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Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

PLANNING SESSION MEMORANDUM

To: Board of County Commissioners
From: Cam Gilmour *Cam*
Date: January 23, 2012 *13*
Re: Code Enforcement Planning Session

The purpose of this planning session is to provide the Board with an overview of how code enforcement works today, and to gain feedback on which elements of the program the Board is interested in changing, and which elements the Board would like to have a more focused discussion on.

Background:

This planning session is the result of almost two year's worth of discussions about how Clackamas County enforces the various provisions of its code and Zoning and Development Ordinance. In 2010, the county began seeking public input on how code enforcement might be modified to be more effective. That process, which included consultation with Community Planning Organization leaders, resulted in a number of policy changes as well as a package of legislative amendments that was brought before the Board in May of 2012. The Board elected to further study the matter, particularly in light of its goal of promoting job growth in Clackamas County. This planning session presents the first opportunity for the new Board to consider the issue.

Materials:

- An outline and copy of the staff presentation;
- Code Enforcement's Policy and Philosophies;
- Sample documents from the enforcement process;
- A copy the amendments that were proposed to Chapter 2.07 of the county code in May, 2012.

Desired Outcome of Planning Session:

- Direction to staff on changes in code enforcement desired by Board.
- Understanding of what, if any, changes the Board desires in code enforcement practices and priorities.

Outline for January 23, 2013 Code Enforcement Planning Session

Color Codes:

Recent change in process or staff consensus for proposed change.

Staff has requested BCC approval.

Other items for which staff anticipates significant discussion.

Outline:

- I. Introduction
 - a. Reason for the presentation
 - b. Process we will follow to get to a vote
 - c. What you will hear in the next hour
 - i. Overview of the process and policies
 - ii. How those policies changed to reflect recent public outreach

- II. What Code Enforcement enforces
 - a. Philosophy
 - b. Structure and case load
 - c. Code provisions enforced
 - d. On behalf of which department
 - e. Prioritization Matrix
 - f. Nonconforming uses and verification
 - g. 10-year policy

- III. Overview of the process from complaint to resolution
 - a. Complaint
 - i. Copy of the complaint form
 - ii. Who takes complaints – Recent change
 - iii. Who can make a complaint
 1. Members of the public – Policy is unchanged
 2. Staff – Policy formalized following public outreach
 - iv. Policy with respect to anonymity – Staff consensus on proposed change
 - v. Policy with respect to confidentiality
 - b. Alternatives to the current complaint driven system
 - i. Threshold number of complaints
 - ii. Motives for complaints
 - iii. Random inspections
 - iv. Concerns with selective enforcement

Outline for January 23, 2013 Code Enforcement Planning Session

- c. Allege letter
- d. Investigation
 - i. Process
 - ii. Sources of information
 - 1. Site visits
 - 2. Property tax records
 - 3. Aerial photos
 - 4. Coordination with other departments
 - iii. Administrative warrants
- e. Voluntary compliance
 - i. Policy
 - ii. Elimination of the voluntary compliance agreement and rationale
 - iii. Administrative fee
- f. Citation
 - i. Citation form
 - ii. Amounts
 - iii. Must pay citation *and* abate the violation
- g. Hearing
 - i. Notice
 - ii. General procedure
 - iii. Continuing order
 - iv. Final order
 - v. Lien
 - vi. Eliminate the hearing on hardship
- h. Referral to counsel's office
 - i. Thirty-day notice
 - ii. Civil suit
 - iii. Garnishment
 - iv. Contempt
 - v. Negotiated settlement available at any step
- IV. Other issues
 - a. Role of BCC
 - b. Nonenforcement agreements and process
- V. Request for more direction
 - a. We are working towards a vote.
 - b. Which issues are BCC comfortable with?
 - c. Which issues does BCC need additional consideration?

COMPLAINT FORM

Code Enforcement Division

Date: _____ Taken By: _____

Complainant: _____ Requested Confidentiality
 Yes No

Address: _____ **** (if yes, must complete reverse side) ****

City/ST/Zip: _____

Home Phone: _____ Cell Phone No: _____

Work Phone: _____ E-Mail: _____

Address of Problem: _____

T _____ S, R _____ E(W), SEC _____, Tax Lot _____

Violation of: _____

Description (Please provide as much detail as possible):

Flood Plain: Yes No

UGB: In Out

Contractor: _____

CE District: _____

Acreage _____

Report to CCB: _____

CPO: _____

Zoning: _____

ASSIGNMENT (staff only)

Project # _____

Vio Type	Sub Type	Priority Level	Enforcement Level	Description	Violation #

Prior Violations: _____

Clackamas County Code Enforcement Complaint Request for Confidentiality

Instructions: Use this side of the form when taking a code violation complaint from a complainant who requests confidentiality.

Tell complainant: Information submitted to the county is potentially subject to a public records request under Oregon law. If you meet the requirements for making a confidential complaint, the county will oblige itself in good faith to protect your name, contact information and other information that would clearly identify you as the source of the complaint. However, you must be making this complaint on the condition of confidentiality and you must not have a legal obligation to make this complaint.

Please be aware that confidential information may be disclosed internally or to comply with a legal order.

Ask complainant: Do you want your name, contact information, and other information that would clearly identify you as the source of the complaint kept confidential?

Yes No

If yes, then ask: Are you making this complaint on the condition that the county preserve your confidentiality?

Yes No

If yes, then ask: Are you required by law to make this complaint?

Yes No

Staff Certification: After reading the above statement to the complainant, I asked each of the above questions and believe that the complainant answered them truthfully. Because the complaint meets the conditions required to preserve the complainant's confidentiality, I, through my actions, have obliged the county in good faith not to disclose that the complainants name, contact information, and other information that would clearly identify them as the source of the complaint.

Printed Name

Signature

Date

Confidential Submission

Upon certification of the above, the complainant's name, contact information, and other information that would clearly identify the source of the complaint are exempt from disclosure under pursuant to ORS 192.502(4).

November 15, 2012

Mr. & Mrs. Johnson
1234 SE Main Street
Oregon City, OR 97045

**Subject: Alleged Violations of the Clackamas County
Code**

Site Address: 1234 SE Main Street, Oregon City, OR 97045
Legal Description: T1S, R2E, Section 34, Tax Lot 5678

It has come to the attention of the Clackamas County Code Enforcement Section office that a violation may exist on the above referenced property.

This may constitute a violation of the Clackamas County Code.

Please call this office within ten (10) days of the date of this letter in order to discuss this matter. My direct telephone number is 503-555-1234.

Thank you for your prompt attention to this matter.

Andrea Hall
Clackamas County
Code Enforcement Section

January 16, 2013

Mr. & Mrs. Johnson
1234 SE Main Street
Oregon City, OR 97045

**Subject: Violation of the Clackamas County Solid Waste and Waste
 Management Code**

Site Address: 1234 SE Main Street, Oregon City, OR 97045
 T1S, R2E, Section 34, Tax Lot 5678

In response to a complaint, a representative of the Clackamas County Code Enforcement Section investigated the accumulation of solid waste on the subject property to include, but not limited to, inoperable and/or non-currently licensed vehicles, discarded furniture and putrescible (household) garbage.

This accumulation of solid waste causes a condition of unsightliness and is a safety and health hazard and, therefore, violates the Clackamas County Code, Chapter 10.03, Solid Waste and Waste Management. Your cooperation is solicited to store out of sight all articles of solid waste that you wish to keep and to remove the remainder to an authorized disposal facility no later than February 16, 2013.

Please feel free to contact me if you have any questions. My direct telephone number is 503-555-1234 and email andreaahal@co.clackamas.or.us.

Thank you for your prompt attention to this matter.

Andrea Hall
Clackamas County
Code Enforcement Section

Required Notice of Fines and Penalties

It is important that you contact the Code Enforcement Section to resolve the violations described in the enclosed letter. Failure to resolve those violations may result in one or more of the following: (1) a citation and fine, (2) assessment of an administrative fee, and (3) referral of this matter to the County Code Enforcement Hearings Officer.

