

Title 1

GENERAL PROVISIONS

Chapters:

- 1.01 Code Adoption**
- 1.04 Administrative Code**
- 1.05 Rural Law Enforcement District Advisory
Committee**
- 1.08 Reward for Information Leading to the Arrest
and Conviction of Persons Vandalizing
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Chapter 1.01

CODE ADOPTION

Sections:

- 1.01.010 Adoption, amendment and repeal.**
- 1.01.020 Reservation.**
- 1.01.030 Severability.**
- 1.01.040 Conformance with state law.**
- 1.01.050 Inconsistent provisions.**
- 1.01.060 References to prior code.**

1.01.010 Adoption, amendment and repeal.

- A. There is hereby adopted the Clatsop County Code, which consists of the ordinances of the County that have ongoing effect and which have not expired according to their own terms.
- B. This code may be cited as the Clatsop County Code.
- C. This code may be amended by reference to code section without the necessity of referring to the underlying ordinance.
- D. New ordinances may be added to the code, and if an ordinance is enacted with a numbering system that is inconsistent with the code numbering system, the codifier is authorized to assign an appropriate code number and to codify the ordinance accordingly.
- E. The repeal of any code section does not revive the original text of the code section, but rather, repeal of an existing section repeals the underlying ordinance section and all of its amendments. (Ord. 2012-06)

1.01.020 Reservation.

The adoption of this code shall not affect any prosecution for violations of ordinances, which violations were committed prior to the effective date of the adoption of the County Code, nor shall the adoption of the County Code be construed as a waiver of any license, fee, or penalty due and owing at the effective date of the code adoption, nor shall adoption affect the validity of any bond or cash deposited with the county pursuant to the terms of any ordinance, upon its codification; but rather, all rights and obligations pertaining under ordinances in effect prior to codification shall remain in full force and effect.

1.01.030 Severability.

If any section, subsection, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The County declares that it would have enacted this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

1.04.040 Conformance with state law.

This code shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the State of Oregon, or its agencies, or any ordinance, rule, or regulation of Clatsop County. (Ord. 2012-06)

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1.04.050 Inconsistent provisions.

This code shall supersede, control and repeal any inconsistent provision of any County ordinance as amended or any other regulations made by Clatsop County. (Ord. 2012-06)

1.04.060 References to prior code.

References in County forms, documents and regulations to the chapters and sections of the former County Code shall be construed to apply to the corresponding provisions contained within this code. (Ord. 2012-06)

Chapter 1.04

ADMINISTRATIVE CODE

Sections:

- 1.04.010** County organization and structure.
- 1.04.020** Board meetings.
- 1.04.030** Committees, commissions and boards.
- 1.04.040** Finance.
- 1.04.050** Signature authority delegation.
- 1.04.060** Local Contract Review Board rules.
- 1.04.070** Emergencies.

1.04.010 County organization and structure.

The Board of Commissioners establishes the following Clatsop County departments:

- Administrative Services
 - Assessment and Taxation
 - Budget and Finance
 - Community Development
 - County Clerk
 - District Attorney's Office
 - Fairgrounds
 - Juvenile
 - Office of Emergency Management
 - Public Health
 - Public Works
 - Sheriff's Office
- A. Department heads, except fair staff (referenced below), and the District Attorney and Sheriff, who are elected, shall be appointed by the County Manager and shall be under the supervision of the County Manager. The County Manager may also discipline a department head up to and including discharge.
- B. The employees of the Fair Board are County employees. Fair employees are hired, supervised and discharged by the appointed Fair Board. The Fair Manager appointed by the Fair Board is part of the County organization and works with County departments.
- C. In accordance with provisions of the Clatsop County Charter, a County Manager shall be chosen by a majority vote of all members of the Board of Commissioners in office without regard to political considerations and solely with reference to executive and administrative qualifications, and shall serve at the pleasure of the Board of Commissioners in accordance with the County Charter.
- D. In accordance with provisions of the Clatsop County Charter, the County Manager shall be the head of the administrative branch of County government, and shall be responsible for the proper administration

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of all affairs of Clatsop County and for carrying out policies established by the Board of Commissioners.

- E. The Board of County Commissioners shall designate a manager pro tempore to assume the powers and duties of the County Manager in his or her absence. (Ord. 2022-02 § 6; Ord. 15-02 § 6; Ord. 2013-03 § 6; Ord. 11-14 § 7)

1.04.020 Board meetings.

- A. Hearings. The following procedures shall apply to hearings conducted by the Board of Commissioners including meetings wherein the Board of Commissioners is acting as the governing body of a special service district:

1. All ordinances, except those enacted under emergency procedures authorized by the Charter, shall be adopted only after the Board of Commissioners has held a hearing to receive comments from the public. Notice of each hearing shall be provided to the news media. Additional procedures as set forth in the Clatsop County Development Code and state law apply to land use hearings.
2. The County Manager may schedule hearing dates for matters to be set for hearing.
3. Any document which is the subject of a public hearing, and upon which the public is invited to comment, shall be in the final form in which it is to be presented at the public hearing by the time of the first published notice of the hearing. The Board may authorize revisions.
4. Testimony may be given in person, by a representative, or in writing, by letter or electronic medium.
5. With the exception of hearings on quasi-judicial matters where participation is governed by statute, all persons shall have the right to be heard during the public hearing on the matter being considered.
6. No person shall have the right to be disorderly, or disruptive, or to present irrelevant testimony. The presiding officer or, by majority vote the Board of Commissioners, may make the determination that testimony is irrelevant.
7. To facilitate an orderly hearing, the presiding officer may specifically limit the time each person testifies, and special procedures.
8. A hearing may be continued to a time certain.

- B. News Media Representation.

1. Definitions.
 - a. "News" means factual information that is about current events.
 - b. "News media organization" means an entity that is organized and operated to publish, broadcast or disseminate news to the public as determined by subsection (B)(3) of this section, that ordinarily reports the activities of Clatsop County, or that ordinarily reports matters of the nature under consideration by Clatsop County.
 - c. "Representative of the news media" means a news reporter who is engaged in the act of gathering news for a news media organization as determined by subsection (F)(4) of this section.

2. It is the Board's policy that all information discussed or considered in executive sessions of the Board shall be undisclosed, unless otherwise authorized by the Board. This policy extends to all statements made in executive sessions, to all documents considered, and all other information presented or considered regardless of the format, in executive sessions of the Board. To the extent this policy may be inconsistent with Oregon law, Oregon law shall control. This policy shall apply regardless whether persons attending any particular executive session are reminded of the policy. The Board, in its sole discretion, may make exceptions to this policy if it is in the public interest to do so, and if a majority of the members thereof vote to do so.
3. Recognition of News Media Organizations.
 - a. In order to be recognized as a news media organization, an entity must provide evidence that the entity is organized and operated to publish, broadcast or disseminate news to the public, and that it ordinarily reports the activities of Clatsop County, or that it ordinarily report matters of the nature under consideration by Clatsop County.
 - b. It shall be the entity's burden to persuade the Board by a preponderance of the evidence that it is a news media organization as defined above. The entity may be a news component of a larger organization which isn't necessarily a news media organization.
 - c. The Board may consider any relevant evidence provided or gathered in making a decision whether to recognize an entity as a news media organization. The Board shall make its determination whether to recognize the entity as a news media organization based the following criteria:
 - i. Regular publication, regular broadcasts or regular updates (at least once weekly) of news;
 - ii. Publication, broadcast or website must contain a minimum of 25% news content, and include news produced by its own staff;
 - iii. The publication, broadcast or website must not serve primarily as a platform to promote the interest and/or opinions of a special interest group, individual or cause, or as a forum to air grievances, engage in gossip, or for personal attacks or character assassination;
 - iv. Evidence that the entity ordinarily reports the activities of Clatsop County, or that the entity ordinarily reports matters of the nature under consideration by Clatsop County.
 - d. The Board's decision to recognize or not to recognize an entity as a news media organization is a quasi-judicial decision reviewable as provided by the Circuit Court in ORS 34.010 to 34.100.
 - e. The County may maintain a list of authorized media organizations.
4. Recognition of Representatives of the News Media.
 - a. Representatives of the news media are allowed to attend executive sessions, except as described in ORS 192.660(4) and 192.660(5). In order to determine whether someone requesting permission to attend an executive session is a representative of the news media, the following procedure shall be followed:

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- i. A news media representative who wishes to attend an executive session must provide evidence that the person is a news reporter who is engaged in the act of gathering news for a news media organization.
- ii. It shall be the burden of the entity hiring the news media representative to persuade the Board of Commissioners by a preponderance of the evidence that the representative is engaged in the act of gathering news for that news media organization. The Board

shall make its determination whether to recognize the person as a representative of the news media entity based on the following criteria:

