

DESCHUTES COUNTY



CODE ENFORCEMENT POLICY AND PROCEDURES MANUAL

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PREFACE

Code Enforcement in Deschutes County is a high priority for the Board of County Commissioners. In August of 1994, the Board established the Deschutes County Code Enforcement Task Force to study county code enforcement, to recommend improvements to the program and to identify statutory or county code changes that may be required to increase the effectiveness of code enforcement. The task force included citizens, representatives of the construction and real estate industries, representatives of the state court system and law enforcement, county legal counsel, managers of the county's Community Development Department and the county's code enforcement staff.

The task force met three times during 1994. In January of 1995, they presented a report to the Board containing their recommendations. The Board accepted those recommendations, and directed county staff to begin to implement them. Among the recommendations was the development of this code enforcement policy and procedures manual.

The key task force recommendation was the implementation of a more "proactive", or county-initiated, code enforcement program. Such a program would begin simultaneously with adoption of the manual and would apply to code violations occurring on or after the effective date of the manual. This recommendation effectively creates a two-pronged approach to code enforcement -- that is, somewhat different policies and procedures for violations occurring before, and after, the effective date of the manual. The intent of this approach is both to increase code enforcement after giving the community ample notice of the county's new, "tougher" enforcement policy, as well as to set enforcement priorities and manage the county's code enforcement workload in a manner that is realistic, clear and credible to the community. The policies and procedures in this manual reflect this new approach.

In the past, county code enforcement has been primarily reactive, generated by complaints. However, the complaint-driven system has not been effective by itself in stemming the tide of code violations in the county. With the adoption of this manual, staff of the Community Development Department, with the assistance of county legal counsel, law enforcement and the court system, and within available resources, will undertake proactive efforts to identify code violations and to obtain compliance, along with responding to citizen complaints. These proactive efforts will focus on the following areas:

- ❖ timely monitoring and enforcement by county staff of permit and approval conditions;
- ❖ revocation of permits for non-compliance;
- ❖ abatement of nuisances and dangerous buildings;
- ❖ stop work orders for non-permitted activity and double-fees on subsequent permits;
- ❖ restricting issuance of permits on property with uncorrected code violations;
- ❖ assisting in related code enforcement by other agencies; and
- ❖ civil procedures to obtain compliance and to recover the county's code enforcement costs.

The Board believes the policies and procedures in this manual will enhance code enforcement and thereby the quality of life in the county.

I. MISSION

The mission of code enforcement in Deschutes County is to protect the health and safety of the county's residents and visitors, and the livability of the community, by assuring compliance with the county's land use, environmental and construction codes. The county will assure code compliance both by encouraging voluntary compliance and by punishing code violators who do not comply.

II. PURPOSE

The purpose of the Deschutes County Code Enforcement Policy and Procedures Manual (hereafter "manual") is to provide written guidelines for:

- A. the prioritization of code enforcement cases;
- B. initiation and investigation of code violation complaints;
- C. enforcement of county codes through voluntary compliance;
- D. prosecution of code violators who do not comply;
- E. punishment of code violators and the assessment of fines and penalties; and
- F. recovery of the county's investigation and enforcement costs.

These written guidelines are intended to assure consistency and predictability within the county's code enforcement program, and to educate the county's citizens and property owners about code enforcement and the consequences of violating the codes.

III. INTERPRETATION

This manual describes the standard policies and procedures for code enforcement, and should be interpreted so as to maximize both the efficiency of county code enforcement and compliance with county codes. This manual should be followed unless there is a compelling reason not to, as determined by the Director of the Community Development Department (hereafter "CDD") or the Board of County Commissioners (hereafter "Board").

The effective date of this manual is January 1, 1996.

IV. AMENDMENTS

This manual may be amended when deemed necessary by the CDD Director and the Board. Amendments may be proposed by county staff, board members and other interested persons.

On February 12, 1997, the Board of County Commissioners modified the list of priorities in Chapter 6, Section A- Priority cases by reversing items #3 and #4. On September 30, 1997, the Board of County Commissioners approved modifications to code enforcement staffing, including the reclassification of the code enforcement secretary to Code Enforcement Technician and the addition of a Field Technician from the Deschutes County Sheriff's Office, in lieu of two full time Code Enforcement Officers. These amendments are reflected in the revised manual published in October, 1998.

V. CODE ENFORCEMENT PHILOSOPHY

Policy. The county's policy is to enforce compliance with county codes in all cases of reported and discovered code violations. However, the county has limited code enforcement resources. Consequently, the county has established, through this manual, both a priority ranking for code enforcement and procedures designed to maximize available code enforcement resources. It is the county's policy that code enforcement should follow the priority ranking set forth in section VI of this manual. It also should be flexible enough to allow the level of enforcement that best fits the type and circumstances of the code violation(s), within clear and objective criteria set forth in this manual and consistent with the priorities.

A. *Enforcement Levels.* The levels of enforcement available to the county are:

1. obtaining voluntary compliance;
2. mediated settlement of code violation complaints;
3. notice of violation (hereafter "NOV");
4. citation and prosecution of infractions in district court;
5. petition for injunction in circuit court;
6. stop work order;
7. permit revocation;
8. nuisance abatement;
9. dangerous building abatement;
10. double-fee permits required for code compliance;
11. restricting issuance of permits on property with uncorrected code violations;
12. assisting in enforcement by other regulatory and licensing agencies;
13. civil penalties through county administrative hearings; and
14. county cost recovery.

B. *Sequence of Enforcement.* The levels of enforcement are not mutually exclusive, and may be used alone or in sequence or combination with other levels. However, in most code violation cases, the county will use the code enforcement levels in the sequence they appear in Paragraph

C. *Criteria for choosing Level of Enforcement.* Some code violation cases may have aggravating circumstances requiring a different sequence for enforcement activity than that set forth in Paragraph A. The county may choose a different sequence if one or more of the following circumstances is present:

1. the code violation is severe (e.g., deviates greatly from the code);
2. the actions leading to the violation(s) were deliberate;

3. the violation poses a significant threat to the public health and safety, or to the environment;
4. the violation may cause economic harm to individuals or to the county as a whole;
5. the alleged code violator is receiving significant economic benefit from continuing the code violation;
6. the physical size or extent of the violation is significant;
7. the violation has existed uncorrected for a significant period;
8. there is a previous history of complaints and code enforcement on the subject property and/or with the alleged code violator;
9. there is community interest in the violation, and potential code enforcement and compliance on the property would be very visible;
10. there is good potential for combining enforcement action on the violation with other violations;
11. the relative benefit of code enforcement outweighs its cost;
12. there is good potential that the violation(s) can be established and successfully prosecuted; and
13. there is little likelihood of obtaining voluntary compliance.

VI. PRIORITIES FOR CODE ENFORCEMENT

Policy. It is the county's policy to investigate and to attempt to resolve all code violations. However, because of limited code enforcement resources, there may be times when all code violations cannot be given the same level of attention, when some code violations may receive no attention at all, or when the county may be unable to carry out the new proactive code enforcement activities set forth in section VII of this manual.

