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BEFORE THE MULTNOMAH COUNTY HEARINGS OFFICER

Notice of Civil Violation issued)	NO. CCPR2-2024-0006
to Juan A. Cervantes for property)	FINDINGS OF FACT,
located at 31535 SE Dodge Park)	CONCLUSIONS OF LAW
Boulevard, Gresham Oregon 97080 in)	AND DECISION, ORDER
unincorporated Multnomah County.)	OF CIVIL PENALTY

I. BACKGROUND INFORMATION

1. **Site Location:** 31535 SE Dodge Park Boulevard, Gresham Oregon 97080; also known as TL 700, Section 20AC, Township 1 South, Range 4 East, W.M. (1S4E20AC -00700); Tax Account # R994201160 (the “subject property”). (Exhibit B.2). The Property is zoned MUA-20 (Multiple Use Agriculture). (Exhibits C.2 and C.3).
2. **Description of Alleged Violations:**
 - a. Erecting two permanent canopy-type structures on the subject property without required permits and approvals (Section 1.2 of Exhibit C.3); and
 - b. Operating a pallet refurbishing business without required approval (Section 1.1 of Exhibit C.3).
3. **Appeal Proceedings:**
 - a. Multnomah County Planning Director Megan Gibb (the “Director”) issued Notice of Civil Violation CCPR2-2024-0006 (the “NCV”) to the owner of the subject property, Juan A. Cervantes (“Appellant”), on July 25, 2025. The Notice of Civil Violation included continuing daily civil penalties of \$660.00 per day. (Exhibit C.3). Appellant filed an appeal of the NCV and paid the \$250.00 appeal fee on August 12, 2025. (Exhibit D.1).
 - b. Multnomah County Hearings Officer Joe Turner (the “Hearings Officer”) held a public hearing regarding the appeal of the NCV on September 26, 2025. Multnomah County Code Compliance Specialist (“CCS”) Heidi Konopnicki and Principal Planner Kevin Cook appeared on behalf of the County. Neighboring resident Dwight Unti testified in support of the NCV. Appellant, Juan A. Cervantes, appeared on his own behalf.
 - c. At the conclusion of the September 26, 2025 hearing, the Hearings Officer closed the record regarding the NCV.

II. FINDINGS OF FACT:

1. Appellant, Juan A. Cervantes, owns the subject property located at 31535 SE Dodge Park Boulevard, Gresham Oregon 97080; also known as TL 700, Section 20AC, Township 1 South, Range 4 East, W.M. (1S 4E 20AC -00700); Alt Account # R994201160. (Exhibit B.2). The subject property is zoned MUA-20 (Staff Report at § 3.2).
2. On November 22, 2016, Appellant registered “J.R.K. Transportation LLC” with the state of Oregon, listing the business type as cargo deliveries and identifying the subject property as the principal place of business. (Exhibit B.4). Appellant was unaware of the need to obtain County approval of the use on the subject property. (Appellant testimony).
3. Sometime between 2020 and 2021, Appellant began operating a pallet refurbishing business on the property. Appellant began bringing wood pallets to the subject property where Appellant and/or his employees use saws, hammers, forklifts, and other equipment to stack, store, and refurbish the pallets on the subject property. Appellant and/or his employees burn excess wood waste on the subject property. (Testimony of Mr. Unti and Appellant and Exhibits A.2, A.3, B.1, and B.1.a). The pallet business operates between 7:00 a.m. and 6:00 p.m., five to six days per week. (Unti testimony).
4. On August 19, 2024, the County received a complaint alleging that:

Property is being used for the storage, building and refurbishing of 100's of wood pallets stacked on-site. Operations include multiple workers operating saws and nail guns re-building the pallets. Work often goes on seven days a week but with a heavy emphasis on weekends. Trucks bring in used pallets and refurbished pallets are loaded and trucked off site. The operator regularly burns large piles of wood debris in an open fire, and regardless of whether there is a burn ban in effect. The pallets are visible from Dodge Park Blvd, but the refurbishing operation is screened by the pallets and not visible from the street.

(Exhibit A.1)

The complaint included a photo of waste wood being burned on the subject property. On August 22, 2024, the complainant submitted an additional, undated, video showing a person using equipment to cut up pallets on the subject property. (Exhibit A.2). On August 19, 2025, the complainant submitted an additional video recorded on August 16, 2025, showing a person using a table saw or similar piece of equipment to cut up pallets on the subject property. (Exhibit A.3).

