

CHAPTER 1.3 ENFORCEMENT

Section 1.3.10 - RESPONSIBLE OFFICER

This Code shall be administered and enforced by the Director, except that matters relating to Chapters 2.11 - Floodplain Development Permit and 4.5 - Floodplain Provisions may also be administered and enforced by the Floodplain Administrator or designee.

Section 1.3.20 - BUILDING PERMIT

No Building Permit shall be issued by the Building Official for any development unless the Director or Floodplain Administrator or designee, as applicable, has determined that the:

- a. Proposed development complies with the provisions of this Code, including any Conditions of Approval established by the authority of the City Council, the Planning Commission, the Land Development Hearings Board, the Historic Resources Commission, or otherwise authorized by this Code, City Ordinances, or state law;
- b. Proposed development complies with all applicable City ordinances and requirements, including all City-adopted plans such as the Transportation Plan, the public facilities master plans, the Park and Recreation Facilities Plan, etc.;
- c. Proposed development complies with the Building and Fire Codes; and
- d. Required Special or General Development permit(s) have been issued.

It is the applicant's responsibility to ensure that Building Permit applications are consistent with applicable state and federal standards and regulations, such as those of the State Department of Environmental Quality (DEQ), the State Department of State Lands (DSL), etc., that are not regulated by the City through this Code, City ordinances and requirements, and/or Conditions of Approval.

Section 1.3.30 - CERTIFICATE OF OCCUPANCY

No certificate of occupancy shall be issued by the Building Official for any development unless all requirements of this Code have been met, including any Conditions of Approval established by the authority of the City Council, the Planning Commission, the Land Development Hearings Board, the Historic Resources Commission, or otherwise authorized by this Code, City Ordinances, or state law, or until the applicant has provided some written form of assurance acceptable to the Director or Floodplain Administrator or designee, as applicable, and guaranteeing the completion of all requirements.

Section 1.3.40 - NONCOMPLIANCE WITH THE APPROVED DEVELOPMENT PLANS

If the Director or Floodplain Administrator or designee, as applicable, determines that a development substantially differs from the approved plans or the provisions of this Code, including any Conditions of Approval established by the authority of the City Council, the Planning Commission, the Land Development Hearings Board, the Historic Resources Commission, or otherwise authorized by this Code, City Ordinances, or state law, the Director or Floodplain Administrator or designee, as applicable, shall notify the developer and Building Official in writing. Thereafter, the Building Official may issue orders to the developer as are within the range of authority available to the Building Official, and upon continued non-compliance may withhold site development permits and/or Building Permits for further construction or revoke those permits previously issued until compliance is achieved.

Section 1.3.50 - STOP WORK ORDER

Whenever any work is done contrary to the provisions of this Code, including any Conditions of Approval established by the authority of the City Council, the Planning Commission, the Land Development Hearings Board, the Historic Resources Commission, or otherwise authorized by this Code, City Ordinances, or state law, the Director or Floodplain Administrator or designee, as applicable, may order the work stopped by notice in writing served on any persons engaged in the work, and any such persons shall immediately stop such work until authorized by the Director or Floodplain Administrator or designee, as applicable, to proceed.

Section 1.3.60 - VIOLATIONS

Use of land in the City of Corvallis not in accordance with the provisions of this Code, including any Conditions of Approval established by the authority of the City Council, the Planning Commission, the Land Development Hearings Board, the Historic Resources Commission, or otherwise authorized by this Code, City Ordinances, or state law, constitutes a violation. Upon receiving information concerning a violation of this Code, the Director or Floodplain Administrator or designee, as applicable, may conduct an investigation to determine whether a violation exists. The Director or Floodplain Administrator or designee, as applicable, may request the assistance of other City agencies and officers in conducting such investigations.

The Director or Floodplain Administrator or designee, as applicable, may prepare and deliver to the City Attorney a request for prosecution indicating the location and nature of the suspected violation, applicable Code sections, and other information provided by the staff.

1.3.60.01 - Classification of Violation

Violations shall be identified by the Director or Floodplain Administrator or designee, as applicable, under one of the following classifications:

- a. **Type I** - Violations which represent a serious threat to public health, safety, and welfare, or those unapproved actions deemed potentially to create serious adverse environmental or land use consequences as the result of continued development activity; or
- b. **Type II** - Violations which do not pose a serious threat to public health, safety, and welfare, but do violate provisions of this Code, including any Conditions of Approval, as described in Section 1.3.60 above.

1.3.60.02 - Notice of Violation

- a. **Type I** - After receiving a report of an alleged Type I violation, the Director or Floodplain Administrator or designee, as applicable, will determine whether the violation requires that a citation be issued immediately or whether to provide notice of the violation prior to the issuance of a citation. Notice shall be in writing and shall be provided to the owner of record for tax purposes or to the person in charge of the property. Such a notice shall indicate the following:
 - 1. Location and nature of the violation; and
 - 2. Provision or provisions of this Code or Conditions of Approval which allegedly have been violated; and
 - 3. Whether immediate enforcement will be sought or if a specified time period will be allowed to correct or remove the violation.
- b. **Type II** - After receiving a report of an alleged Type II violation from the Director or Floodplain Administrator or designee, as applicable, the City Attorney shall, if he/she determines that probable cause exists, promptly give notice of the alleged violation by certified first-class mail, return receipt requested, or by personal service to the owner of record for tax purposes and to the person in charge of the property. Such a notice shall indicate the following:
 - 1. Location and nature of the violation; and

2. Provision or provisions of this Code or Conditions of Approval which allegedly have been violated; and
3. Whether immediate enforcement shall be sought or if 15 days will be allowed to correct or remove the violation; and
4. The date when the notice was personally served or, if the notice was sent by first-class mail, the date three days after mailing if the address to which it was mailed is within this state and seven days after mailing if the address to which it was mailed is outside this State. However, a defect in the notice of violation with respect to this notice delivery provision shall not prevent enforcement of this Code.