In circumstances where not all code violations can be investigated, the most serious violations, as determined under the priorities set forth in this section and the criteria for enforcement in Section V.C. of this manual, should be addressed before the less serious violations are addressed, regardless of the order in which the complaints are received. However, complaints alleging both priority and non-priority violations should be processed together to maximize efficiency.

A. *Priority Cases.* The Board has established the following priorities for Community Development Department code violations:

1. Violations that present an imminent threat to public health and safety;
2. Violations affecting rivers, streams and/or adjacent riparian areas;
3. Building code violations consisting of ongoing non-permitted construction or failure to obtain permits for construction started after the effective date of this manual.

4. Land use violations occurring after the effective date of this manual including failure to meet conditions of approval.
5. Building, Planning and Environmental Health permit violations occurring after the effective date of this manual including failure to obtain required permits or failure to meet conditions and requirements of permits.

B. Non-Priority Cases.

Policy. Complaints alleging code violations that do not fall within the priority ranking above should be processed in the order in which the complaints are received, and as code enforcement resources allow.

Exception. At the discretion of code enforcement staff, complaints may be processed in any order that maximizes the efficiency of enforcement.

Procedure. All complaints concerning a particular type of code violation (e.g., non-permitted manufactured homes in manufactured home parks), or all complaints of violations occurring in a particular geographic area, may be processed together, regardless of the order in which the complaints are received.

C. Solid Waste

Code Enforcement for solid waste complaints and violations shall be administrated by the Sheriff's Office.

VII. APPLICABILITY

A. General Applicability. This manual applies to all code enforcement carried out by CDD, its employees and agents. Except as otherwise provided, the policies and procedures in this manual apply to all alleged code violations, whether or not they existed on the effective date of this manual. The policies and procedures in this manual supersede any conflicting county policies and procedures.

B. Current Policies and Procedures. Prior to the effective date of this manual, the county's code enforcement has been based upon citizen complaints, and by independent observations of code enforcement staff and other CDD staff while in the field. These procedures are described in Sections VIII A and B of this manual.

Policy. It is the county's policy to continue to use existing policies and procedures for code violations that existed on or prior to the effective date of this manual.

Procedure. The code enforcement policies and procedures described in sections VIII A and B of this manual shall be used for:

1. Code violation complaints, and code violations observed by code enforcement staff, that were pending as of the effective date of this manual; and
2. New code violation complaints and/or observations by code enforcement staff and other CDD staff relating to violations that occurred prior to the effective date of this manual.

C. New Policies and Procedures Applicable on Effective Date of Manual.

Policy. It is the county's policy, as of the effective date of this manual (January 1, 1996) to increase code enforcement and compliance by creating a framework for proactive -- i.e. county-initiated -- enforcement of county codes.

Procedure. On and after the effective date of this manual, and within available code enforcement resources, the county may undertake a number of county-initiated procedures for proactive code enforcement. These procedures may include:

1. investigations and prosecutions of code violations in particular geographic areas;
2. investigations and prosecutions of code violations of a particular type throughout the county;
3. encumbering property subject to land use conditions of approval by recording the conditions in the county clerk's real property records;
4. timely and regular follow-up by CDD staff for compliance with conditions and requirements for permits and approvals the decisions for which are made on or after the effective date of this manual;
5. reporting by county staff of code violations observed while conducting county business;
6. examination and comparison of county files for evidence of code violations;
7. revocation of permits and approvals for failure to comply with requirements or conditions;
8. restriction on issuance of development permits on property with uncorrected code violations;
9. cooperation with code enforcement by other regulatory and licensing agencies; and
10. cooperation with utility companies to terminate service, to the extent authorized by law, to non-permitted uses on property.

D. Non-Applicability to Covenants, Conditions and Restrictions. Many subdivisions and planned communities are subject to private, recorded covenants, conditions and restrictions (hereafter "C C & R's"). For example, "C C & R's" may regulate matters like the height, size or appearance of structures, or the method of storing recreational vehicles. The conditions and restrictions included in "C C & R's" are generally enforceable through private legal action. In some cases, the conditions established in "C C & R's" are similar or identical to county code provisions governing the same structure or activity.

Policy. The county's policy is not to enforce private "C C & R's". However, the county will enforce county code provisions that regulate the same activity as "C C & R's", pursuant to this manual.

E. Non-Applicability to Private Legal Action. Citizens may undertake private legal action to enforce county codes, including civil litigation against the alleged code violator, as well as personally filing citations and prosecuting county code infractions in district court. The policies and procedures in this manual do not apply to private legal action to abate county code violations. Neither should they be interpreted to suggest that the county will participate in such private legal action.

VIII. INITIATION OF CODE ENFORCEMENT

Code Enforcement may be initiated by any of the following methods:

A. Citizen Complaint. Any person may make a complaint to the county alleging one or more code violations.

1. Form. A citizen's complaint shall be made on a county complaint form (see Appendix A). The complainant may complete the form, or it may be completed by county staff based upon a telephone call, letter or other contact from the complainant. If the complaint is received in letterform the letter shall be attached to a complaint form completed by county staff. To be investigated, a citizen complaint must contain all information required on the complaint form.

2. Anonymous Complaints.

Policy. The county's policy is not to accept anonymous code violation complaints. The county believes that anonymous complaints are not as reliable as those made by complainants who are willing to identify themselves. In addition, in many cases, the complainant's identification and testimony in court may be necessary for successful prosecution of code violators and code enforcement.

Exception. The county recognizes there may be cases justifying an exception to this policy. These are cases where the nature of an anonymous complaint reliably suggests the existence of code violations presenting an imminent threat to public health and safety or to the environment, which threat easily may be verified by county staff. In such cases, as determined by the CDD Director or designee, county staff shall accept the anonymous complaint and investigate it.

3. Confidentiality.

Policy. The county's policy is to maintain the confidentiality of code enforcement complaint files and computer records, including the identity of the complainant, to the extent legally possible. The county believes it is important to maintain this confidentiality to assure effective investigation and prosecution of code violations. In addition, the county recognizes that some complainants do not want their names disclosed to the alleged code violator for fear of retaliation. However, in some cases it may be necessary for successful prosecution and enforcement for the complainant to be identified and to testify in court. In addition, the county's code enforcement files are subject to state statutes governing public records and discovery.

Exceptions. In cases where the county chooses to cooperate with, or defer to, federal or state agencies for code enforcement, the contents of the file may be disclosed, as necessary, to the other agency.

Procedure. In order to maintain the confidentiality of code enforcement complaint files and the identity of the complainants, while assuring effective prosecution and enforcement and compliance with state law, the following procedures apply.

