

TITLE 9

BUILDINGS

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TITLE 9

BUILDINGS

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Chapter 9.01

9.01 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

9.01.010 Purpose

It is the purpose of this chapter to provide a just, equitable and practicable method, to be cumulative with addition to any other, remedy provided by the Building Code, Housing Code or otherwise available by law. Whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

- A. The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.
- B. The provisions of this chapter shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

[Codified by Ord. 05-2000, 7/13/00]

9.01.020 Alterations, Additions and Repairs

All buildings or structures, which are required repaired, under the provisions of this chapter, shall be subject to the provisions of Section 3403 of the Building Code.

[Codified by Ord. 05-2000, 7/13/00]

9.01.030 Administration

- A. The building official is hereby authorized to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter. To adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.
- B. The Compliance Hearings Officer appointed pursuant to Chapter 2.07.010, Compliance Hearings Officer, of this code, is hereby appointed as the Board of Appeals for this chapter.

[Codified by Ord. 05-2000, 7/13/00]

9.01.040 Inspections

The health officer, the fire marshal, and the building official are hereby authorized to make any such inspections and take such actions as may be required to enforce the provisions of this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.01.050 Right of Entry

When it is necessary to make an inspection to enforce the provisions of this chapter. When the building official or the building official has authorized representative has rea-

sonable cause to believe that there exists in a building or upon premises a condition, which is contrary to or in violation of this chapter. This makes the building or premises unsafe, dangerous or hazardous. The building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter. Provided that if such building or premises were occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry. Authorized representative” shall include the officers named in Section 9.01.040 and their authorized inspection personnel. [Codified by Ord. 05-2000, 7/13/00]

9.01.060 Abatement Of Dangerous Buildings

All buildings or portions thereof, which are determined after inspection by the building official to be dangerous. As defined in this chapter is hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in Section 9.01.100 of this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.01.070 Violations

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, or structure, cause or permit the same to be done in violation of this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.01.080 Inspection Of Work

All buildings or structures within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this chapter and Sections 108 and 1701 of the Building Code. [Codified by Ord. 05-2000, 7/13/00]

9.01.090 Board Of Appeals

A. General

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this chapter, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals, shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant, with a duplicate copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Section 9.01.150 of this chapter. Copies of all rules or regulations adopted by the board shall be delivered to the building official; who

shall make them freely accessible to the public.

B. Limitations of Authority

The board of appeals shall have no authority relative to interpretation of the administrative provisions of this chapter nor shall the board be empowered to waive requirements of this chapter.

C. Definitions

For the purpose of this chapter, certain terms, phrases, words, and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language Unabridged; copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

1. BUILDING CODE is the Uniform Building Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.
2. DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 9.01.100 of this chapter.
3. HOUSING CODE is the Uniform Housing Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

[Codified by Ord. 05-2000, 7/13/00]

9.01.100 Dangerous Building

For the purpose of this chapter, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exists to the extent that the life, health, property or safety of the public or its occupants are endangered.

- A. Whenever any door, aisle, passageway, stairway or other exists or is maintained in violation of any specific requirement or means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
 - B. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
 - C. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
 - D. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
 - E. Whenever any portion, member, or appurtenance thereof is likely to fail, or to become detached, dislodged, or to collapse and thereby injure persons or damage
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- property.
- F. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
 - G. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
 - H. Whenever the building or structure, or any portion thereof, because of
 1. dilapidation, deterioration or decay;
 2. faulty construction;
 3. the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 4. the deterioration, decay or inadequacy of its foundation; or
 5. any other causes are likely to partially or completely collapse.
 - I. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
 - J. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.
 - K. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls, or coverings.
 - L. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:
 1. an attractive nuisance to children;
 2. a harbor for vagrants, criminals or immoral persons; or as to
 3. Enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
 - M. Whenever any building or structure has been constructed, exists or maintained in violation of any specific requirement prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or chapter of this state or jurisdiction relating to the condition, location or structure of buildings.
 - N. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and codes, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the;
 1. Strength,
 2. fire-resisting qualities or characteristics,
 3. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.
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- O. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- P. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
- Q. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- R. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

[Codified by Ord. 05-2000, 7/13/00]

9.01.110 Notices And Orders Of Building Official

1. Commencement of Proceedings

When the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

A. Notice and Order

The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 9.01.100 of this chapter.
3. A statement of the action required to be taken as determined by the building official.
 - a. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits must be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
 - b. If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 - c. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable

(not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official;
 - a. Will order the building vacated and posted to prevent further occupancy until the work is completed, and
 - b. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.
 5. Statements advising
 - a. that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this chapter and filed with the building official within 30 days from the date of service of such notice and order; and
 - b. that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.
- B. Service of Notice and Order
- The notice and order and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records. The holder of any mortgage, or deed of trust or other lien or encumbrance of record: the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate, any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.
- C. Method of Service
- Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
- D. Proof of Service
- Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of
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receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.
[Codified by Ord. 05-2000, 7/13/00]

9.01.120 Recordation Of Notice And Order

If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the county recorder a certificate describing the property and certifying

- a. that the building is a dangerous building;
- b. that the owner has been so notified;

Whenever the corrections ordered shall thereafter have been completed or the Building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate. [Codified by Ord. 05-2000, 7/13/00]

9.01.130 Repair, Vacation And Demolition

The following standards shall be followed by the building official (and by the board of appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

- A. Any building declared a dangerous building under this chapter shall be made to comply with one of the following:
 1. The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
 2. The building shall be demolished at the option of the building owner; or
 3. If the building does not constitute an immediate danger to the life, limb property or safety of the public it may be vacated, secured, and maintained against entry.
- B. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

[Codified by Ord. 05-2000, 7/13/00]

9.01.140 Notice To Vacate

A. Posting

Every notice to vacate shall, in addition to being served as provided in Section 9.01.100, be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building,
Or to remove or deface this notice.