1.3.60.03 - City Attorney to Pursue Enforcement

When the compliance deadline expires, the City Attorney shall proceed with any legal or equitable action deemed appropriate unless:

- a. It has been demonstrated to the City Attorney that the violation has been corrected, removed, or will not be committed; or
- b. A court of competent jurisdiction has halted enforcement pending the outcome of a proceeding concerning the violation.

1.3.60.04 - Penalties

Code violations may be subject to criminal, civil, or other sanctions authorized under ordinance of the City.

- a. **Criminal Penalties** - Unless specified otherwise, every violation of the terms of this Code is a Class A infraction, punishable by a fine of up to \$500.00. Each day such violation continues shall be considered a separate offense. Sign Code violations are addressed in Chapter 4.7- Sign Regulations.
- b. **Civil Penalties and Remedies** - In addition to, or in lieu of, criminal actions, a violation of this Code or a permit issued hereunder may be the subject of a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement. Sign Code violations are addressed in Chapter 4.7- Sign Regulations.

1. The Director or Floodplain Administrator or designee, as applicable, is authorized to impose a civil penalty of up to \$1,000.00 for any violation of this Code.
2. In imposing a penalty amount pursuant to the schedule authorized by this section, the Director or Floodplain Administrator or designee, as applicable, shall consider the following factors:
 - a) The history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;
 - b) Any prior violations of statutes, rules, orders, and permits pertaining to development regulations;
 - c) The economic and financial conditions of the person incurring a penalty;
 - d) The gravity and magnitude of the violation,
 - e) Whether the violation was repeated or continuous; and
 - f) Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act.
3. Imposition and enforcement of civil penalties is not an exclusive remedy, but shall be in addition to any other procedures or remedies provided by law. Imposition or payment of a civil penalty under this section shall not bar any criminal proceeding authorized under this ordinance.
4. A civil penalty shall be imposed under this section by issuance of a notice of penalty. A civil penalty may be imposed for each 30 days the condition continues. The notice of penalty shall be provided in the manner as described under "5," below.
5. Any civil penalty imposed under this section shall become due and payable when the notice of penalty is served upon the person incurring the penalty. Service shall be by personal service or by certified mail, return receipt requested, to the last known address of the person incurring the penalty. The notice of penalty shall include a:
 - a:

- a) Reference to the particular provision or law violated;
 - b) Statement of the matters asserted or charged;
 - c) Statement of the amount of the penalty or penalties imposed;
 - d) Statement of the owner's right to appeal the penalty; and
 - e) Statement that if the penalty is not paid within the time required under "10," below, the penalty and any costs of service and recording fees shall be recorded by the City Recorder in the City Lien Docket and shall become a lien on the property of the person incurring the penalty.
6. If the notice of penalty is returned to the City without service upon the named person, the Director or Floodplain Administrator or designee, as applicable, shall post a notice of penalty on the premises where the violation has occurred. The notice shall be posted so as to be visible from the public right-of-way and shall be delivered to a person, if any, occupying the premises. The posted notice shall be affixed to the premises and shall also indicate that tampering or removal of the notice shall constitute a misdemeanor.
 7. The person to whom the notice of penalty is issued shall have 20 days from the date of service of the notice in which to appeal the penalty before the municipal judge, after which time the notice of penalty becomes a final order. The appeal shall be as provided in "8," and "9," below.
 8. Any appeal shall be in writing and signed by the person against whom the penalty has been assessed or the attorney for that person. The appeal shall state the grounds of the appeal. The appeal shall be accompanied by a deposit in the amount of the civil penalty assessed and an appeal fee of \$50.00. The appeal shall be filed with the municipal court and served upon the City Attorney. Failure to comply with these provisions shall result in the appeal's dismissal.
 9. The only issues to be decided by the municipal judge are determinations of whether the condition of the property was as alleged in the notice of penalty and if so, whether that condition violated this Code. If the judge finds that the alleged condition existed at the time and date specified on the notice of penalty, and that the condition

violated this Code, the municipal judge shall issue an order affirming the penalty. The order shall contain a provision for court costs to be paid by the violator in the amount of \$100.00. If the judge finds that the condition alleged in the notice of penalty did not exist at the time and date specified on the notice, the municipal judge shall void the notice of penalty. The order voiding the notice of penalty shall provide for return of the deposit, including the appeal fee. The judge's order is final.

10. Unless the amount of penalty imposed under this Section is paid within 10 days after the notice of penalty or the order becomes final by operation of law or after appeal, the order shall constitute a lien on the owner's subject property and shall be recorded in the City Lien Docket. Where the service has been made by certified mail or other means providing a receipt, the returned receipt shall be attached to and made a part of the recorded order. The penalty and any added costs imposed by the order become a lien upon the real property. That lien shall have priority over all other liens and encumbrances of any form. The lien shall accrue interest at the rate applicable for municipal assessment liens from the date of docketing until clearance. The lien may be foreclosed on and the property sold as may be necessary to discharge the lien in the manner specified in ORS 223.505 through 223.650, as amended.
11. Any lien for a civil penalty shall be released when the full amount determined to be due has been paid to the City, the owner or person making such payment shall receive a receipt stating that the full amount of penalties, interest, recording fees, and service costs have been paid, and that the lien is thereby released and the record of the lien satisfied.

1.3.60.05 - Tampering with Official Notices.

- a. No person shall remove or tamper with a notice posted on property pursuant to the provisions of this chapter unless authorized by the Director or Floodplain Administrator or designee, as applicable.
- b. A violation of this provision shall be a Class "C" misdemeanor.