The Clackamas County Code provides for fine amounts of up to \$500 and additional civil penalties of up to \$3,500 for each day the county verifies the noncompliance. Fine amounts and civil penalties are assessed for each cited violation and may be assessed separately against each named party. In addition, the Code Enforcement Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and responsible parties.

Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that when a property owner works cooperatively with the County to resolve a confirmed code enforcement violation, the County may waive all or part of the \$75 per month administrative fee.

Unpaid fines, administrative fees, civil penalties and abatement costs may be recorded as a lien against property owned by any of the parties either jointly or separately.

Also, be advised that non-compliance with a Hearings Officer's Order may result in the matter being referred to County Counsel for legal action in Circuit Court which may result in additional penalties or other sanctions.

Finally, recurrences of abated violations will result in the issuance of a citation without prior notice.

CLACKAMAS COUNTY
DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT

CODE COMPLIANCE

PHILOSOPHY, POLICIES, AND COMPLIANCE
PRIORITIES

DATED: ~~DECEMBER 1, 2005~~ DECEMBER 18, 2008

CODE COMPLIANCE PHILOSOPHY

In February of 2000, in an effort to provide effective compliance of codes while operating with declining resources, Clackamas County began a process of reviewing its activities and systems for code compliance.

Clackamas County's philosophy on code compliance is to first take the approach of voluntary compliance and use an enforcement approach only as a last resort. An understanding and helpful attitude resolving citizen concerns is felt to be a more effective philosophy to develop solutions based on individual situations and provide broad-based public education. The assumption is that the education of citizens regarding the requirements of codes will solve most violation issues and help avoid future violations.

CODE COMPLIANCE POLICIES

Priorities

Types of code violations are divided into seven levels, based primarily on the overriding criteria of health, life, safety, or environmental damage. The levels are prioritized in descending order of importance. Violations in priority level 1 are considered to have the most serious impact to citizens' health, life, and safety, and to the environment.

Funding available to the code compliance program does not permit code violations in all seven levels to be enforced. At this time, levels 1-4 will be enforced and levels 5-7 will not. The determination of which levels will be enforced and which will not, may change with time as resources shift.

In all cases County staff will offer potential solutions to assist affected parties in resolving issues of code complaints. Where appropriate, mediation will be offered as a way to solve some issues. If, ultimately, compliance cannot be reached on a level 1-4 violation, a formal compliance process involving a hearings officer or the Circuit Court will be instituted.

Alleged violations of conditions and codes that have existed (at the same intensity) for at least 10 years, unless health, life or safety related or which cause irreparable environmental damage will fall into a low priority and will not be enforced, as long as credible proof of this is provided by the owner. Other lower priority cases will be pursued only if required by law.

Protocol

A protocol has been developed as the basis for the compliance with the codes. The staff listens to concerns and issues to understand, and help develop solutions based on individual situations.

Steps of the Process:

Step 1) Triage - evaluate complaint against the priorities. Conduct a preliminary investigation to identify which priority level it falls into.

- Some actions are based on whether the complaint is:
 1. an emergency
 2. preventable (if so, a "Stop Work Order" may apply)
 3. remedial
- Health, life, safety, or irreparable environmental damage as defined through the priorities is evaluated by the Code Compliance Officer and appropriate notations of observations are included in the record.
- Determine Priority. If 1-4, go to Step 2, unless mediation is offered. If 5-7, offer suggestions to resolve including mediation where appropriate.

Step 2) Investigate/research. Make decision as to whether a violation exists.

Step 3) Educate, outline options and set time frames based on individual codes. The initial approach is to be voluntary, informational, friendly and respectful.

Step 4) If it can be solved through the outlined options, the violation is corrected and the case is closed. If substantial progress towards compliance is not achieved after following the initial voluntary, informational, friendly and respectful approach, the approach becomes increasingly more compliance oriented.

The order of approach is as follows:

- a) Enter into a signed and dated compliance agreement, which sets forth specific compliance requirements and schedule.
- b) If an owner fails to enter into a compliance agreement, or to make substantial progress toward agreed upon compliance requirements, issue a citation and forfeiture- requiring respondent to abate the violation. The following table provides violation classifications for each compliance priority class and the maximum forfeiture associated with each.

Violation Classification	Maximum Forfeiture	Current Priority Class
1	\$500	Priority 1
2	\$400	Priority 2
3	\$300	Priority 3
4	\$200	Priority 4

- c) If no compliance is reached, after issuing a citation and forfeiture, begin the formal appropriate enforcement process by referring the violation to:
 - 1. The Compliance Hearings Officer; or
 - 2. County Counsel for legal action with Circuit Court
- d) If the violation reaches the Hearings Officer step in the process, staff will consult with the Community Environment Manager.
- e) If the violation reaches the Circuit Court step in the process, staff will consult with:
 - 1) The Division Manager responsible for administering the code that is in violation & Department of Transportation and Development (DTD) Director to determine if the issue warrants legal action through County Counsel.
 - 2) If the issue is referred to County Counsel, Counsel will notify the BCC. Counsel and Code Compliance will seek BCC approval before any court action is initiated.

same intensity) has existed for at least 10 years, then the case falls into a low priority and no further action is taken by the County. This is communicated through a carefully worded letter to the owner and the complainant. If no credible proof can be provided, the ordinance requirements will be enforced.

- 8) The 10-year Policy also applies to all code violations with the following exceptions:
 - a) Health, life & safety related.
 - b) Where required by law.
- 9) Conduct broad based public education to prevent violations. Communicate priorities and protocol.
- 10) Don't do courtesy inspections unless as part of an active violation or as part of a permit process. Normal process: provide information on ordinance requirements.
- 11) Stay compliance action on violations that are on appeal or in which an administrative action is pending. The only exception is if the County Administrator determines that continued compliance action is warranted.
- 12) Stay compliance action if an owner is actively pursuing non-DTD permits that may be required in order to acquire County permit approval.
- 13) Stay compliance action on violations that may be corrected through legislative actions of the Board.
- 14) Stay compliance action on violations, which could possibly be corrected through imminent state legislative action, unless the County Administrator determines that continued enforcement action is warranted.

CODE COMPLIANCE PRIORITIES

Enacted September 25, 2000 / Adopted June 14, 2001
(Revised September 26, 2002 – Proposed Changes)

Only compliance of the Clackamas County code pertaining to the abatement of dangerous buildings is discretionary. Compliance with the requirements for structural, fire and life safety, plumbing, electrical, manufactured dwellings, manufactured dwelling parks, recreational and organizational camps and all other codes defined under ORS 455.010 (7) and (8) and OAR 340-71 to -73 are not discretionary. It is the intent of County Administrative Code Chapter 9.02.340 to establish priorities for code violations so compliance can proceed based upon budgetary resources. The following list represents those priorities. Our decision to prioritize violations must be included in our operating plan, which must be submitted for approval to the State.

Building

Priorities 1 through 4 are based on Chapter 9.02.340 of the Application and Compliance of the Clackamas County Building Code; these will be pursued as violations of the building code. Items listed in priorities 5 through 7 are violations of the building code but due to budgetary constraints will not be pursued. All structure sizes are subject to a 5% variance.

Priority 1 Violations

Violations which fall in this category are those which have an adverse effect on the public, or pose a serious threat to individuals or the environment. Items listed deal primarily with commercial uses and additions to single family-residences. In the event of a building failure (structural, life safety, plumbing and electrical), harm to individuals and expensive structural damage could result.