Building Official
..... of

B. Compliance

Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 9.01.110, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant the provisions of the Building Code.

[Codified by Ord. 05-2000, 7/13/00]

9.01.150 Appeal

A. Form of Appeal

Any person entitled to service under Section 9.01.130 may appeal from any notice and order or any action of the building official under this chapter by filing at the office of the building official a written appeal containing:

1. A heading in the words: "Before the board of appeals of
2. the of"
3. A caption reading: "Appeal of.....," giving the names of all appellants participating in the appeal.
4. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
5. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
6. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed modified or otherwise set aside.
7. The signatures of all parties named as appellants and their official mailing addresses.
8. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal shall be filed within 30 days from the date of the service of such order or action of the building official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 9.01.140, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

C. Processing of Appeal

Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the board of appeals.

D. Scheduling and Noticing Appeal for Hearing

As soon as practicable after receiving the written appeal, the board of appeals shall fix a date time and place for the hearing of the appeal by the board. Such date shall not be less than 10 days and not for more than 60 days from the date. The appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal. [Codified by Ord. 05-2000, 7/13/00]

9.01.160 Effect Of Failure To Appeal

Failure of any person to file an appeal in accordance with the provisions of Section 9.01.150 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof. [Codified by Ord. 05-2000, 7/13/00]

9.01.170 Scope Of Hearing On Appeal

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal. [Codified by Ord. 05-2000, 7/13/00]

9.01.180 Staying Of Order Under Appeal

Except for vacation orders made pursuant to Section 9.01.140 enforcement of any notice and order of the building official issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed. [Codified by Ord. 05-2000, 7/13/00]

9.01.190 Procedures For Conduct Of Hearing Appeals

A. Hearing Examiners

The board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board for decision.

B. Record

A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.

C. Reporting

The proceedings at the hearing shall also be reported by a phonographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the board, but shall in no event be greater than the cost involved.

D. Continuances

The board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

E. Oaths—Certification

In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

F. Reasonable Dispatch

The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

[Codified by Ord. 05-2000, 7/13/00]

9.01.200 Form Of Notice Of Hearing

The notice to appellant shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before (the board of appeals or name of hearing examiner) at.on the. Day of., 19. . . at the hour upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with (board of appeals or name of hearing examiner).”

[Codified by Ord. 05-2000, 7/13/00]

9.01.210 Subpoenas

A. Filing of Affidavit

The board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired to things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

B. Case Referred to Examiner

In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

C. Penalties

Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor.

[Codified by Ord. 05-2000, 7/13/00]

9.01.220 Conduct Of Hearing

- A. Rules
Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- B. Oral Evidence
Oral evidence shall be taken only on oath or affirmation.
- C. Hearsay Evidence
Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
- D. Admissibility of Evidence
Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any 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.
- E. Exclusion of Evidence
Irrelevant and unduly repetitious evidence shall be excluded.
- F. Rights of Parties
Each party shall have these rights, among others:
1. To call and examine witnesses on any matter relevant to the issues of the hearing;
 2. To introduce documentary and physical evidence;
 3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 4. To impeach any witness regardless of which party first called the witness to testify;
 5. To rebut the evidence; and
 6. To be represented by anyone who is lawfully permitted to do so.
- G. Official Notice
1. What may be noticed
In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and codes of the city or rules and regulations of the board.
 2. Parties to be notified
Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
 3. Opportunity to refute
Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.
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4. Inspection of the premises
The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that
 - a. notice of such inspection shall be given to the parties before the inspection is made,
 - b. the parties are given an opportunity to be present during the inspection, and
 - c. the board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board or hearing examiner.

[Codified by Ord. 05-2000, 7/13/00]

9.01.230 Method And Form Of Decision

- A. Hearing before Board Itself
When a contested case is heard before the board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.
 - B. Hearing before Examiner
If a contested case is heard by hearing examiner alone, the examiner shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions, and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiner's reports filed with the board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the board.
 - C. Consideration of Report by Board-Notice
The board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.
 - D. Exceptions to Report
Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the board, any party may present oral argument to the board.
 - E. Disposition by the Board
The board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.
 - F. Proposed Decision Not Adopted
If the proposed decision is not adopted as provided in Section 9.01.230, the board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing
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examiner, the examiner shall prepare a report and proposed decision as provided in Section 9.01.230 hereof after any additional evidence is submitted. Consideration of such proposed decision by the board shall comply with the provisions of this section.

G. Form of Decision

The decision shall be in writing and shall contain findings of facts, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.

H. Effective Date of Decision

The effective date of the decision shall be as stated therein.

[Codified by Ord. 05-2000, 7/13/00]

9.01.240 Compliance

After any order of the building official or the board of appeals made pursuant to this chapter shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

A. Failure to Obey Order

If, after any order of the building official or board of appeals made pursuant to this chapter has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may;

1. cause such person to be prosecuted under Section 9.01.240 or
2. institute any appropriate action to abate such building as a public nuisance.

B. Failure to Commence Work

Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this chapter becomes effective:

1. order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING DO NOT OCCUPY

It is a misdemeanor to occupy this building,

Or to remove or deface this notice.

Building Official

..... of

2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removals ordered by the building official have been completed, and a certificate of occupancy issued pursuant to the provisions of the Building Code.
 3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner
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hereinafter provided in this chapter. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

[Codified by Ord. 05-2000, 7/13/00]

9.01.250 Extension Of Time To Perform Work

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

[Codified by Ord. 05-2000, 7/13/00]

9.01.260 Interference With Repair Or Demolition Work Prohibited

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.01.270 Performance Of Work Of Repair Or Demolition

A. Procedure

When any work of repair or demolition is to be done pursuant to Section 9.01.240, of this chapter, the building official shall issue an order therefor to the director of public works and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

B. Costs

The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.

