

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Adopting the Yamhill County Construction Erosion and Sediment Control Code; Amending the Yamhill County Code Enforcement Code; and Setting the Effective Date

ORDINANCE 932

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on March 14, 2024, Commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

THE BOARD ADOPTS THE FOLLOWING FINDINGS:

WHEREAS, The Environmental Protection Agency (EPA) notified Oregon Department of Environmental Quality (DEQ) that the agency has established the Total Maximum Daily Load (TMDL) for Mercury in the Willamette Basin, and the State is to implement the standards; and

WHEREAS, In March 2021, the County received a final notification that the County has been listed as a Designated Management Agency (DMA) by the Oregon DEQ in accordance with the 2019 Final Revised Willamette Basin Mercury TMDL; and

WHEREAS, As a DMA, Yamhill County is responsible for implementing strategies to reduce mercury through a TMDL Implementation Plan required under OAR 340-42-0080 and the Federal Clean Water Act; and

WHEREAS, One of the management strategies to be implemented under the TMDL Implementation Plan is to establish a local ordinance to control construction erosion and sedimentation; and

WHEREAS, The Yamhill County Code Enforcement Code requires amending to allow for enforcement of the provisions of the County's local ordinance to control construction erosion and sedimentation; and now, therefore

THE BOARD ORDAINS AS FOLLOWS:

Section 1. Adoption of Yamhill County Construction Erosion and Sediment Control Code. The Yamhill County Construction Erosion and Sediment Control Code as provided in Exhibit A, attached hereto and incorporated herein, is hereby approved and adopted.

Section 2. Amendment of the Yamhill County Code Enforcement Code. The amendments to the Yamhill County Code Enforcement Code as provided in Exhibit B, attached hereto and incorporated herein, are hereby approved and adopted.

Section 3. Severability. Invalidity of a section or part of a section of this Ordinance shall not affect the validity of the remaining sections or parts of sections.

Section 4. Effective Date. The first reading of this Ordinance occurred on February 27, 2024; the second reading on March 14, 2024. The effective date of this ordinance shall be June 12, 2024.

DATED this 14th day of March 2024, at McMinnville, Oregon.



YAMHILL COUNTY BOARD OF COMMISSIONERS

ATTEST

AYE NAY

KERI HINTON
County Clerk

Lindsay Berschauer

Chair LINDSAY BERSCHAUER

X _____

By: *Carolina Rook*
Deputy CAROLINA ROOK

Kit Johnston

Commissioner KIT JOHNSTON

X _____

FORM APPROVED BY:

Jodi Gollehon

Mary Starrett

JODI GOLLEHON
Assistant Yamhill County Counsel

Commissioner MARY STARRETT

X _____

Accepted by Yamhill County
Board of Commissioners on
3/14/24 by Board Order
24-72

YAMHILL COUNTY CODE

TITLE 10: BUILDING AND DEVELOPMENT REGULATION

Chapter 10.45: Yamhill County Construction Erosion and Sediment Control Code

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LEGISLATIVE HISTORY

10.45.01 Title. This Chapter shall be known as the “Yamhill County Construction Erosion and Sediment Control Code.”

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.02 Purpose. The purpose of this Chapter is to minimize the amount of sediment reaching waterways, wetlands, and the public storm drainage and surface water system for the duration of construction site activities.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.03 Definitions. For the purposes of this Chapter, the following words shall have the following meanings:

- a) “**Applicant**” means the owner of real property or the owner’s authorized agent. “Applicant” includes any person who would be required to obtain a County permit, but who neglects or otherwise fails to do so.
- b) “**Authorized agent**” means the developer, architect, contractor, engineer, builder, personal representative, or anyone designated by the owner to have control or supervision of a site involving construction site activity.
- c) “**Board**” means the Yamhill County Board of Commissioners.