5. On October 16, 2024, Code Compliance Inspector (“CCI”) Robert Hyde conducted a site inspection from the public right of way. The inspector observed a high volume of wooden pallets on the property. Pallets were stacked in close proximity to the fence on the perimeter of the subject property and roughly twice the height of the fence. The inspector also noted a commercial box truck with the business name “JRK Transportation” printed on the door of the vehicle. (Exhibit B.9).
6. On November 8, 2024, the County concluded their investigation and determined that there was sufficient evidence of non-permitted commercial use of the property involving storage

and refurbishing of pallets and associated non-permitted development of two permanent canopy-like accessory structures utilized for storage of pallets and machinery related to the commercial use (Ex. C.1).

7. On November 15, 2024, the County mailed Appellant a Request for Voluntary Compliance (“RVC”) letter via USPS first class mail. The RVC letter was not returned to the sender by USPS, indicating that it was delivered to the addressee. The RVC letter informed Appellant that the investigation had found evidence of a non-permitted commercial use of the property as well as non-permitted development of accessory structures, and outlined the following deadlines for corrective actions required to resolve the alleged violations:
 - December 15, 2024 – Deadline to schedule virtual appointment with Planner on Duty;
 - January 15, 2025 – Deadline to schedule pre-filing meeting with Planning staff, if required; and
 - May 15, 2025 – Deadline to submit application or have ceased non-permitted use and removed non-permitted development from property.

(Ex. C.3).

Appellant did not read the RVC letter. Therefore, he did not contact the County regarding the RVC letter nor did he comply with the deadlines in the letter. (Appellant testimony).

8. CCI Hyde performed an additional inspection on May 13, 2025. He noted that large numbers of pallets remained on the subject property, with pallet stacks extending well above the fence. He also noted “sheds and covered awnings” on the subject property. (Exhibit B.10).
9. On June 17, 2025, the Gresham Fire Department responded to a complaint of illegal burning on the subject property; persons were burning scrap material generated in the process of repairing and rebuilding wooden pallets. Gresham Fire Captain Mottice emailed the County to inform them of the illegal burning and the business activity occurring on the subject property. (Exhibit E.1).
10. CCI Hyde conducted a third inspection of the subject property on July 9, 2025. He noted many tall stacks of pallets and the sounds of power tools being used inside one of the covered areas on the subject property. (Exhibit B.11).
11. On July 18, 2025 Gresham Fire Inspector Ash Foster emailed the County, advising that the Gresham Fire Department had received multiple complaints regarding excessive pallet storage on the property and regular burning of scraps and other unauthorized material. Ash Foster indicated that several warnings had been issued to the property owner by Gresham Fire. (Exhibit E.2). Gresham Fire Captain Robert Mottice submitted a letter dated September 22, 2025, noting that burning of pallet materials is prohibited on the subject property and expressing concerns with the number, size, and location of pallets stored on the subject property, and citing to provisions of the Oregon Fire Code that regulate outdoor pallet storage including, but not limited to the following:

OFC 315.7.2 requires that stored pallets be setback a minimum ten feet from the property line;

OFC 315.7.3 limits the height of stacked pallets to a maximum 20 feet;
OFC 315.7.4 limits pallet piles to a maximum 400 square feet;
OFC 315.7.6, OFC 315.7.6.1, and OFC 315.7.6.2 requiring separation between pallet piles, buildings, and other pallets and on-site storage.

(Exhibit F.1).

12. The County issued Notice of Civil Violation CCPR2-2024-0006 on July 25, 2025. The County sent the NCV, Civil Fine Calculation worksheet, and an appeal form to Appellant via certified mail. Appellant signed the certified mail return receipt on July 28, 2025. (Exhibit C.3).

13. The Notice of Civil Violation included continuing daily civil penalties of \$660.00 per day, based on the following calculations:

Civil Fine (\$) = (X)(Y)(\$15)

X = [H+P+R+C+E]

Y = (A)(G)

X base

History 4

Prior Violation 1

Repeated 2

Cause 2

Efforts to Correct 2

Y variable

Action to Enforce 1

Gravity 3

X total = 14

Y total = 4

Civil Fine (\$) = (X)(Y)(\$15) = (11)(4)(\$15) = \$660.00/violation/day in civil fines.

(Exhibit C.3 at 6).