[Codified by Ord. 05-2000, 7/13/00]

9.01.280 Repair And Demolition Fund**A. General**

The legislative body of this jurisdiction shall establish a special revolving fund to be designated as the repair and demolition fund. Payments shall be made out of said fund upon the demand of the director of public works to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.

B. Maintenance of Fund

The legislative body may at any time transfer to the repair and demolition fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of a jurisdiction who shall credit the same to the repair and demolition fund.

[Codified by Ord. 05-2000, 7/13/00]

9.01.290 Recovery Of Cost Of Repair Or Demolition

The director of public works shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section 9.01.240, of this chapter. Upon the completion of the work of repair or demolition, said director shall prepare and file with the clerk of this jurisdiction a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 9.01.110. [Codified by Ord. 05-2000, 7/13/00]

9.01.300 Notice Of Hearing

Upon receipt of said report, the clerk of this jurisdiction shall present it to the legislative body of this jurisdiction for consideration. The legislative body of this jurisdiction shall fix a time; date and place for hearing said report and any protests or objections thereto. The clerk of this jurisdiction shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Such notice shall be given at least 10 days prior to the date set for the hearing and shall specify the day, hour and place when the legislative body will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge. [Codified by Ord. 05-2000, 7/13/00]

9.01.310 Protests And Objections

Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of this jurisdiction at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a

description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of this jurisdiction shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the legislative body of this jurisdiction at the time set for the hearing, and no other protests or objections shall be considered. [Codified by Ord. 05-2000, 7/13/00]

9.01.320 Hearing Of Protests

Upon the day and hour fixed for the hearing, the legislative body of this jurisdiction shall hear and pass upon the report of the director together with any such objections or protests. The legislative body may make such revision, correction or modification in the report or the charge as it may deem just; and when the legislative body is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the legislative body of this jurisdiction on the report, the charge, and on all protests or objections. Shall be final and conclusive. [Codified by Ord. 05-2000, 7/13/00]

9.01.330 Personal Obligation Or Special Assessment

- A. The legislative body of this jurisdiction may thereupon order that said charge should be made a personal obligation of the property owner or assess said charge against the property involved.
- B. Personal Obligation
If the legislative body of this jurisdiction orders that the charge shall be a personal obligation of the property owner, it shall direct the attorney for this jurisdiction to collect the same on behalf of this jurisdiction by use of all appropriate legal remedies.
- C. Special Assessment
If the legislative body of this jurisdiction order that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

[Codified by Ord. 05-2000, 7/13/00]

9.01.340 Contest

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment. [Codified by Ord. 05-2000, 7/13/00]

9.01.350 Authority For Installment Payment Of Assessments With Interest

The legislative body of this jurisdiction, in its discretion, may determine that assessments in amounts of \$500.00 or more shall be payable in not to exceed five equal annual installments. The legislative body's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

[Codified by Ord. 05-2000, 7/13/00]

9.01.360 Lien Of Assessment

A. Priority

Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property cases with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

B. Interest

All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date.

[Codified by Ord. 05-2000, 7/13/00]

9.01.370 Report To Assessor And Tax Collector: Addition Of Assessment To Tax Bill

After confirmation of the report, certified copies of the assessment shall be given to the assessor and the tax collector for this jurisdiction, who shall add the amount of the assessment to the past regular tax bill levied against the parcel for municipal purposes.

[Codified by Ord. 05-2000, 7/13/00]

9.01.380 Filing Copy Of Report With County Auditor

If the county assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the county auditor on or before August 10. The descriptions of the parcels reported should be those used for the same parcels on the county assessor's map books for the current year. [Codified by Ord. 05-2000, 7/13/00]

9.01.390 Collection Of Assessment: Penalties For Foreclosure

A. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection, and enforcement of property taxes shall be applicable to such assessment.

B. If the legislative body of this jurisdiction has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

[Codified by Ord. 05-2000, 7/13/00]

9.01.400 Repayment Of Repair And Demolition Fund

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this jurisdiction, who shall credit the same to the repair and demolition fund. [Codified by Ord. 05-2000, 7/13/00]

Chapter 9.02

9.02 APPLICATION AND ENFORCEMENT OF THE CLACKAMAS COUNTY BUILDING CODE

9.02.010 Purpose

The purpose of this chapter is to establish uniform performance standards for building-related codes and rules to reasonably safeguard the health, safety, welfare, comfort and security of residents of this jurisdiction who are occupants and users of buildings, and provide for the use of modern methods, devices, materials and techniques and for superior energy conservation. [Codified by Ord. 05-2000, 7/13/00]

9.02.020 Application

This chapter shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building except when located in public ways.

If any apparent conflict arises because different sections of this chapter specify different materials, methods of construction or other requirements, the most restrictive provision shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement will apply.

If any apparent conflict arises between a provision of this Chapter and Oregon Revised Statutes, the statutory provision(s) shall govern. [Codified by Ord. 05-2000, 7/13/00]

9.02.030 Definitions

When used in this chapter, the following terms, phrases, words and their derivatives shall have the meanings ascribed to them below. When terms are used that are not defined below, they shall have the ordinary accepted meanings that are appropriate to their context. Words used in the singular include the plural and those used in the plural include the singular. Words used in the masculine gender include the feminine and those used in the feminine include the masculine.

