

RESOLUTION NO.1994

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH MULTNOMAH COUNTY FOR LAND USE PLANNING RESPONSIBILITIES FOR THE COLUMBIA RIVER GORGE NATIONAL SCENIC AREA

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. Land within the City of Troutdale corporate limits and lying east of the Sandy River are also within the boundary of the Columbia River Gorge National Scenic Area (NSA) and are therefore subject to the land use regulations of the NSA Management Plan administered by Multnomah County in addition to the City's land use regulations.
2. The City and the County desire to relieve property owners within this area of the City from the burden of dual land use reviews for development projects.
3. On May 12, 2009 the City Council added an applicability section to the Troutdale Development Code so that most of its standards will not apply to the NSA portion of the City.
4. The City of Troutdale and Multnomah County desire to formalize each other's land use planning responsibilities for the NSA portion of the City as well as the procedure for reviewing development applications.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE:

Section 1. The Mayor is authorized to sign the attached intergovernmental agreement on behalf of the City of Troutdale; and,

Section 2. This resolution shall take effect immediately


YEAS: 6

NAYS: 0

ABSTAINED: 0


Jim Kight, Mayor

Date: May 13, 2009


Debbie Stickney, City Recorder
Adopted: May 12, 2009

INTERGOVERNMENTAL AGREEMENT
BETWEEN
CITY OF TROUTDALE AND MULTNOMAH COUNTY

FOR LAND USE PLANNING RESPONSIBILITIES FOR THE COLUMBIA RIVER
GORGE NATIONAL SCENIC AREA

This is an Intergovernmental Agreement to set out the respective responsibilities for land use planning in the Columbia River Gorge National Scenic Area (NSA) between MULTNOMAH COUNTY (County), a home rule County and political subdivision of the State of Oregon, and the CITY OF TROUTDALE (City), a home rule City and political subdivision of the State of Oregon.

RECITALS:

- A. In 1986 Congress passed the Columbia River Gorge National Scenic Area Act (Scenic Area Act), affecting properties in six counties in the states of Oregon and Washington, including approximately 33,280 acres within Multnomah County.
- B. The purposes of the Scenic Area Act are implemented by the Management Plan adopted by the Columbia River Gorge Commission (Gorge Commission) on October 15, 1991.
- C. The Secretary of Agriculture concurred with the Management Plan on February 13, 1992.
- D. The Scenic Area Act, Section 544e, mandated that each county within the Scenic Area either adopt regulations to implement the Management Plan for its portion of the Scenic Area or relinquish control of land development within the Scenic Area to the Columbia River Gorge Commission.
- E. On January 7, 1993, Multnomah County Ordinance # 748 was passed, adopting regulations implementing the Management Plan. Those regulations became effective on June 22, 1993, after concurrence by the Secretary of Agriculture.
- F. Currently, the Management Plan is implemented by the County through its Columbia River Gorge National Scenic Area Rural Area Plan Policy Document (CRGNSA RAP Policy Document) and Multnomah County Code (MCC) Chapter 38.
- G. The Gorge Commission and the Secretary of Agriculture (as delegated to the Regional Forester) have found MCC Chapter 38 to be consistent with the Management Plan and, therefore, the County has the land use planning authority for the scenic area lands within its jurisdiction.
- H. A portion of the City of Troutdale, east of the Sandy River, is within the CRGNSA as depicted on the attached vicinity map (See Exhibit 1.)

- I. On May 12, 2009, the City amended its zoning code to clarify that: (1) other than as specifically noted in Section II.C.(2) herein, its zoning code does not apply to those properties within the City located east of the ordinary high water line of the west bank of the Sandy River, which are within the boundaries of the NSA and, (2) property located within both the incorporated limits of the City and the NSA will be subject to Multnomah County Code Chapter 38. Other City regulations applicable to these areas will be limited to certain identified regulations as specified below.

NOW, THEREFORE, THE CITY AND COUNTY DO MUTUALLY AGREE AS FOLLOWS:

I. INTENT OF AGREEMENT

The parties acknowledge that, under the provisions of the Scenic Area Act and the Management Plan, the properties within the NSA located within the incorporated City are subject to and regulated by the provisions of MCC Chapter 38.

Additionally, the parties acknowledge that County administration of land use regulations inside the City adds a layer of complexity to the process for developing property and an added burden to property owners wishing to develop their property and this agreement is intended to set forth administrative steps both jurisdictions are taking to make the process as seamless as possible.