- a. Code enforcement files will be maintained as confidential files throughout investigation, infraction prosecution and/or other types of code enforcement.
- b. The contents of code enforcement files will not be disclosed to anyone other than county staff who have a reason to know and who are involved in the investigation, or to similar staff of an

agency with which the county is cooperating or to which deferred code enforcement pursuant to Section XII.M. The contents of the file will not be disclosed to any other until: 1) the investigation is complete and a citation discovery request is made; or 2) the file is closed and disclosure is made pursuant to the public records law.

- c. County and/or federal or state agency staff to whom the contents of the file are disclosed under subparagraph b of this paragraph shall maintain the confidentiality of the file and the identity of the complainant pursuant to this manual.

B. Observation by Code Enforcement Staff. Code enforcement staff often observe additional potential code violations while conducting complaint investigations. However, the number of potential code violations that exist in the county and that may be observed at any given time may be too large for the county's code enforcement staff to investigate and resolve.

Policy. The county's policy is that code enforcement staff shall document on an investigation worksheet any potential code violations the staff observes on property that is the subject of their current investigation. They may also document code violations observed on any property immediately adjacent to the subject property, which violations are observable from the subject property.

C. Permit/Approval Condition Monitoring by CDD Staff. The county routinely issues land use, environmental and construction permits with a variety of requirements and conditions, and timelines for meeting them. For example, a land use approval may require landscaping the site by a certain date, and building permits expire if construction progress and inspections are not made within periods set by state law. Code violations occur when these permit and approval conditions are not timely met.

Policy. The county's policy is that, as of the effective date of this manual, CDD staff shall conduct timely and regular monitoring of conditions of approval and similar permit requirements for all permits and approvals for which the decision is issued on or after the effective date of this manual.

Procedure.

1. All persons issued permits or approvals on or after the effective date of this manual shall be given written notice of the consequences of failure to comply with requirements and conditions, including potential code enforcement.
2. If any permits and approvals are found not to be in compliance with conditions of approval or other permit requirements, staff in the appropriate CDD division assigned to the permit or approval monitoring shall undertake appropriate action to obtain compliance.
3. If the assigned CDD staff are unable to obtain compliance within a reasonable time established for that purpose, they shall report the violation to code enforcement and shall notify code enforcement staff of any enforcement action already taken.
4. Upon receipt of staff notification of non-compliance the case shall be forwarded to Sheriff's Office for citation pursuant to Section XII.C. of this manual.

D. Report by County Staff. In many cases, county staff may be in a unique position to observe potential code violations. For example, a property appraiser in the Assessor's office may be the only person able to observe new construction for which there is no permit.

Policy. The county's policy is that all county staff should report to code enforcement possible code violations they observe while conducting county business.

Procedure.

1. County staff may report to code enforcement potential code violations they observe while conducting county business, where the violations are believed to have occurred prior to the effective date of this manual.
2. County staff should report to code enforcement potential code violations they observe while conducting county business, where the violations are known to have occurred on or after the effective date of this manual.
3. Reports by county staff under this subsection shall be made on a complaint form.

E. Request/Report by County Commissioner. A member of the Board may report a potential code violation, or may request that code enforcement staff investigate a citizen report of a potential code violation. The commissioner may complete a complaint form or submit a written memorandum concerning the alleged violation to be attached to a complaint form.

F. Information from Official County Records. Potential code violations may be discovered by examining the county's own official records. For example, cross-referencing between the Assessors records and CDD's records may reveal construction or land use activity without necessary permits or approvals. CDD staff can also discover code violations by comparing CDD's own land use, environmental health and construction permit records with each other.

Policy. It is the county's policy that beginning on the effective date of this manual, CDD staff shall regularly compare all pertinent county records to identify potential code violations.

Exception. Exceptions to this policy will be made as provided in the county's separate policy on undocumented structures. (See Appendix B.)

Procedure. Code violations discovered through comparison of information in county files, and that are known to have occurred on or after the effective date of this manual, shall be reported to code enforcement on a complaint form.

IX. RECORDING COMPLAINT, OPENING FILE AND TIMELINES

A. Recording Complaint. All complaints from whatever source received by code enforcement shall be recorded in CDD's computer system. Recording the complaint shall consist of assigning the complaint a case number and entering into the computer the following minimum information:

1. the case number;
2. the tax map number for the subject property;
3. the subject property serial number; and
4. which code enforcement staff is assigned to the case.

B. Opening File. After a complaint is assigned a number and recorded, a file shall be opened for the complaint. The file is the official record of the complaint and its investigation and resolution. The file shall contain the following minimum initial information:

1. the complaint form;
2. a tax map;
3. an investigation worksheet;
4. Assessor's information on the subject property; and
5. a cover sheet.

C. Projected Timeline.

Policy. It is the county's policy to encourage the timely resolution of code violation complaints by establishing and making public reasonable timelines for code enforcement and closely monitoring the county's performance in meeting those timelines.

Procedure. When a file is opened, and before an investigation of the complaint is commenced, code enforcement staff shall establish a projected timeline for investigating the complaint and issuing a Notice of Violation. This timeline should be based on consideration of the following criteria:

1. the type of alleged violation;
2. priority ranking of the violation(s) under Section VI of this manual;
3. current code enforcement caseload;
4. current workload in other CDD divisions that may assist in or be assigned to the investigation; and
5. timeline established in this manual and elsewhere for processing code violation complaints.

X. NOTICE OF FILE OPENING

When code enforcement opens a file, it may provide notice in writing or by computer to any CDD division, other county department, or federal or state agency that may have an interest in the alleged code violation.

XI. INVESTIGATION

A. Preliminary Matters. At the beginning of each investigation, the following shall be established:

1. Jurisdiction. The property upon which the alleged code violation has occurred must be land over which the county has code enforcement jurisdiction.
2. Zoning. The zoning of the subject property shall be determined.

3. Permit Status. The status of any land use, environmental health and construction permits on the subject property shall be determined.
4. Property Ownership. All persons with a recorded legal interest in the subject property should be identified. These persons should include the owners, contract purchasers, lessees and lienholders or other security interest holders.
5. Other Potentially Responsible Persons. In addition to the persons listed in subparagraph 4 of this paragraph, any other persons potentially responsible for the alleged code violation(s) should be identified. These persons could include tenants, construction and landscape contractors and excavators.
6. Identification of Applicable Code Provisions. The code enforcement staff, with the assistance of other CDD staff and county legal counsel as necessary, shall identify the pertinent provisions of the county codes that may have been violated according to the complaint.
7. Prior Complaint History. The code enforcement staff shall examine CDD records to determine the existence and status of any prior or existing code violation complaints on the subject property or concerning the alleged violator.

B. Establishing the Elements of a Violation.

Before a Notice Of Violation (NOV) is sent, it must be determined whether the complaint, if true, establishes a code violation. If it does not, the case should be resolved by file closure as provided in section XIV of this manual.

The code enforcement staff, with the assistance of other CDD staff and county legal counsel as necessary, and after any necessary field investigation, shall determine if the following elements have been established.

