

**CITY OF FLORENCE
ORDINANCE NO. 13, SERIES 2022**

**AN ORDINANCE AMENDING TITLE 4 CHAPTER 1 OF THE FLORENCE CITY CODE
REGARDING BUILDING CODES, IMPLEMENTING SB 866 AND OREGON BUILDING
CODES DIVISION RULE CHANGES**

RECITALS:

1. Senate Bill 866 (2021) provided direction for municipalities that contract for building services resulting in a need for changes in the Florence City Code.
2. The state under ORS 455.020 provides the authority for a municipality to enact regulations to address local administration items beyond the scope and authority of the State's specialty codes such as stop work orders, abatement of dangerous buildings.
3. The City performed a code audit to comply with the applicable ORS and OAR requirements
4. The City wishes to bring its Code into compliance with these new statutory and administrative requirements.

Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

1. FCC 4-1 is hereby amended as shown in Exhibit A
2. In accordance with the Florence Charter, this ordinance takes effect 30 days after adoption.
3. The City Recorder is authorized to administratively correct any reference errors contained herein or in other provisions of the Florence City Code to the provisions added, amended, or repealed herein.

ADOPTION:

First Reading on 12th day of December, 2022.

Second Reading on 3rd day of January, 2023.

This Ordinance is passed and adopted on the 3rd day of January, 2023.

AYES	5	Mayor Henry	Councilors Woodbury, Wantz, Meyer, Ward
NAYS	0		
ABSTAIN	0		
ABSENT	0		



Joe Henry, Mayor

Attest:



Lindsey White, City Recorder

**TITLE 4
CHAPTER 1**

BUILDING REGULATIONS

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4-1-1-1: Title

This title shall be known as the “building code,” and may be so cited and pleaded and is referred to herein as “this title”.

4-1-1-2: Severability

If any section, paragraph, subdivision, clause, sentence, or provision of this title shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this title or this code, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this title notwithstanding the parts to be declared unconstitutional and invalid.

4-1-1-3: Purpose

The purpose of this title is, consistent with available resources, to establish uniform performance, minimal standards, enforcement procedures, and administrative standards in order to provide reasonable safeguards for the health, safety, welfare, comfort and security of

the residents of this jurisdiction, and to provide for the use of modern methods, devices, materials, techniques, practicable maximum energy conservation standards, and fire and life safety features in the construction and use of structures.

4-1-1-4 Scope

This title shall apply to new and existing construction and premises, and construction-related activities including, but not limited to, installation of: electrical, plumbing, mechanical, energy, grading, accessibility (disability access), alteration, moving, demolition, repair, maintenance, fire and life safety, and work associated with any building, structure, premises, property, or license regulated by this title, mandated under any of the Oregon Specialty Codes, rules, or statutes, and/or regulated by various other codes of the City of Florence, including zoning or land use regulations. The City of Florence enforces the State Building Code as per ORS Chapter 455 and the rules adopted thereunder.

Pursuant to ORS 455.020(4) and adopted by local ordinance, the scope of the State Building Code has been amended to include the following items which shall require permits, plan review and inspections pursuant to this title and the State Building Code.

Additional Local Authority

Pursuant to ORS 455.020, the City of Florence has the authority to regulate additional items as listed in the Oregon Residential Specialty Code and the Oregon Structural Specialty Code including requiring permits per Section x.005, plan review and inspections. The construction standards of the respective building code shall be applicable.

In addition to the requirements of the State Building Code, the City of Florence shall hereby regulate the following items:

A. Structures and items relative to the scope of, and identified in Section R101.2.2 of, the Oregon Residential Specialty Code:

1. Fences constructed of wood, wire mesh or chain link that are more than 7 feet (2134 mm) in height and fences constructed of materials other than wood, wire mesh or chain link that are over 6 feet (1828 mm) in height.
2. Retaining walls that;
 - a. Are over 4 feet (1219 mm) in height, when measured from the bottom of the footing to the top of the wall; or,
 - b. Where the retaining wall supports ascending slopes exceeding 3:1; or,
 - c. Where the retaining wall supports a non-soil surcharge.
3. Freestanding radio television and other telecommunication antennae and towers, not attached to or supported by a regulated building.
4. Ground-mounted photovoltaic systems.
Exception. A permit is not required where these structures are 10 feet (3048) or less in height measured to the highest point of the installation and no public access is permitted beneath the structures.
5. Tanks that are located exterior to and not attached to or supported by a regulated building.

Exception: Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.

6. The design and construction of in-ground swimming pools accessory to detached one- and two-family dwellings, and individual townhouse dwelling units.
7. Abatement of nuisances and dangerous buildings in accordance with this title.

B. Structures and items relative to the scope of, and identified in Section 101.2 of, the Oregon Structural Specialty Code:

1. Cellular phone, radio, television and other telecommunication and broadcast towers that are not attached to or supported by a regulated building
2. Signs not attached to or supported by a regulated building
3. Abatement of nuisances and dangerous buildings in accordance with this title.
4. Demolition.
5. Retaining walls that;
 - a. Are over four (4) feet in height measured from the bottom of the footing to the top of the wall; or,
 - b. That support a surcharge or impound Class I, II or IIIA liquids.
6. Fences constructed of wood, wire mesh or chain link that are more than 7 feet (2134 mm) in height and fences constructed of materials other than wood, wire mesh or chain link that are over 6 feet (1828 mm) in height.
7. Tanks.

Exception: Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1
8. Cellular phone, radio, television and other telecommunication and broadcast towers, in compliance with federal law.
9. Flagpoles, antennae and similar items that exceed 25 feet in height.
10. Structural aspects of signs not attached to or supported by a regulated building

4-1-1-5: Conflicting provisions

Where, in any specific case, different sections of this title specify different materials, methods of construction or other requirements, the most restrictive shall govern, except in cases where the minimum/maximum provisions of the State Building Code apply. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

4-1-1-6: Codes

- A. State Building Code. The provisions of the State of Oregon Building Code, as provided in ORS 455.010, are hereby adopted by reference. The State Building Code is on file in the Community Development Department of the City of Florence.

B. Dangerous Building Code. Except as modified in subsection (1) of this section, the city of Florence adopts, administers, and enforces the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, by the International Conference of Building Officials (UCADB), a copy of which is on file and available for reference with the city building official.