- (A) Press Identification. Press badge or identification issued by recognized news media organization, plus proof of identity (such as a driver's license);
 - (B) A recently published news article by a news media organization with the representative's byline, or a masthead showing the representative's name as a member of the editorial staff of a recognized news media organization, plus proof of identity; or
 - (C) A letter on letterhead from an editor of a recognized news media organization in which the editor states that the reporter is covering the meeting for the news media organization, plus proof of identity (freelancers must have clippings or proof of work with a recognized news media organization within the last six months); and
 - (D) Proof, satisfactory to the Board, that the news media representative is attending the meeting for the purpose of gathering news, even though the information discussed or considered in executive session shall be undisclosed, unless otherwise authorized by the Board.
- b. If an entity is not recognized by the County as a news media organization, no representative of that entity shall be allowed to attend an executive session until the entity is granted recognition. If the executive session is for the purpose of discussing current litigation or litigation likely to be filed, and the representative of the news media organization is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation, the person shall not be allowed to attend the executive session. If the Board has reason to believe that a news media representative has submitted false information or has previously failed to comply with the Board's policy, the Board may request the news media organization to send a different representative to executive sessions, or take other appropriate measures to protect the integrity of its executive sessions.
 - c. The Board may consider any relevant evidence provided or gathered in making a decision whether a person is a representative of a news media entity. The Board's decision to recognize or not to recognize a person as a representative of a news media entity, and/or to grant permission to attend an executive session, is a quasi-judicial decision reviewable as provided by ORS 34.010 to 34.100. (Ord. 11-14 § 7)

1.04.030 Committees, commissions and boards.

- A. Classification. There shall be two classifications of County committees (committees include all applicable boards, committees, commissions, authorities, councils and teams): statutory and advisory. County committees do not include statutorily independent organizations where all or a portion of those directors are appointed by the Board (such as housing authorities or councils of government).
 - 1. Statutory committees are those committees established pursuant to Oregon Revised Statute. The purpose and membership of these committees may be mandated by statute. They include:
 - Board of Property Tax Appeals, ORS 309.020
 - Budget Committees, ORS 294.336

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- Local Commission on Children and Families, ORS 417.760
 - Fair Board, ORS 565.210
 - Planning Commission, ORS 215.030
 - Farm Board of Review, ORS 308A.095
 - Public Safety Coordinating Council, ORS 423.560
 - Human Services Advisory Council, ORS 430.342
2. Advisory committees are those established by the County to advise the County on various aspects of government. They will be established and assigned responsibilities by the Board as necessary. Any advisory committee created by the Board may be discontinued by majority vote of the Board requiring the affirmative vote of at least three commissioners. In addition, the Board may establish a special committee for a specified purpose or project. The Board shall advise the members of a special committee of its purpose and its goals and provide the special committee with a time certain for submitting a recommendation to the Board.
 3. Staff assistance or other assistance as deemed advisable by the Board may be provided to any committee or special committee.
- B. Bylaws. Each committee of the County is hereby authorized to develop bylaws consistent with County policies, ordinances and the applicable provisions of state law. Such bylaws shall be effective upon approval of the Board. Amendments to bylaws shall be effective upon approval of the Board.
- C. Quorum and Voting. Unless otherwise provided by law, a quorum for the conduct of business of every committee shall be by a majority (50% plus one) of the total appointed membership of the group.
1. Each decision of a committee shall be made by an affirmative vote of a majority (50% plus one) of the total appointed membership of the group.
 2. Decisions of a committee are subject to the Oregon Government Standards and Practices laws. A member cannot vote on a matter that may have a pecuniary impact on that member.
- D. Member Appointments. Except as otherwise provided by law, all members of any committee of the County shall be appointed by and serve at the pleasure of the Board.
- E. Removal of Members.
1. Any committee may recommend to the Board of Commissioners the removal of any of its own members in accordance with that committee's bylaws.
 2. Unless otherwise provided by law, the Board may remove any appointed committee member from his or her appointment by majority vote of the Board, requiring the affirmative vote of at least three commissioners. Removal shall be at the Board's discretion. (Ord. 11-14 § 7)

1.04.040 Finance.

- A. Cost Recovery. The County cost recovery policy is to charge fees for services that primarily provide services to a private citizen, business or group, with the methodology for determining the fee based on the best available practices. The County cost recovery policy shall meet Government Finance Officers Association (GFOA) recommendations on the setting of government charges and fees, National Advisory Council on State and Local Budgeting (NACSLB) recommended best practices, and the Board adopted long term financial plan. The cost recovery policy will ensure that a proportion of these costs

are recovered through user fees in an equitable manner in accordance with the County's current fiscal and budgetary policies approved by the Board of County Commissioners, and adherence to the proper statutory requirements.

B. Debt Policy.

1. Long-Term Debt. Long-term debt is defined as bonded indebtedness whose maturity is at least 10 years from the issue date. Issues to be addressed in long-term debt planning may include, but not necessarily be limited to, the following:
 - a. Highest general obligation debt strategy priority categories as identified in the County's capital improvements program (CIP) shall be financed first.
 - b. Major new capital improvement projects and major rehabilitation projects shall be funded with general obligation bonds if no other revenue source can be utilized.
 - c. Except in the case of catastrophic emergency debt undertaken pursuant to ORS 287.054, the County shall not have general obligation debt at any one time outstanding, which is in excess of two percent of the County's real market valuation.
 - d. The total general obligation debt payments of Clatsop County will not exceed 50% of the total annual operating revenue.
 - e. Every effort will be made to schedule even principal and interest payments for the repayment of debt so as to avoid fluctuations in debt service requirements and tax rates.
 - f. Because debt financing involves long-term commitments, the projects that are financed through debt financing must have a useful service life that is at least equal to the debt amortization period. Therefore, debt financing shall be used only for capital expenditures and not for addressing maintenance items.
2. Short-Term Debt. Short-term debt shall be issued for a term of 10 years or less. Enterprise funds should support needed capital improvements on a pay-as-you-go basis to the greatest extent possible. In the event short-term debt financing is required, certificates of participation, lease-purchases, limited tax revenue bonds, bank qualified financing or other debt instruments may be used as a short-term (one to 10 years) method of borrowing for the financing of various County needs, such as fleet equipment, renovation or reconstruction of capital assets, specialized types of equipment purchases, communications, and data transmission systems.
3. Interim Debt. Interim debt shall be issued for a term of less than five years. This borrowing may be utilized for temporary funding of operational cash flow deficits pending receipt of anticipated revenues or interim construction financing needs. Such borrowing may be in the form of: (a) a line of credit at the County's depository bank; (b) tax anticipation notes; (c) internal fund borrowings. Repayment will occur over a period not to exceed the useful life of the underlying asset or in any case no longer than five years from the issuance date of such obligations. The County will determine and utilize the least costly method for interim borrowing.
4. Board of Commissioners Authorizations. All long, short, and interim term debt shall require Board of County Commissioners authorization prior to issuance. The Board of County Commissioners in unusual or emergency situations may authorize exceptions to the long-term, short-term, and interim debt limitations. The Board of County Commissioners may make exceptions to the adopted debt policy for projects that are mandated by judicial or regulatory bodies or for emergency situations.

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- C. Audit. In accordance with provisions of the Clatsop County Charter, the Board of Commissioners shall appoint a qualified person or firm to audit, at least every 12 months, the accounts of all officers having the care, management, collection, or disbursement of moneys belonging to the County.
- D. Accountant. Clatsop County shall have an office of County Accountant pursuant to ORS 210.100. The duties of such office as set forth in ORS 210.210 shall be assigned to those persons designated by the County Manager.
- E. Cost Recovery Policy. Clatsop County shall have a policy that funding received for each service provided by the County shall be allocated so that each funding source pays the fair cost of County administrative, financial, and legal services provided for that service.
- F. Investment Policy. This policy regulates activities of Clatsop County with regard to investing the financial assets of all funds belonging to Clatsop County and all funds left in trust with the County.
 - 1. The Finance Director is the portfolio manager. The Finance Director or designee division shall have cash available to meet day-to-day demands, make investment recommendations, make necessary transfers between financial institutions and the Local Government Investment Pool, and invest all excess cash, including bond and note proceeds, while adhering to the rules set forth in ORS Chapter 294.035 through 294.047, other applicable statutes, and this policy.
 - 2. The County shall defend and indemnify staff from personal liability for losses that might occur pursuant to administering the investment policy as long as said staff exercises prudence in accordance with this policy and Oregon law. (Ord. 11-14 § 7)

