

BE IT REMEMBERED, that at a regular term of the Board of Commissioners of the State of Oregon, for the County of Union, sitting for the transaction of County business, begun and held at the Joseph Building Annex in the City of La Grande, in said County and State, on Wednesday of said month and the time fixed by law for holding a regular term of said Commission, when were present:

The Honorable R. Matthew Scarfo, Chairman

Donna Beverage, Commissioner

Paul Anderes, Commissioner

WHEN, on Wednesday, the _____ day of October 2021, among others the following proceedings were had to wit:

IN THE MATTER OF AN ORDINANCE)
ESTABLISHING ENFORCEMENT POWERS) **ORDINANCE**
AND PENALTIES FOR NON-COMPLIANCE) 2021 - 04
WITH THE UNION COUNTY LAND USE)
AND BUILDING CODE ORDINANCES)

1. Short Title.

The provisions of this ordinance and all rules adopted under this ordinance may be cited as the County Land Use and Building Codes Enforcement Ordinance.

Section 1. PURPOSE

This Ordinance establishes procedures for enforcement of certain provisions of Union County's Land Development Code, Building Code, Oregon Fire Code, Public Right-of-Way and Franchise ordinances. The enforcement procedures set forth are intended to assure due process of law for violation of those codes.

Section 2. ENFORCEMENT AUTHORITY and RESPONSIBILITY

The responsibility for the enforcement of the provisions of this Ordinance is assigned as follows:

- A. Union County Sheriff Department. It is the duty of the Sheriff's Department staff and of all deputies of the County, including non-sworn department personnel charged with parking and/or Code Enforcement duties, otherwise charged by law, to enforce this Code and all its provisions, by issuance of citations, if necessary. The Sheriff may designate in writing other non-sworn personnel to enforce any Ordinance as provided by law.
- B. City of La Grande Building Official and Union County Planning Director. The City Building Official, and/or Union County Planning Director or designees as applicable, are to act as the Code Enforcement Officers, to enforce County Ordinance provisions and the Building Codes of the State of Oregon. A Code Enforcement Officer has the following responsibilities and powers in the enforcement of this title.
 - 1. To review with affected individuals the provisions of applicable City and County Ordinances to support voluntary compliance with their provisions.
 - 2. To initiate all necessary proceedings to forfeit bond or cash deposits.

3. Assist the Union County Sheriff Office staff with Ordinance enforcement by preparing a written report and all relevant documentation.
4. To initiate proceedings to revoke approvals previously granted under provisions of City or County Ordinances.
5. To issue citations and notices of alleged Type I and Type II violations.
6. To conduct searches of real and personal property as authorized by this Ordinance, other City or County Ordinances, or under State or Federal law.
7. To cause the abatement of any violation governed by this Ordinance.

Section 3. AUTHORIZED SEARCHES OF PROPERTY

Code Enforcement Officers and members of the Sherriff Department staff shall have the authority to conduct searches of real and personal property within the County jurisdiction for the purpose of determining whether a violation of County Ordinances or State Building Codes, including any Conditions of Approval, has occurred. Searches of property will be conducted in accordance with procedures set forth in this Ordinance, other County Ordinances, or under State or Federal law.

Section 4. WARRANTLESS SEARCHES

Warrantless Searches are authorized only in the following circumstances:

- A. In areas of real property that are generally open to the general public; or,
- B. In areas of plain view from a vantage point in which the Code Enforcement Officer or Sheriff's Deputy has a legal right to be; or,
- C. Search of the property is conducted with the consent of an owner or person in control of the property; or,
- D. In areas of real property that are subject to a specific permit issued by the County or that are subject to a specific Condition of Approval issued by the County.

Section 5. ADMINISTRATIVE WARRANT SEARCHES

Code Enforcement Officers and members of the Sheriff's Department shall have the authority to conduct searches of real and personal property upon receipt of an Administrative Search Warrant and upon reasonable suspicion that a violation of City Ordinance, or County Ordinance or State Building Codes has occurred. Application for a Search Warrant can be made to a Circuit Court Judge of the 10th Judicial District, Union County, Oregon. Administrative Search Warrant Application shall include the following minimum required information:

- A. A description of the real property or personal property to be searched, with sufficient detail to identify which property the Warrant applies to (i.e.- street address, VIN number, Twp., Range, Section, Tax Lot Numbers, etc.);
- B. A list of the provisions of the Ordinance and/or Conditions of Approval that are suspected of being violated or that are being investigated;
- C. A statement as to who the legal owner of the property is or who is in control of the property;
- D. A statement as to whether the property, the owner, or the person in control of the property have been involved in any other Ordinance Enforcement activity in the past;

- E. A plain and concise statement as to the purpose for requesting the Administrative Search Warrant; and,
- F. A copy of any report(s) generated by County or City staff involving the current City Ordinance, County Ordinance or State Building Codes violations or past violations relevant to the current violation;
- G. A statement from the applicant as to their official capacity with the County or City and their authority to make the request for a Warrant.

