

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING CHAPTER 4) ORDINANCE NO. 20-06
BUILDING CODES OF TITLE 15 BUILDINGS OF)
THE CANNON BEACH MUNICIPAL CODE)

INTENT AND PURPOSE. The intent and purpose of this Ordinance is to provide for revisions to the City's building code to provide a transition within Cannon Beach.

WHEREAS, Cannon Beach is transitioning to the state's e-permitting system, Accela, and in doing so was notified that some of our code language required updating,

WHEREAS, the Cannon Beach Municipal Code authorizes the City to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of this jurisdiction who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation

WHEREAS, the City of Cannon Beach authorizes the Building Official to render written and oral interpretations, enforce building compliance and issue 'stop work' orders and to adopt and enforce administrative procedures in order to clarify the application of its provisions, the City administers the code enforcement duties through the Cannon Beach Police Department; and

WHEREAS, the scope of the Cannon Beach Municipal Code's Chapter 15 of Buildings and Construction authorizes the Building Official to oversee the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way; and provides that in any specific case, different sections of this code specify different materials, methods of construction or other requirements the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable; and, for any specific case, where there is a conflict between this code and Oregon Revised Statutes, the statute shall govern.; and

WHEREAS, the Cannon Beach City Council, held duly noticed public hearings on March 3, and April 6, 2020;

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF CANNON BEACH AMENDS CHAPTER 4 OF TITLE 15 BUILDINGS OF THE CANNON BEACH MUNICIPAL CODE OF THE STATE OF OREGON TO UPDATE THE BUILDING CODE DEFINITIONS AND FEES SECTION REPEALING THE BUILDING OFFICIAL'S AUTHORITY TO ADMINISTER THE CODE ENFORCEMENT AGENCY OF THE CITY, WHILE

MAINTAINING BUILDING CODE ENFORCEMENT AUTHORITY, BY DELETING THE CURRENT TEXT AND REPLACING IT WITH THE FOLLOWING:

SECTION 1.

Chapter 15.04 BUILDING CODES

15.04.010 Title.

These regulations shall be known as the “city of Cannon Beach building code,” may be cited as such and will be referred to herein as “this code.” (Ord. 97-1 § 2)

15.04.020 Purpose.

The purpose of this code is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of this jurisdiction who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation. (Ord. 97-1 § 3)

15.04.030 Scope.

A. This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way.

B. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

C. Where, in any specific case, there is a conflict between this code and Oregon Revised Statutes, the statute shall govern. (Ord. 97-1 § 4)

15.04.040 Definitions.

For the purpose of the code, the following definitions shall apply:

Building inspector means any person inspecting for compliance, under the direction of the building official, for the city.

Building official means the designated representative of the city charged with the authority to enforce within the city limits the provisions of the building and construction codes and render interpretations of these same codes consistent with the intent and purpose of the codes, under the direction of the community development director, for the city.

Certificate of occupancy means a certificate of occupancy is granted by the building inspector prior to the connection of permanent electric service.

Code enforcement officer or official means the designated representative of the city charged with the responsibility of inspecting and reviewing health and environmental matters throughout the city, including, but not limited to, building and construction concerns.

Contractor means any person desiring to engage in the business of building, gas, electrical, mechanical, plumbing, sign, or swimming pool contracting within the city limits.

General contractor means any contractor that uses subcontractors or employs more than two other persons in the construction work projects conducted in the city.

Individual contractor means a contractor that does not subcontract on any of his or her work projects and employs no more than two additional persons in his or her work projects conducted in the city.

Inspection report means the report attached to the code compliance certificate describing minimum requirements for inspection of each multifamily rental unit in the premises.

Lease means any written agreement which sets forth any and all conditions concerning the use and occupancy of multifamily rental dwellings or multifamily rental units.

Occupant means all tenants, lessees and persons residing within a multifamily rental unit.

Owner means any person, agent, firm, corporation or other entity having a legal interest in a premises.

Owner-occupied means any part of a structure used as living quarters by the owner of said structure where other parts of the structure are used as multifamily rental units. Example: Two-family dwelling, owner occupies one (1) flat; rooming house, owner occupies one (1) unit.

Premise means any lot or piece of land that includes a multifamily rental dwelling or multifamily rental units.

Stop work order means a citation issued by the building inspector to immediately halt construction activities on a site.

15.04.050 Alternate materials and methods.

A. The provisions of this code are not intended to prevent the use of any alternate material, design or method of construction not specifically proscribed by this code, provided such alternate has been approved and its use authorized by the building official.