1.04.050 Signature authority delegation.

- A. Liquor Licenses. The County Manager is authorized to sign Oregon Liquor Control Commission applications that comply with state and local regulations and have been approved by the County departments. In the event the County staff recommends denial of a request for a liquor license, the matter will be set before the Board of Commissioners, and written notice informing the applicant of the basis for the action will be sent to the applicant at least five days prior to the Board meeting date.
- B. Wrecking Yard Applications. The Director of the Clatsop County Planning Department is authorized to approve of Oregon Motor Vehicles Division wrecking yard applications that are without unresolved written complaints and comply with state and local regulations. In the event the application does not meet approval requirements, the matter will be set before the Board of Commissioners, and written notice informing the applicant of the basis for the action will be sent to the applicant at least five days prior to the Board meeting date.
- C. Subdivision Plats. The chairperson of the Board of County Commissioners is authorized to sign subdivision plats that have received all required approvals including the tax and assessment department and County Surveyor. If the chairperson is unable to approve and sign the subdivision plat as provided above, then the vice chairperson may so approve and sign the plat. (Ord. 11-14 § 7)

1.04.060 Local Contract Review Board rules.

- A. Adoption of Attorney General's Model Rules. Pursuant to ORS 279.055, the Board of Commissioners for Clatsop County is designated as the Local Contract Review Board for Clatsop County, to have all powers granted pursuant to ORS Chapter 279, as amended. The Oregon Attorney General's Model Public Contract Rules (hereinafter "Model Rules"), entitled Oregon Administrative Rules, Chapter

137, Division 46 (General Provisions Related to Public Contracting), Division 47 (Public Procurements for Goods or Services), Division 48 (Consultant Selection: Architectural, Engineering, Land Surveying and Related Services Contracts), and Division 49 (Public Contracts for Construction Services) as the same may be amended, are adopted as the Public Contracting Rules for Clatsop County, subject to the additions and clarifications set forth herein. Provided, the term “Board” as used in these Contracting Rules, means the Clatsop County Board of Commissioners, both as that body and as the Local Contract Review Board for Clatsop County.

B. Supplemental Procurement Rules.

1. Posting. All County invitations to bid and requests for proposals shall be posted on the County website and if required or desired, may be posted on an applicable State of Oregon website.
2. Small Procurements. Procurements of goods or services or construction contracts not exceeding \$3,000.00 may be obtained by direct hire. Goods or services or construction contracts exceeding \$3,000.00 but less than \$10,000.00 in value for goods and services and \$5,000.00 for construction, may be obtained by direct hire if the product or service is only feasibly available from one source. If more than one source is feasibly available then three competitive quotes shall be obtained and noted in the procurement file.
3. Written Response. All quotations given in response to an intermediate procurement (as defined in the Model Rules) solicited under OAR 137-047-0270, 137-048-0210 or 137-049-0160, shall be in writing.
4. Extensions. A contract may be amended to extend the time of completion of performance for up to one year.
5. Exemptions. The following classes of contracts are exempt from competitive bidding pursuant to ORS 279B.085:
 - a. Asphaltic Concrete, Concrete and Rock. Contracts for the purchase of asphaltic concrete, liquid asphalt, concrete and rock, where the material is to be used for maintenance. Where practical, competitive quotes shall be obtained.
 - b. Ballots and Voters Pamphlet. The printing of ballots and ballot envelopes, including ballot pages and labeling of ballot cards, and the voters pamphlet.
 - c. Copyrighted Materials. Contracts for the purchase of copyrighted material, including non-mass marketed software, where there is only one supplier available for such goods.
 - d. Equipment Repair and Overhaul. Contracts for equipment maintenance, repair, and overhaul may be let without competitive bidding, and subject to the following conditions:
 - i. The service and/or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or
 - ii. The service and/or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source.
 - e. Fish Food. Contracts for fish food for fish in agency hatcheries and net pens may be made without competitive bidding.
 - f. Hazmat/Environmental Cleanup. For cleaning up or restoring a contaminated site where the Oregon Department of Environmental Quality (DEQ) has issued an order that the site be cleaned up within a time limitation or an environmental site where a state or federal envi-

ronmental regulator has required immediate remediation. A copy of the state or federal order shall be placed in the procurement file and the measures taken to encourage competition under the circumstances, shall be noted.

- g. Laboratory and Medical Supplies. Contracts for the purchase of laboratory and medical supplies including, but not limited to, vaccines, medication and medical/pharmaceutical supplies.
 - h. Petroleum Products. Contracts for the purchase of gasoline, diesel fuel, heating oil and lubricants, if competitive quotes from at least three vendors in the area are sought, purchase is from the least expensive source, and written justification for the purchase made is retained in the procurement file.
 - i. Used Equipment. Contracts for the purchase of used equipment, provided, if there is more than one supplier with similar equipment available three quotes shall be obtained and noted in the procurement file.
 - j. Concession Agreements. Contracts entered into by the County which grant a franchise or concession to a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from all or a portion of the fairgrounds or County parks and under which the concessionaire or promoter makes payments to County based, at least in part, on the concessionaire's revenues from sales.
 - k. Manufacturer Direct Supplies. The County may purchase goods directly from a manufacturer without competitive bidding if a large volume purchase is required and the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributor(s). Procurements of this type are made on a contract-by-contract basis and are not requirements contracts.
 - l. Emergencies. Contracts let under circumstances which could not reasonably have been foreseen which create a substantial risk of loss, damage, interruption of services or threat to the public health and safety and require the prompt performance of the services to remedy the situations.
6. Documentation. For contracts that are exempt from competitive bidding, the reasons for the exemption and the efforts made to obtain quotes shall be documented in the procurement file.

C. Personal Service Contracts.

- 1. Definition. A personal services contract is a contract that's primary purpose is to acquire specialized skills, knowledge or resources in the application of technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment, including, without limitation, a contract for the services of an accountant, physician or dentist, education, information technology or other consultant, broadcaster or artist.
- 2. Procurement. The County may award contracts for personal services under the procedures of ORS 279B.050 to 279B.085 and Model Rules, which implement such statutes, or pursuant to the provisions below.
- 3. Exemptions. The following personal service contracts may be let by any method deemed in the County's best interest, including direct appointment. Direct appointment pursuant to this section shall be competitive to the extent practicable and may be based upon criteria which include with-

out limitation the provider's experience, available resources, the project's location and the provider's pricing:

- a. Emergency. Contract let under circumstances which could not reasonably have been foreseen which create a substantial risk of loss, damage, interruption of services or threat to the public health and safety and require the prompt performance of the services to remedy the situations, or
 - b. Under \$10,000.00. Contracts where the estimated fee does not exceed \$10,000.00 in any fiscal year.
 - c. Temporary Workers. Contracts for the provision of temporary workers, provided if there is more than one feasible source providing workers with the training and expertise needed, then competitive quotes shall be obtained from three companies and written justification for the company selected shall be retained in the procurement file.
 - d. Medical/Mental Health. Contracts for the provision of medical services, mental health services, disability care services and drug and alcohol services provided if there is more than one person or entity providing the desired services in Clatsop County at the time services are required, then quotes shall be obtained from all feasible potential providers.
 - e. Technical Support. Contracts for maintenance, repair and technical support for computer hardware, software and networking systems.
 - f. Payroll Services. Contracts for payroll services.
 - g. Single Candidate. Contracts where only a single candidate is known to have the required experience to perform the particular services required, or only a single candidate has reasonable access to factual, technical or statistical information necessary to perform the services required.
4. Extensions. A contract may be amended to extend the time of completion of performance for up to one year.
- D. Alternative Contracting Methods.
1. Qualified Pool. As an alternative to the contracting requirements of the Model Rules, the County may award contracts up to \$150,000.00 for a specific good or service or personal service, and contracts for construction up to \$100,000.00 from a qualified pool of providers. A qualified pool of providers of a particular good or service may be established by annual solicitation. Advertisements for participants shall be published in at least one newspaper of general circulation in the County, and on the County website. Requests for participation in the qualified pool shall describe the scope of goods or services for which the list will be maintained, and the minimum qualifications for participation on the list. The operation of each qualified pool may be governed by the provisions of a pool contract to which the County and all pool participants are parties. The pool contract shall describe the selection procedures that the County may use to issue contract job orders. Participation in a qualified pool shall not entitle a participant to the award of any County contract.
 2. Construction Management/General Contractor (CMGC), Design/Build. The construction of public improvement using a design/build or CMGC contractor construction method shall be awarded under a request for proposals process. The determination to construct a project using a design/build or CMGC construction method must be approved by the Board or its designee based

on facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the County.

E. Disposal of County Personal Property.

1. Declaration of Surplus Personal Property.

- a. \$10,000.00 or Less. The County Manager, or designee, may declare surplus and dispose of any County personal property deemed to have a current net to County value of \$10,000.00 or less, per item.
- b. Over \$10,000.00. Any items with a current net value exceeding \$10,000.00 per item may only be declared surplus by the Board of County Commissioners and disposed of in accordance with the provisions of the Resolution and Order declaring such property surplus.