- d) **“Common plan of development”** means a contiguous construction project or projects where multiple separate and distinct construction activities may be taking place at different times on different schedules but under one plan.
- e) **“Construction site activity”** means any ground disturbing activities at a location where a County permit is required.
- f) **“County”** means Yamhill County.
- g) **“Director”** means either the Director of Public Works or designee, or the Director of Planning and Development or designee.
- h) **“Emergency”** has the same meaning as found in ORS 401.025.
- i) **“Erosion”** means the wearing away of the ground surface, or the movement, detachment or dislocation and transport of sediment including soil particles by the action of water or wind.
- j) **“Final stabilization”** is determined by satisfying the following criteria: (1) there is no reasonable potential for discharge of a significant amount of construction related sediment or turbidity to surface waters; (2) construction materials and waste have been removed and disposed of properly. This includes any sediment that was being retained by temporary erosion and sediment controls; (3) all temporary erosion and sediment controls have been removed and disposed of properly, unless doing so conflicts with local requirements; (4) all ground disturbing activities have stopped and all stormwater discharges from construction activities that are authorized by this permit have ceased; (5) all disturbed or exposed areas of the site are covered by either final vegetative stabilization or permanent stabilization measures that covers at least 80% of the areas. However, temporary or permanent stabilization measures are not required for areas that are intended to be left unvegetated or unstabilized following construction (such as dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, or materials); provided, that measures are in place to eliminate or minimize erosion.
- k) **“Ground disturbing activities”** means any activity that exposes soil, including, but not limited to, construction, landscaping, removal of vegetation, stockpiling of soil or construction debris, grading, excavating, filling, clearing, trenching, drilling, transport or fill, or utility work, or working of land at a particular location.
- l) **“Public storm drainage and surface water system”** means natural or manmade drainage courses for the conveyance of surface water.
- m) **“Sediment”** means finely divided loose material that can be suspended and transported in water or air and may originate from disturbed soil, landscaping, or construction activities or materials.
- n) **“Storm event”** means a storm event (as defined at 40 CFR 122.21(g)(7)(ii)) with greater than 0.1 inch of rainfall and at least 72 hours after the previously measurable storm event with greater than 0.1 inch of rainfall.
- o) **“Stormwater management area”** means an area designated as a stormwater management area by the Department of Environmental Quality under the County’s jurisdiction.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.04 Permit(s) Required.

- a) Subject to YCC 10.45.05, an erosion prevention and sediment control permit is required inside a stormwater management area if construction site activity(ies) will expose at least one quarter of an acre (10,890 square feet) of soil, either in isolation or as part of a common plan of development.
- b) If construction site activities expose at least one acre (43,560 square feet) of soil, either in isolation or as part of a common plan of development, a 1200-C Construction Stormwater General Permit must be acquired from the Oregon Department of Environmental Quality and a copy the approved Stormwater Pollution Prevention Plan (SWPPP) and Erosion and Sediment Control Plan must be submitted to the County before ground disturbing activities begin. 1200-C permit documents, resources, and forms are located on the Oregon DEQ website: [1200 Series Construction Stormwater Permits - General Use](#).

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.05 Exemptions. The following activities are exempt from the permit required under YCC 10.45.04:

- a) Established (ongoing) farming, ranching, and silviculture activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;
- b) Maintenance (but not construction) of drainage ditches;
- c) Construction and maintenance of irrigation ditches;
- d) Construction and maintenance of farm or stock ponds;
- e) Construction and maintenance of farm and forest roads, in accordance with best management practices; and
- f) Maintenance of structures such as dams, dikes, and levees.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.06 Erosion Prevention and Sediment Control Plan

- a) An erosion prevention and sediment control plan is required for all erosion prevention and sediment control permits. The plan must be submitted by the Applicant and approved by the Director for issuance of the erosion prevention and sediment control permit, prior to the issuance of a County permit and commencement of ground disturbing activities. The plan must contain protection techniques that will eliminate runoff siltation created from the construction activity both during and after construction. Site-specific considerations shall be incorporated.
- b) The erosion prevention and sediment control plan must include sizing criteria, performance criteria, design specifications, guidance on selection and placement of controls, and specifications for long-term operation and maintenance, including appropriate inspection intervals and a self-inspection checklist.
- c) The County may perform inspections to ensure compliance with this Chapter.
- d) The erosion prevention and sediment control plan shall be kept on site and available for review by inspectors.
- e) The erosion prevention and sediment control plan must include clear steps for project phase completion, final stabilization, and permit closure.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.07 Permit Fee. The County may establish a fee for review of plans and inspections required by this Chapter by order of the Board. The Board shall set the fee to recover the County's costs of providing an Applicant's erosion prevention and sediment control permit, inspections, and plan review.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.08 Construction Site Deposits on Public Streets and Into Storm Drains. No person shall cause or allow visible and measurable erosion or sediment related to construction site activity inside a stormwater management area as defined herein to enter the public storm drainage and surface water system. Any person causing visible and measurable erosion or sediment shall immediately abate or remove it. The removal shall be accomplished by hand labor or approved mechanical means.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.09 Maintenance.