Commercial:

- 1) Life safety systems including inadequate exits, dangerous stairs, handrails, lack of smoke/fire detection systems in commercial/industrial and public assembly buildings. (excluding multi-family dwellings)
- 2) Construction of commercial /industrial buildings.
- 3) Structural modifications to commercial/industrial buildings. This applies to additions/remodels.
- 4) Electrical/plumbing installations in commercial/industrial uses.
- 5) Plumbing cross connections in commercial/industrial buildings. This applies to retail uses/apartments/restaurants.
- 6) Agricultural buildings (other than equine facilities) converted to commercial/industrial uses, which have employees.
- 7) Commercial/industrial buildings with outstanding structural or fire and life safety issues occupied without approved final inspections.
- 8) Equine facilities converted to commercial/industrial/assembly uses.

Board of County Commissioners & County Administrator Participation

Board of County Commissioners

The BCC is to set policy and adopt codes and ordinances.

On individual cases received by a Board member, an individual Board member's involvement will be as follows:

1. Consult with the County Administrator
2. Determine if the established protocol is followed. If the protocol is not followed, the County Administrator will contact the Code Compliance Manager or the DTD Director and advise the County Board member.
3. If the protocol is followed & a conflict still exists, a Commissioner will not intervene individually.

County Administrator

It is the County Administrator's role to establish the best management practices to accomplish the Board's goals and objectives. It is important to note that on occasion concerned citizens may contact a Board member. In these instances the County Administrator may assign staff assistants to obtain information on individual cases.

On cases involving a staff assistant their involvement is as follows:

- a) Contact the appropriate Code Compliance (CC) staff to understand and get facts of the case.
- b) If appropriate, contact the citizen to share and gather information, not making any specific commitment without first discussing the issue with the assigned CC staff.
- c) If a meeting or field inspection is scheduled the assigned CC staff will accompany the staff assistant to ensure consistency of messages and to work together as a team to find possible solutions and alternatives to resolve the code issue.
- d) Staff assistant will not assume responsibility of the code issue or direct CC staff.
- e) The responsibility of resolving the code issue, through good customer service, will rest with CC
- f) If for some reason, the complaint this office receives is about a CC staff person rather than a specific code issue, the staff assistant will refer the matter to the Division Manager for resolution. The Division Manager will address the issue with the CC staff person. If the complaint was received in written form, the Division Manager will provide a copy to the CC staff person. The Division Manager will provide feedback to the initially contacted staff assistant to bring closure to the complaint.

Operational Issues and Policies

These operational issues were considered as part of the policies:

- 1) Code compliance priorities should be reconsidered as resource and program changes occur.
- 2) Staff should report high priority violations that are discovered during their normal course of business. This would include violations that are health, life, or safety related, or which cause irreparable environmental damage. These violations should be reported to the appropriate agencies, including County agencies. The name of the staff person who reports any violations and an explanation of the factors that led staff to determine that the violation was in this category should be included in the file.
- 3) When responding to a high priority citizen complaint, staff should address the violation that is the subject of the complaint. If other low priority violations are observed, staff should give the respondent only a verbal reminder of this low priority violation but not address it as part of the complaint.
- 4) Enhanced training is needed and should be required for Code Compliance Officers, Planning, and Building Code staff. The training should include dispute resolution, handling angry citizens, etc.
- 5) To ensure consistent decisions, a library or database of case histories will be compiled. It will be used as both a reference and a training tool. Imaging could be used for this purpose.
- 6) Acceptance and confidentiality of complaint from citizens:
 - a) Anonymous complaints will be accepted for complaints involving health, life, safety, or irreparable environmental damage.
 - b) All other complaints will be accepted in writing (includes Email) and by phone and must include name, address, and phone # of the complainant.
 - c) The confidentiality of any complainant will be provided to the extent allowed by law.
- 7) Role of Code Compliance staff in non-conforming use issues:
 - a) 10-Year Rule: There is no role for Code Compliance staff in the verification of a non-conforming use. The law requires that we follow a land use process. When verifying the status of a non-conforming use, that decision must be based on substantial evidence. This is handled by Planning staff as part of the planning process verification. A staff report is required as part of the process.
 - b) 10-Year Policy: Code Compliance staff is not making a land use decision. When investigating a non-conforming use status for complaint/violation purposes, if credible proof can be provided by the owner that the use (of the

- 9) Commercial accessory structures greater than 120 square feet or 10 feet in height located within the Urban Growth Boundary.

Residential:

- 1) Additions to one and two family residences, or manufactured homes. Modifications or additions to one-and two-family dwellings or manufactured dwellings that create habitable rooms. Habitable rooms are defined as those rooms or spaces which are used for sleeping, living, cooking, or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar places.
- 2) Modifications to one and two family residences, or manufactured homes which create new sleeping rooms.
- 3) Single-family residences built without permits.
- 4) Conversion of accessory building to create new sleeping rooms.
- 5) Reported residential dwellings that are for rent, lease, or sale that do not have approved final inspections for electrical and plumbing permits.

Electrical:

- 1) Life threatening wiring, exposed wires, service connections, etc. other than those associated with maintenance on apartments and one-and two single-family residences.
- 2) Electrical installations on docks or floating structures.
- 3) Electrical installations for swimming pools and hot tubs.
- 4) Wall-mounted neon and individual letter illuminated signs that require electrical permits.
- 5) Supply of electricity through extension cords or generators in situations other than temporary, emergencies, or during construction or renovation projects.
- 6) New electrical system installations.

General:

- 1) Swimming pools/hot tubs containing water over 24" deep without adequate barriers on a case by case basis.
- 2) Dangerous buildings on a case by case basis.

Priority 2 Violations

This category affects fewer people and has less of an impact on housing and jobs.

- 1) Commercial towers over 10 ft. in height. (i.e., cell, water towers)
- 2) Plumbing cross connections on single-family uses.
- 3) Installation of manufactured dwellings, park trailers and mobile homes.
- 4) Construction of private bridges.

Priority 3 Violations

This category has even less effect on the public. Most violations in this category affect individuals or individual residences/accessory structures.

- 1) Commercial change of use to a less hazardous use.

- 2) New tenant improvements greater than 1,500 sq. ft.
- 3) Retaining wall greater than 6 ft. in height, which affect adjoining properties or public spaces.
- 4) New apartment decks constructed without permits. (dangerous building code)

Priority 4 Violations

The effect would be primarily to occupants of a single-family residence.

Commercial:

- 1) Hazardous home occupations. (potential for fire, explosions, etc.)
- 2) Accessory structures greater than 1000 sq. ft. located in rural, timber or agriculturally designated areas used for a business.
- 3) New tenant spaces less than 1500 sq. ft.
- 4) Commercial appliances (devices which are designed to use energy for which the codes have specific requirements) changed without a permit.

Residential:

- 1) Newly constructed residential decks equal to or greater than 6 ft. above adjacent grade.
- 2) Single-family accessory structures greater than 500 sq. ft. and greater than or equal to 10 ft. in height in the urban area.
- 3) Accessory structures 3000 sq. ft. or greater (not used as a business) located in the rural, timber, or agriculturally designated areas.

General:

- 1) New installations of HVAC systems, wood stoves and conversions from electrical to gas.
- 2) Commercial appliances (devices which are designed to use energy for which the codes have specific requirements) changed without a permit.
- 3) Billboards and free standing sign structures greater than 10 ft. in height.
- 4) Installation of new showers or bathtubs. (Replacement of existing fixtures is exempt.)
- 5) New installations and alterations of heating, ventilation and air conditioning (HVAC) systems that involve the installation of gas-fired equipment, related venting and gas piping or that involve new electrical services, circuits and / or electrical wiring. Placement of HVAC equipment in areas that pose high hazard / risk to life or property, such as HVAC installations in sleeping rooms or in areas where flammable liquids are stored or used. Plumbing systems that pose a health or life-safety hazard such as the installation or replacement of a water service and installations where cross-contamination may occur. (Ordinary repairs, minor work and portable equipment are not subject to permit requirements and therefore exempt).
- 6) Fences/combination retaining wall fences greater than 10 feet in height.

Priority 5 Violations

These category lists, uses, which have little potential of damage to the public, basically affect individual residences or are less frequent in occurrence.

