

ARTICLE ELEVEN -- ENFORCEMENT

DIVISION ONE - ENFORCEMENT PROCEDURES

[Adopted as Division One of Article Eleven
On January 9, 2007]

SECTION 11.01.010 PURPOSE

- (1) The purpose of this ordinance is to establish that the offense of certain County ordinances constitute a violation subject to enforcement by citation, and to set forth the procedures to be used for the enforcement of such violations.
- (2) The enforcement procedures set forth in this division shall be in addition to and not in lieu of, all other civil and criminal enforcement authority delegated to the County by law.

SECTION 11.01.020 DEFINITIONS

- (1) As used in this Division the terms "enforcement officer," "violation," and "violation proceeding," have the meanings set forth in ORS 153.005, as may subsequently be amended.
- (2) The term "Board" shall mean the Coos County Board of Commissioners.
- (3) The term "County" shall mean Coos County, a political subdivision of the State of Oregon.
- (4) The term "Prosecutor" shall mean either the District Attorney, County Counsel, or their designee.

SECTION 11.01.030 VIOLATIONS DESCRIBED

- (1) An offense is a violation under this Division if:
 - (a) The offense is the failure to comply with a County ordinance that provides that the offense is a violation enforceable under this division; or,
 - (b) The offense is the failure of any person to comply with a County ordinance that either requires or prohibits specific conduct.
- (2) Violations are classified for the purpose of sentencing into the following categories:
 - (a) Class A violations;
 - (b) Class B violations;
 - (c) Class C violations;
 - (d) Class D violations;
 - (e) Unclassified violations as described in subsection (3) of this section; and
 - (f) Specific fine violations as described in subsection (4) of this section.
- (3) An offense described in subsection (1) that is designated as a violation, but does not specify

the classification of the violation, is an unclassified violation. An unclassified violation is a Class B violation.

- (4) A specific fine violation is any offense described in subsection (1) that:
 - (a) Is not designated as a crime or as a class A, B, C or D violation; and
 - (b) Is punishable by a specific fine as the penalty for committing the offense.

SECTION 11.01.040

SCHEDULE OF PENALTIES

- (1) The penalty for committing a violation is a fine. The ordinance creating a violation may impose other penalties in addition to a fine, but may not impose a term of imprisonment.
- (2) Except as otherwise set forth in this section, a sentence to pay a fine for a violation shall be a sentence to pay an amount not exceeding the amounts set forth in ORS 153.018.

SECTION 11.01.050

STATUTE OF LIMITATIONS; VENUE

- (1) The statute of limitations for proceedings under this Division is as provided for Violations in ORS 131.125.
- (2) All violation proceedings shall be commenced in Coos County.
- (3) At the discretion of the Enforcement Officer or Prosecutor, violation proceedings may be commenced in the circuit court of Coos County or, if the violation was committed within a city, in the municipal court for a city.
- (4) Except as specifically provided in this Section, venue in violation proceedings in circuit courts is governed by ORS 131.305 to 131.415.

SECTION 11.01.060

ISSUANCE OF CITATIONS

- (1) An enforcement officer may not arrest, stop or detain a person for the commission of a violation except to the extent provided in ORS 153.039 and ORS 810.410.
- (2) An enforcement officer may only issue a violation citation:
 - (a) In accordance with the provisions of ORS 153.042, except as provided therein; and
 - (b) That conforms to the requirements of ORS 153.045, except as provided therein.
- (3) The complaint in a violation citation must contain at least the information required by ORS 153.048(1).
 - (a) If the complaint does not conform to the requirements of this Section, the court shall set the complaint aside upon motion of the

defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the County.

- (b) A court may amend a complaint in its discretion.
- (4) A summons in a violation citation is sufficient if it contains the information set forth in ORS 153.051.
- (5) An enforcement officer issuing a violation citation shall comply with the requirements of ORS 153.054, except as provided therein.