- a) The Applicant shall maintain all erosion and sediment control measures in proper functioning order for the duration of the ground disturbing activities or until at least 80% ground cover has been established.
- b) The Applicant shall inspect, maintain, adjust, repair, and replace erosion and sediment control measures as necessary within 24 hours following a storm event to ensure that the measures are functioning properly.
- c) During active ground disturbing activity, the Applicant shall inspect and maintain erosion and sediment control measures weekly or within 24 hours of a storm event.
- d) The erosion prevention and sediment control plan must be maintained and updated as site conditions change, to prevent sediment or pollutant contaminated water from leaving the site.
- e) Permit finalization requires one of the following to be achieved:
 - (i) Individual lots or phases of a qualifying common plan of development obtain individual erosion prevention and sediment control permit coverage prior to the issuance of County permit(s). The Director shall be notified of sale of individual lots or phases of a common plan of development no

less than 14 calendar days prior to the date of closing. Until such time as an individual erosion prevention and sediment control permit is obtained, the lot or phases sold shall continue to be the responsibility of the overall development's erosion prevention and sediment control permit; or

- (ii) Final stabilization.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.10 Falsifying Information. No person shall knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Chapter.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.11 Stop Work Orders.

a) In the event there is a violation of this Chapter, and it is necessary to obtain compliance with this Chapter, the Director may issue a stop work order requiring that all work, except work directly related to the elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, the Applicant shall not resume work until such time as the Director gives specific approval in writing. The stop work order shall include:

- (i) The date of the stop work order;
- (ii) The erosion prevention and sediment control permit and/or permit number if applicable;
- (iii) The site address, legal description, or location applicable to the stop work order;
- (iv) A description of all violations; and
- (v) The conditions under which the work may resume.

b) The stop work order shall be in writing and posted in a conspicuous location at the site. Other means of communication of the stop work order may be exercised in the discretion of the Director.

c) No person may remove, obscure, mutilate or otherwise damage a stop work order.

d) A stop work order shall be effective upon posting or upon verbal delivery under subsection (e) of this section.

e) When an emergency condition exists, the Director may issue a stop work order verbally. A written stop work order shall be posted in a conspicuous location at the site within 24 hours of the verbal order.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

10.45.12 Enforcement.

a) Violations of this Chapter shall be prosecuted in the name of Yamhill County as provided under the Yamhill County Code Enforcement Code, YCC 1.10.

b) Violation of this ordinance shall be punishable, upon conviction, by a fine of not more than \$500 for a noncontinuing offense and a fine of not more than \$1,000 for a continuing offense.

c) The provisions of this Chapter are in addition to and not in lieu of any other procedures and remedies provided by law including equitable relief and damages.

[ADOPTED VIA ORDINANCE NO. 932 eff 06/12/24]

LEGISLATIVE HISTORY

Adopted via Ordinance No. 932 on 03/14/2024, effective 06/12/2024

EXHIBIT B: AMENDMENTS TO YCC 1.10

new language is indicated by underlined font and deleted language is indicated by strike-out font

YAMHILL COUNTY CODE

TITLE 1: GENERAL PROVISIONS

Chapter 1.10: Yamhill County Code Enforcement Code

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LEGISLATIVE HISTORY

1.10.01 Title. This ordinance may be cited as the “Yamhill County Code Enforcement Ordinance”.
[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.02 Definitions. As used in this ordinance, unless the context requires otherwise:

a) “Authorized Official” means a person authorized to issue citations under Section 1.10.05 of this ordinance.