- A. PERSON includes human beings and, where appropriate, public or private corporations, unincorporated associations, partnerships, firms, governments, governmental instrumentality, joint stock companies, trusts and estates, trustees, and any other legal entities whatsoever, and shall indicate both the singular and the plural.
 - B. BUILDING OFFICIAL is the official designated by order of the Clackamas County Board of Commissioners as the Clackamas County Building Official, and includes that official's authorized representatives.
 - C. AUTHORIZED REPRESENTATIVE may include, among others, the Community Environment Manager and his authorized inspection personnel, and
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the Fire Marshall.

- D. BUILDING is any building or structure constructed for any purpose whatsoever.
- E. BOARD OF APPEALS is the entity appointed by the Clackamas County Board of Commissioners to hear and decide appeals of orders, decisions and determinations made by the building official relative to the application and interpretation of this Chapter, except that the Board of Appeals will not have jurisdiction over appeals arising from the Electrical Specialty Code, the Manufactured Dwelling or Mobile Home Parks Administrative Rules, or the On-Site Sewage Disposal Administrative Rules, which must be appealed to the entities identified in Section 9.02.150 of this Chapter.

[Codified by Ord. 05-2000, 7/13/00]

9.02.040 Clackamas County Building Code

The Clackamas County Building Code consists of the following Specialty Codes as adopted by the State of Oregon:

- A. The Oregon Structural Specialty Code, as adopted by OAR Chapter 918, Division 460, except as modified in this Chapter, shall be enforced as part of this Chapter.
- B. The Oregon Mechanical Specialty Code, as adopted by OAR Chapter 918, Division 440, except as modified in this Chapter, shall be enforced as part of this Chapter.
- C. The Oregon Plumbing Specialty Code, as adopted by OAR Chapter 918, Division 750, except as modified in this Chapter, shall be enforced as part of this Chapter.
- D. The Oregon Electrical Specialty Code, as adopted by OAR Chapter 918, Division 251 except as modified in this Chapter, shall be enforced as part of this Chapter.
- E. The Oregon One and Two Family Dwelling Specialty Code, as adopted by OAR Chapter 918, Division 480, except as modified in this Chapter, shall be enforced as part of this Chapter.
- F. The manufactured dwelling park and mobile home park rules adopted by OAR 918-600-0005 through 918-600-0110, except as modified in this Chapter, shall be enforced as part of this Chapter.
- G. The manufactured structure rules adopted by OAR Chapter 918, Divisions 500, 520, 525, 530, 535, and 540, except as modified in this Chapter, shall be enforced as part of this Chapter.
- H. The Recreational Park and Organizational Camp Rules adopted by OAR Chapter 918, Division 650, except as modified in this Chapter, shall be enforced as part of this Chapter.
- I. The Clackamas County Excavation and Grading Chapter of this Code.
- J. The On-Site Sewage Disposal Rules as adopted by OAR Chapter 340, Division 71 and OAR Chapter 340, Division 73, except as modified in this Chapter, shall be enforced as part of this Chapter.

[Codified by Ord. 05-2000, 7/13/00]

9.02.050 Alternate Materials And Methods

The provisions of this chapter are not intended to prevent the use of any material, alternate design or method of construction not specified in this chapter, provided the alternate has been approved and its use authorized by the building official.

The building official may approve any alternative, provided the building official finds that the proposed design is satisfactory and complies with the provisions of this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that required under this chapter in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

The building official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding the use of alternates. The details of any action granting approval of an alternate shall be recorded and entered in the files. An applicant may appeal the decision of the building official regarding the use of alternates to the Board of Appeals. An appeal of the building official's decision shall be accompanied by the appropriate filing fee.

ORS 455.060 provides for state rulings on acceptable materials, designs and methods of construction. When a state ruling has been issued, ORS 455.060 (4) applies. [Codified by Ord. 05-2000, 7/13/00]

9.02.060 Modifications

When there are practical difficulties involved in carrying out the provisions of this chapter, the building official may grant modifications for individual cases. In order to grant such a modification, the building official must first find that a unique factor distinguishes the situation before him in a manner that makes it impractical to strictly apply this chapter, and that the modification is in conformance with the intent and purpose of this chapter. Such modifications shall not lessen any fire-protection requirements or any degree of structural integrity. The details of any action granting modification shall be recorded and entered in the files. [Codified by Ord. 05-2000, 7/13/00]

9.02.070 Tests

Whenever there is insufficient evidence of compliance with any of the provisions of this chapter or evidence that any material or construction does not conform to the requirements of this chapter, the building official may require tests as proof of compliance to be made at no expense to Clackamas County.

Test methods shall be as specified by this chapter or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures.

All tests shall be made by an approved accredited testing agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records. [Codified by Ord. 05-2000, 7/13/00]

9.02.080 Powers And Duties Of The Building Official

The building official is hereby authorized and directed to enforce all the provisions of this chapter.

The building official shall have the power to render interpretations of this chapter and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this chapter. The building official shall have the power to vary the approval period for permits applied to resolve violations to less than the 180 days referred to in Section 9.02.270 of this Chapter.

The building official may request, and shall receive, the assistance and cooperation of other officials of this jurisdiction in the discharge of duties required by this chapter and other pertinent laws or ordinances. [Codified by Ord. 05-2000, 7/13/00]

9.02.090 Deputies

In accordance with prescribed procedures the building official may appoint technical officers and inspectors and other employees to carry out the functions of code enforcement under this chapter. The building official may deputize such inspectors or employees as may be necessary to carry out the functions of code enforcement under this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.02.100 Right Of Entry

When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If the building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry. [Codified by Ord. 05-2000, 7/13/00]

9.02.110 Stop Work Orders, Warning Notices & Violation Notices

Whenever any work is being done contrary to the provisions of this chapter, or other pertinent laws or ordinances implemented for enforcement of this chapter, the building official may order the work stopped by notice in writing served on any person engaged in doing the work or causing the work to be done, or by posting of the building or work being done, and any such person shall forthwith stop such work until authorized by the building official to resume the work.