SECTION 11.01.070

ENFORCEMENT BY PRIVATE PARTY

- (1) A person other than an enforcement officer may commence a violation proceeding by filing a complaint with a court that has jurisdiction over the alleged violation. The filing of the complaint is subject to ORS 153.048. The complaint shall be entered by the court in the court record.
- (2) A complaint under this section must contain:
 - (a) The name of the court, the name and address of the person bringing the action and the name and address of the defendant.
 - (b) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have occurred.
 - (c) A certificate signed by the complainant stating that the complainant believes that the named defendant committed the violation specifically identified in the complaint and that the complainant has reasonable grounds for that belief. A certificate conforming to this Section shall be deemed equivalent of a sworn complaint. Complaints filed under this Section are subject to the penalties provided in ORS 153.990.
- (3) Upon the filing of a complaint under this Section, the court shall cause a summons to be delivered to the defendant and shall deliver a copy of the complaint to the District Attorney and County Counsel for the county in which the complaint is filed. The court may require any enforcement officer to serve the summons.
- (4) If the complaint does not conform to the requirements of this Section, the court shall set it aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.
- (5) A court may, acting in its sole discretion, amend a complaint filed under the provisions of this Section.
- (6) A court shall dismiss a complaint filed under this

Section upon the motion of the Prosecutor if:

- (a) The Prosecutor has brought a proceeding against the defendant named in the complaint or intends to bring a proceeding against the defendant named in the complaint; and
- (b) The proceeding is brought by the Prosecutor by reason of the same conduct alleged in the complaint.

SECTION 11.01.080

VIOLATION PROCEEDINGS; JUDGMENT;
FINES

The provisions of ORS 153.061 to 153.145, shall apply to violation proceedings brought under this Division, except that all references to district attorney or city attorney in the foregoing statutes shall be amended to Prosecutor, as that term is defined in this Division.

DIVISION TWO - ACCELERATION OF REDEMPTION PERIOD FOR
TAX FORECLOSED PROPERTY
[Adopted as Division Two of Article Eleven on
April 21, 1993]

SECTION 11.02.010

DEFINITIONS

Except where the context otherwise requires, the definitions given in this section govern the construction of this Division.

- (1) "Board" means the Coos County Board of Commissioners.
- (2) "Foreclosed property" means real property that has been foreclosed upon pursuant to ORS 312.090 but for which the redemption period has not run.
- (3) "Interested party" means any person, corporation or entity which has a recorded legal interest in a particular piece of real property, including judgment lien holders.
- (4) "Owner" means that person or persons last reflected in the County tax roll.
- (5) "Redemption period" means that period of time provided for in ORS 312.120 during which an owner or person with an interest in foreclosed property may redeem the property by paying all taxes, interest and penalties due and owing.
- (6) "Waste" means any action which reduces the value of the foreclosed property, including, but not limited to, physical damage to any or all of the foreclosed property or the failure to protect the foreclosed property from the elements or from trespassers, irrespective of whether the action is done with or without the knowledge of the owner or possessor of the property.

SECTION 11.02.020

FORFEITURE OF REDEMPTION PERIOD

- (1) Pursuant to ORS 312.200, the Board may enter an order requiring the Tax Collector of Coos County to deed to the County any real property sold to the County under ORS 312.100. Notice and hearing shall be provided as set forth below. This order may be entered only if:
 - (a) The property is subjected to waste which results in a forfeiture to the County of the right to possession under ORS 312.180; or
 - (b) The property is not occupied by the owner or any person or entity that appears in the records of the County to have a lien or other interest in the property for a period of six (6) consecutive months, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.

