



## Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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### MEMORANDUM

**TO:** Deschutes County Planning Commission  
**FROM:** Peter Russell, Senior Transportation Planner  
**RE:** Potential Approach to Land Use Applications on Properties with Code Violations  
**DATE:** September 10, 2015

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#### Background

At the request of the Board of County Commissioners, Planning staff formed a stakeholders group to discuss how the County could deal with land use applications on properties that had either an existing code enforcement case, unfulfilled conditions of approval from a previous land use decision, or both. Stakeholders representing a wide array of opinions on the topic met several times between January and April to discuss the topic of code enforcement and land use applications and building permits.

The discussion focused on four variables, which overlap to a degree:

- What defines a code violation;
- Whether a code violation should stop a building permit;
- Whether a code violation should stop a land use application;
- Whether unfulfilled conditions of approval are a code violation

Staff presented existing ordinances from several other jurisdictions in Oregon on the topic. The group agreed the language from Multnomah and Jefferson counties provided an acceptable starting template. Staff then prepared a draft language based on the Multnomah and Jefferson examples and distributed it to the stakeholders for comments and revisions. The draft language went through multiple iterations before all came to an agreement in May.

#### Summary

Stakeholders agreed that violation means the matter has been decided by a court of law, a hearings officer, a deliberative body, or a signed Voluntary Compliance Agreement (VCA). It was agreed that the applicant at the time of submittal should state that to the best of the applicant's knowledge no code violations exist on the property and if there are previous conditions of approval, the applicant is in compliance with those and existing applicable laws.

If there is a code violation, the County will not process the application, unless the application will remedy the violation or complete previous conditions of approval that are currently unfulfilled. There is language that exceptions can be made in case of emergency.

#### Next Steps

Staff will initiate a text amendment to modify Deschutes County Code (DCC) Title 22, Development Procedures existing code violation or unfulfilled conditions of approval. A public hearing will then be held before the Planning Commission, possibly in mid-October.

Enclosure: Proposed Code language, May 15, 2015, version

**Draft Code Language for Properties  
With Pending Code Violations**  
*(5/15/15 version)*

(A) Except as described in (E) below, if any property is in violation of applicable land use regulations, and/or the conditions of approval of any previous land use decisions or building permits previously issued by the County, the County shall not:

1. Approve any application for land use development;
2. Make any other land use decision, including land divisions and/or property line adjustments;
3. Issue a building permit

(B) As part of the application process, the applicant shall certify:

1. That to the best of the applicant's knowledge, the property in question, including any prior development phases of the property, is currently in compliance with both the Deschutes County Code and any prior land use approvals for the development of the property; or
2. That the application is for the purpose of bringing the property into compliance with the Deschutes County land use regulations and/or prior land use approvals.

(C) Section A shall not apply to uses permitted outright

(D) A violation means the property has been determined to not be in compliance either through a prior decision by the County or other tribunal, or through the review process of the current application, or through an acknowledgement by the alleged violator in a signed voluntary compliance agreement ("VCA").

(E) A permit or other approval, including building permit applications, may be authorized if:

1. It results in the property coming into full compliance with all applicable provisions of the federal, state, or local laws, and Deschutes County Code, including sequencing of permits or other approvals as part of a voluntary compliance agreement;
2. It is necessary to protect the public health or safety;
3. It is for work related to and within a valid easement over, on, or under the affected property; or
4. It is for emergency repairs to make a structure habitable or a road or bridge to bear traffic

(F) Public Health and Safety.

1. For the purposes of this section, public health and safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger life, health, personal property, or safety of the residents of the property or the public.
2. Examples of that situation include, but are not limited to issuance of permits to replace faulty electrical wiring, repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel or power; and actions necessary to stop earth slope failure.

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