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## Enforcement Order ORS 197.335 & OAR 660-045

**Issue.** The issue is the chilling effect on citizen participation from JO CO's violation of the 150-day rule (ORS 215.427), and a mandamus process (ORS 215.429) that may follow from the failure, to move the land use process out of the jurisdiction of the JO CO Board of Commissioners (BCC) to the local circuit court, and the award of attorney fees (ORS 20.075(1)) against intervenors (i.e., citizens).



**Citizen-Initiated Enforcement Order.** The *Hugo Neighborhood Land Use Committee* is considering a citizen-initiated enforcement order process established by Oregon Administrative Rules Division 45, Citizen-Initiated Enforcement Orders (OAR 660-045-0040). The *Hugo Land Use Committee* believes that Josephine County (JO CO) has engaged and continues to engage in numerous "patterns or practices" violating ORS 215.427, administrative rules, case law, and its own comprehensive plan and development code.<sup>1</sup> ORS 197.319 to 197.335.

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1. Hugo Land Use Committee. 2006. *Possible Citizen-Initiated Enforcement Order Based On 150-Day rule Pattern & Practice Violations*. Hugo, OR.

2. Minutes From Josephine County Adopted Budget FY 2006-07, June 21, 2006; Minutes And Exhibits From Budget Committee Hearing FY 2002 - 2003, May 7, 2003.

3. Hugo Land Use Committee. 2006. *150-Day ORS Standards*. Hugo, OR.

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## Corrective Actions ORS 197.335(1)(c) & OAR 660-045-0040(3)(e)

**Corrective action** means an action sought by a requester or required of an affected local government (i.e., JO CO) or district by an enforcement order under ORS 197.335(1)(c). The term includes revisions to an affected local government or district's comprehensive plan, land use regulations, special district cooperative agreement, urban service agreement, or decision-making process. A corrective action is the remedy for the noncompliance specified by an enforcement order. The following corrective actions are recommended for consideration by the BCC to correct the pattern and practice of violating the 150-day rule.

1. Require county to keep track of the 150-Day clock and be responsible for meeting the deadlines. Assigned planners are responsible for a 150-Day enforcement schedule - failure to meet schedule is a work performance concern.
2. Implement a short deadline from the day of oral decision (i.e., 14 days) for the applicant to submit final written findings for signature by the hearing body.
3. Require county to return appeal fees for a scheduled appeal meeting before the BCC that did not occur because of the BCC's failure to comply with the 150-day rule (ORS 215.427).
4. Require the county to pay any attorney fees resulting from a mandamus process which moves the land use process out of the jurisdiction of the JO CO BCC to the circuit court, regardless of whether, or not, there are citizen intervenors . *State ex rel Aspen Group v. Washington County*, 166 Or App 217, 996 P2d 1032 (2000).

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## More Information

### Corrective Actions Identified By County Planning.<sup>2</sup>

Current and advanced planning in JO CO are state mandates (ORS197 & ORS 215) where county must follow approved land use ordinances. Identified corrective actions include the following.

- . Enforcement Order.
- . Withhold State Grant Monies, Shared Revenues, and Loans.
- . Declare Development Moratorium.
- . State Take over County Land Use Program.

Effective corrective actions will remove the pattern and practice of JO CO exceeding the 150-Day rule and violating the law. It will also remove the success rate of citizen-initiated enforcement orders.

**More Information.** This brochure is one of 11 brochures in the Hugo Neighborhood's education series on 150-Day Violations. Would you like to learn more? Contact a member of the Land Use Committee of the *Hugo Neighborhood*.



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**Disclaimer.** This brochure is as much about providing information and provoking questions as it is about opinions concerning the adequacy of findings of fact and land use decisions. It does not provide recommendations to citizens and it is not legal advice. It does not take the place of a lawyer. If citizens use information contained in this paper, it is their personal responsibility to make sure that the facts and general information contained in it are applicable to their situation.

## Hugo Neighborhood Association & Historical Society's Mission

This information brochure is one of a series of documents published by the Hugo Neighborhood Association & Historical Society (*Hugo Neighborhood*). It is designed to be shared with neighbors for the purpose of helping protect our rural quality of life by promoting an informed citizenry in decision-making. The *Hugo Neighborhood* is an informal nonprofit charitable and educational organization with a land use and history mission of promoting the social welfare of its neighbors.

### Land Use & History

The *Hugo Neighborhood's* land use mission is to promote Oregon Statewide Goal 1 — Citizen Involvement, and to preserve, protect, and enhance the livability and economic viability of its farms, forests, and rural neighbors. It will act, if requested, as a technical resource assisting neighbors to represent themselves.

Its history mission is to educate, collect, preserve, interpret, and research its local history and to encourage public interest in the history of the Hugo area.

Volunteer membership dues are \$10.00 annually per family and normally used for paper, ink, envelopes, publications and mailings. Make checks to the *Hugo Neighborhood* and send them to our Treasurer. Send us your e-mail address if you want to know what we are doing.

*Hugo Neighborhood Association*  
Web Page: <http://jeffnet.org/~hugo/>

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## Corrective Actions For 150-Day Rule Violations

Brochure 12I in Josephine County  
CI Issues & Problems Series



### Possible Corrective Actions

- . Withhold State Grant Monies, Shared Revenues, and Loans
- . Declare Development Moratorium
- . State Take over County Land Use Program

**December 5, 2006**

**Land Use Committee  
Hugo Neighborhood Association**

**Members of the CAC/NA Coalition**