- (1) Upon determining that real property sold to the County under ORS 312.100 may be subject to waste or abandonment, the Board shall set a date, time and place for a hearing for the purpose of determining whether the property should be deeded to the County.
- (2) Not less than thirty (30) days prior to the hearing provided for in subsection (1) of this section, the County shall notify the owner and any interested party of the hearing. The notice shall contain:
 - (a) The date, time and place of the hearing.
 - (b) The date of the Judgment and Decree of Foreclosure.
 - (c) The normal date of expiration of the period of redemption under ORS 312.120.
 - (d) A warning to the effect that if the County determines that the property is subject to waste or abandonment as provided in this Division, the property will be deeded to the County thirty (30) days from the date of the Board's action so determining, and that every right or interest of any person in the property will be forfeited forever to the County, unless the property is redeemed within that thirty (30) day period.
 - (e) A legal description of the property and a tax account number.
 - (f) The name of the owner as it appears on the latest tax roll.
- (3) The notice provided for in subsection (2) of this section shall be given by both certified mail and by regular first class mail.
 - (a) Notice given to an owner shall be addressed to the owner or owners, as reflected in the County records of deeds, at the true and correct address of the owner as appearing on the instrument of conveyance under ORS 93.260 or as furnished under ORS 311.555 or as otherwise ascertained by the Tax Collector of the County pursuant to ORS 311.560.
 - (b) Notice given to a lienholder, or person or entity other than the owner, having or appearing to have a lien or other interest in the property, shall be addressed to the lienholder, person or entity at the address which the County knows or, after reasonable inquiry, has reason to believe to be the address at which the lienholder, person or entity will most likely receive actual notice.

SECTION 11.02.040

HEARING

At the scheduled time and place, the Board shall hold a public hearing for the purpose of determining if the property is subject to waste or abandonment. The following procedures shall apply to that hearing:

- (1) The Board shall first hear from any Coos County staff member with knowledge of the circumstances relating to the property.
- (2) Persons wishing to testify in favor of the forfeiture of the redemption rights shall then be allowed to testify.
- (3) The owner of record may then testify.
- (4) Any interested party that then appears in the records of the County may then testify.
- (5) Any person otherwise opposing the forfeiture may then testify.
- (6) Any person testifying shall be subject to cross-examination by either the Board or the owner of record.
- (7) Written testimony will be accepted if submitted to the Board at least five (5) business days prior to the date of the hearing.
- (8) An owner or interested party may be represented by an attorney or other person of their choice.
- (9) There shall be no rebuttal allowed except that the Board may recall any witness for further testimony.
- (10) The Board may, by resolution, establish such rules relating to the conduct of a hearing in order to promote the efficiency of the hearing, provided that such rules are consistent with this section.
- (11) The Board may continue the hearing, from time to time, upon verbal notice at the hearing, giving a specific date, time, and place for the continued hearing.

SECTION 11.02.050

ORDER

Following the hearing, the Board shall determine if the property is subject to waste or abandonment and whether the property should be deeded to Coos County pursuant to ORS 312.200. Any order entered by the Board shall be served upon the Tax Collector and by first class mail upon the owner and any person who appeared, either in person or in writing, at the hearing provided for in this Section. An order requiring the Coos County Tax Collector to deed the foreclosed property to the County shall be effective after the expiration of thirty (30) days from the date of the order, at which time the Tax Collector shall deed the property to Coos County, unless it is sooner redeemed by the owner or any interested party.

SECTION 11.02.060

APPEAL

An appeal from the order entered pursuant to Coos County Code Section 11.02.050 shall be taken through the Writ of Review process as set out in ORS 34.010 et seq.

DIVISION THREE - ALCOHOL RULES ENFORCEMENT IN THE OREGON
DUNES NATIONAL RECREATION AREA
[Adopted as Division Three of Article
Eleven on May 21, 2003]

SECTION 11.03.010 PURPOSE

The purpose of this Division is to provide local alcohol rules enforcement assistance to the United States Forest Service (USFS), which operates the Oregon Dunes National Recreation Area in Coos County (Dunes).

SECTION 11.03.020 FINDINGS

The Board of Commissioners finds that:

- (1) Under the Code of Federal Regulations, [36 CFR 261.50(a) and (b); 36 CFR 261.58(bb)] and federal Order No. 12-18.4, the United States Forest Service has banned possession of alcoholic beverages in off-highway vehicle riding areas outside of developed sites.
- (2) The consumption of alcohol outside of developed sites contributes to conditions which endanger the public health, safety and welfare.
- (3) The USFS has requested that Coos County provide assistance in enforcing the alcohol ban.
- (4) Coos County can only provide such assistance with an ordinance in place.
- (5) This ordinance would promote the public health, safety and welfare in Coos County, and is a matter of local concern.