In the discretion of the building official, warning notices or violation notices may also be issued for violations of this chapter and any other pertinent laws or ordinances implemented for enforcement of this chapter.

Orders or notices shall give a brief description of the violation identified, and shall be issued through one of the following methods:

- A. Personal service upon the person responsible for the violation;
- B. Posting at the site of the violation; or
- C. Delivered by regular U.S. mail to the address listed on the permit application (if any) submitted in association with the work in question.

Orders or notices shall contain the name of the County Department to contact regarding the violation, the name of the person issuing the order or notice, the date the order or notice was issued and a statement that failure to correct the alleged violation within the time set (no less than 30 days) may result in legal action with the courts or the Compliance Hearings Officer to abate the nuisance or both, and the imposition of penalties and enforcement fees.

If the building official believes an alleged violation presents an imminent threat to public health or safety, no warning notice need be given before pursuing remedies allowed for by this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.02.120 Authority To Disconnect Utilities In Emergencies

In case of emergency, the building official shall have the authority to disconnect the energy, fuel or power supply, or plumbing utility service to a building, structure, premises or equipment regulated by this chapter when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, give advance notice to the serving utility, the owner and the occupant(s) of the building or premises that utilities will be disconnected, and shall notify the serving utility, owner and occupant of the building or premises in writing of utility disconnection immediately afterward. [Codified by Ord. 05-2000, 7/13/00]

9.02.130 Connection After Order To Disconnect

Persons shall not make connections from an energy, fuel, power supply or plumbing service, nor supply energy, fuel, power or plumbing to any equipment regulated by this chapter which has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnection and use of such equipment. [Codified by Ord. 05-2000, 7/13/00]

9.02.140 Occupancy Violations

Whenever any building or equipment therein regulated by this chapter is being used contrary to the provisions of this chapter, the building official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Any person receiving notice shall discontinue the use

within the time prescribed by the building official to make the building, or portion thereof, comply with the requirements of this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.02.150 Adjudicating Entities For Specific Appeals

- A. Appeals relating to the administrative portions of this chapter shall be made only to the building official.
- B. Any person aggrieved by a decision of the building official made to apply, interpret or enforce the following specialty codes may appeal that decision to the designated entities:
 1. Electrical Specialty Code – appeals may be made to the State of Oregon, Building Codes Division, Chief Electrical Inspector (ORS 479.853);
 2. Manufactured Dwelling or Mobile Home Parks – appeals, requests for interpretations, or alternate methods and materials of OAR 918, Division 600 may be made to the Administrator of the Building Codes Division for a ruling (OAR 918-600-0080); and
 3. On-Site Sewage Disposal – appeals may be made to the State of Oregon, Department of Environmental Quality.
- C. Appeals of all other substantive provisions of this chapter will be made first to the building official, then to the Board of Appeals.

[Codified by Ord. 05-2000, 7/13/00]

9.02.160 Board Of Appeals

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this chapter, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to construction and who are not employees of the jurisdiction. The building official shall be an ex officio member of and shall act as secretary to the Board of Appeals but shall have no vote on any matter before the Board. The Board of Appeals shall be appointed by the governing body and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of the code nor shall the Board be empowered to waive requirements of this chapter.

All applications for an appeal shall be accompanied by the appropriate filing fee.

Any decision relating to the suitability of alternate materials and methods of construction or interpretation by the building official with regard to this chapter, except for the State of Oregon Electrical Specialty Code, the State of Oregon Manufactured Dwelling or Mobile Home Park Rules and the State of Oregon On-Site Sewage Disposal Rules, should be appealed first to the building official, then to the Board of Appeals, in conformance with procedures provided herein.

An appeal shall be in writing, shall describe the basis for the appeal and shall first be filed with the building official. [Codified by Ord. 05-2000, 7/13/00]

9.02.170 Form Of Appeal

- A. Any person appealing an order, decision or determination of the building official to the Board of Appeals must do so by filing at the office of the building official a written appeal containing:
 - 1. A heading in the words: “Before the Board of Appeals for the Building Official of Clackamas County”;
 - 2. A caption reading: “In the matter of the appeal of,” giving the names of all appellants participating in the appeal;
 - 3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the action of the building official;
 - 4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the appellant’s contentions;
 - 5. A brief statement in ordinary and concise language of the relief sought and the reasons why the protested order or action should be reversed, modified or set aside;
 - 6. The signatures of all parties named as appellants and their official mailing addresses; and
 - 7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- B. The Department of Transportation and Development shall make available to the public an appeal form consistent with the requirements of section A above.
- C. The appeal shall be filed within 10 days from the date of the service of the order or from the action of the building official.
- D. As soon as possible after receiving the written appeal, the Board of Appeals shall fix a date, time and place for the hearing by the Board of Appeals. The date shall not be less than 10 days nor more than 60 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given to each appellant at least 10 days prior to the date of the hearing, either by:
 - 1. Causing a copy of such notice to be delivered to the appellant personally; or
 - 2. Mailing a copy of the notice to the appellant at the address shown on the appeal.