- b) "County" means Yamhill County.
- c) "Department" means the Yamhill County Planning and Development Department.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.03 Authority.

a) This ordinance is adopted under authority of ORS 203.035. The enforcement of County Ordinances is authorized by ORS 203.065, the establishment of violations classes is authorized by ORS 153.025, the creation and employment of a code enforcement officer with citation authority is authorized by ORS 153.005(1)(f), and the issuance of citations by ORS 153.042 et sequent. The County is further and more specifically authorized as follows:

- (i) To enforce solid waste management laws and ordinances by ORS 459.085;
- (ii) To enforce land division and land use ordinances by ORS Chapters 92, 197, and 215;
- (iii) To enforce Oregon Environmental Quality Commission and Statutory subsurface sewage disposal regulations by ORS 454.640; ~~and~~
- (iv) To enforce building codes and other structural codes by ORS 456.775 and 456.880-;
- (v) To enforce County regulation of noise sources by ORS 467.100 and/or YCC 4.25;
- (vi) To enforce the County parks laws by YCC 6.05 through 6.15;
- (vii) To enforce the County's soil erosion control laws by YCC 10.45; and
- (viii) By other provisions of law not enumerated herein.

b) The provisions herein are intended to be supplemental to the statutory procedures of ORS Chapter 153 and are not, unless authorized by ORS Chapter 153 or other law, limitations upon ORS Chapter 153.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23; AMENDED VIA ORDINANCE 932 eff 06/12/24]

1.10.04 Laws Enforceable Under This Ordinance. The following ordinances, statues and regulations shall be enforceable under the provisions of this ordinance:

- a) ~~Yamhill County Solid Waste Ordinance, as amended. Yamhill County Solid Waste Management Code, YCC 5.20;~~
- b) ~~Yamhill County Land Division Ordinance, as amended. Yamhill County Land Division Code, YCC 10.40;~~
- c) ~~Yamhill County Zoning Ordinance Code, as amended-;~~
- d) ORS Chapter 454, as applicable, and Oregon Administrative Rules Chapter 340, Division 71-;
- e) ~~Yamhill County Building Mechanical, Plumbing and Electrical Ordinance, as amended. Yamhill County Building Code, YCC 10.05;~~
- f) ~~Yamhill County General Provisions for Use, Construction and Installations in Yamhill County Public Road Rights of Way Ordinance, including as amended Yamhill County General Provisions for Construction and Activities Conducted in the Public Right of Way, YCC 7.35, and all provisions of permits issued by the Yamhill County Department of Public Works-;~~
- g) State law pertaining to road rights of way (e.g. ORS 368.251, ORS 368.256, and ORS 368.942)-;
- h) ~~Yamhill County Parks Ordinance, including as amended. Yamhill County Parks Code, YCC 6.05, Wheatland Ferry Boat Ramp Parking Regulations, YCC 6.10, and Rogers Landing Park Fee Schedule, YCC 6.15;~~
- i) ~~Yamhill County Noise Ordinance, including as amended. Yamhill County Noise Control Code, YCC 4.25; and~~
- j) Yamhill County Construction Erosion and Sediment Control Code, YCC 10.45.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23; AMENDED VIA ORDINANCE 932 eff 06/12/24]

1.10.05 Persons Authorized to Issue Citations; Investigation; Administrative Inspection Warrants.

- a) The following persons are authorized to issue citations under ordinance:
 - (i) The Yamhill County Sherriff or any deputy of the Yamhill County Sheriff's Department;
 - (ii) Any other person designated as an "enforcement officer" under ORS 153.005; or

