



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

December 12, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Ordinance No. __-2019 Amending County Code
Chapter 2.07, Compliance Hearings Officer

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Purpose/Outcomes	To amend County Code Chapter 2.07, to change the process for delivery of Citations and the Notice of Hearing to reduce costs and provide consistency in the process.
Dollar Amount and Fiscal Impact	Cost savings of approximately \$2,400 annually.
Funding Source	Not applicable.
Duration	Indefinite until amended
Previous Board Action	Chapter 2.07 was last amended in 2003. The matter was presented at Issues on December 3, 2019.
Strategic Plan Alignment	Build Public Trust through Good Government
Contact Person	Jeffrey D. Munns, Assistant County Counsel x 5984

Background:

The Clackamas County Compliance Hearings Officer issues Orders in code enforcement matters. Code enforcement matters are typically addressed and attempted to be resolved by working with a property owner or tenant to comply with the County Code voluntarily. If the owner or tenant does not address the violations on their property the code enforcement process is initiated by the issuance of a Citation. If the owner or tenant, known as a Respondent, continues to be in violation, Clackamas County Code Enforcement will take the matter before the Compliance Hearings Officer. The Respondent may also request a hearing to challenge the Citation. For Clackamas County to initiate the hearing a Notice of Hearing is sent to the Respondent.

The proposed County Code changes concern how the Citation and the Notice of Hearing are delivered to a Respondent. The present Code requires that the Citation be sent via Certified Mail, and the Notice of Hearing be sent Registered Mail. Although these two methods are similar they are not the same. This leads to confusion, errors, and increased costs associated with mailing these important documents to Respondents. Further, approximately 80% of these

items mailed using Certified or Registered mail are not claimed or refused by the recipients. For a number of years the Code Enforcement Division has been mailing copies of the required Citations and Hearing Notices to Respondents via First Class Mail to ensure that they are received. These are infrequently returned due to problems such as, no mail receptacle, inability of the USPS to forward, etc.

Also, Certified Mail and Registered Mail are much more expensive than First Class Mail. A typical Certified Mail article that is to deliver a Citation will cost \$6.80 compared to a regular letter for \$0.55. Registered Mail is even more costly as the Hearings Notices a mailed with all documents for the hearing. A typical Hearing Notice mailed with Registered Mail costs over \$25.00, and a copy sent by First Class Mail only requires postage of about \$6.00. This will also result in a significant time savings for staff by eliminating the need to go to the post office for these mailings.

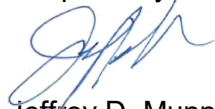
The Code Changes also incorporate methods of serving Respondents should mailing be ineffective. The option to personally serve the Respondent has been retained and then an option to post the Citation or Notice of Hearing has been added. This new method uses the same language as found in statutes concerning posting notices to terminate tenancies or to initiate evictions. This will be a familiar for process servers to complete and the due process for Respondents has already been tested in the courts in the context of eviction cases.

The changes incorporated into the revisions to these two sections are intended to reduce cost, simplify and make more consistent the service of these materials, and ensure that Respondents receive Citations and Hearings Notices.

Recommendation:

Staff respectfully recommends that the Board approve the attached ordinance.

Respectfully submitted,



Jeffrey D. Munns
Assistant County Counsel

ORDINANCE NO. __-2019

**An Ordinance Amending
Clackamas County Code Chapter 2.07, Compliance Hearings Officer**

Whereas, Chapter 2.07, Compliance Hearings Officer was adopted in 2000 and amended in 2003; and

Whereas, it has become apparent that procedural and substantive changes are necessary to more accurately address the operational needs and requirements of the Compliance Hearings Officer program; and

Whereas, to more efficiently deliver notice of Citations and Hearings to Respondents appearing before the Compliance Hearings Officer revisions to sections of Chapter 2.07 are necessary; and,

Whereas, it further appearing that this matter came before the Board for public hearing on December 12, 2019 and that a decision of approval was made on December 19, 2019;

NOW, THEREFORE, THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1: Chapter 2.07.030 Process for Enforcement of Code, and 2.07.050 Notice of Hearing, are amended as depicted in Exhibit A, attached hereto and incorporated herein by this reference.

ADOPTED this 19th day of December, 2019.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Code Sections Showing Changes:

2.07.030(D)(3) Process for Enforcement of Code

- (D)... 3. Citations may be served by **first class U.S. Mail**, by personal service on respondent, **or by attaching the citation in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.** ~~Citations may also be served by certified mail, return receipt requested through the United States Postal Service.~~

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

2.07.050 Notice of Hearing

- A. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 2.07.060 shall be attached to the notice. Notice shall be mailed or delivered at least 15 days prior to the hearing date.
- B. ~~The Compliance Hearings Officer~~ **County** shall cause notice of the hearing to be given to the respondent(s) **by:**
- i. ~~either First Class U.S. Mail; or,~~
 - ii. ~~Personally service; or,~~
 - iii. **Attaching the hearing notice in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.**
- ~~or by registered mail with return receipt requested.~~
- C. Notice may be delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.
- D. ~~The failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this Chapter.~~ **The Compliance Hearings Officer shall disregard technical deficiencies in notice provided the Compliance Hearings Officer finds that the respondent received actual notice in advance of the hearing.**

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

Code Sections with Changes – Final Form:

2.07.030(D)(3) Process for Enforcement of Code

- (D)... 3. Citations may be served by first class U.S. Mail, by personal service on respondent, or by attaching the citation in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.

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

2.07.050 Notice of Hearing

- E. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 2.07.060 shall be attached to the notice. Notice shall be mailed or delivered at least 15 days prior to the hearing date.
- F. The County shall cause notice of the hearing to be given to the respondent(s) by:
- i. First Class U.S. Mail; or,
 - ii. Personal service; or,
 - iii. Attaching the hearing notice in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.
- G. Notice may be delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.
- H. The Compliance Hearings Officer shall disregard technical deficiencies in notice provided the Compliance Hearings Officer finds that the respondent received actual notice in advance of the hearing.

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