

MID-COLUMBIA COUNCIL OF GOVERNMENTS

ORDINANCE NO. 10-001

AN ORDINANCE CONTINUING THE ASSUMPTION OF ADMINISTRATION OF THE BUILDING INSPECTION PROGRAM, AND SETTING FORTH PROGRAMS FOR THE ENFORCEMENT OF THE OREGON BUILDING CODES, INCLUDING THE OREGON SPECIALTY CODES, ELECTRICAL AND PLUMBING; REPEALING ORDINANCE NO. 07-300; AND DECLARING AN EMERGENCY.

WHEREAS, MID-COLUMBIA COUNCIL OF GOVERNMENTS (MCCOG) is an intergovernmental agency formed under ORS Chapter 190, consisting of five Counties, Gilliam, Hood River, Sherman, Wasco and Wheeler; and

WHEREAS, Oregon Revised Statutes and Oregon Administrative Rules allow municipalities to apply for the delegation and assumption of building inspection, special codes, and electrical programs; and

WHEREAS, MCCOG has established a building code service and enforcement department, which shall be under the administrative and operational control of the MCCOG Executive Director, and MCCOG is required, by the provisions of Oregon Revised Statutes and Oregon Administrative Rules Chapter 918, to adopt an ordinance for administration and enforcement of the building code program;

NOW, THEREFORE, MID-COLUMBIA COUNCIL OF GOVERNMENTS HEREBY ORDAINS AS FOLLOWS:

Section 1. Adoption of Oregon Building Code.

a. Under authority of ORS 190.030 and ORS 203.045, MCCOG hereby adopts the Oregon Building Code as set forth in ORS Chapter 455 and OAR Chapter 918, Division 308, as the same may be amended from time-to-time by the State legislature and by State agencies.

b. The MCCOG Building Code enforcement jurisdiction shall apply to all areas within MCCOG's jurisdiction within counties which are Member Counties of MCCOG and within corporate limits of all cities and the areas of any other counties that have entered into intergovernmental agreements with MCCOG.

c. The adoption of the Building Code includes the following Oregon Specialty Codes, the Administrative Rules, and Standards, which are hereby adopted and

incorporated herein as though fully set forth hereat:

- (1) The Oregon Structural Specialty Code, as adopted by and together with OAR Chapter 916, Division 460.
- (2) The Oregon Mechanical Specialty Code, as adopted by and together with OAR Chapter 918, Division 440.
- (3) The Oregon Plumbing Specialty Code, as adopted by and together with OAR Chapter 918, Division 750 through Division 780.
- (4) The Oregon Residential Specialty Code, as adopted by and together with OAR Chapter 918, Division 480.
- (5) The Manufactured Dwelling Installation Rules, as adopted by and together with OAR Chapter 918, Division 500 through Division 520, including the Oregon Manufactured Dwelling Standard.
- (6) The Oregon Electrical Specialty Code, as adopted by and together with OAR Chapter 918, Division 305.
- (7) The sections, appendices, or provisions of the Oregon Fire Code, as specifically referenced from the State Building Code.
- (8) The Oregon Recreation Parks and Organizational Camps rules, OAR Chapter 918, Division 650.

Section 2. Mid-Columbia Building Codes Services. MCCOG has created a building code services division, which shall be known as Mid-Columbia Building Codes Services, and this division shall include officials, inspectors, and plans examiners who are qualified and licensed to act in that capacity to enforce provisions of the code and to render written and oral interpretations of the code to clarify the application of its provisions.

Section 3. Definitions. For purposes of the Building Code, the following definitions shall apply:

a. Building Inspector. Representatives of the Building Official appointed as employees of Mid-Columbia Building Codes Services to administer the provisions of this ordinance and the Building Code.

b. Building Official. The head official in charge of Mid-Columbia Building Codes Services and direct supervisor of the Building Inspectors.

c. Board of Directors. The Board of Directors of Mid-Columbia Council of Governments.

Section 4. Fees.

a. Fees for permits, inspections, plan checks, site plan review, copy costs, and other fees deemed reasonable in order to administer the Building Code shall be set and adopted from time-to-time by Resolution of the MCCOG Board of Directors.

b. The Building Official shall have authority to refund fees in accordance with any refund policy set by the Board of Directors.

c. Determination of value or valuation under any provisions of the Building Code shall be made by the Building Official. The value used in computing building permit and plan review fees shall be the total value of all construction work for the project for which the permit is issued, including all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems, and any other permanent equipment.

Section 5. General Powers and Duties of the Building Official.

a. The Building Official is authorized and directed to enforce all the provisions of the Building Code and this Ordinance.

b. The Building Official shall have the power to render written and oral interpretations of the Building Code and shall adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of the Building Code.

c. The Building Official may appoint deputies and other employees to carry out functions of Mid-Columbia Building Codes Services. References to the Building Official shall include the Building Officials appointed deputies and other employees of the agency.