Commercial:

- 1) Commercial/Industrial buildings with no outstanding structural or fire and life safety building code issues, occupied without a final inspection or certificate of occupancy.
- 2) Agricultural buildings used for non-agricultural residential uses (see priority one for commercial and industrial uses).
- 3) Non-hazardous home occupations. (little or no potential for fire, explosions, etc.)
- 4) Repair/maintenance of apartment decks or stairs.
- 5) Accessory structures less than or equal to 1000-sq. ft. used in conjunction with a business, without employees, located in rural, timber or agriculturally designated areas.
- 6) Greenhouses/membrane structures less than 1000 sq. ft., with a minimum 3ft. setback, used for the sale/or display of agricultural products to the public.
- 7) Billboards, wall mounted signs and freestanding sign structures less than or equal to 10 ft. in height.
- 8) Equine facilities used for stabling or training equines, for riding lessons and training clinics in which more than 10 persons are consistently present at any time.

Residential:

- 1) Modifications or additions to one-and two-family dwellings or manufactured dwellings that do not create habitable rooms. Habitable rooms are defined as those rooms or spaces which are used for sleeping, living, cooking or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar places.
- 2) Minor structural repairs to one-and two-family dwellings, and accessory buildings (e.g. post and beam, foundation, header, etc). Manufactured dwelling cabana.
- 3) Finish basement, convert garage or accessory building into habitable space. , which does not create bedrooms.
- 4) Minor structural modifications of single-family residences.
- 5) Accessory structures less than 3000 sq. ft. when not used as a business located in rural, timber or agriculturally designated areas.
- 6) Accessory structures greater than 200 sq. ft. or 10 ft. in height, but less than or equal to 500 sq. ft. when not used as a business, located in urban designated areas.
- 7) Minor structural repairs to single-family residences and accessory buildings.
- 8) Residential appliances changed without a permit. (i.e., dishwasher, range.)

Electrical:

- 1) Electronically operated wall mounted signs other than neon signs and individually illuminated letter signs.
- 2) Minor electrical work. (i.e., extension of branch circuit, moving light switch or outlet).

General:

- 1) Minor electrical and plumbing associated with accessory structures/agricultural/equine buildings and facilities, which does not include the installation of new showers or bathtubs.

Priority 6 Violations

Violations in this category have limited life safety issues or as in the case of final inspections are incumbent on the applicant to pursue.

Commercial:

- 1) Re-roof of a commercial building.

Residential:

- 1) Final inspections on single family residences, non-commercial/industrial storage buildings, manufactured homes, and accessory structures to single family and manufactured homes.
- 2) Single-family residential patio covers.
- 3) Single-family residential carports.
- 4) Residential re-roofs including minor truss replacement or new sheeting.
- 5) 6) Newly constructed residential decks less than 6 ft. in height above adjacent grade.

General:

- 1) Surface water run-off/rain drains/storm drains.

Priority 7 Violations

This category is basically non-people problems.

- 1) Retaining walls less than 6' in height.
- 2) Fences/combination retaining wall fences greater than 6' but less than 10 feet in height.
- 3) Flag poles.

PLANNING

Local governments are required by state law to "prepare, adopt, amend and revise comprehensive plans..." and "enact land use regulations to implement their comprehensive plans..." (ORS 197.175(2), also see ORS 215.050). Similarly, local governments are required to adopt standards and procedures governing approval of subdivisions and partitions (ORS 92.044). Local government plans and ordinances must be consistent with the LCDC goals, certain Oregon Administrative Rules and regional (Metro) standards.

ORS 197.013 states that "implementation and compliance of acknowledged comprehensive plans and land use regulations are matters of statewide concern..." ORS 215.190 prohibits use of structures or land in violation of local planning and zoning requirements. ORS 215.185 provides that a local government or "a person whose interest in real property..., is or may be affected by the violation..." may institute proceedings to enforce the local government's regulations. There are no other specific state provisions relating to the type of local government compliance program

When faced with a potential code compliance action involving a use of land that does not conform to the requirements of the Zoning Development Ordinance (ZDO), the process in the Protocol and Operational Issues portions of the Board of Clackamas County Code Compliance Policies will be followed. If credible evidence is presented confirming the existence of the use for at least 10 years, the compliance action is terminated. The termination of the compliance action does not constitute a verification of the non-conforming use, but only ends the compliance action. If the property owner wishes to pursue a verification of the non-conforming use, the land use process defined by state law and the ZDO must be followed.

Priority 1 Violations

These violations involve land use activities that impact environmental/natural resources (irreparable harm has taken place that cannot be corrected, creating a permanent situation).

- 1) Cutting trees within river corridor in violation of the ordinance.
- 2) Grading river/stream bank or in river/stream.
- 3) Surface mining.
- 4) Filling or other development within floodplain or riparian corridor.

Priority 2 Violations

These violations involve Land Uses that disturb the livability of the community. The greater the impact to the community, the higher the violation should be in priority, for code compliance within this category.

- 1) Commercial or industrial activity in residential or resource zones.
- 2) Livestock in the urban area.
- 3) Conditions of land use permit approval. (i.e., conditional use, home occupation, design review, temporary dwellings.)

Priority 3 Violations

These violations involve land uses that impact densities on properties. They would include: development of a residence without land use approval (recreational vehicle, mobile home, addition to an existing structure or any of several other residential uses of property).

These violations can usually be fixed without irreparable harm to the property. Occasional health and safety issues (i.e., lack of proper sanitation) would cause the violation to be designated a higher priority among violations in this category.

- 1) Second Dwellings (i.e., RVs, manufactured dwellings, accessory dwelling.)
- 2) Retail commercial uses in an Industrial zone.
- 3) Failure to obtain Design Review approval.

Priority 4 Violations

None cited.

Priority 5 Violations

These violations do not cause irreparable harm, and the resolution is often applying for a land use application.

- 1) Building within setbacks or over property lines. (causes no irreparable harm) - can be resolved through a process available to the citizen as simple as a property line adjustment or as substantial as moving the building.
- 2) Building height, square footage and lot coverage requirements.
- 3) Commercial horse boarding or equine facilities used for stabling, boarding, or training equines, for riding lessons and training clinics.

Priority 6 Violations

These violations involve performance standards in the ZDO, mainly addressing signage and their visual impacts on the community. Code compliance is often difficult – education is usually more effective.

- 1) Signs (i.e., freestanding signs, A-Board signs, banners, balloons.)

Priority 7 Violations

These types of violations happen fairly infrequently, and if they do occur, there is no irreparable harm or life safety issues involved. Many times these violations are ultimately civil issues between the parties.

- 1) Unlawful land divisions.
- 2) Storage or the use of manufactured dwellings, residential trailers or job site trailers which are not occupied or subject of conditions of a land use approval.
- 3) Exceeding the number of allowed occupants in a single-family dwelling.

ROADS & ENGINEERING

Local governments are required by State law to maintain safe roadways in order to ensure the movements of goods, services and people. There are laws that specifically address road hazards, driveway approaches to County roads, development conditions of approval for road improvements and traffic signing and markings. ORS Chapter 197 addresses comprehensive land use planning coordination. ORS Chapter 368 describes County roads and addressing roadways standards, road hazards and County road official duties. ORS Section 374 describes control of access to public highways, while ORS Chapter 377 addresses traffic signs. ORS Chapter 811 addresses rules of the road for drivers. The County implements these laws through its Roadway Standards, the Zoning and Development Ordinance, and County Comprehensive Plan.

Priority 1 Violations

- 1) Signs attached to County sign posts (e.g. stop & yield).
- 2) Sight obstructions blocking stop signs or yield signs on all roads.
- 3) Obstructions in Right of Way causing a hazard (signs, vegetation and structures) on roads with centerline stripes.
- 4) Vegetation encroaching in Right of Way obstructing roads with centerline stripes.
- 5) Drainage onto County roads with centerline stripes.
- 6) Driveway entrance permits – damage or hazard (rock, mud, debris, water or other damage impacting the traveling public) occurring on County maintained, local access or public roads with centerline stripes.
- 7) Mud on roads with centerline stripes.
- 8) Basketball hoops and skateboard ramps in Right of Way on non-dead-end roads with centerline stripes.
- 9) Non-permitted gates on County-maintained Right of Way's on all County roads.