Upon complete review of the Search Warrant Application, the reviewing Judge shall issue the Administrative Search Warrant upon a showing that the requested search is reasonable in relation to its purpose. The Administrative Search Warrant shall state the length of time in which it is valid and can be served or acted upon, which shall be no longer than fourteen (14) calendar days from its date of issuance.

Any person who interferes with or refuses to allow inspection of the property or premises specified in the Administrative Search Warrant is subject to being held in contempt of court after referral of the matter to the Union County District Attorney.

Section 6. REVOCATION OF APPROVAL AND FORFEITURE OF BONDS

The Code Enforcement Officer may initiate proceedings to revoke the approval of any permit or approval issued pursuant to County Ordinances or State Building Codes in any case where a use of land has been established or conducted in a manner which violates or fails to observe the provisions of City Ordinances, County Ordinances, State Building Codes or a Condition of Approval.

The Code Enforcement Officer may initiate procedures to forfeit all or a portion of a bond or cash deposit when such exists. The Code Enforcement Officer is to notify the person posting the bond or cash deposit of the intention to cause forfeiture of the bond or deposit at least twenty (20) days prior to a forfeiture hearing. Such notice is to contain the following:

1. Statement "RE: Forfeiture Hearing for Improvements for (Name of Development), at Property Located at (Description of Property)."
2. A description of the real property by street address, and assessor map description.
3. The reasons for seeking forfeiture and the remedial action required by the person posting the bond or deposit.
4. The date, time and place of the forfeiture hearing.
5. The required penalties for non-compliance.

Section 7. STOP WORK ORDER

Whenever any use or work is done contrary to the provisions of City Ordinances, County Ordinances, including any Conditions of Approval, or the State Building Codes, the Code Enforcement Officer may order the work stopped by notice in writing served on any persons engaged in the use or work, and any such persons shall immediately stop such use or work until authorized by the Code Enforcement Officer to proceed. Failure to stop such use or work may result in the immediate issuance of a citation as, referenced in Section 15.

Section 8. CLASSIFICATION OF VIOLATION

Violations shall be identified by the Code Enforcement Officer under one of the following classifications:

- A. Type I – Violations which represent a threat to public health, safety, or welfare, or those unapproved actions deemed to potentially create serious adverse environmental and/or land use consequences as the result of continued activity; or,
- B. Type II – Violations which do not pose a threat to public health, safety, and welfare but do violate provisions of City Ordinances, County Ordinances, including any Conditions of Approval, or State Building Codes.

Section 9. NOTICE OF VIOLATION

- A. Type I - After receiving a report of an alleged Type I violation, the Code Enforcement Officer will confirm whether a violation exists and determine whether the violation warrants that a citation be issued immediately, whether to provide a separate notice of the violation prior to the issuance of a citation, or to issue a citation and separate notice of the violation immediately. If a separate notice of violation is issued, it shall be in writing and provided by regular mail and by registered or certified mail, postage prepaid, return receipt requested to the owner of the affected property. Such notice shall indicate the following:
 - 1. A description of the real property by street address and assessor map description, on which the violation exists.
 - 2. A list of the provisions of County Ordinances and/or Conditions of Approval, or State Building Codes violated and the means to correct such violation(s), if any.
 - 3. Whether immediate enforcement is warranted or if a specified time period will be allowed to correct or remove the violation.
- B. Type II – After receiving a report of an alleged Type II violation, the Code Enforcement Officer will confirm whether a violation exists and whether or not it is a Type I or Type II violation. If it is a Type I violation, the process in Subsection A above shall be followed. If a Type II violation exists, a notice of the violation shall be provided in writing by regular mail and by certified mail, postage prepaid, return receipt requested to the owner of the affected property. Such notification shall contain the following:
 - 1. A description of the real property by street address and assessor map description, on which the violation exists.
 - 2. A list of the provisions of the Ordinance and/or Conditions of Approval or State Building Codes violated and the means to correct such violation(s), if any.
 - 3. A direction to correct the violation within ten (10) calendar days from the date of the notice.
 - 4. A statement that failure to correct the violation shall be considered a separate violation for each day the violation remains uncorrected.
 - 5. A statement that failure to correct the violation may result in the issuance of a citation and the required penalties for non-compliance. A reoccurring violation within a two (2) year period may be considered and processed as a Type I violation and subject to the immediate issuance of a citation.