1. Local Amendments to the UCADB.

- a) The following supplementary definitions are added:
 - Board of Appeals. Board of appeals established by this title.
 - Clerk. The city recorder of the city of Florence.
 - Director of Public Works. Includes contract city engineers for the city of Florence.
 - Health Official. The County sanitarian or other designee.
- b) UCADB, Chapter 4, Section 403, Section 1.3 is not an available remedial option for a building declared to be dangerous under this code, except that any repair order (Section 1.1) or demolition order (Section 1.2) of the building official may require a premises to be secured and maintained against entry during the period when repair is authorized or prior to scheduled demolition.
- c) All references in the UCADB to the "Building Code" shall mean the applicable Oregon State Building Code in effect, including all currently enforced specialty codes or, when the context requires, the applicable predecessor code.
- d) Notwithstanding Section 401.2.5 of the Uniform Code for the Abatement of Dangerous Buildings as adopted by subsection (A) of this section, the time period for appeals from notices, orders, or actions of the building official shall be 10 days.

2. Unsafe Buildings.

- a) All buildings or structures regulated by this code which are unsafe under the terms of the Uniform Code for the Abatement of Dangerous Buildings are hereby designated as unsafe buildings, structures, or appendages.
- b) All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this chapter and the Uniform Code for the Abatement of Dangerous Buildings 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, secure, correct or abate the violation.
- c) Appeals of dangerous building determinations/declarations, or determinations/declarations of a nuisance in subsection (C)(2) of this section, shall be appealed to the board of appeals as specified in this chapter.

C. Said volumes and all subsequent editions of these codes, including all amendments, are hereby incorporated in this title by reference.

4-1-1-7: Definitions

In addition to definitions provided in the applicable building codes, for the purpose of this title, the following definitions shall apply:

(1) "Approved" means approved by the Building Official.

- (2) "Building Official" shall mean the Florence Contract Building Official or Deputy thereof, with powers granted by ORS 455.153.
- (3) "Building service equipment" means all support systems/equipment such as piping, ducts, vents, and other components of systems other than portable appliances that are permanently in place to serve the building.
- (4) "Certificate of occupancy" means a certificate of approval issued by the Building Official, as required by the applicable code, after all provisions of the building code, laws, codes and conditions of approval enforced by the Building Official are met for a building intended for occupancy.
- (5) "Enforcement action" means an action in which an order to correct has been issued, or which seeks or results in a civil penalty.
- (6) "Imminent danger" or "imminent hazard" means a condition which could cause serious or life-threatening injury or death at any time.
- (7) "Nonconforming" means any building, premises, or structure which lawfully existed prior to the effective date of the ordinance codified in this code, but which, due to the requirements adopted herein, no longer complies with one or more provisions of this code.
- (8) "Operating plan" means a state-mandated document, as required by OAR 918-020-0080, created and maintained by the Building Official, that outlines policies, procedures, rules, timelines, hours of operation and general administrative procedures describing the operation of the building division.
- (9) "Public way" means any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.
- (10) "State Building Code" means all of the combined specialty codes together, including the electrical, plumbing and mechanical codes, as provided in ORS 455.010(8).

4-1-1-8: Alternate materials and methods

A. The provisions of this title are not intended to prevent the use of any alternate material, design or method of construction not specifically prescribed by this title, provided such alternate material, design, or method 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 and intent of this title and that it is, for the purpose intended, at least the equivalent of that prescribed in this title in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

C. The Building Official may require that evidence or proof be submitted to substantiate any claims that may be made regarding the use of such alternate material, design, or method. The details of any approval of any alternate material, design, or method shall be recorded and entered in the files of the City.

4-1-1-9: Modifications

When there are practical difficulties in carrying out the provisions of the technical codes or this title, the Building Official may grant modifications for individual cases, provided the Building Official finds that the modification is in conformance with the intent and purpose of the technical codes or this title and that said modification does not lessen any health, life safety, or fire-protection requirements, nor any degree of structural integrity.

4-1-1-10: Tests

A. Whenever there is insufficient evidence of compliance with the provisions of this title or the technical codes, or that any material, method or design does not conform to the requirements of this title or the technical codes, the Building Official may require tests or engineering reports as proof of compliance to be made at no expense to this jurisdiction.

B. Test methods shall be as specified by this title, the technical codes, 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 a testing agency approved by the Building Official. The Building Official shall retain reports of such tests for the period required for the retention of public records.

4-1-1-11: Authority to Impose Civil Administrative 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 these subsections (A) through (M) 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.

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. 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. Except where the building official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time provided for correction shall be not less than five calendar days.

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 satisfactorily 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 person to whom an order to correct was issued.

E. Notwithstanding subsections (B) and (C) of this section, 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:

- a. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
- b. Any prior violations of statutes, rules, orders, and permits;
- 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;
- f. The violator's cooperativeness and efforts to correct the violation; and
- g. Any relevant rule of the building official.

G. A notice of a civil violation that imposes an administrative civil penalty under this section shall be served by personal service, or sent by registered or certified mail and by first class mail. A notice served by mail shall be deemed received 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 code provision, ordinance number, or rule involved;
- b. A short and plain statement of the matters asserted or charged;
- c. A statement of the amount of the penalty or penalties imposed; 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 (A)(E) of this section, a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated; and
- d. A statement of the party's right to appeal the civil penalty to the building board of appeals, or if the building board of appeals lacks sufficient members to constitute a quorum, to the city manager or the city manager's 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 that is issued a notice of civil penalty may appeal the penalty to the building board of appeals, or if the building board of appeals lacks sufficient members to constitute a quorum, the city manager or the city manager's designee.

I. A civil penalty imposed under this section shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the building board of appeals, or if the building board of appeals lacks sufficient members to constitute a quorum, to the city manager or the city manager's designee pursuant to, and within the 15-day time limit established by appeals procedures.

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

K. Failure to pay a penalty imposed hereunder within 10 days after the penalty becomes final (i.e., upon expiration of the time to appeal) shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The building official also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by this chapter or other provisions of this code, or state statutes. The civil administrative penalty authorized by this section shall be in addition to:

- a. Assessments or fees for any costs incurred by the city in remediation, cleanup, or abatement; and
- b. Any other actions authorized by law; provided, that the city may not issue a citation to municipal court for a violation of this chapter.