- (iii) In relation to violations of the Yamhill County Solid Waste Ordinance, the Yamhill County Land Division Ordinance, the Yamhill County Zoning Ordinance, the Yamhill County Building, Mechanical, Plumbing and Electrical Ordinance, ORS Chapter 454, and Oregon Administrative Rules Chapter 340, Division 71, the director of the Yamhill County Department of Planning and Development, or a designee thereof.
- b) An Authorized Official may enter into any buildings and upon all property within its jurisdiction to ascertain whether violations of County code are present only in accordance with state and federal law and consistent with the following limitations:
 - (i) Entry may only be done at reasonable hours.
 - (ii) Before entering into any buildings or property, an Authorized Official shall first make reasonable efforts to notify the owner or occupant and obtain consent to enter.
 - (iii) In the event that consent to enter into buildings or upon property is not granted, or after reasonable efforts the officer or authorized employee is not able to contact the owner or occupant, the Authorized Official may seek an administrative inspection warrant as provided in the following subsection (c).
- c) A judge may, upon application of an Authorized Official acting in the course of official duties, issue an administrative inspection warrant whenever an inspection or investigation of any place is required or authorized hereunder. Prior to seeking an administrative inspection warrant, an Authorized Official shall consult with County Counsel and obtain approval and assistance in preparing the affidavit and warrant documents.
 - (i) An administrative inspection warrant shall be issued only upon cause, supported by an affidavit and motion which shall describe with particularity:
 1. The position and authority of the person applying for the administrative inspection warrant;
 2. The statute, ordinance or rule requiring or authorizing the inspection or investigation;
 3. The place, building or property to be inspected or investigated; and
 4. The purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect or investigate.
 - (ii) Cause shall be deemed to exist when there is probable cause to believe that a violation exists.
 - (iii) Before issuing an administrative inspection warrant, the judge may examine under oath the person requesting the warrant or any other witness to be satisfied of the existence of the grounds to grant the administrative inspection warrant.
- d) If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the administrative inspection warrant are satisfied, the judge shall issue the warrant, describing with particularity the name or title of the person or persons authorized to execute the warrant, the buildings or property to be entered, and the purpose of the inspection or investigation.
- e) The administrative inspection warrant shall contain a direction that it be executed when the owner or occupant is present on any day of the week between 8:00 a.m. and 6:00 p.m., unless the court finds that there is cause to conclude that an urgent risk to the health or safety of a person or of damage to property exists.
- f) An administrative inspection warrant must be executed and returned to the court by whom it was issued within ten (10) days from its date, unless such court before the expiration of the time, by endorsement thereon, extends the time for up to an additional five (5) days. After the expiration of the time prescribed by this subsection, the administrative inspection warrant is void unless executed.
- g) In executing an administrative inspection warrant, the person authorized to execute the warrant, before entry, shall make a reasonable effort under the circumstances to contact the owner or occupant and arrange for execution of the administrative inspection warrant and to present the person's credentials, authority, and purpose to the owner or occupant. A copy of the administrative inspection warrant shall be provided to the owner or occupant upon execution.

- h) Reasonable force may be used to execute an administrative inspection warrant. If reasonable force is to be used, reasonable force shall be undertaken by a certified peace officer. The person authorized to execute the warrant may be accompanied by a peace officer during the execution of the warrant to provide for the safety of the participants and to enforce the order of the court to investigate or inspect the building or property.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.06 Issuance of Warnings; Voluntary Compliance.

- a) The Director of the Yamhill County Department of Planning and Development or the Director's designee may issue a warning of an alleged violation of a provision enforceable under this ordinance. If issued, a warning notice shall be in writing and shall be delivered to the alleged violator in person or in any other manner reasonably calculated to give notice of the violation, including posting or regular mail.
- b) At the discretion of the Authorized Official, the County may delay further processing of violation enforceable under this ordinance while seeking voluntary compliance from the owner or occupant. This process is to be considered only in those cases where voluntary compliance is likely and it is found to be in the best interest of the County, taking into consideration the nature and severity of the violation and the history of the property and the person responsible.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.07 Citation and Summons Form and Content.

- a) Citation and summons shall be in the form described by ORS 153.
- b) An error in transcribing information into the blanks provided in the citation and summons form, when determined by the Court to be non-prejudicial to the defendant's defense, may be corrected at the time of trial or prior to time of trial. Except as provided in this subsection, a complaint that does not conform to the requirements of this section may only be set aside by the court upon motion of the defendant before entry of a plea.
- c) The court may amend a citation at its discretion, in the interest of justice.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.08 Service of Citation.