[Codified by Ord. 05-2000, 7/13/00]

9.02.180 Effect Of Failure To Appeal

Failure of any person to file an appeal in accordance with the provisions of Section 9.01.170 shall constitute a waiver of the right to an administrative hearing and adjudication of the Notice and Order or other action of the building official. [Codified by Ord. 05-2000, 7/13/00]

9.02.190 Scope Of Hearing On Appeal

Only those matters or issues specifically raised by the appellant in the written request for appeal shall be considered in the hearing of the appeal. [Codified by Ord. 05-2000, 7/13/00]

9.02.200 Procedures For Conduct Of Appeals Hearings

- A. Record – A record of the entire appeal proceedings shall be made by tape recording or by any other means of permanent recording found appropriate by the Board of Appeals.
 - B. Continuances – The Board of Appeals may grant requests for a continuance if good cause is shown for the continuance.
 - C. Reasonable Dispatch – The Board of Appeals shall proceed with reasonable speed to conclude any matter before it.
- [Codified by Ord. 05-2000, 7/13/00]

9.02.210 Form Of Notice Of Hearing

The notice to appellant shall follow this basic form, but may include additional information:

“You are hereby notified that a hearing will be held before the Board of Appeals for the Building Official of Clackamas County at [hearing location] on the _____ day of _____, _____, at the hour _____, upon the [Order or other action] regarding [address/location of building]. You may be present at the hearing. You may be represented by counsel, but need not be. You may present any relevant evidence and will be given the opportunity to cross-examine witnesses testifying against you.” [Codified by Ord. 05-2000, 7/13/00]

9.02.220 Conduct Of Hearing

- A. Rules – Hearings need not be conducted according to court rules regarding evidence and witnesses.
- B. Oral Evidence – Oral evidence shall be taken only on oath or affirmation of the witness. The Board of Appeals may administer oaths or affirmations to witnesses.
- C. Admissibility of Evidence – Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Common law or statutory rules that might dictate a contrary result in state courts will not apply.
- D. Exclusion of Evidence – Irrelevant, immaterial or unduly repetitious evidence shall be excluded.
- E. Rights of Parties – Each party shall have the following rights, among others:
 - 1. To call and examine witnesses on any matter relevant to the issues of the hearing;
 - 2. To introduce documentary and physical evidence;
 - 3. To cross-examine opposing witnesses on any matter relevant to the issues of the appeal;
 - 4. To impeach any witness regardless of which party first called the witness to testify;
 - 5. To rebut the evidence; and
 - 6. To be represented by anyone who is lawfully permitted to do so.
- F. Inspection of Premises – The Board of Appeals may inspect any building or

premises involved in the appeal during the course of the hearing, provided that:

1. Notice of the inspection is given to the parties before the inspection is made;
2. The parties are given an opportunity to be present during the inspection, and
3. conclusions reached upon completion of the inspection. Each party must be given an opportunity to rebut or explain observations and conclusions announced by the Appeals. The Appeals Adjudicator states for the record the material facts observed and the Adjudicator.

[Codified by Ord. 05-2000, 7/13/00]

9.02.230 Method And Form Of Decision

- A. Form of Decision – The decision of the Board of Appeals shall be in writing, and shall contain findings of fact and a determination of the issues presented. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested. A decision shall be issued within 14 days of the conclusion of any appeals hearing.
- B. Effective Date of Decision – The effective date of the decision shall be as stated in the decision itself. The timelines for compliance with the final decision should be based on the guidelines for compliance with the original Order or action of the building official, when appropriate.

[Codified by Ord. 05-2000, 7/13/00]

9.02.240 Plans And Permits

The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments of Clackamas County to verify compliance with any applicable laws and ordinances. If the building official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this chapter and other pertinent laws and ordinances, and that the fees have been paid, the building official shall issue a permit to the applicant.

When the building official issues a permit for which plans are required, the building official shall endorse in writing or stamp the plans and specifications. Such approved plans and specifications shall not be changed, modified or altered without authorization from the building official, and all work regulated by this chapter shall be done in accordance with the approved plans.

The building official may issue a permit for the construction of part of a building or structure before the complete plans and specifications for the whole building or structure have been submitted or approved, if adequate information and detailed statements have been filed to assure compliance with all pertinent requirements of this chapter. The holder of a partial permit who chooses to proceed assumes the risk that the permit for the entire building or structure may be denied.

[Codified by Ord. 05-2000, 7/13/00]

9.02.250 Retention Of Plans

One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than 90 days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant. [Codified by Ord. 05-2000, 7/13/00]

9.02.260 Validity Of Permit

The building official shall consider any violations of Clackamas County Ordinances or other applicable laws that are known to him/her in responding to all permit requests and applications. The building official may refuse to issue permits under this chapter if the parcel of land, or the use of the land on which the building, or equipment is to be placed, altered, equipped or used is in violation of any Clackamas County Ordinance.

No building or site permit shall be issued by the building official until all plans for sewage disposal facilities have been approved by the appropriate authority. Further, no building containing plumbing shall be occupied until connected to a sewage disposal facility approved by the appropriate authority and meeting the minimum standards of the Oregon State Board of Health and the Department of Environmental Quality.

The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be acquiescence to any violation of any of the provisions of this chapter or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall be null and void.

The issuance of a permit based on plans, specifications and/or other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations associated with the permit, if executed in violation of this chapter or of any other ordinances of this jurisdiction.

[Codified by Ord. 05-2000, 7/13/00]

9.02.270 Expiration Of Applications, Plans And Permits

- A. Automatic Expiration of Applications -- Applications for which no permit is issued within 180 days following the date of the application shall automatically expire, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official.
- B. Extensions on Unexpired Applications – The building official may extend the time for action by the applicant for a period not exceeding 180 days if:
 - 1. The applicant so requests; and
 - 2. The applicant shows that circumstances beyond applicant’s control have prevented action from being taken.

No application shall be extended more than once.