L. 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 30 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 municipal lien docket. 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 municipal lien docket. The lien shall be enforced in the same manner as liens established by city council pursuant to this chapter. The interest shall commence from the date of entry of the lien in the lien docket.

M. 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.

4-1-2: Permits

4-1-2-1 Permits – Generally

It is unlawful for any person, firm or corporation to engage in any work, conduct, or activity for which a permit, certificate, label, or other formal authorization is required by this title or other regulation without first obtaining such permit, certificate, label, or other formal authorization. Permits are required for any work that is regulated under the State Building Code as per ORS Chapter 455 and the rules adopted thereunder, as well as any work, activity, use, or review required by any code, policy, or procedure within this jurisdiction that is enforced by the Building Official, which may include occupancy reclassifications, grading, signs, demolition, new parking lots, regrading and parking lot resurfacing/stripping, or land use activity regulated by the Florence Municipal Code or development code.

4-1-2-2: Application for a building permit

A. To obtain a permit, the applicant shall first apply to the City of Florence Building Division. Every such application shall:

- (1) Identify and describe the work to be covered by the permit for which application is made;
- (2) Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work;
- (3) Indicate the use or occupancy for which the proposed work is intended;
- (4) Be accompanied by plans, diagrams, computations and specifications, and other data as required in this chapter;
- (5) State the valuation of any new building or structure, or any addition, remodeling, or alteration to an existing building;
- (6) Be signed by the owner, or the owner's authorized agent;
- (7) Provide plans showing all rights-of-way, setbacks, easements, covenants, and other such interests in the land that may be impacted by construction; and
- (8) Give such other data and information as may be required by the Building Official.

4-1-2-3 Submittal documents

A. Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs, and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for a permit. When such plans are not prepared by an architect or engineer, the Building Official may require the applicant submitting such plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer. The Building Official may require

plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law.

B. The Building Official may waive the submission of plans, calculations, construction inspection requirements, and other data if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this title.

4-1-2-4 Permit issuance

A. The application, plans, specifications, computations and other data filed by an applicant for permit shall be reviewed by the Building Official or his/her designee. 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 an application for a permit and the plans, specifications, and other data filed therewith conform to the requirements of this title and the technical codes and other pertinent laws and ordinances, and that the applicable fees have been paid, the Building Official shall issue a permit therefor to the applicant.

B. When the Building Official issues a permit where plans are required, the Building Official shall endorse in writing or stamp the plans and specifications "REVIEWED" Such plans and specifications shall not be changed, modified, or altered without authorization from the Building Official, and all work regulated by this title shall be done in accordance with the approved plans.

4-1-2-5 Deferred submittals and phased construction

A. Deferred submittal of plans and phased construction may be permitted, subject to the approval of the Building Official, when the deferred submittals or phasing of construction is not likely to result in mistakes, faulty construction, or violation of any local or state codes or laws. Requests for deferred submittals must be in writing, noted on the construction documents and noted on the deferred submittal form. Construction associated with phased, partial, or deferred submittals and permits shall be done at the permit holder's risk.

B. 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 title. If the holder of a partial permit elects to proceed, he/she shall do so without assurance that the permit for the entire building or structure will be granted.

C. Additional costs for partial permits and/or deferred submittals shall be in accordance with the fee schedule and charged to the permit applicant at the time of initial permit issuance.

4-1-2-6 Retention of plans, permits and documentation

One set of approved plans, specifications, computations, and permits shall be retained by the Building Official and shall be stored and retained as required by the State Archivist. One set of approved plans and specifications shall be returned to the applicant, and said set shall be kept in good order and in clean, legible condition on the site of the building or work at all times, and available to the inspector, during which the work authorized thereby is in progress. If the applicant needs additional copies of approved plans, the Building Official may review and approve additional copies, charging the applicant the review cost plus overhead charges for providing the additional plan copies.

4-1-2-7 Validity of permit

A. The issuance 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 provisions of this title

or of any other code of the jurisdiction, or any other federal, state, or local law, statute, rule, regulation, or code. Permits presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

B. 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, requiring additional engineering data, or from preventing building operations being carried on thereunder when in violation of this title or of any other codes of this jurisdiction.

4-1-2-8 Expiration of plan review application

Applications for which no permit is issued within 180 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 discarded by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days upon written 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, unless expressly authorized by the Building Official. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee. When an applicant applies for concurrent plan review, the applicant assumes the responsibility and risk of obtaining all approvals required by other departments within the 180-day period.

4-1-2-9 Permit expiration

A. Every permit issued by the Building Official, under the provisions of this title and the technical codes, shall expire by limitation and become null and void 180 days from the date of such permit issuance if the building or work authorized by such permit is not commenced, or pursuant to any time limits designated by conditions of approval, or after the building or work authorized by such permit is suspended or abandoned for 180 consecutive days at any time after the work is commenced. 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.

B. Any permittee holding an unexpired permit may apply to the Building Official 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 180 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, unless expressly authorized by the Building Official.

C. Where a permit has expired, the permit may be reinstated and the work authorized by the original permit can be recommenced, provided the original permit expired less than one year from the request to reinstate.

D. The fee for a reinstated permit shall be one-half the amount required for a new permit plus any costs incurred as a result of investigations. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees and review, shall be required.

4-1-2-10 Investigation

A. Whenever any work for which a permit is required by this title or the technical codes has been commenced without first obtaining said permit, an investigation shall be made before a

permit may be issued for such work. This investigation is subject to the fees described below, and may or may not result in a penalty.

B. The Building Official may require an investigation in order to ascertain whether a party is in possession of a state license, and/or is in compliance with other state-mandated requirements.

C. Unless waived by the Building Official, an investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The amount of the investigation fee shall be in accordance with the fee schedule.

4-1-2-11 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 unless specifically requested by the owner, in writing, and approved by the Building Official. Electrical permits are not transferable.

4-1-2-12 Suspension/revocation

The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this title and the technical codes 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 state or local statute, code, or regulation, or if the permittee violates any term or condition of the permit or this title.

4-1-3: Inspections

4-1-3-1 Inspections – Generally

A. Construction or work for which a permit is required shall be subject to inspection by the Building Official and the construction or work shall remain accessible and exposed for inspection purposes until approved by the Building Official. In addition, certain types of construction shall have special or continuous inspection as specified in the State Building Code.

B. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this title or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this title or of other ordinances of the jurisdiction shall not be valid.

C. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes and shall ensure that the reviewed construction documents are on site and available for the inspector. Neither the Building Official nor this jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

D. A survey of the lot may be required by the Building Official to verify that the structure is located in accordance with the approved plans.

4-1-3-2 Inspection requests

A. It shall be the duty of the person doing the work authorized by a permit to notify the Building Official that such work is ready for inspection, and to make provision for access during normal business hours. Inspection requests shall be requested at least one working day before such inspection is desired and in accordance with the specific times described in the Operating Plan.

B. It shall be the duty of the person requesting any inspections required by this title to provide safe access to and means for inspection of such work, including any and all required special equipment, tools, ladders, belts, clothes, or other protective equipment or devices.

C. 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, to 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.

D. 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, if required, such as to allow the Building Official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained at the worksite in good order and in clean, legible condition by the permit holder until final approval has been granted by the Building Official.

4-1-3-3 Inspections required

A. All construction or work for which a permit is required shall be subject to inspection by the Building Official and all such construction or work shall remain accessible and exposed for inspection and test purposes until approved by the Building Official. The address must be posted. No work shall be covered until approved and signed off for that stage of the project or work.

B. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes including providing any necessary ladders, walkways, lighting, carpet runners for protection of carpet or other equipment necessary for safe access and inspection. Neither the Building Official, deputies nor the jurisdiction shall be liable for expense entailed in the removal, cleaning or replacement of any equipment or material required to allow inspection.

C. Inspection and approval by the Building Official is not to be construed as relieving the permit holder of his/her responsibility to correct any deficiencies that are later discovered, even though they may have existed at the time of the original inspection and approval.

D. Unless waived by the Building Official, a survey of the lot and the placing of, or revealing of, property pins shall be required to verify that the structure is located in accordance with the approved plans.

4-1-3-4 Re-inspections

A. A re-inspection fee, in accordance with the fee schedule, may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

B. A re-inspection fee may be assessed when the inspection record card is not posted or is otherwise unavailable on the work site, when the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, when the address for the site is not posted, or for deviating from plans requiring the approval of the Building Official.

C. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid, unless authorized by the Building Official.

4-1-3-5 Inspection record card

It is the responsibility of the permit holder to post or otherwise make available an inspection record card, such as to allow the Building Official to conveniently make the required entries thereon regarding inspection results of the work at the time of the inspection. It is the

responsibility of the permit holder to refer to this card for the status of the inspections. This card shall be maintained at the worksite in good order and in clean, legible condition by the permit holder until final approval has been granted by the Building Official.

4-1-3-6 Other inspections

In addition to the called inspections specified above, the Building Official may make or require other inspections of any construction work to ascertain compliance with the provisions of this title and other laws which are enforced by the City.

4-1-3-7 Special inspections and Structural Observations

Special inspections and Structural Observations shall be conducted as required by the State Building Code. Additional special inspections and/or structural observations may be determined necessary and required by the Building Official. Special inspectors are required to be approved by the Building Official prior to any inspections. All special inspections shall be conducted prior to the regular and corresponding city inspection. It shall be the responsibility of the permit holder to ensure that the results of the special inspection are made available to the Building Official and the city inspector at the job site prior to, and at the time of, the city inspection.

4-1-3-8 Approval required

A. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate that that portion of the construction is satisfactory as completed, or shall notify the permit holder, or an agent of the permit holder, wherein the same fails to comply with this title. Any portions which do not comply shall be corrected and such portion(s) shall not be covered or concealed until authorized by the Building Official.

B. Unless an alternate method of notification is approved by the Building Official, the form of notification shall be a minimum of a written notice left at the job site. Any work that does not comply with this title and/or the technical codes shall be corrected and such work shall not be covered or concealed until authorized by the Building Official.

C. Prior to occupancy, there shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

4-1-3-9 Certificate of occupancy

A. Except for work exempt from permits and residential accessory buildings, no building or structure shall be used or occupied, and no change in the existing character, use, or occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy.

B. The certificate of occupancy for buildings other than single-family dwellings and U occupancies shall be posted in a conspicuous place and shall not be removed except by the Building Official.

C. In cases where there are outstanding corrections and/or deficiencies that do not present a hazard or immediate public concern, or where no outstanding corrections exist, the building official may grant a partial and/or temporary certificate of occupancy upon request. When granting a temporary certificate of occupancy, the Building Official shall provide the permit holder with conditions and time restrictions for compliance and final approval. The fee for partial and/or temporary certificate of occupancy shall be in accordance with the fee schedule.

D. Upon failure to obtain final approval and a certificate of occupancy, when applicable, and/or upon the expiration of the permit, the Building Official, in addition to other remedies, may file a

notice of noncompliance with the County Recorder. To remove the notice, proof of compliance must be provided and all enforcement costs, recording costs, and filing costs determined by the Building Official must be paid by the permit holder.

E. Changes in the character or use of a building shall not be made except as specified in the Building Code.

F. Issuance of a certificate of occupancy shall not be construed as an approval of a violation to the provisions of this code or of other City ordinances. The Building Official may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this title when the certificate is issued in error, or on the basis of incorrect information, or when it is determined that the building or structure, or portion thereof, is in violation of an ordinance, regulation, or the provisions of this title.

4-1-3-10 Proceeding without inspection or approval

Work performed without approval shall be required to be exposed for inspection, and any costs due to damage, such as the repair to sheetrock, masonry, concrete, siding, and any investigation or penalties shall be the responsibility of the permittee and/or owner.

4-1-4 Compliance and Enforcement

4-1-4-1 Creation of enforcement program

As required by ORS 455.150(3), there is hereby established in this jurisdiction a code enforcement program which shall be under the administrative and operational control of the Building Official.

4-1-4-2 Designated authority

Whenever the term or title "administrative authority," "responsible official," "Building Official," "Chief Inspector," or other similar designation is used herein or in any of the technical codes, it shall be construed to mean the Building Official designated by the appointing authority of this jurisdiction, as per ORS 455.150(3).

4-1-4-3 Powers and duties of Building Official

A. The Building Official is authorized and directed to enforce all provisions of this title and the referenced technical codes. For such purposes, the Building Official shall have the powers of a law enforcement officer, including the power to issue citations for violations of this title and/or the State Building Code as permitted under ORS 455.153, to grant modifications, and to secure property based upon probable cause even though the violation is not committed in the Building Official's presence.