Priority 2 Violations

- 1) Conditions of approval for road improvements as part of a land use action on all roads.
- 2) Drainage onto County roads without centerline stripes.
- 3) Driveway entrance permits – damage or hazard (rock, mud, debris, water or other damage impacting the traveling public) occurring on County maintained, local access or public roads without centerline stripes.
- 4) Mud on roads without centerline stripes.
- 5) Vegetation obstructing traffic control device such as warning signs, regulatory signs on all roads (excluding stop signs and yield signs).
- 6) Basketball hoops and skateboard ramps in right of way on non-dead-end roads without centerline stripes.
- 7) Gates on county roads and public roads under County administrative jurisdiction (gates could be considered by the Board pursuant to a public hearing).

Priority 3 Violations

- 1) Obstructions in right of way causing a hazard (signs, vegetation and structures) on roads without centerline stripes.
- 2) Vegetation encroaching in County right of way obstructing roads without centerline stripes.
- 3) Driveway entrance permits, inadequate sight distance, inadequate slope, transition or apron on roads with centerline stripes.
- 4) Driveway entrance permits, inadequate sight distance, inadequate slope, transition or apron on roads without centerline stripes.
- 5) Non-permitted Commercial driveway entrance on all roads.
- 6) Commercial driveway entrance permits on local access roads and public roads.
- 7) Delivery trucks blocking all roads.

Priority 4 Violations

- 1) Vegetation obstructing street name signs on all roads.
- 2) Non-commercial driveway entrance permits on local access roads and public roads.

Priority 5 Violations

- 1) Sight restrictions (excluding stop or yield signs) on unimproved, non-County maintained local access or public roads.
- 2) Vegetation encroaching into unimproved, non-County maintained local access or public roads.
- 3) Signs placed within Right of Way but away from traveled portion (Priority 3 if it looks like traffic control device).

Priority 6 Violations

None cited.

Priority 7 Violations

- 1) Basketball hoops and skateboard ramps in Right of Way on cul-de-sac and dead-end streets.

SOLID WASTE

The Solid Waste and Waste Management Chapter of the Clackamas County Code is a discretionary ordinance originally adopted by the Board of County Commissioners in 1970, and re-adopted as Chapter 10.03 of the Clackamas County Code when that Code was enacted as Ordinance #05-200, effective July 13, 2000. The Solid Waste Chapter addresses two primary administrative elements, solid waste nuisance abatement and oversight of the franchised solid waste and recycling collection program. The power granted the County to adopt a nuisance abatement program is found in ORS 203, which contains statutes that grant the County authority to adopt ordinances over matters of County concern. ORS 203 and 459 grant the County authority to establish a franchised garbage and recycling system for the orderly collection of garbage and recyclable materials. ORS 459 and 459A require the County to provide the "opportunity to recycle...". This is accomplished through the franchised garbage and recycling collection system. The Solid Waste Chapter governs how this should be done. Although there is some code compliance associated with the franchised garbage and recycling system, the primary emphasis is on the solid waste nuisance priorities. This includes accumulations of solid waste that cause a condition of unsightliness or create a health or safety hazard.

All matters involving illegal dumping, under the Dump Stopper Program and in any other County enforcement context, are exempt from all Code Compliance Policy and Protocol requirements. "Illegal dumping" is the act of abandoning unwanted items on the land of another without that land owner's permission. This exemption from Policy and Protocol requirements allow authorized staff to immediately issue a citation and forfeiture to any person shown by a preponderance of evidence to be responsible for illegal dumping. The exemption reflects a corollary Policy of the Board of County Commissioner's that illegal dumpers form a special category of code violators who generally attempt to conceal their identities, and whose violations cause significant harm to innocent property owners as well as the general public. The only pragmatic approach in dealing with such violators is swift and emphatic enforcement action.

For purpose of the solid waste priorities a pickup truck load is the equivalent of 2 cubic yards.

Priority 1 Violations

These are health and safety violations, adversely affecting the public or posing a serious threat to individuals, the general public or the environment, including attractions for rodents or health threatening bacterium or pathogens. Items listed are of equal importance.

- 1) Violations of the franchised garbage collection system
- 2) Illegal recycling
- 3) Illegally dumped medical wastes.
- 4) Accumulations of putrescible wastes in the Urban Growth Boundary (UGB) and rural areas (for example: meat and meat scraps; fat; grease; food containers or products contaminated with food wastes).

- 5) Garbage containers overflowing with putrescible wastes (residential, commercial and multi-family).
- 6) Illegal dumping on public or private property
- 8) Dead animals.
- 9) Accumulation of domestic animal feces/manure in the UGB.

Priority 2 Violations

These violations are not health and safety related; however, these items generally affect a larger number of citizens, both within the (UGB) and rural areas of the County.

- 1) Accumulations of large volumes of non-putrescible solid waste greater than 6 pickup loads within the UGB. (i.e., discarded equipment and furniture, building demolition or construction wastes, plastic, glass, paper products, scrap metal or similar non-putrescible wastes.)
- 2) Accumulations of large volumes of non-putrescible solid waste greater than 10 pickup loads in the rural area.
- 3) More than 100 junk tires.

Priority 3 Violations

These violations affect fewer people but apply to both the UGB and rural areas. Due to higher densities in the UGB, issues with inoperable vehicles are more restrictive than in the rural area.

- 1) 3-6 pickup loads of non-putrescible solid waste within the UGB.
- 2) 6-10 pickup loads of non-putrescible solid waste in the rural area.
- 3) 3 or more inoperable and/or non-currently licensed vehicles within the UGB.
- 4) 5 or more inoperable and/or non-currently licensed vehicles in the rural area
- 5) 20 - 100 junk tires.

Priority 4 Violations

These violations have a moderate visual impact but do not represent a major degradation of neighborhood livability.

- 1) 2-or more inoperable and/or not-currently licensed vehicles within the UGB.
- 2) 4 or more inoperable and/or not-currently licensed vehicles in the rural area.
- 3) 20 or more junk tires.
- 4) Dilapidated mobile homes or trailer houses within the UGB.
- 5) Keeping or storing one inoperable and/or non-currently licensed vehicle within the boundaries of the Urban Renewal District that includes Overland Park.
- 6) Keeping or storing one to two pick-up loads of non-putrescible solid waste within the boundaries of the UGB and the Urban Renewal District that includes Overland Park.

Priority 5 Violations

- 1) 1 inoperable and/or not-currently licensed vehicle within the UGB.
- 2) 3 or less inoperable and/or non-currently licensed vehicle in the rural area.
- 3) Dilapidated mobile homes or trailer houses in the rural area.

- 4) Less than 20 junk tires

Priority 6 Violations

These violations have minimal impact on the general public or neighborhood livability, and are often a neighbor-to-neighbor issue over the unsightliness of minor accumulations of solid waste. It is suggested that items in this category be referred to mediation as the only resort for public assistance. If the mediation process is not successful, or the parties choose not to mediate, the County will not pursue compliance action.

- 1) Improperly maintained compost piles.
- 2) One to two pickup loads of non-putrescible solid waste in the UGB.
- 3) One to five pickup loads of non-putrescible solid waste in rural area.

Priority 7 Violations

These violations have little or no impact on neighborhood livability. It is suggested that code compliance or mediation not be pursued regarding these violations.

- 1) Accumulations of yard debris.

WATER ENVIRONMENT SERVICES

The On-Site Sewage Disposal Program in Clackamas County was created by the State of Oregon's Department of Environmental Quality (DEQ). By agreement Clackamas County is the DEQ Agent for the application and enforcement of ORS 454.605 through 454.780 and OAR 340 Divisions 71 and 73, and therefore its application is not discretionary. The Excavation and Grading Code was adopted by the Board as an ordinance in 1994 and therefore application and enforcement is discretionary.

