



# Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Building Codes Division

1535 Edgewater Street NW

P.O. Box 14470

Salem, OR 97309-0404

503-378-4133

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oregon.gov/bcd

August 22, 2016

**To: INTERESTED PARTIES**

**From: BRETT SALMON, MANAGER  
POLICY AND TECHNICAL SERVICES**

**Subject: CLATSOP COUNTY FEE ADOPTION**

The State Building Codes Division (division) has received the enclosed notice of intent to adopt building inspection program fees from the above listed municipality. Pursuant to Oregon Administrative Rule 918-020-0220, municipalities seeking to adopt fees are required to provide the following summary information 45 days prior to the proposed adoptive date.

- (A) The affected specialty code or program areas;
- (B) A description of the proposed building inspection program fees including the approximate percentage change when applicable;
- (C) The proposed effective date;
- (D) The date of the last fee increase in the specialty code or program area if applicable;
- (E) The anticipated date, time and location of the local municipal hearing scheduled pursuant to Oregon Revised Statute (ORS) 294.160;
- (F) The name, phone number, and title of a contact person; and
- (G) A narrative explaining the purpose of the proposed fee adoption.

The division is required to notify interested parties after receiving a notice of intent to adopt building inspection program fees from a municipality. Enclosed is the information the municipality provided to the division pursuant to the above administrative rule requirements.

If you have concerns about this proposed fee change, you may contact the municipality directly by contacting David Kloss, Building Official, 503-338-3697, [dkloss@co.clatsop.or.us](mailto:dkloss@co.clatsop.or.us) or attend the local municipal hearing on October 12 and 26, 2016, Guy Boyington Bldg, 857 Commercial St., Astoria, OR 97103. If you still have unresolved concerns, you may appeal this fee adoption (pursuant to ORS 455.210(3) and 479.845) by sending a written request to the division within 60 days of the municipality's letter of notice to the division.

cc: CLATSOP COUNTY



## Clatsop County Building Codes

800 Exchange Street, Suite 100  
Astoria, Oregon 97103  
[comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us)

Phone 503 338-3697  
Fax 503 338-3666  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)

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August 19, 2016

Brett Salmon, Manager  
Policy and Technical Services  
Oregon State Building Codes Division  
P.O. Box 14470  
1535 Edgewater Street NW  
Salem, Oregon 97309-0404

**RE: Notification of Proposed Building Division Fee Adoption for Clatsop County**

Dear Mr. Salmon,

In accordance with OAR 918-020-0220 (1) (a) the Clatsop County Building Codes Division is providing this 45 calendar day notice to the Oregon State Building Codes Division of its intention adopt new civil penalty amendments to Clatsop County Chapter 15.04.

918-020-0220 (1) (a) (A) The affected code programs:

All code disciplines will be affected by this adjustment; Structural, Mechanical, Plumbing, Electrical, Manufactured Dwellings, RV Parks/Camps, and the Master Permit Electrical program.

918-020-0220 (1) (a) (B) and (C) Description of proposed fee and effective date:

The Clatsop County Code Chapter 15.04 is being amended to include civil penalties for violations of the building code pursuant to ORS 445.895.

918-020-0220 (1) (a) (D) Date of last increase:

The amendment to Clatsop County Code Chapter 15.04 does not raise existing fees. The proposed amendments provide for the assessment, appeal, and collection of monetary penalties for building code violations.

918-020-0220 (1) (a) (E) Anticipated date and location of public hearing:

A public hearing of the proposed amendments will be held on October 12, 2016 and October 26, 2016 by the Clatsop County Board of Commissioners. The hearing will be at the following location:

Guy Boyington Building  
857 Commercial St.  
Astoria Oregon 97103.

918-020-0220 (1) (a) (F) Name and contact information:

Contact Person:

David D. Kloss  
Clatsop County Building Official  
800 Exchange St.  
Astoria, Oregon 97103  
503-338-3697

918-020-0220 (1) (a) (G) Purpose of proposed fee adoption:

The proposed amendment to Clatsop County Chapter 15.04 contains provisions to assess civil penalties in the case of building code violations pursuant to ORS 455.895. The amendment also provides a process for appeal and collection of civil penalties.

Respectfully,



**David D. Kloss, C.B.O., M.C.P.**

CERTIFIED BUILDING OFFICIAL  
MASTER CODE PROFESSIONAL  
CLATSOP COUNTY  
800 EXCHANGE ST., SUITE 100  
ASTORIA, OREGON 97103  
PHONE: (503) 338-3697 EXT. 1711  
[DKLOSS@CO.CLATSOP.OR.US](mailto:DKLOSS@CO.CLATSOP.OR.US)  
[WWW.CLATSOP.OR.US](http://WWW.CLATSOP.OR.US)

*CLATSOP COUNTY'S MISSION:  
NEIGHBOR TO NEIGHBOR SERVING CLATSOP COUNTY  
WITH INTEGRITY, HONESTY, AND RESPECT.*



#### 15.04.305 Monetary Penalties

It is unlawful for any person to violate any of the codes, regulations or provisions adopted by reference or referred to in this Code. The following provisions shall apply to the assessment of monetary penalties for building code violations:

##### A. Violations, Penalties, and Remedies.

1. Violation of a provision of the Clatsop County building code shall be subject to an administrative civil penalty not to exceed \$5,000 for a single violation or \$1,000 per day for a continuing violation and shall be processed in accordance with the administrative procedures set forth in this article.
2. Each day that a violation of a provision of the Clatsop County building code exists constitutes a separate violation.
3. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available to the county under any ordinance, statute or law.