14. The Notice of Civil Violation set out the following “Appeal Rights:”

Pursuant to *MCC 39.1530 and MCC 39.1550*, YOU MAY APPEAL this Notice of Civil Violation to a County Hearings Officer. To appeal, you must complete and return the enclosed Notice of Violation Appeal form together with payment of the \$250.00 appeal fee payable to “Multnomah County” **within 14 days of** the date of this notice:

(Exhibit C.3 at 5).

15. Based on the date of the certified mail receipt, the County served Appellant the NCV on July 28, 2025. Therefore, the 14-day appeal period expired on August 11, 2025. (Exhibit C.3 at 1).

16. Appellant spoke by telephone with CCS Konopnicki on August 12, 2025. During the phone call CCS Konopnicki miscalculated the appeal deadline and informed Appellant that August

12, 2025, was the final day to appeal the NCV. (Konopnicki testimony and the “Staff Report for Hearings Officer Review” [the “Staff Report”] at § 2.5.)

17. Appellant submitted a written request for appeal of the NCV and the \$250.00 appeal fee to the County prior to 4:30 p.m. on August 12, 2025 (Exhibit D.1). Due to staff’s miscommunication to Appellant regarding the last day of the appeal period, the Director does not object to the appeal proceeding. (Staff Report at § 2.8).
18. In 2024, the majority of the ground on the subject property was covered in pallets. (Exhibit B.1.a). Since receiving the NCV Appellant has made efforts to reduce the number of pallets on the subject property, removing one of the sheds and moving pallets offsite. (Appellant testimony and Exhibit F.2). Appellant is currently storing roughly 6,000 pallets on the subject property. (Exhibit F.2 and hearings officer’s approximate count).
19. The pallets on the subject property appear to conform to the Grocery Manufacturers (“GMA”) standard pallet dimensions of 48” x 40” x 6 ½” tall. (Exhibits F.2 and <https://greenwayspsllc.com/pallet-sizes/>).¹
20. The County can schedule a pre-application conference three months from the date a conference is requested and applications are generally submitted within six months from the date of the pre-application conference. (Cook testimony).

III. CONCLUSIONS OF LAW:

Based upon the above findings of fact and the following conclusions of law, the Hearings Officer affirms the violations set out in the NCV.

1. The Hearings Officer finds that Appellant was afforded due process of law, based on the following.
 - a. The County served Appellant with the NCV by certified mail, return receipt requested through the United States Postal Service, as required by Multnomah County Code (“MCC”) 39.1530(D). Appellant signed the certified mail return receipt indicating that he received the NCV.
 - b. Appellant filed an appeal of the NCV. Although the appeal and appeal fee were received by the County one day after the 14 day deadline provided by MCC 39.1530(C), the County agreed to waive these procedural defects and allow the appeal hearing to proceed, as staff provided Appellant with incorrect information about the appeal deadline. Appellant appeared at the online appeal hearing and was provided the opportunity to present his appeal.
2. MCC 39.4305 USES provides:

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in

¹ The hearings officer takes official notice of the GMA pallet size standards.

MCC 39.4310 through 39.4320 when found to comply with MCC 39.4325 through 39.4345 provided such uses occur on a Lot of Record.

3. Appellant constructed two accessory canopy structures and is operating a commercial business on the subject property without required County review and approval. This is a violation of MCC 39.4305. Appellant, as the owner of the Property, is responsible for the violations. MCC 39.1530.
4. The hearings officer finds that it may be feasible for Appellant to obtain County approval and building permits for the canopy structures and modify his current business use on the subject property to the extent necessary to obtain County approval of permits necessary to allow the use to operate in the MUA-20 zone:
 - a. MCC 39.4310 lists the Type 1 allowed uses within the MUA-20 base zone, which generally consist of residential, farm and forest uses. Large scale commercial or industrial uses are not listed as allowed uses within the MUA-20 zone.
 - i. A Type A Home Occupation is an allowed use within the MUA-20 zone pursuant to MCC 39.8800. Per MCC 39.8800, “Type A home occupation is a lawful commercial activity that is conducted within a dwelling unit by a business operator...”

(A) Because the pallet business is currently occupying a large portion of the property outside of the dwelling, it would not meet the criteria for Type A Home Occupation under the current business model. Therefore, the existing commercial use cannot be approved as a Type A Home Occupation.
 - ii. MCC 39.4310(F)(1) allows Accessory Structures that are “[c]ustomarily accessory or incidental to any use permitted or approved in this base zone and is a structure identified in [MCC 39.4310(F)(1)(a) through (n)]” and subject to the limitations in MCC 39.4310(F)(2) through (8). The 30 x 30 feet and 50 x 30 feet canopy structures that were erected on the property were constructed without County review and approval.