Priority 1 Violations

On-Site Sewage Disposal:

- 1) Discharge of untreated or partially treated sewage to the surface of the ground that result in exposure of employees or the public to health risks on commercial/industrial property.

Grading:

- 1) Grading without permits, which:
 - Affects stream flow or results in changes to drainage patterns which may increase the risk of flooding, or places public roads or utilities in danger
 - Creates steep slopes which are hazardous to life safety or could have a negative affect on other properties
 - Allows material to leave the site by erosion into intermittent or perennial water ways
 - Allows material to leave the site by tracking from vehicles entering onto or leaving the property

Priority 2 Violations

Grading:

- 1) Grading in the urban area without permits which is less than that described in priority one.2

Priority 3 Violations

On-Site Sewage Disposal:

- 1) Discharge of untreated or partially treated sewage to the surface of the ground from residential uses.

Priority 4 Violations

On-Site Sewage Disposal

Non-permitted septic repairs or the installation of new systems without effluent on the surface of the ground provided that the sewage disposal area (drain field) is at least 100' from any well or public waters.

- 1) Abandonment of septic tanks and cesspools

Priority 5 Violations

None cited.

Priority 6 Violations

Grading:

- 1) Rural/agricultural grading not affecting streams.

Priority 7 Violations

None cited.

GRAFFITI

Graffiti is found in both urban and rural areas of Clackamas County. It is often the result of illegal activity, is frequently associated with gangs, and causes blight within our communities. Removal of graffiti is an important step towards improving our communities and the living conditions within the county. The enforcement of the graffiti ordinance and removal of graffiti will help eliminate the adverse impacts on the quality of life of the citizens of Clackamas County. For these reasons graffiti violations are considered high priority violations.

Priority 1 Violations

- 1) The presence of any graffiti as defined by county code Chapter 6.11 that is not removed by a responsible person within fifteen (15) calendar days of being notified that the graffiti exists.

Public asks for more effective, efficient code compliance system; proposed changes to be rolled out in fall 2011

A few months ago, the Code Compliance Division, led by Scott Caufield, began seeking comments and suggestions from the public, community groups and business groups about the current code compliance system through meetings and a survey.

For the past decade, Clackamas County has administered a code compliance program based on the philosophy that education and community outreach are effective at deterring code violations. The program, adopted by the Board of County Commissioners 10 years ago, focuses first on voluntary compliance and uses enforcement actions only as a last resort.

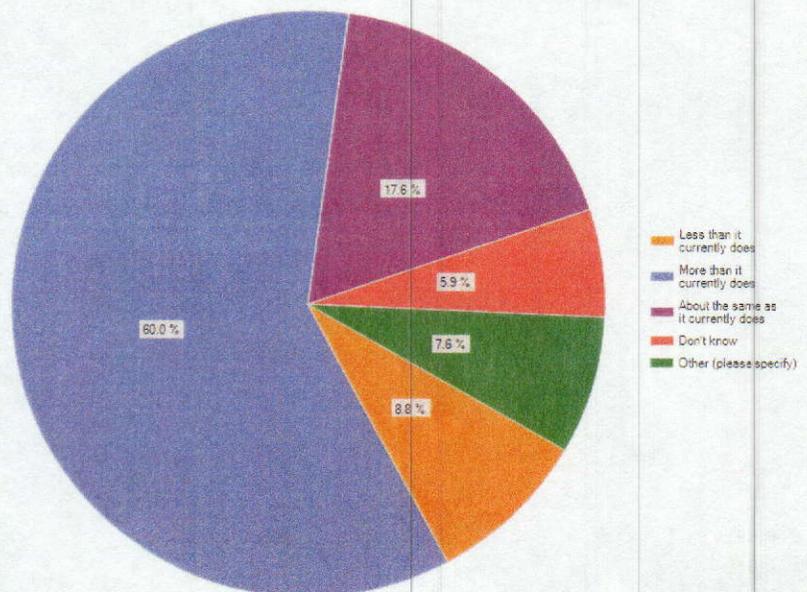
The existing priority-based program has code violations for building codes, land use, zoning, solid waste and other categories organized into seven enforcement priorities from Priority 1 – health and life-safety related, pose immediate hazards or might cause environmental damage – to Priority 7 violations -- such as short retaining walls, flag poles and other miscellaneous structures. Due to limited resources, the County only enforces Priorities 1 through 4 and refers the remainder to mediation.

Hundreds of people responded to the online survey, attended meetings and otherwise provided their input on the current code compliance system and how it could be improved.

The results are in, and it's clear that almost everyone agrees it's time for a change. The results of the survey, summarized below, are an accurate representation of the input we received.

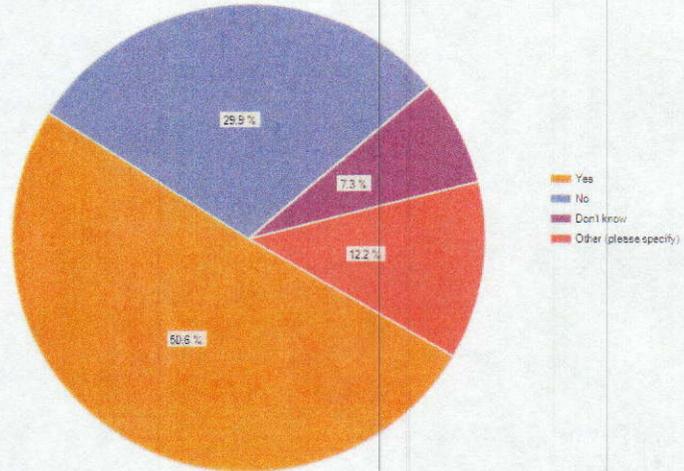
When asked about the amount of code enforcement the County should undertake, 60% of survey respondents advised the County to do more than it currently does, while only 26% suggested staying the same or doing less.

More than 26% of respondents thought that, if the current priority system is maintained, more or all violations should be enforced. Nearly everyone (over 90%) was aware the County could assess fines and civil penalties, and more than 70% asserted that the County should "use whatever means necessary (fines/garnishments/tax refund attachments, etc.)" to resolve serious violations when other attempts have failed.



Currently, Code Compliance staff only responds to complaints that come in from identified complainants – they do not respond to anonymous complaints nor do they follow up on issues they may see themselves (except for immediate life safety issues). That should change, according to our survey respondents. More than 65% said County staff should seek violations in the course of their normal duties (as well as respond to complaints) and, in response to a separate question, more than 50% advised the County to accept and respond to anonymous complaints.

I believe the County should accept and respond to anonymous complaints.



Many people also took the time to share their thoughts and experiences with us in more detail. Approximately 70% of people who responded to the survey said they had experience with the County's Code Compliance Division, and many of their comments reflected the previously-expressed view that the system needs to be changed because the current system is too slow, not responsive enough to complainants, doesn't enforce all the rules and allows violators to "play" the system.

While there were some comments about specific violations, many people made suggestions for how the system could be improved by reducing the timeline and number of steps for fining violators, responding quickly to repeated violations and other steps that could be taken to make the system more efficient and effective.

The Code Compliance staff members have reviewed all the input and are drafting revisions to the current system, taking into account the feedback and the division's limited resources. The recommended revisions will be presented to the public and Board of County Commissioners this fall.

For more information, contact Code Compliance Manager Scott Caufield at 503.742.4747 or scottcau@co.clackamas.or.us.

It's easier than ever to file a complaint!

The County's Code Compliance website now has an online complaint form and answers to some of the most frequently asked questions about code compliance. Check it out at:

www.clackamas.us/transportation/compliance/.