B. Building Official – Authority to Assess Administrative Civil Penalty.

1. Upon a determination by the building official that any person, firm, corporation or other entity however organized has violated a provision of the Clatsop County building code, the building official may issue a notice of civil violation and assess against the violator and/or any other responsible person an administrative civil penalty as provided in this section. For purposes of this article, 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.
  
2. Prior to issuing a notice of civil violation and assessing an administrative civil penalty under this section, the building official shall issue an order to correct the violation to one or more of the responsible persons. Except where the building official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than 10 calendar days.
  
3. Following the date or time by which the correction must be completed as required by the order to correct the violation, the building official shall determine whether the 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 assess an administrative civil penalty to each responsible person to whom an order to correct was issued.
  
4. Notwithstanding subsections (B)(2) and (3) of this section, the building official may issue a notice of civil violation and assess an administrative civil penalty without having issued an order to correct violation or making attempts to secure voluntary correction where the building official determines that the violation was knowing or intentional or a repeat of a similar violation.
  
5. In assessing an administrative civil penalty authorized by this section, the building official shall consider:
  - a. The person’s past history in taking all steps necessary or appropriate to correct the violation;
  - b. Any prior violations of the Clatsop County building code;
  - c. The gravity and magnitude of the violation;
  - d. Whether the violation was repeated or continuous;
  - e. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act.
  
6. Any notice of a civil violation that assesses an administrative civil penalty under this section shall either be served by personal service or shall be sent by certified mail and by first class mail. Any notice served by mail shall be deemed received for the purposes of any time computations 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:
  - a. Reference to the particular building code provision involved;
  - b. A short and plain statement of the basis for the violation and any other relevant facts;
  - c. A statement of the amount of the penalty assessed;
  - d. If the penalty is assessed pursuant to subsection (B)(5) of this section, a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated; and

- e. A statement of the party's right to appeal the civil penalty to the Clatsop County hearings officer; a description of the process the party may use to appeal the civil penalty; and the deadline by which an appeal must be filed.
7. Any person, firm, corporation or other entity however organized that is issued a notice of civil penalty may appeal the penalty to the hearings officer. The provisions of subsection (C) of this section shall govern appeals.
8. A civil penalty assessed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the hearings officer pursuant to, and within the time limits, established by subsection (C) of this section.

C. Appeal Procedures.

1. A person, firm, corporation or other entity however organized may, within 15 days after receiving notice of the assessment of a monetary penalty, appeal in writing to the hearings officer. The appeal shall be filed in the offices of the Clatsop County Building Codes Division, accompanied by a \$25.00 appeal fee, and shall include:
  - a. The name and address of the appellant;
  - b. The nature of the determination being appealed;
  - c. The reason the determination is incorrect; and
  - d. What the correct determination of the appeal should be.
2. An appeal shall be heard by hearings officer within a reasonable time of the receipt of the notice of intent to appeal. At least 10 days prior to the hearing, the county shall mail notice of the time and location thereof to the appellant.
3. The hearings officer shall hear and determine the appeal on the basis of the appellant's written statement and any relevant additional evidence submitted. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The building official may appear with or without counsel or through the building official's designee. The building official may present testimony and oral argument personally or by counsel. The burden of proof shall be on the building official by a preponderance of the evidence. The rules of evidence as used by courts of law do not formally apply.
4. The hearings officer shall issue a written decision within a reasonable time of the hearing date. The written decision of the hearings officer is final.
5. The building official is authorized to collect an awarded penalty by any administrative or judicial action or proceeding authorized by subsection (D) of this section, other provisions of the Clatsop County Code, or state statutes.

D. Unpaid Penalties.

1. An administrative penalty is final if not appealed within the time period set forth in subsection (C)(1) of this section or if appealed, upon issuance of the hearings officer's order. Failure to pay an administrative penalty assessed pursuant to this article within 10 days after the penalty becomes final shall constitute a violation of the Clatsop County building code. Each day the penalty is not paid shall constitute a separate violation.
2. If an administrative civil penalty is affirmed on appeal and the penalty remains unpaid 60 days after the penalty becomes final, the hearings officer's order may be recorded with the Clatsop County clerk or any other county clerk of this state. The total amount of civil penalties, costs or fees owing

pursuant to that order shall be recorded as a lien in the county clerk lien record. The cost of recording the hearings officer's order shall be added to the total amount of civil penalties, costs and fees owing.

3. In addition to any other remedy provided by law, a hearings officer's order recorded in the county clerk lien record pursuant to subsection (D)(2) of this section shall have the same effect and may be enforced as provided in ORS 205.125 and 205.126.4. In addition to enforcement mechanisms authorized elsewhere in the Clatsop County Code, failure to pay an administrative civil penalty assessed pursuant to this article shall be grounds for withholding issuance of requested permits, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.15.04.310. (Ord. 16-07)

#### **15.04.310 Other Remedies.**

- A. It is unlawful for any person to violate any of the codes, regulations or provisions adopted by reference or referred to in this Code. Violation of this chapter and any specialty code or building code administered by the County pursuant to ORS 455.153 is a public nuisance under Chapter 8.04.
- B. The County Building Official is designated and shall be deemed an "enforcement officer" within the meaning of ORS 153.005 for purposes of enjoining this ordinance.
- C. In addition to a monetary penalty in any case anywhere a building or structure is, or is proposed to be, erected, constructed, reconstructed, altered, maintained or used, or is proposed to be used in violation of this Code or any amendment thereto, the Clatsop County Board of Commissioners, or the County Counsel's office may in addition to other remedies provided by law, institute injunction, mandamus, abatement, code enforcement under Chapter 1.12 of this Code, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the unlawful erection, construction, reconstruction, alteration, maintenance or use. (Ord. 16-07, Ord. 13-04 §3; Ord. 03-04)