SECTION 11.03.030 AUTHORITY OF COUNTY

This Division is adopted under the authority granted to counties under ORS 203.035, which provides that a county may exercise authority within the county over matters of county concern to the fullest extent allowed by Constitutions and laws of the United States and this state, as fully as if each particular power comprised in that general authority were specifically listed in ORS 203.030 to 203.075.

SECTION 11.03.040 DEFINITIONS

As used in this Division:

- (1) An "alcoholic beverage" means any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being. ORS 471.001(1).
- (2) "Possession" of an alcoholic beverage includes:
 - (a) containment within a motor vehicle, tent, or other structure by the owner, operator, or

- other person having the authority or control of the location; and,
- (b) possession on a person or in an area within the immediate control of that person.
- (3) Possession does not include any lawful consumption prior to entering the off-highway vehicle riding areas designated in Section 11.03.050.
 - (4) "Developed site," means a campground, picnic area or day use area that provides services, including but not limited to, restrooms, tables, trash cans, water, and parking sites.

SECTION 11.03.050

APPLICATION

- (1) This Division applies to the areas in the Dunes designated in the federal Order, which prohibits possession of alcoholic beverages as follows:
 - (a) In the area within two hundred (200) feet of Hall Lake and Schuttpelz Lake, Township 23 South, Range 13 West, Section 1; and,
 - (b) within two hundred (200) feet of all designated off-road vehicle areas, or within lands administered as such, including dispersed off-highway vehicle campsites; or,
 - (c) on lands adjacent to the Dunes, or encompassed within the Dunes, at the request of the property owner.
- (2) This Ordinance does not apply to:
 - (a) developed sites;
 - (b) any federal, state, or local officer, or member of an organized rescue or fire fighting force in the performance of an official duty;
 - (c) persons who are using National Forest land strictly for direct and lawful access to or from private property, or other public land not subject to the federal Order; and,
 - (d) any other person meeting exemption requirements specified in the federal Order.

SECTION 11.03.060

PENALTY

- (1) The offenses set forth in this ordinance are declared to be Class D violations, punishable by a fine not to exceed \$75.00.
- (2) The continuance or reoccurrence of a violation of this Division shall be considered a separate violation and shall be cited as such.
- (3) All fines paid for violations under this ordinance shall be deposited into the county general fund, pursuant to ORS 153.630(2)(d).

SECTION 11.03.070

ENFORCEMENT BY CITATION

- (1) A duly appointed peace officer may issue a citation for offenses committed under this Division if:
 - (a) the conduct alleged to constitute a violation takes place in the presence of the enforcement officer; and,
 - (b) the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation.
- (2) Citations issued for offenses under this Division shall conform to requirements of ORS 153.045.
- (3) Violations of this Division shall be prosecuted in Circuit Court, and shall be governed by the procedures set forth in ORS Chapter 153.
- (4) If the person receiving the citation is a firm, corporation or other organization, the citation may be issued to an employee, agent or representative of the firm, corporation or organization.
ORS 153.042(2).

DIVISION FOUR - DEMAND FOR COMPENSATION OR WAIVER
[Article Eleven, Division Four was amended
by Ordinance 04-12-014L, effective January
19, 2005.]

SECTION 11.04.010 POLICY AND PURPOSE

The purpose of this ordinance is to implement the provisions added to Chapter 197 of the Oregon Revised Statutes (ORS) by Ballot Measure 37 (November 2, 2004). This ordinance establishes the minimum information and evidence that must be included in a valid demand for compensation under the law enacted by Ballot Measure 37.

The decision by the Board to pay compensation or to waive a restricting county land use regulation is a final decision. However, development of the property remains subject to the claimant's complying with other county land use regulations that were adopted prior to the claimant's purchase of the property, development standards and public health and safety standards exempted by ORS Chapter 197 and seeking and obtaining the appropriate decision from any other affected governmental agencies.