(B) In order to gain approval for the structures, Appellant must provide evidence of an approved or allowed use of the structures and obtain all necessary building permits following land use approval if the structures are to be utilized in conjunction with any business use on the subject property.
 - b. MCC 39.4315 lists the Type 2 review uses within the MUA-20 base zone, including, but not limited to:
 - i. MCC 39.4315(B) allows “Wholesale or retail sales of farm or forest products raised or grown on the premises or of farm crops or livestock from other farm operations located in Multnomah County or in adjacent counties of Oregon or Washington bordering on Multnomah County, subject to the following condition:...”

(A) MCC 39.4315(B) limits Type 2 review uses to “[f]arm or forest products raised or grown on the premises...” Based on Appellant’s photos (Exhibit F.2) there are no

trees growing on the premises, the products of which could be used to construct pallets for Appellant's business. Therefore, the use cannot be approved as a Type 2 review use pursuant to MCC 39.4315(B). The remainder of this section, allowing sales of crops or livestock from other farm operations in the local area, only applies to "[f]arm crops or livestock..."

- ii. MCC 39.4315(I) allows "A Type B home occupation when approved pursuant to MCC 39.8850." MCC 39.8850 provides that Type B home occupations must, among other things, be operated within a dwelling unit or enclosed accessory building (MCC 39.8850(1)), not exceed 25% of the gross floor area on the property or 1,000 square feet, whichever is less (MCC 39.8850(2)), and not employ more than one non-resident employee (MCC 39.8850(3)).

(A) It may be feasible to operate the business as a Type B home occupation, provided the use is limited to a maximum 1,000 square feet of enclosed accessory structure (or 25 percent of the total gross floor area of the dwelling, attached garage and accessory buildings, whichever is less), and complies with the other limitations set out in MCC 39.8850.² A GMA standard pallet occupies 13.33 square feet of floor area (40" x 48" = 13.3 SF/pallet). Assuming a maximum pallet stack height of 20 feet allowed by OFC 315.7.3,³ each pallet stack could accommodate 36 pallets (20 feet/6.6" per pallet = 36 pallets). Therefore, a 1,000 square foot building could accommodate a maximum 2,700 pallets (1,000 square foot building/13.3 square feet per pallet stack = 75 pallet stacks. 75 pallet stacks x 36 pallets per stack = 2,700 pallets). However, the actual number of pallets that could be stored would be reduced to allow for maneuvering of forklifts or other equipment needed to move pallets, areas for pallet construction and repair, and separations between pallet stacks required by the Fire Code. This would require Appellant to substantially reduce the scale of his existing pallet business, which is currently storing roughly 6,000 pallets on the subject property.

- c. MCC 39.4320(D) allows a "Type C home occupation as provided for in MCC 39.7400 through 39.7410" as a Type 3 Conditional Use. MCC 39.7405(A) provides that Type C home occupations must, among other things, be operated within a dwelling unit or enclosed accessory building (MCC 39.7405(A)(1)), not exceed 35% of the gross floor area on the property or 1,500 square feet, whichever is less (MCC 39.7405(A)(2)), and not employ more than five employees (MCC 39.7405(A)(3)).

(A) It may also be feasible to operate the business as a Type C home occupation, provided the use is limited to a maximum 1,500 square feet of enclosed accessory structure (or 35 percent of the total gross floor area of the dwelling, attached garage and accessory buildings, whichever is less), and complies with the other limitations set out in MCC 39.7400 through 39.7410. This would increase the maximum pallet storage capacity

² As noted above, it is not feasible to operate the existing pallet business inside the residence on the subject property.

³ The hearings officer notes that OFC 315.7.3 regulates the outdoor storage of pallets. Presumably indoor storage is subject to different standards that may further limit the number of pallets that could be stored in an enclosed building on the subject property.

to no more than 4,051 pallets (1,500 square foot building/13.3 square feet per pallet stack = 112 pallet stacks. 112 pallet stacks x 36 pallets per stack = 4,051 pallets).⁴

5. MCC 39.1550(C)(2) authorizes the Hearings Officer to require Appellant to:

- (a) Obtain any and all necessary permits, inspections and approvals;
- (b) Install any equipment necessary to achieve compliance;
- (c) Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;
- (d) Reimburse the County for actual costs of remediation, its reasonable administrative costs, as well as its attorney fees and costs for its enforcement actions, including appeals;
- (e) Pay a civil fine for the violation and any fees and costs to the County;
- (f) Pay a reduced fine;
- (g) Undertake any other action reasonably necessary to remedy the violation.