- a) An authorized official shall serve a person cited as follows:
- (i) Personally;
 - (ii) By delivery to a member of the person's family over 14 years of age residing at the person's abode if the person is not available at the abode for service;
 - (iii) By mailing to the defendant via first class mail plus any of the following: certified, registered, or express mail with return receipt requested. For the purposes of this subsection (iii), service shall be complete on the day the defendant, or other person authorized by appointment or law, signs a receipt for the mailing, or seven days after the mailing, whichever occurs first.
 - ~~(iv) By certified mail, return receipt requested. Service by certified mail shall not be valid unless the return receipt is signed by the person to whom the citation is issued; or~~
 - ~~(v) Any method otherwise authorized by Oregon Rules of Civil Procedure.~~
- b) If the person receiving the citation is a firm, corporation or other organization, the citation may be issued to any employee, agent or representative of the firm, corporation or organization.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23; AMENDED VIA ORDINANCE 932 eff 06/12/24]

1.10.09 Prosecution. The Yamhill County Counsel, Yamhill County District Attorney, and the citing officer or deputy shall have authority to prosecute a person cited for committing a violation enforceable under this ordinance. All prosecutions shall be brought in Yamhill County Circuit Court.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05]

1.10.10 Appearance by Defendant.

- a) The defendant shall appear in court at the time indicated in the citation and summons. If the defendant pleads guilty or no contest at the initial appearance, the defendant must describe to the court the defendant's plan on how and when the defendant will abate the violation, if it is a violation capable of abatement. The plan must be satisfactory to the County.
- b) If the defendant does not appear in court at the time indicated in the summons, the court shall enter a judgment against the defendant in an amount equal to the maximum fine set forth in ORS 153.018, together with court costs, administrative fees, and any special costs.
- c) If the defendant requests a trial, the court shall fix a date and time for a trial in accordance with ORS 153.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.11 Trial Proceedings.

- a) A trial on any violation shall be tried to the court sitting without jury.
- b) The County shall have the burden of proof of the alleged violation by a preponderance of the evidence.
- c) The pretrial discovery rules in ORS 135.805 to 135.873 shall apply.
- d) The defendant may not be required to be a witness in the hearing.
- e) Defense Counsel shall not be provided at public expense.
- f) Proof of a culpable mental state is not an element of a violation unless expressly provided in the ordinance alleged to have been violated.
- g) The District Attorney or County Counsel may aid in preparing evidence and obtaining witnesses but, except upon good cause shown to the court, shall not appear in violation proceedings unless counsel for the defendant appears. The court shall ensure that the district attorney or county counsel is given timely notice if defense counsel is to appear at trial.
- h) Notwithstanding any other provisions of law, the court may admit as evidence in any trial in a violation proceeding the affidavit or declaration of a witness in lieu of taking the testimony of the witness orally and in court, subject to the limitations set forth in ORS 153.080
- i) In any trial in which the District Attorney or County Counsel does not appear, the Authorized Official who issued the citation for the offense may present evidence, examine and cross-examine witnesses, and make arguments relating to:
 - (i) The application of statutes and rules to the facts in the case;
 - (ii) The literal meaning of the statutes or rules at issue in the case;
 - (iii) The admissibility of evidence; and
 - (iv) Proper procedures to be used in the trial.

[ADOPTED VIA ORDINANCE NO. 923 eff 02/02/23]

1.10.12 Failure of Defendant to Appear. At the discretion of the County, if a person cited and notified of a court appearance as provided in this ordinance fails to appear at either the initial appearance noticed on the summons or at a subsequent trial scheduled by the court, a complaint or information may be filed charging the defendant with failure to appear on a citation, a Class "A" misdemeanor pursuant to ORS 153.992. The complaint or information may be accompanied by a warrant for the arrest of the defendant.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.13 Fines.

- a) Any individual, firm, or corporation, whether as principal, agent, or employee, who violates any provision enforceable under this ordinance, shall be punished upon conviction by a fine of not more than the maximum fine provided under ORS 153.018 for each separate violation.
- b) Failure to comply with a provision enforceable under this ordinance may be counted as a separate violation for each day that non-compliance continues. At the discretion of the County, fines may be calculated cumulative for ongoing violations.