2. General Methods of Disposal. Surplus personal property may be disposed of by any of the following methods upon a finding that the method of disposal is in the best interest of the County. Factors that may be considered by the Board or County Manager include costs of sale, administrative costs, and public benefits to the County. A record of the reason for the disposal method selected and the manner of disposal shall be maintained by the County.

- a. Public Agencies. Without competition, by transfer or sale to another County department or public agency.
- b. Auction. By publicly advertised auction to the highest bidder.
- c. Bids. By publicly advertised invitation to bid, including use of State of Oregon internet system or bids solicited using an internet marketing company, if the internet marketing company contract is approved through the County contract review process.
- d. Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.
- e. Fixed Price Sale. The solicitation agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
- f. Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.
- g. Donation. By donation to any organization operating within or providing a service to residents of the County which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

3. Disposal of Property with Minimal Value. Surplus property which has a value of less than \$1,000.00, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.

F. Contracting Authority.

1. Authority. Only those persons authorized to do so pursuant to these Rules may enter into a binding agreement or contract, including a purchase order, for the purchase of goods or services on

the part of the County. All persons doing business with the County shall be responsible for being familiar with these Rules and for ensuring that the person purporting to act for the County has been duly authorized.

2. Employees. All County employees are authorized to incur expenses for authorized travel and training while on official County business in accord with Personnel Policy rules.
 3. Administration. The County Manager, or designee, may sign credit applications, and may award bids and may enter into contracts or agreements to purchase goods and services, and may enter into intergovernmental agreements provided the amount of the bid, contract, or agreement does not exceed \$30,000.00. The County Manager or designee may execute requirements contracts or service agreements where the amount to be expended is undetermined, if the contract can be terminated at any time without penalty. The County Manager or designee may execute any amendment extending the contract period or changing terms other than compensation and may execute an amendment or change order provided the greater of the following contract amount is not exceeded:
 - a. The original contract amount plus 25%, or \$30,000.00, whichever is greater, based on the aggregate amount of the contract, plus all change orders and extra work;
 - b. The amount expressly authorized by the Board at the time the contract or agreement is approved. If this subparagraph is used, the person delegated the authority to authorize the amendments or change order(s) shall formally advise the Board of all change order(s) made prior to completion of the project or within 30 days of the effective date of the amendment or change order, whichever occurs first.
 4. Board. The Board of Commissioners must approve any bid award, contract, or agreement or amendment for the purchase of goods and services, or intergovernmental agreement for an amount exceeding \$30,000.00. Either the Chairperson or County Manager may sign contracts, agreements, deeds, and other documents on behalf of the County after such document has been approved by the Board. The Board of Commissioners may expressly delegate to the County Manager or Chairperson, the authority to approve a specified contract without further Board action.
 5. Leases. The County Manager, or designee, may enter into rental agreements or leases with a term of less than one year, or a period of longer than one year if the lease can be terminated at any time without penalty on less than 90 days' notice, and the gross rental value does not exceed \$30,000.00 per year.
 6. Purchase Orders. All purchase orders must be signed by the County Manager or designee. Those requiring Board approval (over \$30,000.00) may be signed and issued only after the appropriate Board action.
- G. Timber Sales.
1. Sale of Timber Permitted. Sale of County timber does not require a declaration of surplus property, and the provisions of subsection E regarding disposition of County personal property do not apply.
 2. Contract Authority. The County Manager may authorize timber sales with a gross value of \$30,000.00 or less. Timber sales with a gross value greater than \$30,000.00 require the authorization of the Board of Commissioners.

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3. Sales of \$5,000.00 or Less. For timber sales with a gross value of \$5,000.00 or less, then three competitive quotes should be obtained from logging contractors, or the file documented as to why three quotes are unavailable. If County staff cuts and decks the timber or retains ownership of the timber after cutting, then at least two competitive offers should be obtained from available mills prior to sale.
4. Sales in Excess of \$5,000.00. Sales of timber with a gross value in excess of \$5,000.00 require a competitive process applying the provisions of ORS 275.290 and ORS 275.340 if appropriate. Sales may be conducted by two alternative means: (a) the County may sell the standing timber to a logging contractor; or (b) the County may retain ownership of the timber after cutting, and sell the logs to a mill itself. If County sells the timber on-site, it shall advertise it for sale including publication at least once for two successive weeks in a newspaper serving Clatsop County. Sale shall be to the highest bidder who meets County requirements. In the alternative, if County decides to retain ownership of the timber after cutting, then County shall solicit bids from contractors pursuant or ORS Chapter 279B for that portion of the logging, hauling and reforestation process it hires out. Notwithstanding ORS 279B.070, solicitations for logging services shall be advertised once a week for two successive weeks in a newspaper serving Clatsop County. A contract shall be awarded to that offeror whose quote will best serve the interests of the County, taking into account price as well as considerations including, but not limited to, experience, contractor responsibility, and bonding ability. Log sales shall be conducted by contacting all mills within feasible hauling distance for prices for written price quotes, and delivering to those mills that result in the greatest net return (after hauling costs) to County. (Ord. 16-01 § 6; Ord. 11-14 § 7)

1.04.070 Emergencies.

A. Declaration of State of Emergency.

1. The Board may, by ordinance or resolution, declare a state of emergency exists. Such declaration shall be immediately communicated to the public.
2. If circumstances prohibit the timely action of the Board, the chair of the Board of Commissioners, and if the chair is unavailable the vice-chair, thereafter, in order of priority, any Commissioner, the County Manager or the Assistant County Manager may declare a state of emergency, however, at first opportunity the majority of the Board must adopt the declaration.
3. The state of emergency declared under this section shall specify the factors that warrant the declaration, the geographic boundaries of the emergency area, the special powers being invoked or emergency controls to be imposed. The effective period for the declaration must also be authorized but can be extended if emergency conditions still exist when the time expires.

B. Emergency Measures. Upon the declaration of a state of emergency, the emergency operations manager may take the following actions:

1. Order mandatory evacuation of residents and other individuals when necessary for public safety or when necessary for efficient conduct of activities that minimize or mitigate the effects of the emergency;
2. Establish a curfew for emergency areas;
3. Prohibit or limit public gatherings within the emergency areas;
4. Prohibit or restrict vehicular and pedestrian traffic within emergency areas;

5. Restrict access or expel persons from emergency areas;
6. Contract for mutual aid agreements;
7. Suspend competitive bidding procedures in obtaining necessary goods, services and equipment during the emergency;
8. Redirect County funds for emergency use;
9. Order all other measures reasonably necessary to protect life, the environment, and property.
(Ord. 11-14 § 7)

Chapter 1.05

RURAL LAW ENFORCEMENT DISTRICT ADVISORY COMMITTEE

Sections:

- 1.05.010 Short title.**
- 1.05.020 Purpose.**
- 1.05.030 Formation of an Advisory Committee—Membership.**
- 1.05.040 Duties of the Advisory Committee.**
- 1.05.050 Miscellaneous provisions.**
- 1.05.060 Conformance with State law.**
- 1.05.070 Inconsistent provisions.**
- 1.05.080 Separability.**

1.05.010 Short title.

This chapter shall be known as the Clatsop County Rural Law Enforcement District (District) Advisory Committee ordinance. (Ord. 94-16 § 1)

1.05.020 Purpose.

The governing body desires to create a five-member Advisory Committee to be nominated and elected by zone for the purpose of evaluating the existing and future police service needs of the District and formulating financing therefor. Although the Committee's recommendations shall only be advisory, the Committee is intended to serve as the primary source of information concerning the District's policing needs and the community's opinion concerning existing services and future funding. (Ord. 94-16 § 2)

1.05.030 Formation of an Advisory Committee—Membership.

- A. An Advisory Committee is hereby established to perform the duties hereinafter set forth.
- B. Members. The Committee shall consist of five members nominated and elected by zone by electors residing within the zone. There shall be five zones whose boundaries shall be as set out on Exhibit A attached to the ordinance codified in this chapter and adopted by reference. To be eligible for membership an individual must continually reside in the zone from the date of nomination to the expiration of the term. Candidates for membership shall be nominated as provided in ORS 255.235. Members shall be elected bi-annually at the March election for a four-year term.
- C. Initial Committee. The County Clerk shall assign position numbers for each Committee member. Nominations received shall be assigned to positions sequentially and in the order that they are received. The initial Committee members shall serve two-year terms for Positions 1 and 2 and four-year terms for positions 3, 4 and 5. Thereafter, all members elected shall serve four-year terms.
- D. Vacancies. Each Committee member shall serve until a successor is duly elected. Should a vacancy occur during a member's term, that vacancy shall be filled by appointment by the governing body to serve the balance of the term then remaining.
- E. Officers. The Committee members shall elect from its members a Chair, Vice-Chair, Secretary and such other officers as it may deem necessary to serve as such for one year or until a successor is duly elected. Vacancies shall be filled by appointment by the Committee. (Ord. 94-16 § 3)