B. Per ORS 455.148(3), the Building Official shall have the authority to render written and oral interpretations of this title and the referenced technical codes, and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such modifications, interpretations, rules, and regulations shall be in conformance with the intent and purpose of this title and the State Building Code.

C. For purposes of the State Building Code and the Florence development code, in furtherance of public health, safety, and welfare, the Building Official shall have the authority to abate conditions which are contrary to, or in violation of, this title or the referenced technical codes, or which otherwise make the building or premises substandard, unsafe, dangerous, uninhabitable, or hazardous.

4-1-4-4 Deputies

In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint technical officers and inspectors, other employees, and contractors to carry out the functions of the enforcement of this title and the referenced technical codes.

4-1-4-5 Right of entry

A. When necessary to make an inspection to enforce the provisions of this title or the referenced technical codes, or when the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, or in violation of, this title, or which otherwise makes the building or premises substandard, 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 title.

B. The Building Official may request entry of said building or premises when there are reasonable grounds to believe the property is substandard, unsafe, dangerous, hazardous, or when there are reasonable grounds to believe that there has been work done that would otherwise require a permit. If such building or premises be occupied, credentials shall first be presented to the occupant and entry requested. If such building or premises are 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.

C. If entry is refused or the owner cannot be located, the Building Official or any duly appointed representative of the City may appear before any judge empowered to issue warrants, including the Municipal Judge of the City of Florence, and request such judge to issue an inspection warrant, directing it to any peace officer, as defined in ORS 161.015, to enter the described property to remove any person or obstacle and assist the Building Inspector or representative of the department inspecting the property in any way necessary to complete the inspection.

4-1-4-6 Stop work orders

When work is being done contrary to the provisions of this title, the State Building Code, or other pertinent laws or ordinances, including the Florence development code, implemented through the enforcement of this title, the Building Official may order the work stopped by notice, in writing, served on persons engaged in the doing or causing such work to be done, and such persons shall forthwith stop the work until authorized by the Building Official to proceed with the work.

4-1-4-7 Occupancy violations

When a building, structure, premises, or building service equipment therein is being used contrary to the provisions of this title, the State Building Code, or the certificate of occupancy, the Building Official may order such use discontinued, and the structure or premises vacated, by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Building Official after receipt of notice to make the structure, premises, or portion thereof comply with the requirements of this title, the referenced codes, and the certificate of occupancy.

4-1-4-8 Authority to disconnect utilities

A. Where necessary to eliminate an immediate hazard to life or property, or enforce this title, the State Building Code, or the Florence development code, the Building Official or the Building Official's authorized representative shall have the authority to order the disconnection of a utility service supplied to a building, structure, premises, or building service equipment therein which is regulated by this title, the State Building Code, or the Florence development code, or when necessary to eliminate a danger to public health, safety, or welfare.

B. The Building Official shall, whenever possible, notify the owner and/or the occupant(s) of the building, structure, premises, or building service equipment of the decision to disconnect prior to taking such action, and shall notify such owner and/or occupant of the building, structure, premises, or building service equipment, in writing, of such disconnection within a reasonable time thereafter.

4-1-4-9 Authority to condemn building service equipment

A. When the Building Official ascertains that building service equipment, or any portion thereof, regulated by this title or the technical codes, has become hazardous to life, health, or property, or has become unsanitary, the Building Official may order, in writing, that such equipment either be removed or restored to a safe or sanitary condition, as deemed appropriate by the Building Official. If it is determined that the equipment presents an immediate hazard to health, safety, or welfare, the Building Official may order it disconnected immediately. The written notice itself shall fix a time limit for compliance with such order. The use of such defective building service equipment shall not be maintained after receiving such notice.

B. When such equipment or installation is to be disconnected, a written notice of such disconnection and the causes therefor shall be given within a reasonable time thereafter to the owner and/or the occupant of such building, structure, or premises.

C. When any building service equipment is maintained in violation of this title, the technical codes, or a notice issued pursuant to the provisions of this section, the Building Official may institute appropriate action to prevent, restrain, correct, or abate the violation.

4-1-4-10 Connection after order to disconnect

Persons shall not make connections from an energy, water, fuel, or power supply, nor supply energy or fuel to building service equipment regulated by this title or the referenced codes which has been disconnected or ordered to be disconnected by the Building Official, or the use of which has been ordered to be discontinued by the Building Official, until the Building Official authorizes the reconnection and use of such equipment.

4-1-4-11 Liability

A. The Building Official or his/her deputies charged with the enforcement of this title and the technical codes, acting in good faith and without malice in the discharge of his/her duties, shall not thereby be rendered personally liable for damage that may accrue to persons or property as a result of an act or omission in the discharge of the assigned duties. A suit brought against the Building Official or deputy because of such act or omission performed by the Building Official or deputy in the enforcement of the provisions of such codes or other pertinent laws or codes implemented through the enforcement of this title or enforced by the Code Enforcement Agency shall be defended by the City of Florence until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the City of Florence.

B. This title shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling a building, structure, or building service equipment therein for damages to persons or property caused by defects, nor shall the City of Florence be held as assuming such liability by reason of the inspections authorized by this title or permits or certificates issued under this title.

4-1-4-12 Unlawful acts

A. It shall be unlawful for a person, firm, or corporation to be in conflict with, or in violation of, any of the provisions of this title.

B. Nothing contained in this title shall impose any duty upon the City of Florence, or any agent, official, or employee thereof, to abate, enjoin, prevent, or correct any defect, violation, or condition regulated or prohibited by this chapter. The City shall exercise discretion to determine whether any particular circumstance warrants or requires an official response. In making such determinations, the appropriate employees and officials shall consider all known facts and circumstances including, but not limited to, the likelihood of injury, the seriousness of the violation, the availability of City resources, both staff and financial, to address the concern, and direction from the City Council.

4-1-4-13 Notice of violation

A. Whenever the Building Official determines that there has been a violation of the State Building Code, this title, or any provisions of the Florence development code, or has grounds to believe that a violation has occurred, the Building Official may serve a correction notice in accordance with the State Building Code, or a stop work order in accordance with this title.

B. In instances of continued noncompliance regarding substandard or nonconforming conditions relating to buildings, premises, or structures, or in instances of dangerous buildings, premises, or structures, notice of violation and order shall be served in accordance with this title.

