

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING MUNICIPAL) ORDINANCE 20-14
CODE CHAPTER 2.42 EMERGENCY MANAGEMENT)

WHEREAS, on March 24, 2020 the Cannon Beach City Council enacted Ordinance No. 20-10, adding chapter 2.42 Emergency Management to the City Code as an emergency ordinance due to the increasing COVID-19 pandemic; and

WHEREAS, as the pandemic has continued for more than two months, the City has identified sections of chapter 2.42 that are incongruent with an emergency of this length; and

WHEREAS, staff has also recommended clarifying changes regarding how actions taken pursuant to a declared emergency will be enforced under the Cannon Beach City Code; and

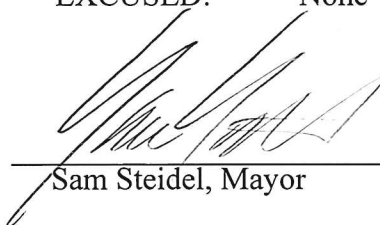
WHEREAS, as the City is currently in a declared state of emergency, these changes are imminently necessary.

NOW, THEREFORE, THE CITY OF CANNON BEACH COUNCIL ORDAINS AS FOLLOWS:

1. The Cannon Beach City Council amends Chapter 2.42 of the Cannon Beach Municipal Code as described in Exhibit A to this ordinance.
2. COVID-19 has created an imminent threat to public health and safety, and constitutes an emergency.
3. This ordinance is effective immediately upon adoption.

ADOPTED by the Common Council of the City of Cannon Beach this 18th day of May 2020, by the following roll call vote:

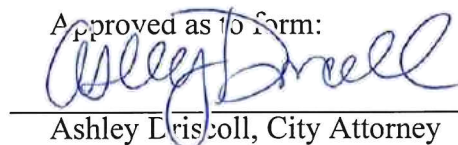
YEAS: Councilors Benefield, McCarthy, Ogilvie, Risley and Mayor Steidel
NAYS: None
EXCUSED: None



Sam Steidel, Mayor

Attest: 

Bruce St. Denis, City Manager

Approved as to form: 

Ashley Driscoll, City Attorney

EXHIBIT A

2.42.010 Definitions

The following definition applies unless inconsistent with the context:

EMERGENCY, includes any manmade or natural event or circumstance causing or threatening loss of life, injury to person, property, public health, welfare or safety, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or release of oil or other hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the city, civil disturbance, riot, sabotage and war.

EMERGENCY MANAGEMENT PLAN, the plan adopted by the council that addresses the possible emergencies that might occur within the city. The term “plan” as used in this subchapter, includes the emergency management plan along with all individual hazard-specific plans, resource lists and call lists and any changes or additions thereto.

2.42.020 Emergency management program

Under ORS Chapter 401, the city establishes an emergency management program. The council is responsible for setting policy direction for emergency management through the adoption of an emergency management plan. The city manager may appoint an emergency program manager who has responsibility for the organization, administration and operation of the emergency management program during a declared emergency in accordance with the emergency management plan and state law.

2.42.030 Emergency management program manager

The emergency program manager is responsible for carrying out the responsibilities of this subchapter and ORS Chapter 401. The emergency program manager is authorized to negotiate, prepare and present for council approval, any agreements between the city and other governmental entities or private parties for the furtherance of the policies of the emergency management plan.

2.42.040 Emergency management program plan

The plan addresses emergencies likely to afflict the city and the appropriate procedures and responses for each type of emergency. The council will by resolution adopt and amend the plan, together with any hazard-specific plans. The emergency program manager will develop and maintain resource lists and call lists.

2.42.050 Incident management

The council adopts the National Incident Management System (NIMS) as the foundation for incident command, coordination, and support activities. The city will provide appropriate

training on NIMS and its core components to personnel responsible for managing or supporting major emergency and disaster operations.

2.42.060 Declaration of emergency

A. When circumstances warrant, the city manager will determine whether an emergency appears to exist. The city manager will either:

1. Call a regular or special meeting of the council requesting a declaration of emergency by the council; or
2. Immediately declare an emergency in writing. If the city manager declares an emergency the council must ratify that declaration within seven days or it will expire.

B. A declaration shall:

1. Describe the nature of the emergency;
2. Designate the geographic boundaries of the area where the emergency exists, and that portion of the affected area lying within city boundaries;
3. Estimate the number of individuals at risk, injured or killed;
4. Describe the actual or likely damage;
5. State the type of state, county and city assistance or resources required to respond to the emergency;
6. Estimate the length of time during which the designated area will remain in an emergency status; and
7. State the specific regulations or emergency measures imposed as a result of the declaration of emergency.

2.42.070 Line of succession

If the city manager is unable for any reason to exercise authority under this subchapter, the following positions will be the line of succession to ensure the continuation administrative leadership and supersedes any other policy that applies in non-emergency situations:

- A. Mayor;
- B. Council president; and
- C. Police chief.

2.42.080 Authority of city manager

Whenever an emergency is declared under Cannon Beach Municipal Code 2.42.060, the city manager (in addition to the City Council) may authorize specific emergency powers for the duration of the emergency period and applicable to the specific areas of the city subject to the emergency over which the city has authority and consistent with the declaration of emergency as required to protect the public health, safety and welfare, including the following:

- A. A curfew may be established for the area designated as an emergency area that fixes the hours during which all persons, other than public employees and agents, may not be upon the public streets or in other places;

B. Streets and areas may be barricaded and vehicular and pedestrian traffic prohibited or regulated on streets leading to the area designated as an emergency area for such distance as may be deemed necessary under the circumstances;

C. Persons may be evacuated from the emergency area, instructed to shelter in place or given instruction for other protective actions;

D. The city manager may prohibit or restrict the sale of alcoholic beverages and the sale of gasoline or other flammable liquids;

E. The city manager may declare other measures as are imminently necessary under the circumstances for the protection of life or property or to prevent or minimize danger to lives or property;

F. The city manager may comply with the requirements of state and federal emergency management regulations even if they may conflict with any of the provisions of this subchapter.

2.42.090 Violation of measure or order

In addition to any other remedy available under the local, state or federal law, any person violating any of the provisions of this chapter, or any regulations or measures imposed pursuant to a declared emergency under Cannon Beach Municipal Code chapter 2.42, may be punished by a fine of not to exceed five hundred dollars, in the discretion of the city manager, for each violation. Each day is a separate violation. Such fines may be adjudicated in the Cannon Beach Municipal Court.

2.42.100 Authority to enter property

During an emergency declared under Cannon Beach Municipal Code 2.42.060, a city employee or agent may enter onto or upon private property, if the person has reasonable grounds to believe there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto private property will allow the person to take steps to alleviate the emergency and prevent or minimize danger to lives or property from the declared emergency.

2.42.110 Suspension of procurement requirements

When an emergency is declared under Cannon Beach Municipal Code 2.42.060 and consistent with the plan and applicable state law, the city manager is authorized to suspend the applicable public procurement requirements, and, to the extent sufficient funds are available and budgeted, to redirect city funds to pay expenses incurred as a result of responding to the emergency.

2.42.120 Non-liability for emergency services

Under ORS 401.515, during the existence of a declared or undeclared emergency, the city and any employee or agent of the city engaged in any emergency services activity, while complying with or attempting to comply with the plan and ORS Chapter 401 shall not, except in cases of willful misconduct, gross negligence or bad faith, be liable for the death or injury of any person, or damage or loss of property as a result of that activity.