1.05.040 Duties of the Advisory Committee.

- A. At its initial meeting or as soon thereafter as possible the Committee shall propose by-laws governing the conduct of their affairs as authorized by this chapter. The by-laws must first be approved by the governing body of the District before adopted by the Committee.
- B. The Committee shall work with the Clatsop County Sheriff to propose an annual operating budget for adoption by the governing body of the District. Final approval or revision of the budget for the Advisory Committee shall be in the sole discretion of the governing body. The Committee shall not have the authority to hire personnel or to contract in the name of the District.
- C. The Advisory Committee shall on at least an annual basis evaluate the adequacy of existing police service within the District, propose any improvements and propose methods of funding existing and future police services. In addition, the Advisory Committee shall hold at least three meetings per fiscal year for the purpose of soliciting input from the District's electors and residents concerning the adequacy of existing police services, potential improvements, and various methods of funding existing and future police services. The Committee's findings and recommendations shall be submitted to the governing body of the District in written form on an annual basis with their proposed budget.
- D. In addition to the above responsibilities the Advisory Committee shall provide advice and research on such matters as the governing body of the District may from time to time request and shall provide liaison between the Clatsop County Sheriff's Department and the electorate.
- E. All meetings of the Advisory Committee shall be open to the public, held in places accessible to the public, noticed as required by law and written minutes kept and made available to the public. (Ord. 94-16 § 4)

1.05.050 Miscellaneous provisions.

- A. The Advisory Committee and its members shall be considered a public body whose activities when undertaken on behalf of the District shall be covered under the District's liability insurance policy and the provisions of ORS 30.260 and following.
- B. The costs associated with electing members of the Advisory Committee shall be borne by the District. (Ord. 94-16 § 5)

1.05.060 Conformance with State law.

This chapter shall in no way be a substitute for, nor eliminate the necessity of conforming with any and all state, federal and other municipal laws, rules and regulations which are now or may in the future be in effect. This chapter is in addition to said state, federal and municipal laws, rules and regulations. (Ord. 94-16 § 6)

1.05.070 Inconsistent provisions.

This chapter shall supersede, control and repeal any inconsistent provisions of any County ordinance as amended or any other regulations made by Clatsop County. (Ord. 94-16 § 7)

1.05.080 Separability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and

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independent provision and such holding shall not affect the validity of the remaining portions of this chapter.
(Ord. 94-16 § 8)

Chapter 1.08**REWARD FOR INFORMATION LEADING TO THE ARREST AND CONVICTION OF
PERSONS VANDALIZING COUNTY PROPERTY****Sections:**

- 1.08.010** **Reward.**
1.08.020 **Procedure for payment.**

1.08.010 **Reward.**

Any person or persons providing information leading to the apprehension and conviction of a person or persons for any crime concerned with vandalizing County property, including, but not limited to, the crime of criminal mischief, shall be paid a reward of \$100.00, or a proportionate share thereof if more than one claimant is entitled, but in no event shall more than \$100.00 total be paid to any group of claimants on account of any conviction(s) of a person or persons arising out of a single incident. (Ord. 89-5 § 3)

1.08.020 **Procedure for payment.**

- A. The Clatsop County Board of Commissioners shall consider any claim for a reward at a regular meeting within 60 days of the conviction of the vandal. If it is determined that claimant or claimants provided information which led to the arrest and conviction of the individual or individuals, then payment of \$100.00 shall be made to the claimant or claimants, in portions so designated by the Board of Commissioners.
- B. The Board of Commissioners may, by resolution and order, authorize a reward in excess of \$100.00 if, in its sole discretion, the circumstances so warrant. (Ord. 89-5 § 4)

Chapter 1.11

CODE VIOLATIONS

Sections:

- 1.11.010** **Violations deemed Class A or B classification—Penalties.**
- 1.11.020** **Strict liability.**
- 1.11.030** **Continuing violations.**
- 1.11.040** **Violation procedures—Statutory provisions adopted.**
- 1.11.050** **Other remedies not precluded.**

1.11.010 **Violations deemed Class A or B classification—Penalties.**

- A. Violation of a County ordinance shall be punishable, upon conviction, by fine or by the specific remedies specified within the County Code.
- B. Each County ordinance specifying a County offense shall classify the ordinance violation as a Class A or Class B violation.
- C. A sentence to pay a fine for a violation of a County ordinance shall be a sentence to pay an amount not exceeding:
 - 1. Presumptive fine per ORS 153.019 with maximum fine per ORS 153.018 as revised for a Class A violation; or
 - 2. Presumptive fine per ORS 153.019 with maximum fine per ORS 153.018 as revised Class B violation. (Ord. 2022-04 § 1; Ord. 12-06)

1.11.020 **Strict liability.**

- A. All of the offenses in the Clatsop County Code are strict liability offenses and do not require the proof of any culpable mental state unless the code provision defining the offense expressly provides that culpability is required.
- B. It is no defense to prosecution under any provision in this code that the actor was not the person who actually created, moved, caused, or maintained the unlawful condition or use.
- C. A person is liable for prosecution under any provision of this code:
 - 1. If the person created, moved, caused, or maintained an unlawful condition or use;
 - 2. If the person aided or abetted another person in creating, moving, causing, or maintaining an unlawful condition or use;
 - 3. If the person is in actual or constructive possession of premises on which an unlawful condition or use or is found; or
 - 4. If the person has any interest, other than a security interest, in premises on which an unlawful condition or use is found. (Ord. 2022-04 § 1; Ord. 12-06)

1.11.030 **Continuing violations.**

- A. When a violation is of a continuing nature, a separately punishable violation occurs on each calendar day the violation continues.

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B. The complaint for a continuing violation will clearly state the following:

1. The ongoing or uninterrupted nature of the violation;
2. The date the violation is alleged to have first occurred;
3. The dates or range of dates of each day of the continuing or uninterrupted violation; and
4. The amount of the fine for each day's violation. (Ord. 2022-04 § 1; Ord. 12-06)

1.11.040 Violation procedures—Statutory provisions adopted.

The violation procedures as set forth in ORS 153.030 to 153.121 and 153.990 to 153.992 are adopted hereby by reference. These procedures shall be the procedures for all County ordinance violations, except violations of the Land and Water Code, and violations of Chapters 8.04 and 8.20 of this code, which shall be enforced pursuant to Chapter 1.12. Enforcement action/violations shall be heard in Clatsop County Circuit Court. (Ord. 2022-04 § 1; Ord. 12-06)

1.11.050 Other remedies not precluded.

The procedure established by Sections 1.11.010 through 1.11.040 shall be the exclusive procedures for imposing a fine, except for violations of the Land and Water Code and Chapters 8.04 and 8.20 of this code, enforced pursuant to Chapter 1.12. However, such sections shall not prohibit, in any manner, alternative remedies, including, but not limited to, injunction, nor shall the County be prohibited from recovering any expense incurred in any injunction action. (Ord. 2022-04 § 1; Ord. 12-06)

Chapter 1.12

CODE COMPLIANCE

Sections:

- 1.12.010 Application.**
- 1.12.020 Purpose.**
- 1.12.030 Definitions.**
- 1.12.040 Nuisance and infraction declared.**
- 1.12.050 Persons authorized to take enforcement action.**
- 1.12.060 Persons against whom enforcement action may be taken.**
- 1.12.070 Issuance of warnings.**
- 1.12.080 Service of notice and warnings.**
- 1.12.090 Notice of violation form and content.**
- 1.12.100 Abatement by owner—Administrative review.**
- 1.12.110 Administrative review.**
- 1.12.120 Appeal of administrative review.**
- 1.12.130 Schedules of fines.**
- 1.12.140 Disposition of civil penalties received.**
- 1.12.150 Responsibility to remedy.**
- 1.12.160 Other remedies preserved.**
- 1.12.170 Enforcement action discretionary.**
- 1.12.180 Inspection warrants.**

1.12.010 Application.

This chapter applies throughout the unincorporated areas of Clatsop County, Oregon, except that this chapter shall not apply within the urban growth boundary of any incorporated city if by inter-governmental agreement that city has assumed authority for enforcement of the matter in question. This chapter shall also apply within the incorporated areas of any city in Clatsop County if by intergovernmental agreement Clatsop County has assumed authority for enforcement of the matter in question. (Ord. 2022-04 § 1; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.020 Purpose.