Section 6. Right of Entry. When the Building Official deems it desirable or necessary to make an inspection to enforce the provisions of the Building Code, or when the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of the Building Code, or which otherwise makes the building or premises unsafe, dangerous, or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by the Building Code; provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other

person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

Section 7. Stop Work Orders. Whenever any work is being done contrary to the provisions of the Building Code, or other pertinent laws or ordinances implemented through the enforcement of the Building Code, the Building Official may order the work stopped by notice, in writing, served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with work.

Section 8. Authority to Disconnect Utilities in Emergencies. The Building Official shall have the authority to disconnect fuel-gas utility service, or energy supplies to a building, structure, premises or equipment regulated by the Building Code, in case of emergency when necessary to eliminate an immediate hazard to life or property. The Building Official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises, in writing, of such disconnection immediately thereafter.

Section 9. Connection After Order to Disconnect. Persons shall not make connections from an energy, fuel or power supply, nor supply energy or fuel to any equipment, regulated by the Building Code, which has been disconnected or ordered to be disconnected by the Building Official, or the use of which has been ordered to be discontinued by the Building Official, until the Building Official authorizes the reconnection and use of such equipment.

Section 10. Occupancy Violations. Whenever any building or structure or equipment therein, regulated by the Building Code, is being used contrary to the provision of the Building code, the Building Official may order such use discontinued and the structure or portion thereof vacated, by notice served on any person causing such use to be discontinued. Such person shall discontinue the use within the time prescribed by the Building Official after receipt of such notice to make the structure or portion thereof comply with the requirements of the Building Code.

Section 11. Local Appeals Process.

a. Any appeal of an inspector decision shall be reviewed by the Building Official. The appeal may be oral or in writing. There is no cost for this initial appeal and a decision shall normally be rendered within twenty-four (24) hours of the receipt of the appeal.

b. Any person aggrieved by the final decision of the Building Official may file an appeal with the State Building Codes Division, in accordance with their rules.

Section 12. Plans and Permits.

a. Except as otherwise provided by law, no building or structure regulated by the Building Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, or converted unless a separate permit for each building or structure has first been obtained from the Building Official.

b. The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the Building Official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Building Official finds that the work described in application for a permit and the plans, specifications and other data filed therewith conform to the requirements of the Building Code and other pertinent laws and ordinances, and that the fees have been paid, the Building Official shall issue a permit therefor to the applicant.

c. When the Building Official issues the permit where plans are required, the Building Official shall endorse, in writing, or stamp the plans and specifications. Such approved plans and specifications shall not be changed, modified and altered without authorization from the Building Official, and all work regulated by the Building Code shall be done in accordance with the approved plans.

d. The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved; provided adequate information and detailed statements have been filed complying with all pertinent requirements of the Building Code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

Section 13. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the Building Official for the period of time as required by Oregon laws, OAR Chapter 166, from the date of completion of the work covered therein, and one set of approved plans and specifications shall be returned to the applicant, and the returned set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress. Retention of all records shall be as set forth in Oregon laws under OAR 166-250-0020 and as the same is from time-to-time amended.

Section 14. Validity of Permit.

a. No permit shall be issued if the parcel of land or the use of the land on which the building, structure, or equipment is to be placed, erected, altered, equipped, or used, is in violation of any city or county ordinance or code.

b. The issuance or granting of a permit or approval of plans, specifications, and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the Building Code, or of any other city or county ordinance or code. Permits presuming to give authority to violate or cancel the provisions of the Building Code or other city or county ordinance or code shall not be valid.

c. The issuance of a permit based on plans, specifications and other data shall not prevent the Building Official from thereafter requiring the correction of errors in the plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of the Building Code or any city or county ordinance or code.

Section 15. Expiration of Applications, Plans and Permits

a. Expiration and refunds shall be in accordance with policy set by the Building Official and approved by the Board.

Section 16. Work Without Permit; Investigation Fees.

a. Whenever any work for which a permit is required by the Building Code, including all specialties, had been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

b. An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of the Building Code nor from any penalty prescribed by law.

Section 17. Transfer of Permits. A permit issued to one person or firm may not be transferred to another, except when written consent from the original permit holder and new transferee are provided and approved by the Building Official, except that electrical permits are not transferable under any circumstances.

Section 18. Public Nuisance. The erection, construction, reconstruction, alteration, maintenance, installation, or use of any building, structure, manufactured dwelling, or mobile home in violation of the Building Code shall be deemed a nuisance and may be enjoined, abated or removed.

Section 19. Violation Enforcement.

a. No person shall erect, construct, enlarge, alter, move, improve, remove, convert or demolish, equip, use, occupy or maintain a building structure or cause the same to be done, contrary to or in violation of this Ordinance or the State Building Code.

b. Violation of a provision of this Ordinance shall be subject to a Civil Penalty not exceeding \$5,000.00 for a single violation or \$1,000.00 per day for a continuing violation and shall be processed in accordance with the procedures set forth in this Ordinance.

c. Each day that a violation of a provision of this Ordinance exists constitutes a separate violation.

d. The penalties and remedies provided in this Ordinance are not exclusive and are in addition to other penalties and remedies available to MCCOG under other ordinance or law.

e. Any appeal filed to the Oregon Building Codes Division within thirty (30) days of the original notification of violation shall stay these violation proceedings pending the date of final decision by the Division.