4-1-4-14 Form of notices and orders

A. Such notices and orders prescribed in this title shall be in accordance with all of the following:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the violation(s), a brief and concise description of the conditions found, and why the notice and/or order is being issued;
- (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure or premises into compliance with the provisions of this code;
- (5) Include a statement advising that if any required repair or demolition work is not commenced within the time specified, the Building Official will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs thereof against the property or its owner;
- (6) Include a statement of the City's right to file a lien, in accordance with this title or a notice of substandard or nonconforming conditions, in accordance with this title; and
- (7) Inform the property owner(s) or responsible party of the right to appeal and the appeal process.

4-1-4-15 Method of service

A. Such notices and orders shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally;
- (2) Sent by certified or first-class mail addressed to the last known address of the property owner(s) or responsible party;
- (3) Sent by certified or first-class mail addressed to the listed address of the property owners(s) or responsible party as shown by the records of the Oregon Department of Motor Vehicles, United States Post Office, county tax records, or other similar governmental source; or
- (4) If notice and/or order is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice and/or order.

4-1-4-16 Enforcing compliance

A. To enforce any of the requirements of this title, the State Building Code, or the Florence development code, the Building Official may gain compliance by:

- (1) Instituting an action as set out in this chapter below;
- (2) Causing appropriate action to be instituted in a court of competent jurisdiction; or
- (3) Taking other action as the Building Official, in the exercise of the Building Official's discretion, deems appropriate.

4-1-4-17 Prosecution of violation

Any person failing to comply with a notice of violation or order, served in accordance with Section x.015.150, shall be deemed guilty of a misdemeanor, unless the City requests that the violation be treated as an infraction, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Building Official may institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any abatement costs, including overhead, staff time, and other administrative costs incurred by the City, shall be charged against the real estate upon which the structure is located, and shall be a lien upon such real estate, as described in Section x.020.030.

4-1-4-18 Recording notice of substandard or nonconforming condition(s)

In instances of continued noncompliance with any provisions of this title, and after notice has been given by the Building Official regarding deficient, substandard, noncomplying or nonconforming condition(s) relating to the property, premises, or structures, the Building Official may, in addition to other remedies, record upon the title of the property a notice of substandard or nonconforming condition(s). Any such notice shall include a detailed description of the substandard or nonconforming condition(s) and may only be removed once the substandard or nonconforming condition(s) is/are abated. Enforcement costs shall be paid prior to any removal of liens or notices resulting from enforcement action.

4-1-4-19 Transfer of ownership

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

4-1-4-20 Penalties

A. Any person or business entity which violates any term or provision of this title shall be subject to any or all of the following penalties:

(1) Investigative Fee.

(a) In case of work performed without permits, as required in this title and the State Building Code, such work shall be subject to the investigation fee(s) adopted on the City Fee Schedule, unless waived by the Building Official.

(2) Civil Penalties.

(a) In the case of a violation of this title or the State Building Code, each violation shall be subject to the following civil penalties:

(i) First Offense. Where one or multiple violations are committed by a person, business, or corporation, a civil penalty up to \$1,000 per violation shall be assessed. If the violation is corrected within the date(s) specified in the citation, a maximum of \$750 of the civil penalty may be stayed. The stayed amount shall become due if additional violations occur within three calendar years from the date of the citation.

(ii) Second Offense. Where subsequent violation(s) by a person, business, or corporation occurs within three years of their first offense, a civil penalty of \$2,500 per violation shall be assessed. If the violation is corrected within the date(s) specified in the citation, a maximum of \$1,250 of the civil penalty may be stayed. The stayed amount shall become due if additional violations occur within three calendar years from the date of the citation.

(iii) Subsequent Offenses. Where subsequent violation(s) by a person, business, or corporation occurs within three years of their second offense, a civil penalty of \$5,000 per violation shall be assessed. If the violation is corrected within the date(s) specified in the citation, a maximum of \$2,500 of the civil penalty may be stayed. The stayed amount shall become due if additional violations occur within three calendar years from the date of the citation.

(iv) Continued Violations. Violations not corrected by the date specified in the notice of violation or the citation may be subject to an additional penalty of \$1,000 per day, per offense.

(v) Civil penalties for offenses under subsections (2)(a)(ii) and (iii) of this section are intended for new violation(s) of this title that occur after resolution of the preceding offense.

(b) Violations Which Present an Imminent Life Safety Hazard.

(i) In those cases where the Building Official determines that the violation presents an imminent risk of serious physical injury or death to any person, civil penalties shall be doubled. The civil penalty shall not exceed \$5,000 per offense.

(ii) The civil penalty amount shall not be stayed.

(c) In the case of a violation of Title 4 Chapter 5 Abatement of Dangerous Buildings or the City of Florence' development code:

(i) A civil penalty of \$500 per violation shall be assessed. If the violation has been corrected within 10 working days of the issuance of the citation, the civil penalty may be reduced to \$250 per violation.

(ii) Repeat Violations. In the case of subsequent violations of this title by the same person, business, or corporation within 12 consecutive months, the civil penalty for each subsequent violation shall be doubled. The doubled penalty amount will remain due even if correction is achieved within 10 working days.

(3) Hearings.

(a) Civil penalties related to this title and the State Building Code shall be subject to the noticing and hearings requirements of ORS Chapter 183. For the purpose of this section, "Hearings Officer" shall mean the City Manager, or their delegate; and the "Court of Appeal" shall mean the City of Florence Municipal Court.

(b) In the case of a violation of Title 4 Chapter 5 or the City of Florence development code, the violation procedures of this Chapter will apply.

(4) Application of Collected Cost Recovery and Penalties.

(a) When abatement of a violation is resolved without issuing a citation, all funds collected by the City pursuant to this section will be paid to such accounts as the City may maintain for the support of the City Building Division.

(b) When abatement of a violation is achieved by issuing a citation, 30 percent of the funds collected by the City pursuant to this section will be paid to the court for overhead costs, and the remaining 70 percent will be paid to Building Division accounts.

(5) The penalties provided herein are in addition to any other remedies available. The imposition of the penalties herein shall not preclude the Building Official from instituting

appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.

(6) Every day, or portion thereof, during which any violation of any provision of this title is committed, continued or permitted, may be a separate offense.

4-1-5 FEES AND COST RECOVERY

4-1-5-1 Fees – General.