SECTION 11.04.020 EFFECTIVE DATE

This ordinance, as amended, became effective on January 19, 2005.

SECTION 11.04.030 DEFINITIONS

For the purposes of this ordinance:

"Board" means the Coos County Board of Commissioners.

"Claimant" means the sole owner of the property, or the representative of all joint owners, as the case may be, who files a demand with the county pursuant to the provisions of this Ordinance.

"Counsel" means the Coos County Office of Legal Counsel.

"County" means Coos County.

"Demand" and "Demand for Compensation" mean a written demand that complies with the requirements set forth in Section 11.04.040 of this ordinance. A demand for compensation is not an application for a land use decision.

"Family member" shall include the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

"Just compensation" shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this ordinance.

"Land use regulation" has the meaning set forth in Subsection 11(B) of Ballot Measure 37, except that it shall not include those regulations described in Subsection 3 of Ballot Measure 37.

"Owner" is the present owner(s) of the property, or any interest therein

"State" means the State of Oregon.

"Subject property" means the real property for which an owner has submitted a demand for compensation.

"Waive" or "waiver" means the act or decision by the Board to modify, remove, or not to apply a restrictive county land use regulation(s) that has the result of reducing the fair market value of claimant's property and allows the claimant to use the property for a use permitted by the county at the time the owner acquired the property.

SECTION 11.04.040

DEMAND FOR COMPENSATION

- (1) Pursuant to ORS Chapter 197, an owner of property located in Coos County, may make a demand for compensation to the County based on any County action described in ORS Chapter 197.
- (2) A demand for compensation must be filed within the period set forth in ORS Chapter 197.
- (3) A demand for compensation may be submitted using the Coos County Demand for Compensation Form. It is suggested the Demand contain, at a minimum, the following information:
 - (a) Owner Information: The name(s), address(es) and telephone number(s) of all owners of the subject property and all persons holding any current interest in the subject property.

Evidence that the claimant is an owner, or an authorized agent of an owner(s) of the subject property, including the owner's date of acquisition, and the nature and scope of the owner's ownership.

- (b) Property Information: The address, township, range, section, tax lot, and legal description of the subject property, together with a current assessor's map or survey clearly delineating the entire subject property.
 - (c) Uses the current owner will accept in lieu of compensation.
 - (d) Existing Land Use Regulation(s): A copy, or description, of the current County land use regulation(s) that allegedly restricts or prevents the proposed use of the subject property and allegedly causes a reduction in the fair market value of the subject property, together with a list of the date(s) that the land use regulation(s) was enacted by the County.
 - (e) Land Use Regulation(s) in Effect at Acquisition: A copy, or description, of the comparable land use regulation(s) in effect at the time the owner acquired the subject property, or statement indicating that no comparable land use regulation(s) existed at the time of acquisition.
 - (f) Just Compensation: The amount of the demanded just compensation supported by evidence showing the difference between
 - (A) the current fair market value of the subject property at it's current highest and best use, assuming that the existing land use regulations were applied to the subject property, and;
 - (B) the current fair market value of the subject property assuming the proposed use described in Subsection (3)(c) of this section was allowed.
 - (g) Owner Consent: A notarized statement signed by each owner indicating that they concur in the filing of the demand for compensation and the contents of the demand.
 - (h) Other Documents: A copy of any other documents the claimant intends to rely upon in support of their demand.
- (4) If the demand for compensation relies in whole or in part upon the date of acquisition by a family member, then in addition to providing the information set forth in subsection (3) of this

section, the owner should also provide the following additional information:

- (a) Ownership records: A certified copy of all deeds or other records documenting the transfer of property among family members.
 - (b) Family Relationship Records: A certified copy of all documents, such as birth certificates, marriage licenses, adoption orders, etc., that prove a family relationship among owners of the subject property whose claim of relationship is the basis of the demand for compensation.
- (5) (a) The demand for compensation shall be filed with the County Clerk, who shall collect and provide a receipt for demand.
- (b) Upon receipt and filing, the Clerk shall immediately forward the demand for compensation to the Board of Commissioners.