- C. Pre-Conditions to Renewing Action on an Expired Application – In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.
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- D. Automatic Expiration of Permits – Every permit issued by the building official under the provisions of this chapter shall automatically expire and become null and void if the building or work authorized by the permit is:
1. Not commenced within 180 days from the date of the permit; or
 2. Suspended or abandoned for a period of 180 days at any time after the work is commenced, or
 3. Not subject to inspection approval for a period of 180 days at any time after the work is commenced.
- E. Extensions on Unexpired Permits – Any permittee holding an unexpired permit may apply for an extension of the time within which to commence work under that permit when the permittee is unable to commence work within the time originally required for good reason. The building official may extend the time for action by the permittee for a period not exceeding 180 days if:
1. The permittee requests an extension in writing; and
 2. The permittee shows that circumstances beyond permittee’s control have impeded progress under the permit.
- No application shall be extended more than once.
- F. Timelines for Permits Issued to Resolve Violations – In those instances where a permit is issued to resolve a violation, the building official may specify the length of approval of the permit.
- G. Pre-Conditions to Resuming Work on Expired Permit – Before resuming work under an expired permit, a new permit must be obtained, and an additional fee remitted. The fee will determined under the following guidelines:
1. If no changes have been made or will be made in the original plans and specifications for the work to be resumed; and the suspension or abandonment of work under the permit has not exceeded one year, then the fee will be one half the amount required for a new permit for such work; or
 2. If there have been or will be changes to the original plans and specifications for the work to be resumed, or the suspension or abandonment of work under the permit has exceeded one year, then the permittee shall pay a new full permit fee.

[Codified by Ord. 05-2000, 7/13/00]

9.02.280 Work Without A Permit; Investigation Fees

Whenever any work for which a permit is required by this chapter has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is ever issued. The investigation fee shall be equal to the amount of the permit fee. The payment of the investigation fee shall not exempt any person from compliance with all other provisions of this chapter nor from any penalty prescribed by law.

[Codified by Ord. 05-2000, 7/13/00]

9.02.290 Transferability

With the permission of the building official a permit issued to one person or firm may be transferred to another person or firm to perform any work thereunder. [Codified by Ord. 05-2000, 7/13/00]

9.02.300 Suspension; Revocation

The building official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of any of the provisions of this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.02.310 Inspections

It shall be the duty of the permit holder or his/her agent to request all necessary inspections in a timely manner and according to the policies of Clackamas County, provide access to the site, and provide all necessary equipment to make inspections as determined by the building official. The permit holder shall not proceed with the building construction until authorized by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his/her agent. Failure to request inspections shall result in expiration of the permit as per Section 9.02.270. The county has no obligation, responsibility, or liability to follow up on permits for which necessary inspections have not been requested or which are at risk of expiration under Section 9.02.270. The permittee shall bear all such responsibility and liability.

Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card that will allow the building official to conveniently notate required entries regarding inspection of the work. This card shall be maintained by the permit holder and kept available until final approval has been granted by the building official.

Any person to whom a permit is issued shall be liable for any loss, damage, or injury caused or arising from the permittee's negligence, as well as for any breach of the building codes or regulations, to the person suffering such loss, damage, or injury. The permittee shall indemnify, defend and hold harmless the County and its officers, employees and agents from any and all claims, demands, actions and suits (including all attorney fees and costs, through trial and on appeal) arising from the permittee's negligence, as well as for any breach of the building codes or regulations to the person suffering such loss, damage or injury. [Codified by Ord. 05-2000, 7/13/00]

9.02.320 Fees

Fees for permits, inspections, plan checks, site plan review, copy costs, and such other fees that the Clackamas County Board of Commissioners deem reasonable shall be as set from time to time by order of the Clackamas County Board of Commissioners.

The building official may authorize refunds of fees when the guidelines of the applicable refund policy so authorize.

The determination of value or valuation under any provisions of this chapter shall be made by the building official. The value to be used in computing building permit and plan review fees shall be the total value of all construction work associated with the permit, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

Enforcement fees are in addition to and not in lieu of civil penalties that may be imposed by a Compliance Hearings Officer or court. Enforcement fees shall be used to defray the costs of enforcement of the provisions of this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.02.330 Violations And Enforcement

All persons shall comply with this chapter in the location, construction, maintenance, repair, alteration, or use of buildings, installations or sewage disposal systems or facilities within Clackamas County.

A violation of this chapter exists whenever a building, structure, installation, sewage disposal system or sewage disposal facility is, or is proposed to be, located, constructed, maintained, repaired, altered, or used contrary to the requirements of this chapter. Each day that a violation exists is considered to be a separate offense.

A violation of this chapter is a public nuisance, and continues to be a public nuisance until the offending building, structure, installation, system, facility or use is brought into compliance with this chapter.

The County may, in addition to the other remedies provided by law, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove violations of this chapter. The County may also enforce this chapter through the provisions of the Clackamas County Compliance Hearing Officer Ordinance. [Codified by Ord. 05-2000, 7/13/00]

9.02.340 Prioritization Of Violations For Enforcement

The building official is charged with administration, implementation and enforcement of the State Building Code and this chapter. His/her duties include the duty to oversee plan reviews and building inspections required under the State Building Code and this chapter, and the duty to supervise continuing enforcement when violations are identified. Since the Building Code Division has limited financial resources, the building official must exercise his/her inherent discretion to ensure that sufficient funds are available to deal with the most important public policy matters that come before him/her.

