

# CROOK COUNTY WORK SESSION

Administration Conference Room  
203 NE Court Street, Prineville, OR

Tuesday April 20, 2021 at 9a.m.

Members of the public and media are welcome to attend in person with social distancing  
or via Webex 1-408-418-9388; Access Code: 623 057 025  
Meeting Password: zRNvGMYM286

## Discussion Items

	Requester's Name	Matter	Docs in Packet?
1	Katie Plumb	COVID-19 Update (if any)	
2	Ann Beier	Using a Hearings Officer for Code Compliance Cases	✓
3			

## Executive Discussion Items

	Requester's Name	Matter	Docs in Packet?
Exec #1			

*Items placed on the Work Session agenda are intended for discussion only, without making decisions or finalizing documents unless an emergency exists.*

*\*The Court may add additional items arising too late to be part of this Agenda. Agenda items may be rearranged to make the best use of time.*

*\*The meeting location is accessible to persons with disabilities. If additional accommodations are required, please submit your request 48 hours prior to the meeting by contacting County Administration at 541-447-6555.*

*Requests to be placed on the Work Session agenda are  
due at 5 p.m. on Thursday before the Work Session*

**April 20, 2021 Work Session Agenda Items**

# Crook County Counsel's Office

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## MEMO

**For Work Session**  
**April 20, 2021**

TO: Crook County Court

FROM: John Eisler, Crook County Legal Counsel's Office

DATE: April 12, 2021

RE: *Using a Hearings Officer for Code Compliance Cases*  
Our File No.: Code 92

I was approached by Louis Seals and Ann Beier to evaluate the wisdom and feasibility of amending our Code to permit a hearings officer to adjudicate code violations under chapters 8 (Health and Safety), 15 (Buildings and Construction), and 18 (Zoning). Attached to this memo is an overview from Louis Seals. The primary goal of the proposed amendment would be to facilitate a quicker, more streamlined process to bring offenders into compliance.

Our current enforcement procedure is primarily found in CCC 1.12 and covers land use, environmental, construction, and sewage treatment and disposal ordinances. The sequence includes pursuit of voluntary compliance, mediated settlement, a notice of violation, and then prosecution in circuit court.

CCC 1.12.090(3) states that community development and the building department have their own policies and procedures. The building department procedures are listed in CCC 15.04.070 – 090. CCC 15.04.80(8) mentions that a party aggrieved by the issuance of a notice of civil penalty may appeal that penalty to the Crook County hearings officer, but I do not believe such a hearings officer currently exists or has been utilized. For zoning, I believe the only enforcement section is 18.172.100, which allows the revocation of a permit.

There are several issues with our current process, as detailed in the attachment. Two very important issues are the timeline and the cost in terms of county resources. The circuit court process, especially in light of COVID, takes four to six months or more to reach resolution. Second, the expenditure of County resources, particularly County Counsel, to file and prosecute the case in circuit court is burdensome.

Should the County want to address this problem, it would need to amend the County Code and procure a hearings officer. The County has various other enforcement code provisions scattered about and a robust procedure for administrative hearings with a hearings officer in CCC Chapter 8.16 for food establishment non-compliance. One option to amend the code would be to move the administrative hearing provisions

from CCC 8.16 to 1.12, and to have those provisions applicable for all code compliance cases. This is how it is structured in other counties like Deschutes. I believe we could leave the circuit court track mostly untouched and provide the administrative track as an alternative, preferred option.

As for the hearings officer procurement, the County currently has a hearings officer under contract for food establishment compliance hearings. I do not believe that she has been utilized often, but her main area of expertise is actually land use. County Counsel could evaluate the propriety and feasibility of expanding that contract to include these other types of hearings or submit an RFP to see what the market can offer. The market rate for such services seems to be in the \$150-250/hr range. These expenses would be offset by fees and penalties received from the hearings.

Streamlined administrative hearings appear to be a preferable option to our current circuit court process to timely remedy dangers to human health and safety. I recommend revisions to our County Code and a procurement to achieve that. Please let me know if you have any questions.

## **Administrative Compliance Hearings**

- Administered by an appointed hearings officer (Administrative law judge)
- Scheduled Monthly / Decision within 14 days
- Venue: County Facilities (County Court Room or Administration Annex)
- Open to the public
- Burden of Proof (Preponderance of the Evidence)
- Plea options:
  - ✓ Guilty by written appearance,
  - ✓ Personally appear (Guilty or Not Guilty)
  - ✓ Guilty by written statement in lieu of appearance.
- Ability to impose required action and civil penalties.
- Reduced need for use of County Counsel
- Cost recovery (Administrative Fee and Civil Penalties)

## **Hearings Officer / Findings and Orders**

- Repairs
- Permits
- Civil Penalties (Currently \$500 per violation)
- Administrative Compliance Fee (\$250)
- Eviction
- Change Use
- Abatement (to include recovery of cost)

## **Benefits of Administrative Hearings Process:**

- Proven / Working Model (Deschutes/Jefferson)
- Quick / Deadline Oriented
- Efficient Use of Time / Resources
- Successful Collection of Fines / Enforcement Fees

## **Current Process**

- Circuit Court
- 4 to 6 months
- Citations served by Sheriff's Office
- Extensive use of legal counsel
- Follow up progress hearings
- No cost recovery
- No abatement recovery