SECTION 11.04.080

DECISION OF THE COUNTY BOARD OF COMMISSIONERS

- (1) Public meeting scheduled. Following review, the Board shall schedule a time for the matter to be decided by the Board at a regular public meeting and cause notice thereof to be given to the claimant, and to the public pursuant to ORS 192.610 to 192.690 and county policy .
- (2) Demand to be acted on in a public meeting: The Board shall consider all demands in a public meeting before taking final action.
- (3) Final decision on the demand: The Board shall consider the matter and make a final decision and adopt a written resolution thereon with findings of fact supporting the decision within the timelines specified in ORS Chapter 197. Such final decision must do one of the following:
 - (a) Deny the demand: Determine that all information necessary to deem the demand as a valid demand under ORS Chapter 197 and this Ordinance has not been satisfied and denies the demand;
 - (b) Compensate the claimant: Determine that all information necessary to deem the demand as a valid demand under ORS Chapter 197 and this Ordinance has been satisfied and that compensation in whole or in part is due to the claimant. The amount of compensation shall be supported by the evidence in the record. Payment of any compensation is subject to the availability and appropriation of funds for that purpose;

- (c) Waive the restrictive land use regulation: Determine that all information necessary to deem the demand as a valid demand under ORS Chapter 197 and this Ordinance has been satisfied and waives in whole or in part the restrictive land use regulation in accordance with this Ordinance.
- (d) Other actions: Take such other actions as the Board deems appropriate not inconsistent with ORS Chapter 197 and this Ordinance, which may include, but not be limited to, a combination of the above remedies.
- (4) Decision not a land use decision: The decision by the Board shall not be considered a land use decision as defined in ORS 191.015(10).
- (5) Notwithstanding a claimant's failure to provide all of the information required in Section 11.04.040 (3) and (4), the Board may review and act on a claim.

SECTION 11.04.070

WAIVERS

- (1) To grant a waiver may include, but not be limited to, modifying, removing or choosing not to apply a land use regulation(s) to the subject property. A waiver shall be in the form of an order which is authorized to be recorded in the deed records kept by the County Clerk.
- (2) Transfer of Waivers: Waivers of land use regulations, when granted in lieu of compensation and when properly recorded in the deed records of the county, survives the sale or transfer of property.
- (3) The right to obtain a waiver does not survive the sale or transfer of property if an application for waiver was not made, awarded and recorded by the owner who was eligible to obtain such waiver.

SECTION 11.040.090

REVOCAION OF WAIVER

- (1) The Board may revoke any waiver if it is determined that the waiver was issued on erroneous information or on account of false statements made in the demand hearing or false representation made at a public meeting.
- (2) No waiver shall be revoked unless:
 - (a) revocation proceedings are initiated within 30-days of the date of the Board's order granting a waiver;
 - (b) a public hearing is held to consider the revocation;
 - (c) the County has provided thirty-days notice of

- the hearing to the claimant by certified and first class mail to the address provided with the demand for compensation; and
- (d) the waiver was granted in substantial reliance on the erroneous information, false statement, or false representation.
- (3) The Board may initiate revocation proceedings on its own motion or at the request of an interested person when there is substantial evidence to believe that the provisions of this ordinance or ORS Chapter 197 have been violated.
 - (4) Any person requesting that the Board hold a revocation hearing may initiate revocation proceedings by submitting a written request for revocation containing the grounds for revocation accompanied by a fee of \$250. The revocation fee shall be fully refunded if the Board issues an order revoking the waiver.
 - (5) If the Board issues an order revoking a waiver, the order shall be recorded in the deed records kept by the County Clerk.

SECTION 11.040.090

GENERAL CONDITIONS

Interpretation: This Ordinance shall be interpreted and applied consistently with the provisions of ORS Chapter 197. If there should be any conflict between the provisions of this Ordinance and ORS Chapter 197, the provisions of ORS Chapter 197 shall control.