1. Responsible Person. The person or persons who are reasonably believed to have committed the code violation, or who are or may be legally responsible for the alleged code violation, have been identified.
2. Alleged Violation Occurred or is Occurring. A complaint may allege a code violation that occurred in the past (e.g., construction without a permit) or that occurs only intermittently (e.g., surfacing sewage from a drainfield, or periodic non-permitted commercial activity in a residential zone). The code enforcement staff shall determine whether there are reasonable grounds to believe that the alleged violation did or does occur. Such grounds may be established either by personal observation by the code enforcement staff, or by reliable evidence from a complainant.

If the code enforcement staff determines that reasonable grounds do not exist, no enforcement action should be taken until the complainant or the code enforcement staff has had a reasonable opportunity to develop such grounds. If no reasonable grounds are developed within a reasonable period, the case should be resolved by file closure as provided in section XIV of this manual.

C. Assignment of Investigation and Enforcement Responsibility.

Policy. It is the county's policy that responsibility for field investigation and code enforcement should be assigned to the CDD staff most able to conduct the investigation and undertake appropriate enforcement action. For example, alleged violations of environmental health codes may best be investigated and resolved by county sanitarian with their special expertise. However, all code enforcement activity should be coordinated with code enforcement staff, and all NOV's and Voluntary Compliance Agreements (VCA) will be drafted by code enforcement staff. Citations shall be drafted and issued by the Sheriff's Office.

Procedure.

1. Assignment. Assignment of code enforcement responsibility shall be made by the CDD Director, on a case-by-case basis or pursuant to standing policies in this manual or elsewhere. The following criteria shall be used for assignment of responsibility:
 - a. the nature of the code violation(s) alleged in the complaint;
 - b. the knowledge and expertise needed to investigate the alleged violation;
 - c. the history of prior code enforcement on the subject property or with the alleged violator;
 - d. the status of permits and approvals on the subject property; and
 - f. the workload of the relevant CDD division staff and the projected timeline for investigation and resolution of the complaint.
2. Coordination. Whenever responsibility for code enforcement activity is assigned to CDD staff other than code enforcement staff, such staff shall consult with code enforcement staff and keep them advised of their activities. When CDD staff other than code enforcement staff in assigned to investigate a code violation complaint for which a code enforcement file has been created, such staff shall enter a report of any action undertaken to investigate or to obtain compliance into the CDD computer and the code enforcement screen.

D. Field Investigation.

1. Purpose. The purposes of code enforcement field investigation are:
 - a. to verify the existence and severity of code violations;
 - b. to document code violations by means of written notes, photographs, witness interviews, etc.;
 - c. to obtain supporting evidence, such as the names and statements of potential witnesses; and
 - d. if possible, to discuss with the property owner, occupant or other responsible person:
 - 1) the nature of the code violation(s);
 - 2) methods for complying with the code(s);
 - 3) timelines for code compliance;
 - 4) code enforcement procedures; and
 - 5) potential consequences for failure to comply.
2. Coordination. Whenever responsibility for field investigation is assigned to CDD staff other than code enforcement staff, the coordination and notification described in Paragraph C(2) of this section shall occur.
3. Preparations and Precautions.

Policy. It is the county's policy that code enforcement staff and other assigned CDD staff, as well as members of the public, should not be exposed to unreasonable risks of violent confrontation or injury during the course of field investigations. Code enforcement staff and other assigned CDD staff shall take whatever actions are reasonable and necessary to minimize the known risk of violent confrontation or injury to themselves or others in conducting their field investigations.

Procedure.

- a. Law Enforcement Assistance. When appropriate, the code enforcement staff or other assigned CDD staff should contact the sheriff's office to determine if there have been previous criminal complaints or investigations concerning the subject property or alleged code violator, and whether, in the opinion of the sheriff's office, a field investigation would present any threat to the safety of the code enforcement staff, other staff, the alleged code violator or other persons present during a field investigation. The code enforcement staff or other assigned CDD staff person may request law enforcement assistance in conducting the field investigation, and may postpone such investigation until law enforcement assistance is available.
- b. Announced/Unannounced Field Visits. At the discretion of the code enforcement staff or other assigned CDD staff, a field visit to the vicinity of the subject property may be conducted with or without prior notice to the property owner, occupant or alleged code

violator. The determination of whether or not to give prior notice shall be made on the basis of the following criteria:

- 1) the nature of the alleged violation;
- 2) whether or not prior notice will make detection and documentation of the alleged violation more difficult; and
- 3) whether or not prior notice will unnecessarily increase the known risk of violent confrontation or injury to the code enforcement staff or other assigned CDD staff.

c. Entering Upon Property or Premises.

Policy. It is the county's policy that code enforcement staff and other assigned CDD staff shall not enter upon private property or premises to conduct a field investigation without authority to enter.

Procedure. Code Enforcement Staff may enter unposted property to seek permission to investigate on the premises. Unless permission is granted, the investigation shall be conducted from public roads or property where permission to enter has been granted. If the code enforcement staff or other assigned CDD staff does not have permission or other authority to enter upon property or premises, and entry upon the property or premises is necessary to conduct the investigation, the code enforcement staff or other assigned CDD staff shall consult with county legal counsel about obtaining a search warrant.

E. Report of Field Investigation. Upon completion of the field investigation, the code enforcement staff or other assigned CDD staff shall prepare an investigation worksheet to be placed in the code enforcement file. The report shall include the following information:

1. name of investigator;
2. date, time and place of field visit;
3. code violation(s) observed;
4. if no code violation(s) observed, an explanation;
5. witnesses, if any, interviewed;
6. evidence, if any, obtained (e.g., photographs);
7. discussion, if any, of violation with owner, occupant or other responsible person;
8. action necessary to correct violation; and
9. recommended enforcement action.

XII. ENFORCEMENT PROCEDURES

A. Voluntary Compliance Without Penalty.

Policy. It is the county's policy to encourage voluntary code compliance by providing code violators and other responsible persons with the opportunity during code enforcement to comply with the codes with little or no penalty. The county believes that voluntary compliance generally is less expensive for all parties and of a more satisfactory and lasting nature than involuntary compliance.

Exception. Notwithstanding this policy, the county believes that allowing code violators the opportunity to voluntarily comply any time during code enforcement, or outside reasonable time limits for such compliance, may actually result in abuse of this opportunity in order to delay compliance. Therefore, it is the county's policy to limit the time frame during which code violators may come into voluntary compliance with little or no penalty.

Procedure.

The following procedure shall apply whenever a code violator brings his or her property into compliance during code enforcement activity:

Timing of Compliance

Disposition

a. After complaint/before field investigation	File closed, no cost recovery
b. After field investigation/before NOV	No NOV, file closed, no cost recovery
c. After NOV/before citation	No citation, file closed, no cost recovery
d. After citation/before arraignment	CDD Recommends dismissal of citation, no cost recovery, double fees where applicable
e. After arraignment/before trial	CDD recommends prosecution, conviction or guilty plea bail forfeiture, cost recovery, double fees where applicable
f. At time of trial	CDD recommends prosecution, conviction or guilty plea, maximum fine, cost recovery, double fees where applicable, civil penalties where applicable.

