:

- a. The County incorporates statutory land use procedures into its codes to ensure that its processes comply with state law and that its constituents receive adequate notice.
- b. These procedures include legislative work, such as the adoption or amendment of the County Comprehensive Plan, land use regulations, map inventories, and other policy documents that affect the entire county, large areas, or multiple properties.
- c. Public hearings are required before the Planning Commission and Board of Commissioners on all proposed legislation, for which the State has established minimum notice requirements.
- d. While the County Code contains some of the State notice requirements for county land use legislation, it does not include all of them; specifically the newspaper notice provisions outlined in ORS 203.045(5) and 215.060 for Board of Commissioners hearings and the direct mail notice requirements of ORS 215.503.
- e. Implementing state statutes directly has proven ineffective, and it is necessary to add these notice provisions to the Code to minimize the chance that a notice is missed.
- f. The Planning Commission is authorized by Multnomah County Code Section 33.0140 (and its counterparts) and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- g. On March 2, 2009, the Multnomah County Planning Commission held a public hearing regarding the amendment of the Multnomah County Code to provide for notice requirements consistent with state law.
- h. The Planning Commission, in its Resolution No. PC 09-001, recommended that the Board re-notice land use ordinances that were adopted by the Board where newspaper notice was not provided for the hearings, as identified by staff, so that the public will have an opportunity to provide comments.
- i. In addition to adding the notice provisions, the Planning Commission, in its Resolution No. PC 09-001, recommended that the language presently in the code authorizing the County to appeal Hearings Officer decisions should be deleted as it was replaced with a procedure in 2005 allowing the Planning Director to appeal the decisions to the Board of Commissioners.

- j. No regulations are being proposed that further restrict the use of property, therefore no mailed notice to an individual property owner is required (“Ballot Measure 56” notice).
- k. Notice of this Board of County Commissioners’ hearing was published in the “Oregonian” newspaper and on the Land Use Program web site. The Board of County Commissioners held a public hearing on June 11, 2009 where all interested persons were given an opportunity to appear and be heard.

Multnomah County Ordains as follows:

Section 1. MCC §37.0720 is amended as follow:

§ 37.0720 Notice of ~~PC~~ Legislative Hearings.

(A) Notice of the date, time, place and subject of a legislative hearing before the Planning Commission shall be published in a newspaper of general circulation within the County at least 20 days prior to the hearing and as required by law. The Planning Director shall also notify the Oregon Department of Land Conservation and Development (DLCD) 45 days prior to the initial public hearing or as required by law.

(B) Notice of the date, time, place and subject of a legislative hearing before the Board of Commissioners shall be published in a newspaper of general circulation within the County at least 10 days prior to the hearing and as required by law.

(C) Individual notice of a legislative hearing before the Planning Commission that amends the Comprehensive Plan, adopts a new Comprehensive Plan, or rezones property shall be mailed at least 20 days but not more than 40 days prior to the hearing to the owners of all affected properties. Such notice shall adhere to the format provided in ORS 212.503.

(D) For the purpose of this section, property is rezoned when the County:

(1) Changes the base zoning classification of the property; or

(2) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(E) The provisions of subsection (2) above do not apply to legislative acts by the County resulting from action by the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047.

Section 2. MCC §38.0720 is amended as follow:

38.0720 Notice of PC hearings.

(A) Notice of the date, time, place and subject of a legislative hearing before the Planning Commission shall be published in a newspaper of general circulation within the County at least 20 days prior to the hearing and as required by law. The Planning Director shall also notify the Gorge Commission, the US Forest Service, the Indian tribal governments, the State Historic Preservation Office, and the Cultural Advisory Committee.

(B) Notice of the date, time, place and subject of a legislative hearing before the Board of Commissioners shall be published in a newspaper of general circulation within the County at least 10 days prior to the hearing and as required by law.

(C) Individual notice of a legislative hearing before the Planning Commission that amends the Comprehensive Plan, adopts a new Comprehensive Plan, or rezones property shall be mailed at least 20 days but not more than 40 days prior to the hearing to the owners of all affected properties. Such notice shall adhere to the format provided in ORS 212.503.