B. The building official may approve any such alternate material, design or method, provided the building official finds that the proposed material, design or method complies with the provisions of this code and that it is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

C. The building official shall require that the evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of any alternate material, design or method shall be recorded and entered in the files of the agency. (Ord. 97-1 § 6)

15.04.060 Modifications.

When there are practical difficulties in carrying out the provisions of this code, the building official may grant modifications provided the building official finds that the modification is in conformance with the intent and purpose of this code and that said modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the code enforcement agency. (Ord. 97-1 § 7)

15.04.070 Tests.

A. Whenever there is insufficient evidence of compliance with the provisions of this code or that any material, method or design does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to this jurisdiction.

B. Test methods shall be as specified by this code or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures.

C. All tests shall be made by an approved testing agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records. (Ord. 97-1 § 8)

15.04.080 Powers and duties of building official.

A. General.

1. The building official is authorized to enforce all the provisions of this code.

2. The building official shall have the power to render written and oral interpretations of this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this code.

B. Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the building official may appoint technical officers and inspectors and other employees to carry out the functions of the building department.

C. Right of Entry. Where it may be necessary to inspect to enforce the provisions of this code, or the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, in violation of this code or which otherwise makes the building or premises unsafe, dangerous or hazardous, the building official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this code; provided, that if such building or premises be occupied that credentials be presented to the

occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by ORS to secure entry.

D. Stop Work Orders. Whenever any work is being done contrary to the provisions of this code (or other pertinent laws or ordinances implemented through its enforcement), the building official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the building official to proceed thereafter.

E. Authority to Disconnect Utilities in Emergencies. The building official or the building official's authorized representative shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this code when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within a reasonable time thereafter.

F. Authority to Abate Hazardous Equipment.

1. When the building official ascertains that equipment, or any portion thereof, regulated by this code has become hazardous to life, health or property, the building official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The notice shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the notice.

2. When equipment or an installation is to be disconnected, written notice of the disconnection (and causes therefor) shall be given within twenty-four hours to the involved utility, the owner and/or occupant of the building, structure or premises. When equipment is maintained in violation of this code and in violation of a notice issued pursuant to the provisions of this section, the building official may institute such action as he/she deems necessary to prevent, restrain, correct or abate the violation.

G. Connection after Order to Disconnect. No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this code which has been disconnected or ordered disconnected or discontinued by the building official until the building official specifically authorizes the reconnection and/or use of such equipment.

H. Maintenance. All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the building official may cause a structure to be reinspected.

I. Occupancy Violations. Whenever any building, structure or equipment therein regulated by this code is used contrary to the provisions of this code, the building official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the building official in

his notice and make the structure, or portion thereof, comply with the requirements of this code. (Ord. 97-1 § 9)

15.04.100 Plans and permits.

A. Issuance.

1. The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees have been paid, the building official shall issue a permit therefor to the applicant.

2. When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified and altered without authorizations from the building official, and all work regulated by this code shall be done in accordance with the approved plans.

3. The building official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

B. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than ninety days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

C. Validity of Permit.

1. The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provision of this code or of any other ordinance of the jurisdiction or any other federal state, or local law, statute, rule, regulation, or ordinance.

2. The issuance of a permit based on plans, specifications and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinances of this jurisdiction.

D. Expiration of Plan Reviews. Applications for which no permit is issued within one hundred eighty days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding one hundred eighty days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No

application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

E. Permit Expiration, Extension and Reinstatement.

1. Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section.

2. Every permit issued by the building official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the building official to indicate the intent to start and complete the project. The building official may require the permittee to document these activities.

3. Every permit issued by the building official shall expire by limitation and become null and void twenty-four months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

Exception: At the time of permit issuance the building official may approve a period exceeding twenty-four months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within twenty-four months unreasonable.

4. Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding one hundred eighty days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once.

5. Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

a. The building code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit.

b. No changes have been made or will be made in the original plans and specifications for such work.

c. The original permit expired less than one year from the request to reinstate.

6. The fee for a reinstated permit shall be one-half the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required.

F. Work Without a Permit/Investigation Fees.

1. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

2. An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The investigation fee may be equal to the amount of the permit fee as required by this code. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

G. Not Transferable. A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

H. Suspension/Revocation. The building official may, in writing, suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provisions of the city code.

I. Inspections.

1. It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the building official. The permit holder shall not proceed with construction activity until authorized to do so by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

2. Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card such as to allow the building official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the building official. (Ord. 97-1 § 11)

15.04.110 Enforcement of various state codes.

A. Structural Code. The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015 and Appendix Chapter 9, Division III, Alternative Group R, Division 1, Fire Sprinkler Requirements, except as modified in this code, is enforced as part of this code.