Section 10. NOTICE TO ABATE

- A. On determination by the Code Enforcement Officer that abatement is necessary, the Code Enforcement Officer shall cause notice to be posted on the premises or at the site of the violation, directing the person responsible to abate the violation; and, shall forward a copy of the notice by regular mail and by certified mail, postage prepaid, return receipt requested to the owner of the affected property. Such notice shall indicate the following:
1. A description of the real property by street address and assessor map description, on which the violation exists
 2. A direction to abate the violation within ten (10) calendar days from the date of the notice.
 3. A list of the provisions of the Ordinance and/or Conditions of Approval, or State Building Codes violated and the means to correct such violation(s), if any.
 4. A statement that, unless the violation is removed within the specified timeframe in the notice, the City or the County may abate the nuisance; and the cost of abatement will be charged to the owner of the affected property.
 5. A statement that the County's actual cost of abatement, not paid by the owner of the affected property, plus administrative fees may be assessed as a lien on the property.
 6. A statement that the owner of the affected property may protest the order to abate by delivering written notice to the County Administrator within ten (10) calendar days from the date of the notice.
- B. Upon completion of the posting and mailing, the Code Enforcement Officer shall execute and file certificates stating the date and place of the mailing and posting.
- C. Any person refusing to accept receipt of the mailed notice shall not make the notice void, and, in such case, the posted notice shall be sufficient.

Section 11. PROTEST OR ABATEMENT BY OWNER OF PROPERTY

- A. Within ten (10) calendar days after the posting and mailing of notice, the owner of the affected property shall remove the violation or file an appeal in writing to the Code Enforcement Officer, with a statement specifying the basis for the appeal.
- B. The Code Enforcement Officer shall determine whether a violation in fact exists. If the Code Enforcement Officer determines that a violation does exist, the person responsible shall remove the violation within ten (10) calendar days of the Code Enforcement Officer's decision, unless the Code Enforcement Officer determines that additional time shall be granted.

Section 12. APPEALS

Decisions made by the Code Enforcement Officer regarding any provision of this Ordinance may be appealed to the County Commissioners provided such appeal is submitted to the Commissioners within ten (10) calendar days of the Code Enforcement Officers' decision.

Section 13. ABATEMENT BY THE COUNTY

- A. If the violation has not been abated by the owner of the property within the time allowed, the Code Enforcement Officer may cause the violation to be abated.
- B. The Code Enforcement Officer and any persons or entities assisting the Code Enforcement Officer with abatement, may enter the property to be abated with the consent of the owner or person in control of the property; or, with a court issued Administrative Abatement Order; or, where a property is unoccupied or vacant, the Code Enforcement Officer may enter property for the purposes of weed abatement.
- C. The Code Enforcement Officers or Sheriff Department staff may enter property for the purpose of investigation and/or immediate abatement where there is reasonable suspicion that a Code Violation exists which represents a serious and immediate threat to public health, safety, and welfare (i.e. vacant lot weed problems in time of extreme fire danger) or could potentially create serious and immediate adverse environmental and/or land use consequences.
- D. Administrative Abatement Application shall include the following minimum required information:
 - 1. A description of the real property or personal property to be abated with sufficient detail to identify which property the Administrative Abatement Order applies to (i.e.- street address, VIN number, etc.);
 - 2. A list of the provisions of the Ordinance and/or Conditions of Approval, or State Building Code that are known to be violated and have not been abated;
 - 3. A statement as to who the legal owner of the property is or who is in control of the property;
 - 4. A statement as to whether the property, the owner, or the person in control of the property have been involved in any other Ordinance Enforcement activity in the past;
 - 5. A plain and concise statement as to the purpose for requesting the Administrative Abatement Order; and,
 - 6. A copy of any report(s) generated by the City or County involving the current County Ordinance violations or past violations relevant to the current violation; and,
 - 7. A statement from the applicant as to their official capacity with the County and their authority to make the request for an Abatement Order.
- E. Upon complete review of the Administrative Abatement Order Application by the Circuit Court Judge of the 10th Judicial District, Union County, Oregon, said reviewing Judge shall issue the Administrative Abatement Order upon a showing that the requested Abatement is reasonable in relation to its purpose. The Administrative Abatement Order shall state the length of time in which it is valid and the scope of the abatement to be performed and can be served or acted upon which shall be no longer than thirty (30) calendar days from its date of issuance.