2. Limited Opportunities. Voluntary compliance without penalty or cost recovery will not be allowed where the alleged violation is a repeat offense either on the subject property or by the code violator, or where the original violation was not corrected following prior code enforcement action.

3. Limited Time Frames. Opportunities for voluntary compliance, where provided, shall be of limited duration. The time frame for voluntary compliance shall be established in timelines set forth in this manual or elsewhere.

4. Time Extended by Voluntary Compliance Agreement. Following the issuance of a NOV, if the alleged violator admits the violation(s) and requests extended time for voluntary compliance, the alleged violator shall sign an " Voluntary Compliance Agreement." The agreement shall provide that, in exchange for the extended time for voluntary compliance, the alleged violator agrees to abate the violation(s) by a specified time, and to waive hearing and consent to judgment against him/her if voluntary compliance is not obtained during the extended time allowed by the county and a citation is filed in court.

B. Notice of Violation.

1. When Sent. When the code enforcement staff or other assigned CDD staff determines there are reasonable grounds to believe a violation did or does occur, based upon the information in the complaint and any field investigation, an NOV shall be sent on a standard form (see Appendix D) or in a letter or notice sent by the appropriate CDD division staff.
2. To Whom Sent. A NOV shall be sent to the subject property owner(s). A separate NOV shall be sent to each additional person who is or may be responsible for the alleged violation.
3. How Sent. NOV's shall be sent by certified mail to the best available address for the property owner(s) and other responsible person(s).
4. Follow-up. The date in the NOV for corrective action shall be entered in the CDD computer on the code enforcement screen. After that date, if the code enforcement staff determines that the required corrections have not been made and a Voluntary Compliance Agreement has not been signed, the staff shall promptly forward the case to the Sheriff's Office for citation of the alleged violation.
5. Compliance. If the code enforcement staff determines that the required corrections have been made, the date and method of compliance shall be noted in the code enforcement file and the case shall be resolved by file closure pursuant to section XIV of this manual.
6. Corrective Action. In some cases, corrective action may consist of both applying for and obtaining necessary permits or approvals. In such cases, the permit or approval application alone will not be sufficient to assure compliance. The alleged violator must follow through with the application process to obtain the necessary permit or approval.

Policy. It is the county's policy that in cases where code compliance requires both applying for and receiving a permit or approval, code enforcement shall continue until all necessary permits or approvals are granted or until they are denied and code compliance is obtained through other means.

Procedure.

- a. Where the required corrective action consists of both applying for and obtaining permits or approvals, code enforcement staff, in consultation with other appropriate CDD staff, shall determine a reasonable time frame for applying for and obtaining the necessary permits or approvals.
- b. If at any time during the process for obtaining necessary permits or approvals the alleged violator fails to meet the reasonable timelines established under this paragraph, and such failure does not result from the actions of others, the code enforcement staff shall cite the alleged violator pursuant to Paragraph C of this section.
- c. If the alleged code violator is not granted the necessary permits or approvals, the code enforcement staff shall cite the alleged violator pursuant to Paragraph C of this section.

C. Citation and Complaint.

1. Voluntary Compliance. Where voluntary compliance can not be obtained by CDD within a reasonable time frame, the case shall be forwarded to the Sheriff's Office for citation and complaint.
2. Field Investigation Required. No citation and complaint shall be prepared unless and until a field investigation has verified the existence of a code violation.
3. Form. All citations shall be on a "Uniform Citation and Complaint," (see Appendix E), and shall contain the information required under ORS 153.150.
4. Service. All summons for citations and complaints shall be served by personal service on the person named in the complaint.
 - a. By Whom. service may be made by a law enforcement staff.
 - b. Within Deschutes County. Service on persons located within Deschutes County may be made by a deputy sheriff or other sworn police staff.
 - c. Elsewhere In Oregon. Service on a person residing in another Oregon county may be made by sheriff's deputies or other sworn police staff in that county. Code Enforcement staff shall submit summons and complaint to the appropriate county sheriff for service.
 - d. Outside Oregon. Service on persons residing in other states may be made by the appropriate county sheriff or by another sworn police staff. Code Enforcement staff shall contact the appropriate out-of-state sheriff's office to request service and return of service.
 - e. Return of Service. Code enforcement staff shall assure that a return of service for each summons and complaint has been received before the citation is filed in court.
 - f. Failure to Obtain Service. If personal service cannot be obtained after three (3) attempts, the summons and complaint shall be returned to code enforcement for a determination of

whether and when further service attempts are appropriate, or whether another method of enforcement should be pursued.

4. Setting Arraignment. The date for arraignment in the citation and complaint shall be the first available district court date that allows the person cited a reasonable time to respond to the complaint. In setting the date, the Officer serving the summons and complaint shall consider the district court schedule for code enforcement cases as well as the time needed to obtain service.

5. Filing Citation and Complaint. When the citation and complaint has been served and Sheriff's Office has received the return of service, the citation and complaint, abstract of court record and return of service shall be filed in the district court.

6. Publication of Citation, Abatement and Injunction

Policy. It is the county's policy to increase both public awareness of county code enforcement and incentives for code compliance by publishing on a regular basis the filing of citations, abatement and injunctions.

Procedure. On a monthly basis, Sheriff's Office shall provide to a newspaper of general circulation in the county a summary of the code enforcement citations, abatement and injunctions filed in the district court during the previous month, and shall request that such summary be published. The summary shall include the names and addresses of the persons cited, brief descriptions of the alleged violation(s), and the maximum fine(s).

7. Arraignment.

a. Purposes. The purposes of arraignment are to:

1) allow the defendant to enter a plea to the citation and complaint;

2) resolve any jurisdictional issues;

3) set a trial date if the plea is not guilty; and

4) if the plea is guilty, allow the defendant and the Sheriff's Office Deputy the opportunity to provide information to the court regarding sentencing.

b. Appearance by County Legal Counsel. County legal counsel shall not represent the county at arraignment unless the defendant has legal counsel at arraignment.

8. Bail. Bail amounts for county code infractions shall be set in a bail schedule adopted by the presiding judge for Deschutes County.

9. Failure to Appear at Arraignment. If the defendant fails to appear at arraignment, the Sheriff's Office Deputy may ask the court to issue a bench warrant for the defendant's arrest. However, the Sheriff's Office Deputy shall not request issuance of a bench warrant to be served outside Oregon.