Chapter 2.07

2.07 COMPLIANCE CODE ENFORCEMENT HEARINGS OFFICER

2.07.010 Philosophy and Purpose

Clackamas County's philosophy on code enforcement is to consistently promote a safe and healthy community that will protect property values, enhance livability, and preserve the natural resources of our County through prompt, fair, and equitable enforcement of County codes and ordinances. first take the approach of voluntary compliance and use an enforcement approach only as a last resort. To implement this philosophy, a protocol has been developed as the basis for the enforcement of the code. The approach is to develop solutions based on individual situations and provide broad-based public education. The assumption of the Board of Commissioners is that education of citizens regarding the requirements of our codes will solve most issues and our contacts with affected citizens will be to take an understanding and helpful approach to resolving potential enforcement issues. The above paragraph should reflect the new philosophy.

The purpose of this chapter is to implement this philosophy and provide the prompt, effective, and efficient enforcement of the Clackamas County Zoning and Development Ordinance and the following chapters of this code: the Clackamas County Solid Waste and Waste Management chapter, the Application and Enforcement of the Clackamas County Building Code chapter, specifically including all administrative rules and referenced provisions of Section 9.02.040 of that chapter, the Excavation and Grading chapter, the Road Use chapter, and the Abatement of Dangerous Buildings chapter, and the Graffiti chapter. The Office of Compliance Hearings Officer is hereby created. The Compliance Hearings Officer shall act on behalf of the Board of County Commissioners in considering and applying regulatory enactments and policies set forth in this chapter. The Compliance Hearings Officer shall be appointed by the Board of County Commissioners to serve at the pleasure of, and shall be paid a fee for service fixed by, the Board of County Commissioners.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2000, 10/12/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 07-2008, 12/18/08]

2.07.020 Jurisdiction Of Compliance Hearings Officer

The Compliance Hearings Officer shall have jurisdiction and authority to enforce the chapters cited in Section 2.07.010. ~~In cases filed by the County with the Compliance Hearings Officer, the Compliance Hearings Officer's decision shall be the County's final determination. Judicial review of the Hearing Officer's decision may be sought before the Clackamas County Circuit Court as provided by Section 2.07.130.~~

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 42003, 3/13/03]

2.07.030 Process for Enforcement of Code

A. Review of Reports - Sufficiency

1. ~~Statement of Facts.~~ When an alleged violation is reported to the County, staff shall evaluate the complaint and conduct a preliminary investigation to identify the priority level, established by policy of the Board of County Commissioners, into which the violation falls. ~~The County shall prepare a statement of the facts and shall review the facts and circumstances surrounding the alleged violation.~~
2. ~~Sufficiency of Evidence.~~ The County shall not proceed further with the matter if it is determined that there is not ~~probable causesufficient evidence~~ to support the allegation, or if the County determines that it is not in the best interest of the County to proceed. [Added by Ord. 4-2003, 3/13/03]

~~B. Voluntary Compliance Agreement.~~

1. ~~The County may enter into a written voluntary compliance agreement with respondent before or after a citation is issued. The agreement shall include the required corrective action, time limits for compliance and shall be binding.~~
2. ~~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 for any purpose.~~
3. ~~The County 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. The County shall take no further action concerning the alleged violation if all terms of the voluntary compliance agreement are satisfied, other than steps necessary to terminate the proceedings against respondent. [Added by Ord. 4-2003, 3/13/03]~~

~~C. Failure to Comply with Voluntary Compliance Agreement. 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 this chapter, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The County may also proceed on the alleged violation that gave rise to the voluntary compliance agreement. [Added by Ord. 4-2003, 3/13/03]~~

D. Citation ~~and, Fine and Administrative Fees~~ ~~Forfeiture~~; Abatement Requirements.

1. The County may issue respondent a citation for ~~committing failing to correct~~ the violation and ~~may will~~ require the respondent to abate the violation ~~and/or enter into a voluntary compliance agreement~~ within a specified time period. The citation shall contain the same information required to be included in the complaint by section 2.07.040, and the ~~forfeiture-fine~~ amount to be paid as a result of committing the violation.
2. Respondent may admit the existence of a violation by paying the ~~forfeiture amount~~ ~~fine~~ and correcting the violation. Payment of the ~~forfeiture-fine~~ does not relieve respondent of the requirement to correct the violation. If the violation is disputed, respondent may request a hearing before the Compliance Hearings Officer, as described in this chapter.
3. Citations may be served ~~either~~ by personal service on respondent. ~~Citations may also be served or~~ by certified mail, return receipt requested through the United States Postal Service.

4. The County, in its discretion, may proceed directly into the state court system in any matter to secure compliance with the requirements of this Code.

[Added by Ord. 4-2003, 3/13/03]

E. Administrative Fee

Beginning on the date that the County verifies a violation, it may charge respondent(s) an administrative fee every 30 days until the violation is abated. The administrative fee is set by resolution of the Board of County Commissioners and found in Appendix A to this code.

EF. Immediate Remedial Action

If the County determines that the alleged violation presents an immediate danger to the public health, safety or welfare, the County may require immediate remedial action. If the County is unable to serve a citation on the respondent, or, if after such service the respondent refuses or is unable to remedy the violation, the County may proceed to remedy the violation by any means available under law. [Added by Ord. 4-2003, 3/13/03]

2.07.040 Request For Hearing and /Initiation of Proceedings

A. Respondent may initiate a proceeding before the Compliance Hearings Officer by providing a written request for a hearing within 105 calendar days of receiving a citation. If a request for a hearing is filed, the County shall file a complaint with the Compliance Hearings Officer.

~~B. If a request for a hearing is filed, the County shall file a complaint with the Compliance Hearings Officer.~~ The County may, for any violation, file a complaint with the Compliance Hearings Officer before or after a citation is issued. The complaint shall contain the following: name and address of the respondent(s); address or location of the alleged violation; nature of violation, including ordinance provision, County Code provisions, statute or administrative rules section violated; relief sought; and department initiating procedure. Employees of the County's Department of Transportation and Development are authorized to sign and file complaints on behalf of the County.

~~B. In a case in which a citation has been issued and the respondent does not wish to contest the existence of the violation and there is economic or financial hardship, respondent may appeal only the forfeiture amount imposed by the citation by initiating a proceeding before the Compliance Hearings Officer. The only issue before the Compliance Hearings Officer in such a proceeding is whether the respondent establishes sufficient economic or financial hardship to justify reduction of the forfeiture amount.~~

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.050 Notice of Hearing

A. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 2.07.060 shall be attached to the notice. Notice shall be mailed or delivered at least 15 calendar days prior to the hearing date.

B. ~~The Compliance Hearings Officer~~ Code Enforcement staff shall give respondent(s) notice of the hearing. ~~cause notice of the hearing to be given to the respondent(s)~~ either personally or by registered-certified mail with return receipt requested. Notice may be

delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.

- C. The failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this Chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.060 Statement of Rights

- A. The Compliance Hearings Officer shall inform each party ~~in writing~~ of the following matters:
1. A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made, and an explanation of the burdens of proof or burdens of production of evidence;
 2. Any conflicts of interest and the substance of any written or oral ex parte communications made to the Compliance Hearings Officer on a fact in issue during the pendency of the proceedings. The Compliance Hearings Officer shall notify the parties of the communication and of their right to rebut such communications;
 23. That a record shall be made of the proceedings and the manner of making the record and its availability to the parties;
 34. The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the order of the Compliance Hearings Officer;
 4. ~~Whether an attorney will represent the County in the matters to be heard and the respondent's right to be represented by an attorney at their expense;~~
 5. The title and function of the Compliance Hearings Officer, including the effect and authority of the Compliance Hearings Officer's determination; and,
 6. That the decision of the Compliance Hearings Officer may be appealed as described in Section 2.07.130, and that the appellant shall pay all costs of the appeal including costs for preparation of a transcript.
- B. The failure to give notice of any item specified in Subsection A of this Section shall not invalidate any order of the Compliance Hearings Officer unless on review a court finds that the failure affects the substantive rights of one of the parties. In the event of such a finding, the court shall remand the matter to the Compliance Hearings Officer for a reopening of the hearing and shall direct the Compliance Hearings Officer as to what steps shall be taken to remedy any prejudice to the rights of any party.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.070 Procedure In Compliance Hearings

- A. Hearings to determine whether a violation has occurred shall be held before the Compliance Hearings Officer. The County must prove the violation alleged by a preponderance of the admissible evidence.