Section 20. Authority to Impose Administrative Civil Penalty.

a. In addition to and not in lieu of any other enforcement mechanism authorized upon a determination of the Building Official that a person has violated a provision of this ordinance or rule adopted thereunder, the Building Official may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by this Ordinance. For purposes of this Ordinance, responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

b. Prior to imposing an administrative civil penalty under this Ordinance, the Building Official shall pursue reasonable attempts to secure voluntary correction, failing which the Building Official may issue a notice of civil violation to one or more of the responsible persons to correct the violation. Except where the Building Official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall not be less than thirty (30) days from the date of initial written notification.

c. If the required correction has not been completed by the date or time specified in the order, the Building Official may impose a civil penalty on each person to whom an order to correct was issued.

d. Notwithstanding subsection b. above, the Building Official may impose a civil penalty, even if compliance has been obtained, where the Building Official determines that the violation was done knowingly or intentionally, or was a repeat of a similar violation.

e. In imposing a penalty authorized by this Section, the Building Official shall consider:

- (1)** The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
- (2)** Any prior violations of statutes, rules, orders, and permits;
- (3)** The gravity and magnitude of the violation;
- (4)** Whether the violation was repeated or continuous;
- (5)** Whether the cause of the violation was intentional or negligent.

f. The notice of civil penalty shall include all information required by Oregon law. The notice served by mail shall be deemed received for purpose of any time computations hereunder three (3) days after the date mailed if to an address within this state, and seven (7) days after the date mailed if to an address outside this state. The notice shall either be served by personal service or shall be sent by registered or certified mail.

g. A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to MCCOG pursuant to, and within the time limits established. If the responsible person appeals the civil penalty, the penalty shall become final, or deemed null and void upon final decision of the appointed Hearings Officer.

h. Imposition of an administrative civil penalty does not relieve the requirement of code compliance or an investigation fee. Each day the violator fails to remedy the code violation shall constitute a separate violation that may result in additional civil penalties up to \$1,000.00 per day.

i. Failure to pay a penalty imposed hereunder within ten (10) days after the penalty becomes final, as provided in subsection g., shall constitute a violation of this Ordinance. Each day the penalty is not paid shall constitute a separate violation, with additional civil penalties up to \$1,000 per day. The Building Official also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by including, but not limited to, a lien on the property as authorized by subsection j. below. Any expenses incurred in collection will be added to the administrative penalty.

j. If an administrative civil penalty remains unpaid thirty (30) days after such penalty becomes final, the Building Official may assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the

docket of liens for the county in which the real property is situated. At the time such an assessment is made, the Building Official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of county liens. The lien shall be enforced in the same manner as liens established by law. The interest shall commence from the date of entry of the lien in the lien docket.

k. In addition to enforcement mechanisms authorized elsewhere in this Ordinance, failure to pay an administrative civil penalty, imposed pursuant to subsection a. of this Section, shall be grounds for withholding issuance of requested permits, or revocation or suspension of other permits by the responsible person on the same property.

Section 21. Appeal Procedures.

a. MCCOG shall appoint one or more Hearings Officers, who may be any person other than the Building Official, to hear any appeals to the Building Official's decision concerning administrative civil penalties or permit suspensions.

b. A person aggrieved by an administrative action of the Building Official, taken pursuant to this Ordinance, may, within fifteen (15) days after the date of notice of the action, appeal, in writing to the Hearings Officer. The appeal shall be accompanied by an appeal fee as established by MCCOG through Resolution and shall state:

- (1) The name and address of the appellant;
- (2) The nature of the determination being appealed;
- (3) The reason the determination is incorrect; and
- (4) What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives the right to further appeal or objection, and the administrative action shall become final upon the date specified in the Notice. Except as provided in subsection f. of this Section, the appeal fee is not refundable.

c. If a notice of revocation of a permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon the time stated within the notice of suspension.

d. Unless the appellant and MCCOG agree to a longer period, an appeal shall be

heard by the designated Hearings Officer within thirty (30) days of the receipt of the notice of intent to appeal. At least ten (10) days prior to the hearing, MCCOG shall mail notice of the time and location thereof to the appellant.

e. The Hearings Officer shall hear and determine the appeal on the basis of the appellant's written statement, any additional evidence deemed appropriate, the requirements of the State Building Code and this Ordinance. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by the courts of law do not apply.

f. The Hearings Officer shall issue a written decision within fifteen (15) days of the hearing date. The decision of the Hearings Officer after the hearing is final, and may include a determination that the appeal fee be refunded to the applicant upon a finding that the appeal was not frivolous.

Section 22. Repeal of Ordinance No. 07-300. Ordinance No. 07-300 is hereby repealed in its entirety.

Section 23 Emergency Clause. This Ordinance, being essential to the preservation of the health, peace, safety, and welfare of the public within MCCOG's jurisdiction, an emergency is hereby declared to exist and this Ordinance is effective upon its adoption.

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ADOPTED BY THE BOARD OF DIRECTORS OF THE MID-COLUMBIA COUNCIL OF GOVERNMENTS ON MARCH 30, 2010