10. Default. If the defendant fails to appear at arraignment, the code enforcement staff may request that the district court enter a default judgment in favor of the county and impose a fine against the defendant.
11. Trial. If the defendant pleads not guilty to the allegations in the citation and complaint, the code enforcement staff shall request that the district court set the matter for trial at the earliest available date.
 - a. Burden of Proof. The county has the burden of proving at trial, by a preponderance of the evidence, the allegations in the citation and complaint.
 - b. Responsibility of Code Enforcement Staff. At trial, the responsibility of the code enforcement staff is to prosecute the case by presenting evidence, calling witnesses and offering any relevant documents and other exhibits in support of the citation.
 - c. Appearance by County Legal Counsel. County legal counsel shall not represent the county at trial unless the defendant is represented by legal counsel at trial.
12. Fines.
 - a. Schedule. The schedule of maximum fines for county code infractions is set forth in ORS 153.310 and ORS 203.065 (see Appendix F).
 - b. Amount. If the defendant is convicted, the code enforcement staff shall request that the district court impose a fine in an amount consistent with the policy and procedures set forth in Section XII.A.1 of this manual.
13. Suspension of Fines. The district court has authority to suspend the imposition of all or a portion of a fine. In some cases, the court may wish to suspend imposition of a fine or a part thereof on condition that the defendant comply with county codes within a specified time period.

Policy. It is the county's policy to increase the effectiveness of code enforcement activity and the incentives for code compliance by discouraging any suspension of fines in county code infraction cases.

Procedure. If a defendant is convicted, Sheriff's Office Deputy and/or county legal counsel shall advise the district court of the county's policy against fine suspension, and shall ask the district court not to suspend imposition of fines.

14. Working Off Fines.

Policy. It is the county's policy that, in appropriate cases and consistent with Oregon law and county corrections resources, defendants should have the opportunity to perform community service in order to work off fines imposed by the district court for county code infraction convictions. In particular, it is the county's policy to encourage defendants in appropriate cases to participate in community service programs directed at nuisance abatement and similar code enforcement.

Procedure. The county will work with the district court and the county's community corrections staff to explore the implementation of community service programs directed at code violation abatement.

15. Collection and Distribution of Fines. Fines imposed by the district court for county code infractions are collected by the State Court Administrator and are remitted in part to the county.

Policy. It is the county's policy that all fines imposed for county code infractions and remitted to the county should be used to pay the costs of county code enforcement.

Procedure. All fines imposed by the district court for county code infractions and remitted to the county shall be deposited in the county General Fund and transferred to the CDD Revenue Fund for budgeting and expenditure in the code enforcement program.

D. Injunctions.

Policy. It is the county's policy to seek injunctions from the circuit court in cases where other methods of code enforcement may be inadequate or have been unsuccessful.

Procedure.

1. When Sought. Code enforcement staff may contact county legal counsel to obtain injunctions in any case in which:
 - a. code violation(s) present an imminent threat to the public health and safety or to the environment; or
 - b. code violations have not been corrected within a reasonable time after a defendant's third citation for the same infraction(s) in district court..
2. By Whom. All requests for injunctions shall be made by county legal counsel, with the assistance of Sheriff's Office staff and other assigned CDD staff as necessary.
3. How Enforced. After issuance of an injunction, if the defendant fails to comply within the time period specified in the injunction, the Sheriff's Office or Community Development Department staff shall request that county legal counsel initiate civil contempt proceedings against the defendant.

E. Stop Work Orders

Policy. It is the county's policy to increase code compliance by using stop work orders to the maximum extent allowed by law. In particular, stop work orders shall be used to assure compliance with permits and approvals the decisions for which are issued on or after the effective date of this manual.

Procedure.

1. Issuance of Stop Work Order. The appropriate CDD staff shall promptly issue a stop work order in the following cases:
 - a. whenever follow-up of permits and approvals under Section VII of this manual reveals construction, installation and/or land use activity not permitted under the permit or approval; and
 - b. whenever the code enforcement staff or other CDD staff discover or receive a verified complaint of non-permitted construction, installation or land use which is known to have occurred on or after the effective date of this manual.

CDD staff issuing the stop work order shall promptly notify code enforcement staff on a complaint form, and the information shall be entered in the CDD computer on the code enforcement and building screens.

2. Violation of Stop Work Order. If construction, installation or land use activity continues after the issuance of a stop work order, such activity shall be reported to code enforcement on a complaint form. The Sheriff's Office Deputy shall cite the alleged violator pursuant to XII.D. of this manual.

(Note: Additional county code authority, and possibly statutory authority, is needed to authorize stop work orders, and citations for violating stop work orders, for land use and environmental health violations.)

- F. Permit Revocation. Certain county codes authorize the revocation of permits or approvals for failure to comply with their requirements or conditions.

Policy. It is the county's policy to maximize code compliance by revoking permits and approvals to the extent authorized by law in appropriate cases arising from permits or approvals the decisions for which are issued on or after the effective date of this manual.

In particular, it is the county's policy to use permit revocation in cases in which corrective action may not be effective in bringing the subject property into code compliance due to the nature of the violation and the deliberateness of the code violator's actions to avoid compliance.

Procedure.

1. Report to Code Enforcement Staff. If permit or approval follow-up under Section VIII.C of this manual reveals that the conditions or requirements of a permit or approval have not been met, CDD staff shall inform code enforcement of such violation on a complaint form, and the information shall be entered in the CDD computer on the code enforcement screen.

2. Revocation Procedure. CDD staff in the appropriate CDD division shall determine whether to undertake permit revocation proceedings as authorized under the applicable county code provisions. The following factors shall be considered:
 - a. whether the criteria for permit revocation set forth in the applicable county code provisions exist;
 - b. the severity and deliberateness of the deviation from the permit or approval requirements or conditions; and
 - c. whether compliance can be achieved more effectively through other code enforcement methods.

G. Nuisance Abatement. Chapter 13.36 of the Deschutes County Code (hereafter "Code") authorizes the abatement of county code violations that are defined as "public nuisances."

Policy. It is the county's policy that, as of the effective date of this manual, county code violations constituting public nuisances shall be abated pursuant to chapter 13.36 of the code and within available resources.

Procedure. When a code enforcement staff or other CDD staff discovers or receives a verified complaint of a code violation that may constitute a "public nuisance," the information shall be submitted on a complaint form and entered in the CDD computer on the code enforcement screen. Code Enforcement staff or other assigned CDD staff shall promptly consult county legal counsel to initiate nuisance abatement pursuant to chapter 13.36 of the code.

H. Dangerous Building Abatement. Chapter 15.04 of the code authorizes the abatement of buildings containing violations rendering them "dangerous buildings" as defined in the code.

Policy. It is the county's policy that violations that may render a structure a "dangerous building" shall be abated pursuant to Chapter 15.04 of the Code and within available resources.

Procedure. When a code enforcement staff or other CDD staff discovers or receives a verified complaint of code violations in a structure that may render the structure a "dangerous building", the information shall be submitted on a complaint form and entered in the CDD computer on the code enforcement and building permit screens. The Deschutes County Building Official (hereafter "building official") shall be notified and shall promptly consult with county legal counsel to initiate abatement proceedings under chapter 15.04 of the code.