The purpose of this chapter is to provide a procedure for achieving compliance with the Clatsop County Land and Water Development and Use Code, and Chapters 8.04 and 8.20 of this code, which authorize enforcement by County officials. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.030 Definitions.

As used in this chapter, unless the context requires otherwise:

“Abate” means to stop or cause to end.

“Authorized person” means a person authorized under Section 1.12.060 to enforce the provisions of this chapter.

“Board” means the Board of County Commissioners for Clatsop County, Oregon.

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“Code compliance specialist” means a County employee specifically designated to seek compliance with and enforce the Clatsop County Land and Water Development and Use Code and Chapters 8.04 and 8.20 of this code.

“Compliance order” means an order issued by the County hearings officer as a result of a notice of violation.

“Complaint” means a non-anonymous grievance expressed by a person in writing or orally.

“County hearings officer” or “hearings officer” means an administrative officer appointed at the pleasure of the Board to adjudicate civil penalty proceedings.

“Day” means a calendar day.

“Enforcement action” includes the issuance of a warning pursuant to Section 1.12.080, the issuance of a notice under Section 1.12.110, any administrative proceeding resulting from the issuance of a notice of violation and any other act necessary to carry out the purposes of this chapter.

“Hazardous” means actually or potentially harmful.

“May” means permissive and is the opposite of “shall.”

“Notice” means the notice of infraction and proposed civil penalty issued to a responsible party under Section 1.12.090.

“Nuisance” means a condition which creates a hazard to the health and safety of the public.

“Offense” means any act declared an infraction under Section 1.12.050.

“Person” means the definition it has under ORS 161.015 or its successor provisions.

“Responsible party” means a person who commits an offense and, in offenses involving the use or occupation of real property, includes the owner, an agent of the owner or occupant who allows an offense to continue. The responsible party may consist of more than one person.

“Shall” means mandatory and is the opposite of “may.”

“Violation” means a violation of a Clatsop County code provision or ordinance punishable by a fine. (Ord. 2022-04 § 1; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.040 Nuisance and infraction declared.

Violation of any license, permit, statute, administrative rule, ordinance, order or resolution, or any provision thereof, enforceable under this chapter is unlawful and an offense. Such an offense is hereby declared to be a nuisance and a violation and is subject to the penalties provided herein or otherwise provided by law. Each day of violation constitutes a separate offense. Failure to remove a violation for which a notice of violation or code compliance order has been issued constitutes a separate offense. (Ord. 22-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.050 Persons authorized to take enforcement action.

A. The persons holding the following positions are specifically authorized to take enforcement action under this chapter:

1. The County Manager or the County Manager’s designee.
2. Code compliance specialist.

- B. Authority to take enforcement action shall automatically terminate when any person ceases to hold a position described in Section 1.12.060(A). The County Manager may, at any time and for any reason, revoke the authority of any person to take enforcement action under this chapter. (Ord. 2022-04 § 1; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.060 Persons against whom enforcement action may be taken.

Enforcement action may be taken against any responsible party. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.070 Issuance of warnings.

An authorized person may, in lieu of issuing a notice of violation, issue a written warning for the commission of any offense. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.080 Service of notice and warnings.

Notices and warnings authorized under this chapter may be served upon property owners and occupants of real property consistent with the methods provided in Section 1.14.080 of this code. (Ord. 2022-04 § 1; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.090 Notice of violation form and content.

A. The notice of violation shall be in a form and contain wording as approved by County Counsel.

B. The notice of violation shall contain at minimum the following sections:

1. "Notice of violation" (short title).
2. Name of responsible party or parties alleged to have committed the violation.
3. Section or sections of County Code allegedly violated. If the applicable county code section(s) incorporate a state statute, rule, uniform code (such as the building code), or other source of law, the notice shall also contain citations to the sections of the applicable code, statute, or rule.
4. Brief description, written in plain language, of each alleged violation and summary of evidence relied upon.
5. The date or range of dates of each alleged violation.
6. The location of each alleged violation.
7. Notice of violation date of issuance.
8. The amount of the proposed civil penalty.
9. Statements which advise the responsible party, in ordinary, non-technical language, of the following:
 - a. The responsible party's right to a hearing;
 - b. The date, time and location of the hearing;
 - c. The procedures for requesting that the hearing be rescheduled;
 - d. The procedures at the hearing;

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- e. The requirement that the responsible party appear in person at the hearing or submit a written statement in lieu of appearing in person;
- f. That if the responsible party does not appear in person at the hearing or does not submit a written statement in lieu of appearing in person:
 - i. The full amount of the proposed civil penalty will be assessed;
 - ii. The responsible party will be ordered to correct the violation;
 - iii. Failing to pay a civil penalty or correct a violation after having been ordered or required to do so is a separate violation of the code and subjects the responsible party to additional civil penalties, court action, liens, garnishments, interest charges, and other involuntary collection remedies.
- 8. The address at which the responsible party may submit to the county written materials related to the notice.
- 9. The name, title, and signature of the person issuing the notice. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.100 Abatement by owner—Administrative review.

Within 30 days after service of a notice of violation, a responsible party shall remove and abate such nuisance or show that no nuisance in fact exists. Such showing may be made by filing a written statement with the Clatsop County code compliance specialist. Upon expiration of 30 days from service of the notice, the code compliance specialist shall schedule the matter for administrative review. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.110 Administrative review.

- A. Thirty days following the service of a notice of violation, the compliance specialist shall review all actions and decisions concerning the alleged nuisance and shall determine whether the nuisance has been abated.
- B. The responsible party may present evidence to the code compliance specialist in the course of said review regarding the presence or abatement of the alleged nuisance.
- C. Upon completion of administrative review, the code compliance specialist shall determine the presence and nature of any nuisances.
 - 1. If a nuisance is present the code compliance specialist may issue a separate notice of violation and may schedule the case for review by the hearings officer.
 - 2. If no nuisance is present the code compliance specialist shall dismiss the violation upon full payment of any fines or other penalties assessed for the violation. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.120 Appeal of administrative review.

Upon receipt of a notice of violation, if a hearing has not been scheduled by the code compliance specialist, the responsible party may request a hearing. The request to schedule a hearing must be received in writing within 20 days of the date of the notice of violation was issued.

- A. If a timely appeal is received, a de novo hearing shall be scheduled and held on the matter.

- B. Hearings shall be conducted as outlined in Chapter 1.14 of this code.
- C. Scheduling of appeal does not relieve the responsible party of responsibility to remove the violation while the appeal is pending.
- D. In the case of immediate threats to health and safety or other exigent circumstances, nothing in this section shall limit the County's authority to utilize all available legal and equitable remedies, up to and including injunctive relief. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.130 Schedules of fines.

- A. The Board may by order establish and modify recommended schedules of minimum fines for offenses enforceable under this chapter. The hearings officer may accept or modify such minimum fine schedules as noted in Section 1.14.120 of this code.
- B. Until modified by order of the Board, the presumptive minimum fine per violation shall be:
 1. \$500.00 for the first notice of violation filed under this chapter.
 2. \$750.00 for a second notice of violation for the same ongoing, unabated, or repetitive violation.
 3. \$1,000.00 for the third and all subsequent notices of violation for the same ongoing, unabated, or repetitive violation.
- C. The maximum fine for any single offense imposed under this chapter shall be \$20,000.00. Interest on outstanding fines shall accrue nine percent.
- D. After issuance of a decision by the hearings officer, each day that a violation continues may be treated as a separate violation and treated with a separate and continuing fine. This continuing fine may be in addition to a fine for the original violation and the County's assessments. If the hearings officer's decision imposes a continuing fine the minimum fine schedule shall be employed for each daily violation.
- E. If a responsible party demonstrates to the code compliance specialist that the nuisance is abated within 30 days of the issuance of the hearings officer's decision the fine for that violation shall be reduced to 20% of the amount assessed in the most recent notice of violation. If the responsible party does not demonstrate abatement of the nuisance within 30 days of service the full amount of any fine assessed under this chapter is due, regardless of whether the violation is later cleared. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.140 Disposition of civil penalties received.

Fines and assessments recovered under this chapter shall be paid to Clatsop County and deposited in a dedicated fund to be used exclusively for nuisance abatement activities and administration pursuant to this chapter. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.150 Responsibility to remedy.

Payment of a fine and assessments on a notice issued under this chapter does not relieve a responsible party of the responsibility to remedy the violation and such offender may be subject to additional enforcement as provided by this chapter. (Ord. 2022-04 § 1; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.160 Other remedies preserved.