- F. Any person who interferes with or refuses to allow abatement of the property or premises specified in the Administrative Abatement Order is subject to being held in contempt of court after referral of the matter to the Union County District Attorney.
- G. The Code Enforcement Officer shall keep an accurate record of the expenses incurred by the City or County in physically abating the nuisance and shall include a charge equal to ten percent (10%) or FIFTY AND NO/100 DOLLARS (\$50.00), whichever is greater, of those expenses for administrative costs, in addition to the actual costs of abatement.

Section 14. ASSESSMENT OF COSTS

- A. The Code Enforcement Officer shall forward to the owner of the property by regular mail and by certified mail, postage prepaid, return receipt requested, a notice stating:
 - 1. The total cost of abatement, including the administrative costs.
 - 2. That the costs, as indicated, may be assessed to and become a lien against the property, unless paid within thirty (30) calendar days from the date of notice.
 - 3. That if the owner of the property objects to the costs of the abatement as indicated, a written notice of objection may be filed with the County Administrator not more than ten (10) calendar days from the date of the notice. No sooner than fifteen (15) calendar days after the date of notice of objection, the County Administrator shall make a decision on the objections to the costs assessed.
- B. If the costs of the abatement are not paid within thirty (30) calendar days from the date of the notice, an assessment of the costs, as stated or as decided by the County Administrator, shall be made by Resolution of the Board of Commissioners and shall be entered into the docket of County liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.
- C. The lien shall be enforced in the same manner as all other liens established by Resolution of the Board of Commissioners and shall bear interest at the interest rate established by Commissioner's Resolution. The interest shall begin to run from the date of entry of the lien in the lien docket.
- D. Any person refusing to accept receipt of the mailed notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property.

Section 15. SERVICE OF CITATION

The Sheriff's Department staff may issue a citation to any person who violates any provision of the County Ordinances. The citation shall be filed with the Justice Court, charging the responsible party for the violation and setting a date for the responsible party to appear before the Justice Court. Any notice required by the provisions of this Ordinance is to be given by the Sheriff Department staff or a Code Enforcement Officer.

- A. A copy of the citation is to be either served personally or by mail, postage prepaid, certified mail, return receipt requested, to the owner of the affected

property as shown on the last equalized assessment role. If no address can be found or is known to the Code Enforcement Officer, then the citation is to be mailed to such person at the address of the premises affected by the proceedings: Any person refusing to accept receipt of the citation does not affect the validity of any proceedings taken hereunder.

- B. A copy of the notice will be forwarded to Justice Court for docketing.

Section 16. INTERFERENCE PROHIBITED

No person shall hinder, interfere with or impede the Code Enforcement Officer or the Sheriff's Department staff in the performance of duties assigned by the Code, or other codes and Ordinances of the County. Any interference shall be considered a Type I violation and subject to the immediate issuance of a citation in accordance with Section 15 of this Ordinance.

Section 17. PENALTIES

The issuance of a citation shall include a fine, as established by Union County Zoning, Partition and Subdivision Ordinance, Article 37. Each consecutive calendar day that the violation remains uncorrected, as documented by the Code Enforcement Officer, shall constitute a separate violation punishable by a fine in accordance with this Section

Section 18. CIVIL RELIEF

When a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is or is proposed to be used in violation of County Ordinances, or State Building Codes, the County Administrator, the County Attorney or any person whose interest in real property within the County or City is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement; or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, maintenance, repair, alteration, or use. In addition to the actions defined herein, the prevailing party may recover all reasonable abatement and court costs and attorney's fees.

Section 19. TAMPERING WITH OFFICIAL NOTICES

No person shall remove or tamper with a notice posted on property pursuant to the provision of County Ordinances, unless authorized by the County Administrator, Building Official, Department Director, or designee, as applicable. Removing or tampering with a notice posted on property shall be considered a Type I violation and subject to the immediate issuance of a citation in accordance with Section 15 of this Ordinance.

Section 20. SEVERABILITY

If any court of competent jurisdiction declares any Section of this Ordinance invalid, such decision shall be deemed to apply to that Section only and shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part declared invalid.

Section 21. EFFECT OF REPEAL OF CODE SECTIONS AND ORDINANCES

Repeal of a Code section or Ordinance does not revive a Code section or Ordinance in force before or at the time the repealed Code section or Ordinance took effect. The repeal does not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution or proceeding at the time of the repeal for an offense committed under the repealed Code section or Ordinance.

Section 22. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its adoption by the Board of Commissioners of Union County, Oregon.

First Reading this ____ day of _____, 2021.

PASSED AND ADOPTED this ____ day of _____, 2021.

R. Matthew Scarfo, CHAIRMAN

Donna Beverage, COMMISSIONER

Paul Anderes, COMMISSIONER