I. Double-fee Permits. Certain provisions of the code allow the county to charge double the normal fee for permits issued for construction or installation originally performed without required permits.

Policy. It is the county's policy to maximize the incentives to comply with county codes by double-fees, to the extent authorized with law, for permits sought for non-permitted construction or installation that occurs on or after the effective date of this manual.

Procedure. Whenever a code enforcement staff or other CDD staff discovers or receives a verified complaint of non-permitted construction or installation, the information shall be submitted on a complaint form and entered in the CDD computer on the code enforcement and building permit screens. When construction or installation permits are sought for the non-permitted work, the following procedures shall apply:

1. If the non-permitted work occurred before the effective date of this manual, the county may double-fee the permit(s). The decision to double-fee shall be made by the building official or designee, in accordance with criteria established in the applicable provisions of the code.
2. If the non-permitted work occurred on or after the effective date of this manual, the county shall double-fee the permit(s).

J. Restricting Issuance of Development Permits. In some cases, persons apply for land use, construction and/or environmental health permits to develop property upon which there already exist uncorrected county code violations. In addition, in some cases, persons apply for permits for "accessory" structures, such as garages and other outbuildings, that are later converted to non-permitted "primary" uses, such as a residences. In such cases, the only effective way to correct or prevent code violations may be to restrict the application for and/or issuance of such development permits.

(Note: Additional county code and/or statutory authority may be needed to allow refusal to accept permit or approval applications or to refuse to issue permits or approvals due to pending code violations.)

It is the county's policy, to the extent authorized by law, not to issue permits or approvals, nor to renew or extend permits and approvals, for development on any property on which there already exist uncorrected code violations. The restriction should continue until such violations are corrected.

It is also the county's policy not to issue permits or approvals, nor to renew or extend permits or approvals, for "accessory" structures, such as garages and outbuildings, on vacant property, on property on which there does not already exist a permitted primary residential or commercial use, and on property for which a permit or approval for a "primary" use is not sought simultaneously with the "accessory" use permit or approval. The restriction should continue until the primary permitted use is established or a permit for it is sought.

Exceptions.

1. Land use, construction and/or environmental health permits, or renewals or extensions of such permits, sought in order to correct existing county code violations on the subject property shall be issued if all criteria for issuance are met.
2. These provisions shall not apply to the issuance of agricultural building exemptions as set out in ORS 455.315. Exemption from the state structural code for qualifying agriculture buildings shall be issued if all criteria for the exemption are met.
3. Accessory uses permitted under Title 18.116.040.

Procedure.

1. Determination of Existing Violations. Whenever land use, construction and/or environmental health permits are applied for, or renewals or extensions of such permits are sought, CDD staff shall determine if there are existing code violations and the status of those violations.
2. Determination of "Accessory" Status. Whenever land use, construction and/or environmental health permits are applied for, or a renewal or extension of such permits are sought, for a garage, outbuilding or other similar "accessory" structure, CDD staff shall determine if there exists on the subject property a permitted "primary" use to which the structure would be "accessory," or whether a permit or approval is also being sought for the "primary" use.
3. Applications for Permits/Approvals.
 - a. Existing Code Violations. If review of CDD's records and/or consultation with code enforcement staff reveals the existence of unresolved code violations on the subject property, CDD Staff shall not accept applications for the requested permit(s) or approvals or renewals or extensions thereof, nor shall staff issue permits or approvals or renewals or extensions thereof. Instead, staff shall promptly consult with code enforcement to determine whether the permit or approval, or the renewal or extension thereof, is being sought in order to correct the existing code violation(s).

If the requested permit or approval, or renewal or extension thereof, is determined to be required for code compliance, the application shall be accepted, or the permit or approval shall be issued if all necessary conditions have been met. CDD staff shall refer persons not allowed to apply for permits or approvals, or to whom issuance of permits or approvals or renewals or extensions thereof has been denied under this subparagraph, to a code enforcement staff to discuss required corrective action.
 - b. "Accessory" Structures. If review of CDD's records reveals that no "primary" use exists on the subject property to which the structure applied for would be "accessory", or if no permits or approvals for the "primary" use are simultaneously applied for on the subject property, CDD staff shall not accept applications nor issue permits or approvals, or renewals or extensions thereof, for the requested "accessory" structure. CDD staff shall refer persons not allowed to apply for permits or approvals, or to whom issuance of permits or approvals or renewals or extensions thereof, has been denied under this subparagraph to a planner to discuss the establishment of the necessary primary use.
4. Duration of Permit/Approval Restrictions. No land use, construction and/or environmental health permits or approvals, or renewals or extensions thereof, may be applied for or issued, except as provided above, until all necessary corrective action has been taken with respect to existing code violations under subparagraph 3(a), or until the necessary "primary" use has been established or applied for on the subject property under subparagraph 3(b) of this paragraph.
5. Coordination. Whenever the provisions of this paragraph apply, code enforcement and other CDD staff shall closely coordinate their permitting and enforcement activities to assure compliance with this paragraph.

K. Assisting Enforcement by Other Regulatory/Licensing Agencies. In some cases, county code violations also may constitute violations of federal and/or state statutes or administrative rule. For example, surface

mining without county land use approval may also violate state statutes and administrative rules governing mining, and performing building construction without necessary permits may also constitute violations of state statutes and administrative rules governing the conduct of licensed contractors.

Policy. It is the county's policy to maximize code enforcement and the incentives for compliance by promptly advising the appropriate federal and/or state agency of county code violations reported or discovered that may also violate the statutes or administrative rules of that agency.

It is also the county's policy to cooperate with federal or state agencies, to the extent authorized or required by law or by intergovernmental agreement, to obtain voluntary compliance or to punish violations. The county may defer investigation and prosecution to the appropriate federal or state agency in cases in which, as determined by the CDD Director or designee, the federal or state agency enforcement procedure will result in more effective correction of the violation(s).

Procedure.

1. Reporting. Whenever a code enforcement staff or other CDD staff discovers or receives a verified complaint regarding a county code violation that may also constitute a violation of federal or state statute or administrative rule, he or she shall advise the appropriate federal or state agency.
 2. Cooperation. To the extent authorized or required by law or by intergovernmental agreement, code enforcement staff and other CDD staff shall cooperate with the federal or state agency to obtain voluntary compliance or to prosecute and punish violations. That cooperation may include sharing information, conducting joint investigations, appearing as witnesses and/or providing evidence in enforcement proceedings, and coordinating the timing of investigations and/or enforcement proceedings to maximize their effectiveness.
 3. Deferral to Other Agency. The county may defer some or all code enforcement to a federal or state agency, and forego county code enforcement, where the CDD Director or designee determines that the federal or state enforcement activity will be more effective than county code enforcement. In making the determination, the following factors shall be considered:
 - a. the nature of the violation and necessary corrective action;
 - b. the comparative severity of the penalties available to the federal or state agency and to the county; and
 - c. the comparative time frames required for enforcement by the federal or state agency and by the county.
- L. Civil Penalties. Monetary penalties for county code infractions may be assessed through a county administrative hearing procedure, separate from the citing and prosecution of county code infractions in district court.