B. Mechanical Code. The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, except as modified in this code, is enforced as part of this code.

C. Plumbing Code. The Oregon Plumbing Specialty Code, as adopted by OAR 918-750-0010, except as modified in this code, is enforced as part of this code.

D. Electrical Code. The Oregon Electrical Specialty Code, as adopted by OAR 918-290-0010, except as modified in this code, is enforced as part of this code.

E. One And Two Family Dwelling Code. The Oregon One and Two Family Dwelling Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015, including the section

entitled "Flood-Resistant Construction Requirements of the International Residential Code," except as modified in this code, is enforced as part of this code.

F. Manufactured Dwelling Code.

1. Parks. The manufactured dwelling park and mobile home park rules adopted by OAR 915-600-0005 through 918-600-0110, except as modified in this code, are enforced as part of this code.

2. Manufactured Home Installations. The manufactured dwelling rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, except as modified in this code, are enforced as part of this code.

3. Recreational Park and Organizational Camp Regulations. The recreational park and organizational camp rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this code, are enforced as part of this code.

G. Dangerous Buildings Code.

1. Unsafe Buildings.

a. All buildings or structures regulated by this code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in this code are hereby designated as unsafe building appendages.

b. All such unsafe buildings, structures or appendages are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Buildings Code or such alternate procedures as may have been or as may be adopted by this jurisdiction. As an alternative the building official, or another employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

2. Adoption of Uniform Code for the Abatement of Dangerous Buildings. The 1994 ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by this jurisdiction.

H. Housing Code.

1. a. All buildings, or portions thereof used, or designed or intended to be used, for human habitation are, for the purpose of this section, housing. Any use of buildings, or portions thereof which do not provide minimum standards to safeguard life or limb, health, property and public welfare to the tenants or occupants of the building, or portion thereof shall be considered as substandard housing.

b. All buildings, or portions thereof which are determined to be substandard as defined in this code are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Housing Code or such alternate procedures as may have been or as may be adopted by this jurisdiction. As an alternative, the

building official, or another employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

2. The Oregon Statewide Building Codes are adopted as part hereof, except as modified by this jurisdiction.

I. Fire Code. The Oregon Uniform Fire Code as authorized by ORS 476.030, except as modified in this code, is enforced as part of this code.

J. Building Conservation Code.

1. All buildings or portions of buildings are encouraged to be preserved and used to the extent that a change of use will have “no increased risk to fire and life” as contained in Uniform Building Code Section 3405 and that the inventory of existing buildings can best be preserved through conservation of existing buildings using a recognized set of standards.

2. The 1994 ICBO Uniform Code for Building Conservation is adopted as part hereof, except as modified by this jurisdiction. (Ord. 03-12 § 1; Ord. 99-4 § 1; Ord. 97-1 § 12)

15.04.120 Fees.

A. Fees charged under this code shall be as provided in Exhibit A, Cannon Beach Building Fees, updated by resolution and in compliance with Division 50, of Chapter 918, Oregon Administrative Rules.

B. The building official may authorize the refunding of fees paid in accordance with the refund policy in effect in the jurisdiction.

C. The determination of value or valuation under any provisions of this code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. (Ord. 97-1 § 13)

15.04.130 Violations—Penalties—Remedies.

A. No person, firm, corporation or other entity however organized shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain a building or structure in the city, or cause the same to be done, contrary to or in violation of this code.

B. Violation of a provision of this chapter shall be subject to an administrative civil penalty not to exceed five thousand dollars for a single violation or one thousand dollars for continuing violations and shall be processed in accordance with the procedures set forth in this code.

C. Each day that a violation of a provision of this chapter exists constitutes a separate violation.

D. In addition to the above penalties, a condition caused or permitted to exist in violation of this chapter is a public nuisance and may be abated by any of the procedures set forth under law.

E. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available to the city under any ordinance, statute or law. (Ord. 10-1 § 1)

15.04.140 Building official—Authority to impose administrative civil penalty.

A. Upon a determination by the building official that any person, firm, corporation or other entity however organized has violated a provision of this chapter or a rule adopted thereunder, the building official may issue a notice of civil violation and impose upon the violator and/or any other responsible person an administrative civil penalty as provided by subsections A to K of this section. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

B. Prior to issuing an order to correct a violation under this section, the building official may pursue reasonable attempts to secure voluntary correction.

C. When a building permit has been issued, prior to issuing a notice of civil violation and imposing an administrative civil penalty under this section, the building official shall issue an order to correct a violation to one or more of the responsible persons.

D. Following the date or time by which the correction must be completed as required by an order to correct a violation, the building official shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the building official may issue a notice of civil violation and impose an administrative civil penalty to each responsible persons to whom an order to correct was issued.