A. Fees charged under this title shall be as adopted by resolution.

B. Permit and plan review fees shall be as adopted, except as otherwise limited by statute. On buildings, structures and mechanical systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established under authority of ORS 455.020 and 455.210.

C. As applicable, the fee schedule shall comply with OAR 918-050-0100, Statewide Fee Methodologies for Residential and Commercial Permits.

D. The Building Official shall make the determination of value or valuation under any provisions of this title. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work and may include all finish work, parking lots, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. Plan review and inspection fees shall be based on valuation, but the minimum fee shall be no less than the actual costs plus overhead of the plan review and the actual costs plus overhead of the inspections.

E. Each activity, enforcement action, or program shall be provided with its own funding source and one program shall not support another, as required by ORS 455.770 and 455.210(3)(c).

4-1-5-2 Fee refunds.

A. The Building Official may authorize the refunding of any fee, or a portion of a fee, paid hereunder which was erroneously paid or collected.

B. The Building Official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this title.

C. The Building Official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended.

D. The Building Official may not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment, unless written application is otherwise waived by the Building Official.

4-1-6 Appeals

4-1-6-1 State Building Code appeal process.

In accordance with OAR 918-020-0090(1)(c), a person aggrieved by the Building Official's technical and scientific determination regarding any provision of the State Building Code may appeal to either the local jurisdiction's appeals board or the state specialty code chief. The appeals process selected may not change once initiated.

4-1-6-2 Appeal to the state.

A. A person aggrieved by a decision made by the Building Official relating to the State Building Code shall first appeal to the appropriate state specialty code chief inspector of the Oregon Department of Consumer and Business Services, as required in ORS 455.475. The decision of the Department Chief Inspector may be appealed to the appropriate state advisory board. The decision of the advisory board may only be appealed to the Director of the Department of Consumer and Business Services if state-mandated codes, in addition to the applicable specialty code, are at issue.

B. Citations or penalties issued by the State Building Codes Division are entitled to judicial review in accordance with ORS 183.482. A person aggrieved by such a citation or penalty may request a judicial review by filing a petition with the Court of Appeals in Salem, Oregon, within 60 days from the date of the order. Such citations and penalties are not appealable through this section.

4-1-6-3 Appeal and Procedure of a Discretionary Decisions of a Contract Building Official.

A. In accordance with OAR 918-020-0230(2)(b), 918-020-0250 and 918-020-0260, a person aggrieved by a Discretionary Decision made by the Contract Building Official may appeal to the City of Florence Board of Appeals as set forth in this title.

The following terms shall, for the purposes of this section, have the following definitions:

(1) Per OAR 918-020-0015(2), A Contract Building Official means an owner, manager or employee of a person that the director has licensed to perform specialty code inspections and plan reviews under ORS 455.457 and that engages in the business of providing the services described in ORS 455.148(3) and 455.150(3) to one or more municipalities to which the director has delegated a building inspection program.

(2) Per OAR 918-020-0015(4), A Discretionary Decision means a decision on whether to waive a plan review, an inspection or a provision of the state building code; or to allow an alternative material, design or method of construction.

(3) Per OAR 918-020-0015(7), A Qualified Employee is an individual that the municipality employs and has been designated to ratify or disapprove a contract building official's discretionary decisions.

Before exercising oversight over a contract building official, the Qualified Employee is required to complete the basic training and obtain applicable certification or other evidence of completion, as defined by Oregon Building Codes Division.

Within 180 days after being designated as the Qualified Employee, the employee is required to complete the advanced training and obtain applicable certification or other evidence of completion, as defined by Oregon Building Codes Division.

In accordance with OAR 918-020 230(2), within five (5) business days from making a discretionary decision, the Contract Building Official must:

- Notify a Qualified employee in writing of the discretionary decision; and,
- Notify the permit applicant in writing of the discretionary decision that relates to the

permit application. This notice must list and describe available opportunities for a hearing and appeal of the decision.

The Qualified Employee must review and ratify or disapprove a contract building official's discretionary decision, in writing, to the contract building official and the permit applicant/aggrieved person within thirty (30) days after receiving notice of the decision. The notification shall also inform the permit applicant/aggrieved person that the decision of the building official can be appealed in accordance with ORS 455.475.

For appeals of a Discretionary Decision made by the Contract Building Official, the Board of Appeals shall comply with the requirements of OAR 918-020-0250 and 918-020-0260 as outlined in x.025.030(2).

4-1-6-4 Appeal to Local Board of Appeals.

A person aggrieved by a decision made by the Building Official relating to any law, code, or regulation, other than a provision of the State Building Code, may appeal to the City of Florence Building Board of Appeals as set forth in this title. This shall serve as the appeal procedure for all decisions made by the Building Official pursuant to the dangerous buildings and the property maintenance chapters herein.

4-1-6-5 Creation of Local Board of Appeals.

- A. In order to hear and decide appeals of orders, non-discretionary decisions, or determinations made by the Building Official relative to the application, enforcement, and interpretation of provisions of this title which are not governed by the State Building Code, and to review appeals of technical and scientific determinations regarding any provision of the specialty codes regulated by the municipality, there shall be and hereby is created a Board of Appeals consisting of five members who are qualified by experience and training to pass on matters pertaining to building construction. The Building Official shall be an ex officio member of and shall act as secretary to said board, but shall have no vote on any matter before the Board. The Board of Appeals shall be appointed by the City Council of the City of Florence and shall hold office at the Council's pleasure. The Board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.
- B. In order to hear and decide appeals of Discretionary Decisions of a Contract Building Official there shall be and hereby is created a Board of Appeals consisting of five members who are qualified by experience and training to pass on matters pertaining to building construction. The Board of Appeals shall be appointed by the City Council of the City of Florence and shall hold office at the Council's pleasure. The Board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.
- 1) In accordance with OAR 918-020-0250, the Board of Appeals hearing an appeal of a Contract Building Official's Discretionary Decision will;
 - a) Include as a member, the building official of the county within which the city is located or the building official of an adjacent county.
 - b) Include as a member, an individual who engages in the business of building design or construction may be a member of the local board, but may not hear an appeal of a contract building official's discretionary decision concerning a project that involves a business, or competitor of a business that;

- I. The individual owns or manages or for which the individual provides services as an employee, agent or contractor; or
- II. A family member or a member of the individual's householder owns or manages or for which the family member or member of the household provides services as an employee, agent or contractor.
- c) Not include any contract building official.
- d) Not include an owner, manager, director, officer or employee of a person, other than an employee of the municipality, that performs building inspections.