- A. County counsel shall have the authority to prosecute any person cited under this chapter in the name of the County. If any offense under this chapter is also an offense under state law, the district attorney and any deputy district attorney of Clatsop County shall retain all authority given under state law to prosecute the alleged offender in the name of the state under the provisions of state law.
- B. In lieu of, or in addition to, the procedure set forth in this chapter, the County may exercise any and all remedies available at law or in equity for the enforcement of any County ordinance, resolution or order or any state statute or administrative rule. (Ord. 2022-04 § 1; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.170 Enforcement action discretionary.

A decision to take any enforcement action pursuant to this chapter including a decision to seek a fine or any equitable relief is permissive and not mandatory. Any decision made not to take enforcement action is declared to be an act of discretion as described by ORS 30.265. (Ord. 2022-04 § 1; Ord. 13-04 § 3; Ord. 04-08 § 7; Ord. 96-15 § 4)

1.12.180 Inspection warrants.

- A. Warrants. Whenever an inspection is necessary to investigate or enforce an enforcement action, or whenever the code compliance specialist has reasonable cause to believe that a nuisance or violation exists in any building or upon any property, the code compliance specialist may request a circuit court judge issue an inspection warrant for the inspection or investigation of any building or upon any property. The inspection warrant is an order authorizing a safety or health inspection or investigation to be conducted at a designated building or property.
- B. Grounds for Issuance of Inspection Warrants—Affidavit.
 - 1. Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant’s status in applying for the warrant, the statute, ordinance or regulation thought to be violated, the building or property to be inspected or investigated, and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.
 - 2. Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is cause to believe that a nuisance or violation exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any license, permit, statute, administrative rule, ordinance, order or resolution.
- C. Procedure for Issuance of Inspection Warrant.
 - 1. Examination. Before issuing an inspection warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
 - 2. Issuance. If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, par-

ticularly describing the person or persons authorized to execute the warrant, the property to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any other time of the day or night.

D. Execution of Inspection Warrants.

1. Occupied Property. Except as provided in subsection (D)(2) of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make reasonable effort to present the person's credentials authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property. In executing an inspection warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection A of this section, but may promptly enter the designated property if it is reasonably believed to be unoccupied or in the possession of any person. In such case a copy of the search warrant shall be conspicuously posted on the property.
3. Police Assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and assist the code compliance specialist, building official or inspector or County representative inspecting the property in any way necessary to complete the inspection.
4. Return. An inspection warrant must be executed within ten working days of its issue and returned to the judge by whom it was issued within five working days from its date of execution, unless such judge before the expiration of such time extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void. (Ord. 2022-04 § 1; Ord. 04-08 § 7; Ord. 96-15 § 4)

Chapter 1.14

CODE COMPLIANCE HEARINGS PROCEDURES

Sections:

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1.14.010 Application.

This chapter applies throughout the unincorporated areas of Clatsop County, Oregon, except that this chapter shall not apply within the urban growth boundary of any incorporated city if by inter-governmental agreement that city has assumed authority for enforcement of the matter in question. This chapter shall also apply within the incorporated areas of any city in Clatsop County if by intergovernmental agreement Clatsop County has assumed authority for enforcement of the matter in question. (Ord. 2022-04 § 1)

1.14.020 Purpose.

The purpose of this chapter is to provide a procedure for achieving compliance with the Clatsop County Land and Water Development and Use Code and Chapters 8.04 and 8.20 of this code, which authorize enforcement by County officials. (Ord. 2022-04 § 1)

1.14.030 Definitions.

As used in this chapter, unless the context requires otherwise:

“Board” means the Board of County Commissioners for Clatsop County, Oregon.

“Code compliance specialist” means a County employee specifically designated to seek compliance with and enforce the Clatsop County Land and Water Development and Use Code and Chapters 8.04 and 8.20 of this code.

“Compliance order” means an order issued by the County hearings officer as a result of a notice of violation.

“County hearings officer” or “hearings officer” means an administrative officer appointed at the pleasure of the Board to adjudicate civil penalty proceedings.

“Enforcement action” includes the issuance of a warning pursuant to Section 1.12.080, the issuance of a notice under Section 1.12.110, any administrative proceeding resulting from the issuance of a notice of violation and any other act necessary to carry out the purposes of this chapter.

“Notice” means the notice of violation and proposed civil penalty issued to a responsible party under Section 1.12.090.

“Offense” means any act declared a violation under Section 1.12.050.

“Person” means the definition it has under ORS 161.015 or its successor provisions.

“Responsible party” means a person who commits an offense and, in offenses involving the use or occupation of real property, includes the owner, an agent of the owner or occupant who allows an offense to continue. The responsible party may consist of more than one person. (Ord. 2022-04 § 1)

1.14.040 Hearings officers.

- A. The Board of County Commissioners shall designate one or more hearings officers to adjudicate civil penalty proceedings under this chapter.
- B. Hearings officers may administer oaths in connection with their duties as hearings officers. (Ord. 2022-04 § 1)

1.14.050 Persons against whom enforcement action may be taken.

Enforcement action may be taken against any responsible party. (Ord. 2022-04 § 1)

1.14.060 Instituting civil penalty proceedings.

- A. Civil penalty proceedings may be instituted by the county official responsible for administering the county code provisions believed to be violated, a peace officer, or any other person specifically authorized by ordinance to institute civil penalty proceedings.
- B. Civil penalty proceedings are instituted when a notice of violation and proposed civil penalty is served on the violator as required by this chapter. (Ord. 2022-04 § 1)

1.14.070 Notice of violation and proposed civil penalty.

- A. The notice of violation shall be in a form and contain wording as approved by County Counsel.
- B. The notice of violation shall contain at minimum the following sections:
 1. “Notice of violation” (short title).
 2. Name of responsible party or parties alleged to have committed the violation.
 3. Section or sections of County Code allegedly violated. If the applicable county code section(s) incorporate a state statute, rule, uniform code (such as the building code), or other source of law, the notice shall also contain citations to the sections of the applicable code, statute, or rule.
 4. Brief description, written in plain language, of each alleged violation and summary of evidence relied upon.
 5. The date or range of dates of each alleged violation.
 6. The location of each alleged violation.
 7. Notice of violation date of issuance.

8. The amount of the proposed civil penalty.
 9. Statements which advise the responsible party, in ordinary, non-technical language, of the following:
 - a. The responsible party's right to a hearing;
 - b. The date, time and location of the hearing;
 - c. The procedures for requesting that the hearing be rescheduled;
 - d. The procedures at the hearing;
 - e. The requirement that the responsible party appear in person at the hearing or submit a written statement in lieu of appearing in person;
 - f. That if the responsible party does not appear in person at the hearing or does not submit a written statement in lieu of appearing in person:
 - i. The full amount of the proposed civil penalty will be assessed;
 - ii. The responsible party will be ordered to correct the violation;
 - iii. Failing to pay a civil penalty or correct a violation after having been ordered or required to do so is a separate violation of the code and subjects the responsible party to additional civil penalties, court action, liens, garnishments, interest charges, and other involuntary collection remedies.
 10. The address at which the responsible party may submit to the county written materials related to the notice.
 11. The name, title, and signature of the person issuing the notice.
- C. Corrections.
1. Any errors or omissions in the notice may be corrected at the hearing or at any time prior thereto.
 2. The responsible party is entitled to be notified of any amendments or corrections to the notice.
- D. A responsible party claiming that an error or omission in the notice constitutes a defense or that the notice should be set aside shall advise the hearings officer of the claimed error or omission prior to the close of the hearing and request the notice be set aside.
1. Failure to request that the hearings officer set aside the notice due to an error or omission constitutes a waiver and will be an absolute bar to raising the issue at any later time or on appeal.
 2. A notice may be set aside by a hearings officer only if the responsible party is prejudiced by the error or omission.
 3. If the hearings officer sets aside a notice due to an error or omission, the county may reinstitute civil penalty proceedings based upon the same conduct, condition, or circumstance alleged in the notice which the hearings officer set aside.
- E. County Counsel may approve a form that contains information in addition to the information required by subsection B of this section. (Ord. 2022-04 § 1)

1.14.080 Service of notice.

- A. Service of a notice of violation shall be accomplished in any manner reasonably calculated, under all the circumstances, to apprise the responsible party of the existence and pendency of the proceedings and give the violator an opportunity to appear and defend.
- B. The responsible party may be served with the original notice or a copy thereof.
 - 1. Copies need not be certified true copies.
 - 2. The following methods of service are presumed to be reasonable under subsection A of this section:
 - a. By personal delivery of the notice on the responsible party;
 - b. By mailing the notice to the responsible party by first class mail and by any of the following: certified, registered, or express mail.
 - i. Mail sent certified, registered, or express mail shall be sent with return receipt requested.
 - ii. For purposes of this section “first class mail” does not include any form of mail which may delay or hinder actual delivery of mail to the addressee;
 - c. By personal service on a registered agent, officer, director, general partner, or management agent of a corporate, limited partnership or personal service upon any clerk on duty in the office of the registered agent;
 - d. By posting a copy of the notice in a conspicuous location upon the apparent main entrance to the dwelling or property and by mailing first class mail copies of the notice to the property and the address of the owner currently on file with the county tax collector.
- C. Service shall be deemed complete when personal service is accomplished or in the case of posted or mailed service the date on which the responsible party signs a receipt for deliver or seven days after the mailing, whichever comes first. (Ord. 2022-04 § 1)