6. The Hearings Officer finds that Appellant should be required to bring the subject property into compliance by:

- a. Immediately ceasing all burning of pallet materials or other commercial debris on the subject property; and
- b. Obtaining and complying with all required permits and approvals necessary to correct the violations on the subject property, subject to the following schedule:

i. Within one month from the date of this Final Order:

- (1) Meet with Gresham Fire Department staff to identify the specific Fire Code provisions that apply to the current outdoor pallet storage use, modify the existing outdoor pallet stacks on the subject property to comply with Fire Code requirements for spacing, height, separation, etc., and provide written confirmation from the Gresham Fire Department that the revised pallet storage on the subject property complies with the Fire Code; and
- (2) Further relocate the pallet stacks as necessary to comply with the setback requirements of MCC 39.4325: 30 feet from the front, rear, and street-side property lines of the subject property and 10 feet from the side property lines.

ii. Within three months from the date of this Final Order:

- (1) Schedule and attend a pre-application conference or other meeting with the County Land Use Planning (LUP) office to prepare for the submission of a land use permit application to potentially authorize the commercial use of the subject property; and

⁴ As noted above, this calculation does not allow for equipment maneuvering or compliance with Fire Code separation requirements, so the actual number of pallets that could be accommodated as a Type C home occupation is likely less than 4,000.

- (2) Obtain County approval of, and submit complete building permit applications for, the existing unpermitted canopy structures **or** remove the structures.
 - iii. Within six months from the date of the pre-application conference or other meeting with LUP:
 - (1) Submit a complete application identified by LUP as necessary to bring the property into full compliance; and
 - (2) In the event the permit application is deemed incomplete by staff, within 180 days of receiving an incomplete application notification letter from the LUP office, make the necessary corrections or requested supplemental materials to make the permit application complete; and
 - (3) If the required permit application is approved, complete all work and comply with all conditions of approval required by the approved permit within the timelines specified by the approval.
 - c. If Appellant fails to comply with any of the above deadlines or if the application is withdrawn, abandoned, or results in a denial at the conclusion of all options for appeal, within 30 days of the applicable event Appellant shall cease all commercial use of the subject property and remove all pallets, forklifts, and other business related equipment and material, and have scheduled an inspection with Code Compliance Office to verify that the required corrective actions have been completed.
7. In the interim, while permits are being prepared and reviewed, Respondent should be allowed to continue operating the pallet business on the subject property, provided Respondent, continues to comply with the setback requirements of MCC 39.4325 and Fire Code requirements for spacing, height, separation, etc.
8. MCC 39.1560 provides:
- Violations as defined in MCC 39.1510 may be subject to fines and liens. Fines may be assessed for each violation each day.
- (A) The maximum fines per violation shall not exceed \$3,500 for each day of noncompliance; the minimum fine per violation shall not be less than \$45 for each day of noncompliance.
 - (B) The Director shall set criteria for determining the fines, appeal fees and administrative fees as appropriate.
9. Pursuant to MCC 39.1560(B), the Director adopted the Enforcement Code Administrative Rules dated March 1, 2011 ("the Rules," Exhibit B.7). Rule 4.2 sets out the following formulas for calculation of civil fine amounts.
- Civil Fine (\$) = (X)(Y)(\$15)
- a. Variable X = [H+P+R+C+E] is calculated as follows:

- i. H is the rating of Appellant's performance of the required corrective actions requested or demanded by the Director for a particular violation. H shall equal:
 - (A) 0 if Appellant took actual and substantial steps, more than verbal assurance, towards attempting full performance of the required corrective actions or other resolution of the matter;
 - (B) 1 if Appellant took actual, but minor, steps, more than verbal assurance, towards attempting full performance of the required corrective actions or other resolution of the matter; and
 - (C) 4 if Appellant took inconsequential or no actual steps, regardless of verbal assurance, towards attempting full performance of the required corrective actions or other resolution of the matter.
 - ii. P is the number of prior, affirmed violations of the same section of the MCC by Appellant. P shall equal:
 - (A) 1 if there are no prior violations.
 - (B) 2 if there has been one violation within the last five years; and
 - (C) 4 if there have been two or more violations within the last five years.
 - iii. R is the frequency of occurrence of the violation. R shall equal:
 - (A) 1 if the violation occurred as a one-time event; and
 - (B) 2 if the violation is occurring or occurred as an intermittent, repeated or continuous event.
 - iv. C is Appellant's intent to cause the violation. C shall equal:
 - (A) 1 if Appellant did not intend the violation, but rather the violation was inadvertent. An inadvertent violation is one that is unavoidable, accidental or caused by others not under the control or influence of Appellant;
 - (B) 2 if the violation occurred as a result of Appellant's negligence. A violation occurs as a result of Appellant's negligence if Appellant fails to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation;
 - (C) 4 if the violation occurred as a result of Appellant's reckless or intentional acts. A violation occurs as a result of Appellant's reckless act if Appellant acts with indifference to the consequences of that act. A violation occurs as a result of Appellant's intentional act if Appellant knows the results that will flow from the act and desires those results to occur, regardless of whether Appellant knows that the act is a violation of law.
 - v. E is the rating of Appellant's responsiveness to the Director's communications and/or requests. E shall equal:
 - (A) 0 if Appellant was highly responsive such that repetition of the Director's communications and/or requests was minimal;
 - (B) 1 if Appellant was moderately responsive such that the Director found a need to repeat only a small portion of prior communications and/or requests; and
 - (C) 2 if Appellant was minimally responsive or not responsive.
- b. Variable $Y = [A \times G]$ is calculated as follows:

- i. A is the number of prior requests or demands by the Director for Appellant's performance of required corrective actions. A shall equal:
 - (A) 1 if this is the first such request or demand by the Director within the last five years;
 - (B) 2 if this is the second such request or demand by the Director within the last five years; and
 - (C) 3 if there have been more than two such requests or demands by the Director within the last five years.
- ii. G is the severity and magnitude of the violation as measured by the imminence of the threat to public health or safety or to natural resources, physical size, geographic extent, duration of time, frequency of occurrence, actual or potential economic harm or otherwise. Partial correction of a violation by any person after the NCV is issued does not reduce the value assigned to this factor. G shall equal:
 - (A) 1 if there is no immediate threat to public health or safety or to natural resources, and the remaining measures of severity and magnitude of the violation prove minor;
 - (B) 2 if there is no immediate threat to public health or safety or to natural resources, but the remaining measures of severity or magnitude of the violation prove moderate. The remaining measures of severity or magnitude of a violation prove moderate when required corrective actions can be taken in due course without a risk of irreparable harm; and
 - (C) 3 if the violation poses an immediate threat to public health or safety or to natural resources or the remaining measures of severity or magnitude of the violation prove substantial. The remaining measures of severity or magnitude of a violation prove substantial when required corrective actions must be taken immediately to prevent irreparable harm.

10. The County proposed the following fines in this case for the violations set out in the NCV:

<u>X base</u>		<u>Y variable</u>	
History	4	Action to Enforce	1
Prior Violation	1	Gravity	3
Repeated	2		
Cause	2		
Efforts to Correct	2		

X total = 11

Y total = 4

Civil Fine (\$) = (X)(Y)(\$15) = (11)(4)(\$15) = \$660.00/violation/day.

11. The Hearings Officer finds that the fines proposed by the County are appropriate and consistent with the County's adopted Enforcement Code Administrative Rules for the affirmed violations. However, the fines should be tolled so long as Appellant remains in compliance with the above schedule for obtaining permits and approvals necessary to allow Appellant to continue operating the use on the subject property.

12. Therefore, Appellant should be required to pay Multnomah County a continuing fine of \$660.00 per day pursuant to MCC 39.1560, plus interest in accordance with law, beginning on the day the Code Compliance Program Specialist determines that Appellant is in violation of the terms of this Final Order, and continuing until the Code Compliance Program Specialist finds that Appellant has remedied the violation.
 - a. Monetary penalties shall not accrue to the extent the County Enforcement Coordinator finds that the appellant's failure to timely comply is due to reasons wholly beyond the appellant's control, and that the appellant has made a continuing, timely, diligent good faith effort to comply with this final order. The financial circumstances and business conflicts of the appellant are not a reason wholly beyond the appellant's control.