II. TERMS

A. Fees and Costs. The County will charge applicants its applicable land use fees in administering MCC Chapter 38 within the NSA in the incorporated City. The City will charge applicants its applicable fees in administering its applicable code in the NSA.

B. Applicable Codes. The County will apply MCC Chapter 38 to properties within the NSA in the incorporated City. The City will apply Troutdale Development Code Chapter 4.600 (Flood Management Area), Chapter 5.600 (Erosion Control and Water Quality Standards) and Chapter 5.800 (Stormwater Management) to properties within the NSA in the incorporated City. The County's NSA application review process shall occur prior to the City's application review process.

C. City Responsibilities.

- (1) The City shall cooperate and use its best efforts to provide to County the documents, files and computer data relevant to the land use history and administration of an applicant's property within the NSA of the incorporated City. The County will request these documents from the City for individual applications on an as-needed basis to administer MCC Chapter 38.

- (2) The City will apply the following environmental protection provisions of the Troutdale Development Code in its land use reviews within the NSA of the incorporated City: Chapter 4.600 (Flood Management Area), Chapter 5.600 (Erosion Control and Water Quality Standards) and Chapter 5.800 (Stormwater Management).
- (3) As part of its NSA review process, the County will provide the City an opportunity to participate in the early stages of development review and to evaluate and comment upon the NSA development application for compliance with applicable TDC provisions. The City shall attend the County's pre-application meetings unless attendance is impractical or impossible. The County shall forward a copy of the NSA development application to the City for review. The City will identify issues with the application that need to be addressed in order to comply with those provisions of the TDC specified in subsection C2. City comments shall be sent to:

Multnomah County Land Use Planning
1600 S.E. 190th Avenue,
Portland, Oregon 97233

- (4) After the County has completed its NSA review process and has rendered a decision on the development application, the City will process, upon submittal of an application, any necessary land use application pertinent to the applicable provisions of the Troutdale Development Code.

D. County Responsibilities.

- (1) The County shall cooperate and use its best efforts to provide to City, for administration of city codes, the documents, files and computer data relevant to the land use history and administration of an applicant's property within the NSA area of the incorporated City. The City will request these documents from the County for individual applications on an as-needed basis to administer applicable Troutdale Development Code provisions.
- (2) The County shall notify the City of pre-application meetings for prospective NSA development applications to provide the City the opportunity to attend. If the City is unable to attend the pre-application meeting for a prospective NSA development project but informs the County that City standards may apply to the development, then the County shall provide prospective applicants with copies of the Troutdale Development Code or other information relevant to the code provisions specified in subsection C2. The City will provide the County a master set of the materials the City wants distributed at these meetings.
- (3) As part of its NSA review process, the County shall provide the City an opportunity to evaluate and comment upon the development application for

compliance with applicable Troutdale Development Code provisions. The County shall forward a copy of the NSA development application to the City for review. The City will identify issues with the application that need to be addressed in order to comply with those provisions of the Troutdale Development Code specified in subsection C2.

The County shall forward the copy of the development application to:

Community Development Department
City of Troutdale
104 SE Kibling Avenue,
Troutdale, Oregon 97060-2099

- (4) When applicable, the County's land use decision shall state that a development permit must be obtained from the City before development can commence. The County will forward a copy of its NSA land use decision to the City.
- E. Term of Agreement. This Agreement shall be effective when fully executed. Either party may terminate this Agreement upon written 90-day notice.
- F. Indemnification. Subject to the limitations and conditions of the Oregon Constitution and Oregon Tort Claims Act (ORS 30.260 et seq.), the County and the City each shall be solely responsible for any loss or injury caused to third parties arising from County's or City's own acts or omissions under this agreement; and County or City shall defend, hold harmless, and indemnify the other party to this agreement with respect to any claim, litigation, or liability arising from County's or City's own acts or omissions under this agreement.

MULTNOMAH COUNTY

By: 

Ted Wheeler, Chair

Date: May 21, 2009

Reviewed:

AGNES SOWLE, County Attorney

FOR MULTNOMAH COUNTY

By: 

Sandra N. Duffy

Assistant County Attorney

CITY OF TROUTDALE

By: 

Jim Kight, Mayor

Date: May 15, 2009

Approved as to Form:

By: 

David Ross

City Attorney