E. Notwithstanding subsections B and C, the building official may issue a notice of civil violation and impose an administrative civil penalty without having issued an order to correct violation or made attempts to secure voluntary correction where the building official determines that the violation was knowing or intentional or a repeat of a similar violation.

F. In imposing an administrative civil penalty authorized by this section, the building official shall consider:

1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
2. Any prior violations of statutes, rules, orders, and permits;
3. The gravity and magnitude of the violation;
4. Whether the violation was repeated or continuous;
5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act; and
6. The violator's cooperativeness and efforts to correct the violation.

G. Any notice of a civil violation that imposes an administrative civil penalty under this section shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this

state, and seven days after the date mailed if to an address outside this state. Every notice shall include:

1. Reference to the particular code provision, ordinance number, or rule involved;
2. A short and plain statement of the matters asserted or charged;
3. A statement of the amount of the penalty or penalties imposed;
4. The date on which the order to correct was issued and time by which correction was to be made, or if the penalty is imposed pursuant to subsection E, a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated; and
5. A statement of the party's right to appeal the civil penalty to the city manager or the designee a description of the process the party may use to appeal the civil penalty; and the deadline by which such an appeal must be filed.

H. Any person, firm, corporation or other entity however organized who is issued a notice of civil penalty may appeal the penalty to the city manager or the designee. The city manager's designee shall not be the building official or building inspector. The provisions of Section 15.04.150 of this code shall govern any requested appeal.

I. A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the city manager or the designee pursuant to, and within the time limits established by Section 15.04.150.

J. Each day the violator fails to remedy the code violation shall constitute a separate violation.

K. The civil administrative penalty authorized by this section shall be in addition to: (1) assessments or fees for any costs incurred by the city in remediation, cleanup, or abatement; and (2) any other actions authorized by law provided that the city shall not issue a citation to municipal court for a violation of this chapter. (Ord. 10-1 § 2)

15.04.150 Appeal procedures.

A. A person, firm, corporation or other entity however organized aggrieved by an administrative action of the building official taken pursuant to any section of this code that authorizes an appeal under this section may, within fifteen days after the date of notice of the action, appeal in writing to the building official. The written appeal shall be accompanied by a seventy-five dollar appeal fee and shall include:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

If a person, firm, corporation or other entity however organized appeals a civil penalty to the city manager or the designee the penalty shall become final, if at all, upon issuance of the city manager or the designee decision affirming the imposition of the administrative civil penalty.

B. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an

emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.

C. Unless the appellant and the city agree to a longer period, an appeal shall be heard by the city manager or the designee within thirty days of the receipt of the notice of intent to appeal. At least ten days prior to the hearing, the city shall mail notice of the time and location thereof to the appellant.

D. The city manager or the designee shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the city manager or the designee deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The burden of proof shall be on the building official. The rules of evidence as used by courts of law do not apply.

E. The city manager or the designee shall issue a written decision within ten days of the hearing date. The written decision of the city manager or the designee is final.

F. Other than as provided in this subsection, the appeal fee is not refundable. The city manager or the designee may make a determination on the motion of the appellant that the appeal fee shall be refunded to the appellant upon a finding by the city manager or the designee that the appeal was not frivolous.

G. Failure to pay a penalty imposed hereunder within ten days after the penalty becomes final as provided in subsection A shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The building official is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by Section 15.04.160, other provisions of this code, or state statutes. (Ord. 10-1 § 3)

15.04.160 Unpaid penalties.


A. Failure to pay an administrative penalty imposed pursuant to this code within ten days after the penalty becomes final shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The building official is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection B, other provisions of this code, or state statutes.

B. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid thirty days after such penalty become final, the building official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of city and county liens. At the time such an assessment is made, the building official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of city and county liens. The lien shall be enforced in the same manner as all city liens. Interest shall commence from the date of entry of the lien in the lien docket.

C. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy. (Ord. 10-1 § 4)

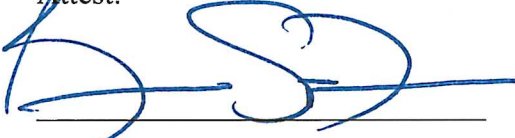
ADOPTED by the Common Council of the City of Cannon Beach this 6th day of April, 2020,
by the following roll call vote:

YEAS: Councilors Benefield, McCarthy, Ogilvie, Risley and Mayor Steidel
NAYS: None
EXCUSED: None




Sam, Steidel, Mayor

Attest:



Bruce St. Denis, City Manager

Approved as to Form



Ashley Driscoll, City Attorney