IV. DECISION:

1. Notice of Civil Violation CCPR2-2024-0006 issued to Appellant Juan A. Cervantes and dated July 25, 2025, is **AFFIRMED**.
2. Pursuant to MCC 39.1550(C)(2), Appellant Juan A. Cervantes shall correct the violations on the subject property by:
 - a. Immediately ceasing all burning of pallet materials or other commercial debris on the subject property; and
 - b. Obtaining and complying with all required permits and approvals necessary to correct the violations on the subject property and within the right-of-way, subject to the following schedule:
 - i. Within one month from the date of this Final Order:
 - (1) Meet with Gresham Fire Department staff to identify the specific Fire Code provisions that apply to the current outdoor pallet storage use and modify the existing outdoor pallet stacks on the subject property to comply with Fire Code requirements for spacing, height, separation, etc.;
 - (2) Further relocate the pallet stacks as necessary to comply with the setback requirements of MCC 39.4325: 30 feet from the front, rear, and street-side property lines of the subject property and 10 feet from the side property lines.
 - ii. Within three months from the date of this Final Order:
 - (1) Schedule and attend a pre-application conference or other meeting with the County Land Use Planning (LUP) office to prepare for the submission of a land use permit application to potentially authorize the commercial use of the subject property; and
 - (2) Remove the existing unpermitted canopy structures **or** obtain County approval of, and submit complete building permit applications for, the structures.

- iii. Within six months from the date of the pre-application conference or other meeting with LUP:
 - (1) Submit complete application(s) identified by LUP as necessary to bring the property into full compliance; and
 - (2) In the event the permit application(s) are deemed incomplete by staff, within 180 days of receiving an incomplete application notification letter from the LUP office, make the necessary corrections or requested supplemental materials to make the permit application(s) complete; and
 - (A) If the required permit application(s) is approved, complete all work and comply with all conditions of approval required by the approved permit(s) within the timelines specified by the approval(s); or
- c. If Appellant fails to comply with any of the above deadlines or if the application is withdrawn, abandoned, or results in a denial at the conclusion of all options for appeal, Appellant shall within 30 days of the applicable event cease all commercial use of the subject property and remove all pallets, forklifts, and other business related equipment and material; and have scheduled an inspection with Code Compliance Office to verify that the required corrective actions have been completed.
- 3. In the interim, while permits are being prepared and reviewed, Respondent may continue operating the pallet business on the subject property, provided Respondent, relocates the pallet stacks as necessary to comply with the setback requirements of MCC 39.4325 and the Oregon Fire Code and provides written confirmation of such compliance from the Gresham Fire Department within sixty days from the date of this Final Order
- 4. If Appellant fails to comply with paragraph IV.2 or IV.3 of this Final Order, then, beginning on the date the Director finds that Appellant failed to comply, Appellant shall pay Multnomah County six hundred sixty dollars (\$660) per day for each day thereafter, until the Code Enforcement Supervisor finds the Property complies with the Code.
 - a. The penalty provided for in this paragraph 4 shall not accrue to the extent the County Enforcement Coordinator finds that the appellant's failure to timely comply is due to reasons wholly beyond the appellant's control, and that the appellant has made a continuing, timely, diligent good faith effort to comply with this final order. The financial circumstances and business conflicts of the appellant are not a reason wholly beyond the appellant's control.
- 5. Pursuant to Multnomah County Code Section 39.1555 and the terms of this Final Order fines, fees and costs are payable on the date the Code Compliance Program Specialist determines that Appellant is in violation of the terms of this Final Order and are a debt owed to the County, under ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines fees or costs are not paid within 60 days after payment is ordered the County may file and record the order in the County Clerk Lien Record. The County may institute appropriate suit or legal action, in law or equity, in any court of competent

jurisdiction to enforce the provisions of any order of the Hearings Officer, including, an action to obtain judgment for any civil fine, fees or costs imposed by such order.

Dated this 10th day of October 2025.



Multnomah County Hearings Officer

*Multnomah County Code Section 39.1565 - **JUDICIAL REVIEW:** Review of the final order of a Hearings Officer under this subchapter by any aggrieved party, including Multnomah County, shall be by writ of review as provided in ORS 34.010 through 34.100, unless the Hearings Officer makes a land use decision, in which case the land use decision may be reviewed by the Land Use Board of Appeals pursuant to ORS Chapter 197. Any appeal of a Hearings Officer decision in the National Scenic Area may be reviewed by the Columbia River Gorge Commission.*