- B. Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default.
- C. A Party-party may elect to be represented by counsel at his or her own expense and to respond to and present evidence and argument on all issues involved.
- D. A Party-party may request that a hearing be held telephonically. The Compliance Hearings Officer has the discretion to grant or deny a request for a telephonic hearing for any reason.
- E. A Party-party may request that an appeal to the Compliance Hearings Officer be conducted solely based on written submissions by the parties, without a hearing. The Compliance Hearings Officer may grant a request for appeal based only on written submissions if, and only if, all parties agree in writing to waive a hearing and to proceed through written submission only.
- F. An order adverse to a party may be issued upon default only upon a prima facie case made on the record before the Compliance Hearings Officer.
- G. Testimony shall be taken upon oath or affirmation of the witness. The Compliance Hearings Officer may administer oaths or affirmations to witnesses.
- H. The Compliance Hearings Officer shall may issue subpoenas to any party upon showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the County, shall receive fees and mileage as prescribed by law for witnesses in civil actions from the party requesting their testimony. Any party requesting the issuance of a subpoena shall pay applicable fees and mileage at the time the issuance of a subpoena is requested.
- I. If any person fails to comply with any subpoena so issued, or any party or witness refuses to testify on any matters on which he or she may be lawfully interrogated, a judge of the Circuit Court for Clackamas County, on the application of the Compliance Hearings Officer, or of the party requesting the issuance of the subpoena, may compel obedience by proceedings for Contempt contempt as in the case of disobedience of the requirements of subpoena issued from such court or a refusal to testify therein.
- ~~J. The Compliance Hearings Officer shall place on the record a statement of the substance of any written or oral ex parte communications made to the Compliance Hearings Officer on a fact in issue during the pendency of the proceedings. The Compliance Hearings Officer shall notify the parties of the communication and of their right to rebut such communications.~~
- KJ. The record of the case shall include:
1. All pleadings, motions, and intermediate rulings;
 2. Evidence received;
 3. Stipulations;
 4. A statement of matters officially noticed;
 5. Questions and offers of proof, objections, and ruling thereon;
 6. A statement of any ex parte communications on a fact in issue made to the Compliance Hearings Officer during the pendency of the proceedings;
 7. Proposed findings and exceptions; and
 - ~~8. The All continuing order and~~ final orders prepared by the Compliance Hearings Officer.
- LK. A verbatim, written or mechanical record shall be made on all motions, rulings, and testimony. The record need not be transcribed unless requested for purposes of court

review. The ~~Compliance Hearings Officer~~ County shall charge the party requesting transcription the cost of transcription in advance. Failure to pay the transcription fees shall constitute a separate ground for denial of review of the decision of the Hearings Officer.

ML. Enforcement proceedings before the Compliance Hearings Officer shall be conducted in accordance with the procedure set forth in this Chapter. The Compliance Hearings Officer may promulgate reasonable rules and regulations, not inconsistent with this Chapter, concerning procedure and the conduct of hearings.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.080 Presentation of Evidence

- A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Erroneous rulings on evidence shall not preclude action by the Compliance Hearings Officer unless shown on the record to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. The Compliance Hearings Officer shall give effect to the rules of privilege recognized by law.
- B. All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in Subsection D of this Section, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.
- C. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.
- D. The Compliance Hearings Officer may take notice of judicially recognizable facts, and the Compliance Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of County employees. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/3/03]

2.07.090 Powers Of The Compliance Hearings Officer

- A. The Compliance Hearings Officer shall order a party found in violation to comply within such time as the Compliance Hearings Officer may by order allow. The order may require such party to do any and all of the following:
 - 1. Make any and all necessary repairs, modifications, ~~and/or~~ improvements- to the structure, real property, or equipment involved;
 - 2. Obtain any and all necessary permits, inspections and approvals;
 - 3. Order compliance as appropriate under the State Building Code, as defined in ORS 455.010(8);
 - 4. Install any equipment necessary to achieve compliance;
 - 5. Be permanently enjoined from committing the same violation in the future;

- 56. Pay to Clackamas County a civil penalty, the amount of which shall be determined by the Compliance Hearings Officer within the range established by the Board of County Commissioners pursuant to Section 2.07.120;
- ~~6. Reimburse Clackamas County for actual costs incurred in conjunction with the enforcement action;~~
- 7. Pay any accumulated administrative ~~compliance~~ fees ~~established by the Board of County Commissioners pursuant to Section 1.01.090, which will be an estimated amount of the cost of enforcement, not to exceed actual cost;~~
- ~~8. Order the eviction of any tenant from any property on which there exists a violation. Such an eviction will be performed in compliance with Oregon law;~~
- 89. Abate or remove any nuisance;
- 910. Change the use of the building, structure, or real property involved;
- 1011. Pay a reduced ~~forfeiture fine~~ amount;
- 1112. Undertake any other action reasonably necessary to correct the violation.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 04-2010, 4/22/10]

2.07.100 Orders Of The Compliance Hearings Officer

- A. Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.
- B. Findings of fact and conclusions of law shall accompany a continuing final order. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Compliance Hearings Officer's order.
- C. The Compliance Hearings Officer shall notify the respondent of a continuing final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to the respondent or, if applicable, the respondent's attorney of record.
- D. After issuing a continuing order and following a reasonable opportunity to abate any violations, the Compliance Hearings Officer shall issue a final order and notify the respondent(s) by the same means described in Subsection C of this Section. The Compliance Hearings Officer shall also issue a final order within 1415 days of being notified by the County determining that the violation has been abated or that the case is proceeding to circuit court. within 14 days from the conclusion of the hearing.
- ~~DE.~~ Every final order shall include a citation of the ordinance or title, chapter and section under which the order may be judicially reviewed.
- ~~EF.~~ A final order shall become effective ten-10 calendar days after the date it is signed by the Compliance Hearings Officer, ~~unless a party makes objections to the form of the order before it becomes effective. Before the final order becomes effective, any party may object to its form by notifying the Compliance Hearings Officer and any other party of the objection in writing.~~ - If objections are made, the final order shall become effective on the date the Compliance Hearings Officer signs the amended final order, or the date the Compliance Hearings Officer states in writing that the final order will not be amended.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.110 Enforcement Of Compliance Hearings Officer Orders

- A. Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.
- B. The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Compliance Hearings Officer, including, an action to obtain judgment for any civil penalty imposed by an order of the Compliance Hearings Office pursuant to Section 2.07.090.5 and ~~or~~ any assessment for costs and administrative compliance fees imposed pursuant to Sections 2.07.090.A.6 and 2.07.090.A.7.
- C. The County may collect money awarded to it in a final order of the Compliance Hearings Officer or judicial judgment by any lawful means, including garnishment.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.1202.07.120 – Civil Penalty Fines

- A. The ~~civil penalties fines for this chapter of the Code,~~ that may be imposed by the Compliance Hearings Officer, shall be set by resolution of the Board of County Commissioners **and are found in Appendix B of this code.**

A-B. As used in this section, fines shall include civil penalties authorized by state law.

[Added by Ord. 04-2003, 3/13/03; Amended by Ord. 04-2010, 4/22/10]

2.07.130 Judicial Review

Review of the final order of a Compliance Hearings Officer under this Chapter by any aggrieved party, including Clackamas County, shall be by writ of review as provided in ORS 34.010 - 34.100, ~~unless the Hearings Officer makes a land use decision, in which case the land use decision may be reviewed by the Land Use Board of Appeals pursuant to ORS Chapter 197.~~

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]