(D) For the purpose of this section, property is rezoned when the County:

(1) Changes the base zoning classification of the property; or

(2) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(E) The provisions of subsection (2) above do not apply to legislative acts by the County resulting from action by the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047.

Section 3. MCC §37.0640 is amended as follow:

37.0640 Appeals.

Appeals of any decisions of the county must comply with the requirements of this section.

(A) Appeals by applicants or opponents of an application.

* * *

~~(7) The county has the standing to appeal to LUBA any Hearings Officer decision. The county also has standing to intervene in any appeal to LUBA from a County Hearings Officer decision.~~

* * *

Section 4. The following Ordinances are readopted:

Ord. #	Adoption Date	Description
999	11/14/02	Made filing activities in EFU zones
1007	2/6/03	Technical corrections in the scenic area
1025	1/15/04	Changed procedures and fees
1026	1/22/04	Amended Comprehensive Plan Policy 22 C for bike and pedestrian systems
1027	1/22/04	Amended Comprehensive Plan Policy 34 for the trafficways
1049	9/16/04	Building code fire flow standards
1065	6/23/05	Added Planning Director appeal process
1080	9/21/06	Related to unlawfully divided lots and parcels

Ord. #	Adoption Date	Description
1081	9/28/06	Reduced setbacks for certain agricultural buildings
1082	9/28/06	Related to variances and adjustments
1098	8/16/07	Updated EFU and CFU rules and notice requirements
1107	1/17/08	Related to transportation code enforcement
1114	5/29/08	Related to unlawfully divided parcels, lot sizes for parks and biofuels and Amended Comprehensive Plan Policy 38A related to surplus schools
1120	9/11/08	Related to flood hazard regulations

Section 5. 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:

June 11, 2009

SECOND READING AND ADOPTION:

June 18, 2009



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

[Signature]
Fed Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

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

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

BEFORE THE PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. PC 09-001

Recommend to the Board of County Commissioners the adoption of an ordinance amending land use procedures in the County Code to include notice requirements for legislative items provided in ORS 203.045(5), 215.060, and 215.503.

The Planning Commission Finds:

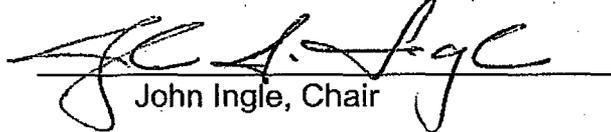
- a. The Planning Commission is authorized by Multnomah County Code and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. The County incorporates statutory land use procedures into its codes to ensure that its processes comply with the law and that its constituents receive adequate notice.
- c. These procedures include legislative work, such as the adoption or amendment of the County Comprehensive Plan, land use regulations, map inventories, and other policy documents that affect the entire county, large areas, or multiple properties.
- d. Public hearings are required before the Planning Commission and Board of Commissioners on all proposed legislation, for which the State has established minimum notice requirements.
- e. While the County Code contains some of the State notice requirements, it does not include all of them; specifically the newspaper notice provisions outlined in ORS 203.045(5) and 215.060 for Board of Commissioners hearings and the direct mail notice requirements of ORS 215.503.
- f. Implementing statutes directly has proven ineffective, and it is necessary to add these notice provisions to the Code to minimize the chances that notice is missed.
- g. The Board should re-notice land use ordinances where newspaper notice was not provided for the hearings, as identified by staff, so that public will have an opportunity to provide comments.
- h. In addition to adding the notice provisions, language authorizing the County to appeal Hearings Officer decisions should be deleted as it was replaced with a procedure in 2005 allowing the Planning Director to appeal the decisions to the Board of Commissioners.
- i. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required ("Ballot Measure 56" notice).
- j. Notice of the Planning Commission hearing was published in the "Oregonian" newspaper and on the Land Use Program web site. The Planning Commission held a public hearing on March 2, 2009 where all interested persons were given an opportunity to appear and be heard.

The Planning Commission Resolves:

The proposed Ordinance amending land use procedures in the County Code is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 2nd day of March, 2009.

PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON


John Ingle, Chair