1.14.090 Setting the hearing, continuances.

- A. The date, time and location of the hearing shall be set forth on the notice of violation.
- B. The county or the responsible party may request that the hearing be rescheduled.
- C. Requests by the responsible party to reschedule must be in writing and delivered to the county at the address designated on the notice.
- D. Except as otherwise provided in this section, requests to reschedule may be delivered by facsimile transmission or by e-mail.
- E. Requests to reschedule the hearing must be made at least two business days prior to the hearing date.
- F. Requests by the County to Reschedule the Hearing.
 - 1. Requests by the County to reschedule the hearing must be made in writing to the hearings officer with a copy served upon the responsible party.
 - 2. If the County’s request to reschedule is made seven days or more prior to the hearing, the County may serve the responsible party by first class mail, otherwise, service must be made in accordance with Section 1.12.100 of this code.

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3. Requests by the County to reschedule must include reasons for the request and the responsible party's position on the request.
 4. If the County was unable to contact the responsible party for their position, the request must state the efforts made to obtain the responsible party's position.
- G. Decisions on requests to reschedule the hearing will be made by the hearings officer.
- H. Decisions on Reschedule Requests.
1. The hearings officer shall consider only the responsible party's written request to reschedule and information within the file which is available to the responsible party.
 2. The decision denying the request to reschedule must contain a brief statement of the reasons for the denial.
 3. A decision granting a rescheduling request shall contain the date, time and location of the rescheduled hearing.
 4. Decisions on rescheduling requests will be mailed to the responsible party by first class mail. (Ord. 2022-04 § 1)

1.14.100 Hearing procedure.

- A. The hearings officer shall preside over hearings under this chapter and may set reasonable rules of procedure designed to facilitate orderly and efficient presentation of evidence provided the rules do not conflict with this chapter.
- B. Except as otherwise provided in this section, the responsible party must appear in person at the hearing.
- C. If the responsible party is an individual, that person may submit a written statement in lieu of personal appearance in accordance with subsection E of this section.
- D. Responsible parties who are not individuals must designate a director, officer, managing agent, member, or employee who has the authority to act of the responsible party's behalf and to give sworn testimony on the responsible party's behalf.
1. The designee must appear in person at the hearing.
 2. The hearings officer may require the designee to testify under oath to establish the designee's authority.
- E. Statements in Lieu of Appearance.
1. A written statement in lieu of personal appearance must be signed by the responsible party or on behalf of the responsible party and received by the county at the address on the notice at least one business day prior to the hearing.
 2. Statements may be delivered via facsimile transmission or by email.
- F. Except as provided in subsection D of this section, all testimony must be given under oath.
- G. Hearings on notices involving the same person or persons, the same parcel of property, or common issues of fact or law may be consolidated and heard in a single proceeding.
- H. The Oregon Rules of Evidence do not apply to hearings conducted pursuant to this chapter.
1. Any relevant evidence shall be admitted if it is of the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a

common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this State.

2. Although relevant, evidence may be excluded if the hearings officer determines its probative value is substantially outweighed by considerations of undue delay or needless presentation of cumulative evidence.
- I. The County may be represented by a code compliance specialist for violations other than the Building Code or Fire Code, by legal counsel or assistant legal counsel, by a peace officer, or by any person so authorized by a county department head.
 - J. Responsible Party Represented by an Attorney.
 1. The responsible party may be represented by an attorney licensed to practice law in Oregon or may represent themselves.
 2. The appearance of an attorney does not alter the requirement that the responsible party be personally present at the hearing.
 - K. If the responsible party has personally appeared at the hearing or timely delivered a written statement in lieu of personal appearance, the county shall proceed first and have the burden of establishing the violations by a preponderance of evidence.
 1. The responsible party proceeds second and, if personally present, may question the county's witnesses, present testimony and evidence and make argument.
 2. If the responsible party is not personally present, the hearings officer may not consider any testimony, argument or evidence on behalf of the responsible party apart from the responsible party's written statement.
 3. The county's representative may question the responsible party's witnesses. The county may offer rebuttal testimony or argument or both at the discretion of the hearings officer.
 - L. Penalty-Only Hearing.
 1. If the responsible party admits the violation and requests to be heard only on the issue of the penalty, the hearings officer may decide to proceed informally and dispense with sworn testimony.
 2. In such cases, the hearings officer shall proceed in any manner which provides the county and the responsible party a full and fair opportunity to be heard on the issue of the penalty. (Ord. 2022-04 § 1)

1.14.110 Decision and order of hearings officer.

- A. If the responsible party fails to appear at the hearing and has not submitted a written statement in lieu of appearance, the hearings officer shall close the hearing and issue a decision assessing the proposed civil penalty and ordering the violator to correct the violation immediately.
- B. Decisions of the hearings officer shall be written and issued within 14 days from the date of hearing.
 1. A decision is issued when it is mailed to the responsible party first class mail or delivered to the responsible party in person.
 2. If the preponderance of evidence established one or more of the violations alleged in the notice, the decision shall briefly state the facts which constitute each violation.

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3. If the preponderance of evidence does not establish one or more of the violations alleged in the notice the decision shall so state.
 4. The decision shall advise that the responsible party may seek judicial review by filing a petition for a writ of review with the circuit court within 60 days of the date of the decision.
- C. Orders imposing a civil penalty and orders to correct a violation take effect upon personal delivery to the responsible party or upon mailing, whichever occurs first. (Ord. 2022-04 § 1)

1.14.120 Penalty amounts and other orders by the hearings officer.

- A. The hearings officer shall impose a civil penalty for each violation established.
1. The amount of the civil penalty shall be the amount proposed in the notice of violation unless the hearings officer finds based upon the evidence or statements of the responsible party that a lesser civil penalty is required to avert an injustice.
 2. A decision imposing a lesser penalty shall state with particularity the reasons why a lesser penalty is justified under this section.
 3. A hearings officer may order the civil penalty be paid immediately or at some future definite time.
- B. In addition to any civil penalty imposed, the hearings officer shall order the responsible party to correct each violation.
1. If the responsible party did not appear at the hearing or submit a written statement in lieu of personal appearance, the order shall require the responsible party to correct the violation immediately.
 2. Otherwise, the responsible party shall be ordered to correct the violation within a definite period.
 3. The hearings officer may order the responsible party to take specific corrective action if the hearings officer determines that doing so would facilitate compliance with the code.
- C. A failure to correct a violation as ordered by the hearings officer or to pay a civil penalty when due is subject to a separate civil penalty of up to \$500.00 for each day the violation is not corrected or the civil penalty is not paid.
- D. A land use application for a property with an existing code violation will be accepted, but not processed by the County consistent with Section 2.0100, LAWDUC. (Ord. 2022-04 § 1)

1.14.130 Collection of civil penalties.

- A. Unless otherwise ordered by the hearings officer, civil penalties are due immediately.
- B. Unpaid civil penalties accrue interest at the rate of nine percent per annum.
- C. The county has a lien on the real property where the violation occurred and on any real property in Clatsop County owned by the responsible party for the amount of the civil penalty plus accrued interest.
- D. The county may record the hearings officer decision in the county lien records at any time after 60 days from the date the decision was issued.
- E. The lien referred to in subsection C of this section attaches when the decision is mailed or personally delivered to the responsible party, whichever comes first.

1. An order granting a responsible party time within which to pay a civil penalty does not affect the county's lien.
 2. In all cases, the lien is for the full civil penalty together with accrued interest regardless of when payment is due.
- F. Civil penalties may be reduced to 20% of the amount if the violation is removed within 30 days of the hearings officer decision.
- G. Payment of the civil penalty does not relieve the responsible party of its duty to remove or resolve the violation. (Ord. 2022-04 § 1)

1.14.140 Final decision.

The decision of the hearings officer is the final decision of the county. (Ord. 2022-04 § 1)

1.14.150 Disposition of civil penalties received.

Civil penalties received under this chapter shall be paid to Clatsop County and deposited in a dedicated fund to be used exclusively for nuisance abatement activities and administration pursuant to Section 1.12.140 of this chapter. (Ord. 2022-04 § 1)