- c) Except where otherwise provided, All violations are designated Class “A” violations pursuant to ORS 153.025.
- d) The court may impose reasonable court costs in addition to any fine levied by the court,
- e) If a fine ordered by the court remains unpaid 60 days after the judgment becomes final, the defendant is personally liable to the County for the amount of the unpaid fines, and the total amount of fines, costs, and/or fees owed to the County pursuant to the court’s order shall be recorded as a lien in the County Clerk lien record as authorized by ORS 30.460.
- f) A court’s order recorded in the County Clerk lien record shall have the same effect and may be enforced as provided in ORS 205.125 and ORS 205.126.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23; AMENDED VIA ORDINANCE 932 eff 06/12/24]

1.10.14 Order of Abatement; Injunctive Relief.

- a) A court may on its own motion, and shall upon request of an Authorized Official, order a defendant to abate any violation of which the defendant is found guilty or enters a plea of guilty or no contest. The court shall set a time by which the defendant must abate the violation and may set other conditions on the order of abatement as necessary. Any abatement order shall include authorization for an Authorized Official to enter the property to determine compliance with the code and compliance with an order to abate. Any failure to abate the violation as ordered by the court shall be contempt of court.
- b) A court shall, upon request of an Authorized Official, authorize the County to enter the property for the purposes of abating the violation using County resources. The County shall be entitled to recover all of its costs that are reasonable and necessary expenses incurred in its successful abatement of a violation, including, but not limited to the costs, expenses, salaries, and overhead costs of officers, employee, and contractors.
- c) An Authorized Official may file with the court, with a copy to the defendant, a signed and detailed statement identifying the costs associated with the County’s abatement actions. The court shall award the abatement costs as described unless the court finds the costs or disbursements unreasonable. If the court so finds, the court shall award an amount for the abatement costs that the court deems reasonable. All abatement costs so awarded shall be made a money judgment in favor of the County.
- d) An Authorized Official may record a money judgment as a lien on any affected property and may otherwise pursue recovery of a money judgment in accordance with applicable law. The authorized Official shall be responsible for, in consultation with County Counsel, ensuring that a satisfaction of judgment and release of lien is executed and filed as appropriate, once any money judgment is paid in full.
- e) If an Authorized Official has reason to believe that a violation may cause immediate harm to the public health, safety, or welfare, the Authorized Official may, with the assistance of County Counsel, institute a complaint in the Yamhill County Circuit Court for injunctive relief, a writ of assistance, a receivership order, or other appropriate proceedings to temporarily or permanently prevent and/or enjoin the violation.
- f) The remedies provided in this section are in addition to all other remedies provided by law.

[ADOPTED VIA ORDINANCE NO. 923 eff 02/02/23]

1.10.15 Disposition of Money Received. In accordance with ORS 203.065 (4), fines and costs recovered by the County shall be paid to the clerk of the circuit court. The clerk shall deduct the court costs in the proceedings and pay the remainder to the County Treasurer. The Treasurer shall pay these sums to the Department of Planning and Development.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.16 Other Remedies Preserved. Nothing in this ordinance is intended to prevent other legal action against a person alleged to have violated a provision enforceable under this ordinance. The Board, County Counsel, District Attorney, or any person whose interest is or maybe affected by violation of a provision enforceable under this ordinance may take whatever legal or equitable action is necessary to abate a nuisance or seek damages regardless of whether an action has been commenced under this ordinance.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

1.10.17 [REPEALED]

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; REPEALED VIA ORDINANCE 923 eff 02/02/23]

1.10.18 Intergovernmental Agreements. The Board of Commissioners may enter into intergovernmental agreement with a city or cities in Yamhill County to further the purpose of this ordinance. An agreement under this section shall be in accordance with ORS Chapter 190.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05]

1.10.19 Establishment of Rules. The County Administrator may establish procedures to carry out this ordinance.

[ADOPTED VIA ORDINANCE NO. 755 eff 03/09/05; AMENDED VIA ORDINANCE 923 eff 02/02/23]

LEGISLATIVE HISTORY

Adopted via Ordinance No. 448 on 07/01/1987, effective 07/01/1987
Amended via Ordinance 574 on 06/15/1994, effective 06/15/1994
Amended via Ordinance 619 on 03/05/1998, effective 06/04/1998
Amended via Ordinance 663 on 09/17/1998, effective 09/17/1998
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Amended via Ordinance No. 923 on 02/02/2023, effective 02/02/2023
Amended via Ordinance No. 932 on 03/14/2024, effective 06/12/2024