Policy. It is the county's policy to maximize code enforcement and to increase the incentives for compliance by creating a county administrative hearing procedure for assessing and collecting civil penalties against county code violators. The county believes the assessment and collection of civil penalties in such an administrative hearing procedure may be the most effective way to obtain code compliance in cases in which the code violator is receiving economic gain from continuing code violation(s).

Procedure. The county will explore, as an additional method of code enforcement, the development of authority and procedures for county administrative hearings for the adjudication, assessment and collection of civil penalties against county code violators.

M. County Cost Recovery. The county incurs costs investigating code violations and enforcing codes. They include the cost of personnel and equipment, legal advice and representation, service of summons, and administrative expenses.

Policy. It is the policy of the county to maximize code enforcement and to increase the incentives for code compliance by recovering its reasonable code enforcement costs from code violators.

Procedure. The county will explore the development of the authority and procedures for a code enforcement cost recovery program.

N. Liens. In many cases, the most effective way for the county to recover its code enforcement costs, as well as to collect any civil penalties assessed through administrative hearings, is to file a legal claim for those costs or penalties against the property subject to code enforcement, or against other property owned by the code violator.

Policy. It is the county's policy to assure recovery of its costs, as well as the collection of civil penalties assessed through administrative hearings, by filing claims for those costs and penalties in the form of liens on property subject to code enforcement, or upon other property owned by code violators.

Procedure. The county will explore developing the authority and procedures for the filing of liens against real property for the collection of code enforcement costs and civil penalties assessed through county administrative hearings.

XIII. FINANCIAL HARDSHIP

Some county code violations involve property owners or other responsible persons who lack the financial ability to obtain permits and approvals, or to perform or contract for the construction or other work necessary to correct code violations, or pay court ordered fines for code violation.

Policy. It is the county's policy to investigate and take enforcement action against all code violations, regardless of the financial resources of the property owner or other responsible person. However, the county recognizes that the effectiveness of code enforcement may be significantly reduced where the code violator is indigent. Therefore, it is the county's policy to assist indigent code violators, to the extent authorized by law and within available county and community resources, to correct code violations. That assistance may include the reduction or waiver of county permit and approval fees, as well as facilitating financial or construction assistance through other community resources, or community service in lieu of fines.

Procedure. In cases where the defendant in a code infraction case appears not to have the financial resources to correct the code violations or pay fines, the person may apply to qualify for financial or other assistance within available resources and under the following procedures:

- A. Criteria for Indigence. To qualify for assistance under this section, the property owner or other responsible person must meet the criteria for indigence established by the state Court Administrator for indigent criminal defense.
- B. When Determined. Indigence shall be determined if the defendant pleads guilty to or is convicted of an infraction, and claims indigence in the district court.
- C. How Determined. A defendant claiming indigence shall complete an indigence form (see Appendix G). The form shall be evaluated by code enforcement staff to determine if the defendant meets the criteria for indigence. The defendant shall be notified in writing of the county's indigence determination and available county or community assistance.
- D. Fee Reduction/Waiver. A defendant who is determined to be indigent under this section may apply for a reduction or waiver of CDD development fees for permits or approvals necessary to correct the code violation(s). The decision to reduce or waive development fees will be made by the Board, considering the following factors:
 - 1. the degree of the defendants indigence;
 - 2. the cost of the development permit(s) or approval(s) required;
 - 3. funds available for fee reductions/waivers in CDD's budget or in any other available funds;
 - 4. and other assistance available in the community.
- E. Community Service in Lieu of Court Ordered Fines. After a conviction or plea on a code violation and upon a finding of indigence the court may order community service in lieu of a fine. A period of time shall be established in which the community service shall be completed.
- F. Special Code Enforcement Indigence Fund.

The county will explore the development of a special fund, in CDD's budget or elsewhere in the county's budget, for the purpose of subsidizing fee reductions or waivers under this section.

- G. Other Assistance.

The county will also explore the development of a program to assist indigent defendants with other code compliance costs, such as the cost of labor and materials necessary to correct code violations. This program should involve other interested persons and community organizations, such as Central Oregon Builders Association, Central Oregon Bird of Realtors, Central Oregon Community Action Agency Network, Deschutes Housing Solutions, Habitat for Humanity, etc.

XIV. RESOLUTION OF CODE COMPLAINTS

Policy. It is the county's policy to attempt to reach final, satisfactory resolution of all code violation complaints. However, the county recognizes that not all complaints may be resolved successfully, due to factors outside the county's control.

These factors can include the indigence of the code violator, the lack of county or other resources to assist the violator, statutory limitations on potential fines or other penalties for code violations, and the large number of complaints to be resolved.

Therefore, it is the county's policy to focus its code enforcement resources on the code violations that meet the priorities set forth in Section VI of this manual, and to resolve those violations within a reasonable period set for code enforcement activity in this manual or elsewhere. Where the county determines that a code violation may not be successfully resolved within the established reasonable timelines, it is the county's policy to either close the file, or to explore alternative methods of enforcement.

Procedure.

A. File Closure. A code violation complaint will be resolved by file closure in the following cases:

1. when no code violation is found after investigation;
2. when there is voluntary compliance;
3. when the property owner and/or other responsible person has been convicted of an infraction and has corrected the violation(s);
4. when an injunction has been issued and the property owner or other responsible person has corrected the violation(s);
5. when investigation and prosecution of the violation(s) have been completed by a federal or state agency to which the county deferred code enforcement; or
6. when it is determined in writing by the CDD Director or designee that the code violation(s) are not likely to be successfully resolved within a reasonable timeline, due to factors outside county control.

B. Notice of Resolution. The county may send written notice to the complainant when the complaint is resolved, describing the resolution.

C. Alternate Methods of Resolution. The county may explore alternate methods to resolve code violations including mediation.

XV. FILE MAINTENANCE

County code enforcement files, including CDD computer records, are the official records of county code enforcement activity. As such, the files and computer records shall be maintained pursuant to the rules of the secretary of State for maintenance of official records.

VI. MEDIA CONTACT

Policy. It is the county's policy to make information available to representatives of the news media to the extent legally authorized.

Procedure.

- A. Disclosure of File and Computer Information. The contents of county code enforcement files and computer records, and statements of county staff concerning code enforcement cases, shall be made available to representatives of the news media upon request made to the CDD Director, and subject to the provisions of section VIII.A.(3) of this manual and the pertinent statutory provisions governing public record disclosure

XVII. APPENDICES

- A. Complaint Form
- B. Undocumented structure Policy
- C. Agreement to Abate
- D. Notice of violation (NOV) Form
- E. Uniform citation and complaint
- F. ORS 153.310 and ORS 203.065 (Maximum Fines)
- G. Indigence Form