2) In accordance with OAR 918-020-0260, for an appeal of a Contract Building Official's Discretionary Decision;

- a) After receiving notice of the building official's discretionary decision, a permit applicant has 30 days to submit an appeal to the local board.
- b) In an appeal before the local board, the permit applicant has the burden of establishing by a preponderance of the evidence that overturning the discretionary decision of the contract building official will not create a dangerous or unsafe condition or decrease the minimum fire and life safety standards set forth in the relevant code.
- c) Upon receipt of a notice of appeal, the local board has 30 days to review the appeal and issue a determination.
- d) The appeal rights to which a permit applicant is entitled before a local board is in addition to, and not in lieu of, any other rights of appeal the permit applicant may have.

C. The Board of Appeals makes determinations on a case-by-case basis, and shall have no authority relative to interpretation of the administrative provisions of this title, nor shall the board be empowered to waive requirements of this title. For example, the Board of Appeals may review the Building Official's discretionary determination that a structure is dangerous, but not the ensuing remedy.

4-1-6-6: Appeal procedure.

A. An appeal shall be in writing, shall describe the basis for the appeal, and shall first be filed with the Building Official. Notwithstanding x.025.030(2)(b)(i), no appeal shall be timely unless it is received at the office of the Building Official within 14 days of the Building Official's determination which is the subject of the appeal.

B. Following receipt of such an appeal, the Board of Appeals shall convene and an opportunity for hearing shall be granted both to the appellant and to the Building Official or designee. The Building Board of Appeals shall notify all parties of the hearing date and time at least 10 days prior thereto. The Building Board of Appeals shall operate under such rules of procedure as it may, from time to time, promulgate.

C. The decision of the Building Board of Appeals for an appeal of a Contract Building Official's Discretionary Decision shall be rendered within 30 days of receipt of the appeal. The decision of the Building Board of Appeals on other appeals shall be rendered within 60 days of the Building Official's receipt of the appeal, unless both parties stipulate to an extension of time. The Building Board of Appeals' decision shall be in writing and shall be final upon receipt. All notices given by the Board shall be given to the appellant by first-class mail at the address indicated by the appellant on the notice of appeal and shall be deemed received three days after mailing.

D. An appeal of the Building Board of Appeals' decision relative to the application, enforcement, and interpretation of provisions of this title which are not governed by the State Building Code, shall be made in writing to the City of Florence City Council within 14 days of the Board's notice of said decision. An appeal of the Building Board of Appeal's decision relating to technical and scientific determinations regarding any provision of the state specialty codes regulated by the municipality shall be appealed to the appropriate advisory board within 30 days of the Board of Appeals' decision per OAR 918-080-0120(6).

E. All work which is the subject of a permit, interpretation, or other matter under appeal shall be suspended pending resolution of the appeal.

4-1-6-7 Staying of order under appeal.

Except for vacation orders made pursuant to Section x.045.060, enforcement of any notice and order of the Building Official issued under this title shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

4-1-7 DEMOLITION

4-1-7-1 Demolition – Permit – Required

Unless waived by the Building Official, any demolition of any structure requires a permit. The cost of the permit shall be determined by the Building Official and shall be based on factors such as the number of inspections required and the value of the work.

4-1-7-2 Demolition – Permit – Expiration

Every demolition permit issued by the Building Official under the provisions of this title shall expire by limitation and become null and void if the demolition work is not commenced within 180 days from the date of such permit, or if the work authorized by such demolition permit is not completed within the time limit established by the Building Official. The Building Official may grant an extension of time limit if it is apparent that the permit holder has made every effort to meet the time limit and will be unable to do so because of unusual or difficult conditions.

4-1-7-3 Demolition – Permit – Suspension or revocation

The Building Official may, in writing, suspend or revoke a demolition permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any code or regulation or any of the provisions of this chapter.

4-1-7-4 Demolition – Notification of utilities

All utility companies, such as telephone, power, water, sewer, and gas, shall be notified by the applicant to disconnect all of such services from the main lines to the building. Water and sewer lines on-site shall be capped by the permit holder.

4-1-7-5 Demolition – Cleanup

All debris, stumps, broken concrete, brick and other material shall be completely removed from the premises. All ground surfaces shall be raked clean and graded evenly within 30 days of completion of demolition. All ground surfaces shall be covered so no bare sand is allowed to leave the property.

4-1-8: Securing Loose, Open or Raw Sand

A. Prior to taking any of the following actions, any person, firm, corporation, or public agency (city, special district, county, state or federal) shall contact the Community Development Department staff to determine if such actions are likely to cause off-site movement or displacement of loose sand in ways that would damage adjacent properties or create unsafe traffic conditions:

1. Excavation
2. Removal of any natural or planted ground cover, trees, shrubs, grass
3. Alteration or removal of any existing building or structure

If determination is made that there is a real possibility that movement of sand would cause damage to adjacent properties or create unsafe traffic conditions, then a Sand Management Plan will be required.

B. The Sand Management Plan shall set out the means by which the applicant will ensure that its actions will not result in the off-site movement or displacement of loose, open or raw sand onto any public way, or public or private property by action of wind or water erosion. If the Community Development Department determines that the Plan includes measures (vegetative, mechanical, and/or other means of sand management) to reasonably ensure that the proposed action's movement or displacement of sand will not result in damage to adjacent properties or unsafe traffic conditions, then the Sand Management Plan will be approved. The best management practices from the following shall be incorporated into the Sand Management Plan as applicable to the project—City of Florence' adopted version of Portland's "Erosion and Sediment Control Manual" and the City of Florence' "Erosion Prevention and Sediment Control Practices for Single Family Residences and Small Projects".

Amended by Ord. No. 2 Series 1990
Amended by Ord. No. 5 Series 1994 Effective July 1, 1994
Amended by Ord. No. 6 Series 1997 Effective April 21, 1997
Amended by Ord. No. 7 Series 2000
Amended by Ord. No. 8, Series 2003
Amended by Ord. No. 2, Series 2010
Amended by Ord. No. 1 Series 2022
Amended by Ord. No. 12 Series 2022