The top priority for Division resources is the processing of plans and permits properly applied for under the Codes. Although the Division must also address Code violations,

violations vary greatly in severity, with some violations having a negligible impact on the public interest and others having a potentially great impact on the public interest. For this reason, the Board of County Commissioners has determined that the building official may prioritize violations for enforcement action without unduly compromising public policy. The Board of County Commissioners believes that this prioritization of violations for enforcement will result in the most effective and efficient re-allocation of Building Division resources. [Codified by Ord. 05-2000, 7/13/00]

Chapter 9.03

9.03 EXCAVATION AND GRADING

9.03.010 Purpose

The purpose of this chapter is to safeguard life, limb, property and the public welfare by regulating grading on private property. [Codified by Ord. 05-2000, 7/13/00]

9.03.020 Scope

This chapter sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction. [Codified by Ord. 05-2000, 7/13/00]

9.03.030 Permits Required

No person shall do any grading without first having obtained a grading permit from the Building Codes Division Manager or his/her designee. In Appropriate instances, the Building Codes Division Manager may, upon showing by the applicant that one of the following categories applies, allow an exception to this chapter:

- A. Grading in an isolated, self-contained area if there is no danger apparent to private or public property or drainage ways and is not in the flood fringe, floodway or flood hazard sub-classification as defined by the Clackamas County Zoning and Development Ordinance and which is designated Rural or Natural Resource by the Clackamas County Comprehensive Plan;
 - B. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit; this shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure;
 - C. Cemetery Graves;
 - D. Refuse disposal sites controlled by other regulations;
 - E. Excavations for wells or tunnels or utilities;
 - F. Mining, quarrying, excavating processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property;
 - G. Exploratory excavations under the direction of soil engineers or engineering geologists;
 - H. An excavation which
 1. is less than 2 feet in depth, or
 2. which does not create a cut in slope greater than 5 feet in height and steeper than one and one-half horizontal to one vertical; or,
 - I. A fill less than 1 foot in depth and placed on natural terrain with a slope flatter
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than five horizontal to one vertical, or less than 3 feet in depth, not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.

[Codified by Ord. 05-2000, 7/13/00]

9.03.040 Hazards

Whenever the Building Codes Division Manager determines that any existing excavation, embankment, or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the Building Codes Division Manager, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter. [Codified by Ord. 05-2000, 7/13/00]

9.03.050 Definitions

For the purposes of this chapter, the definitions listed hereunder shall be construed as specified in this section.

- A. APPROVAL is the proposed work or completed work conforms to this chapter in the opinion of the Building Codes Division Manager.
 - B. AS GRADED is the surface conditions extent on completion of grading.
 - C. BEDROCK is in-place solid rock.
 - D. BENCH is a relatively level step excavated into earth material on which fill is to be placed.
 - E. BORROW is earth material acquired from an off-site location for use in grading on a site.
 - F. CIVIL ENGINEER shall mean a professional engineer registered in the state to practice in the field of civil works.
 - G. CIVIL ENGINEERING shall mean the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.
 - H. COMPACTION is the densification of a fill by mechanical means.
 - I. EARTH MATERIAL is sand, rock, natural soil or fill and/or any combination thereof.
 - J. ENGINEERING GEOLOGIST shall mean a geologist experienced and knowledgeable in engineering geology.
 - K. EROSION is the wearing away of the ground surface as a result of the movement of wind, water, and/or ice.
 - L. EXCAVATION is the mechanical removal of earth material.
 - M. FILL is a deposit of earth material placed by artificial means.
 - N. GRADE shall mean the vertical location of the ground surface.
 - O. EXISTING GRADE is the grade prior to grading.
 - P. ROUGH GRADE is the stage at which the grade approximately conforms to the approved plan.
 - Q. FINISH GRADE is the final grade of the site which conforms to the approved
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- plan.
- R. GRADING is any excavating or filling or combination thereof.
 - S. KEY is a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.
 - T. SITE is any lot or parcel of land or contiguous combination thereof, under the same ownership where grading is performed or permitted.
 - U. SLOPE is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
 - V. SOIL is naturally occurring superficial deposits overlying bedrock.
 - W. SOILS ENGINEER (Geotechnical Engineer) shall mean a civil engineer experienced and knowledgeable in the practice of soils engineering (geotechnical engineering)
 - X. SOILS ENGINEERING (geotechnical engineering) shall mean the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.
 - Y. TERRACE is a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.
- [Codified by Ord. 05-2000, 7/13/00]

9.03.060 Grading Permit Requirement

- A. Permits Required. Except as exempted in 9.03.030 A through I of this chapter, no person shall do any grading without first obtaining a grading permit from the Building Codes Division Manager. A separate permit shall be required for each site, and may cover both excavations and fills
 - B. Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the chapter enforcement agency for that purpose. Every such application shall:
 - 1. Identify and describe the work to be covered by the permit for which application is made;
 - 2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work;
 - 3. Indicate the use or occupancy for which the proposed work is intended;
 - 4. Be accompanied by plans, diagrams, computations, specifications and other data;
 - 5. State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building;
 - 6. Be signed by the permittee, or his authorized agent; and
 - 7. Give such other data and information as may be required by the Building Codes Division Manager.
 - C. Plans and Specification. When required by the Building Codes Division Manager, each application for a grading permit shall be accompanied by four sets of plans and specifications, and supporting data consisting of a soil engineering report and/or engineering geology report. When required by the Building Codes Division Manager, the plans and specifications shall be prepared and signed by a
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civil engineer.

- D. Information on Plans and in Specifications. Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this chapter and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared. The plans shall include the following information:
1. General vicinity of the proposed site;
 2. Property limits and accurate contours of existing ground and details of terrain and area drainage;
 3. Limiting dimensions, elevations or finish contours to be achieved by the grading and proposed drainage channels and related construction;
 4. Detailed plans of all surface and subsurface drainage device, wall, cribbing, dams and other protective devices to constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains; and
 5. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations.
 6. Specifications shall contain information covering construction and material requirements.
- E. Soil Engineering Report. The soil engineering report required by Subsection C shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, including buttress fills, when necessary, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading including the stability of slopes. Recommendations included in the report and approved by the Building Codes Division Manager shall be incorporated in the grading plans or specifications.
- F. Engineering Geology Report. The engineering geology report required by Subsection C shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the Building Codes Division Manager shall be incorporated in the grading plans or specifications.
- G. Issuance. The application, plans, specifications, computations and other data filed by an applicant for permit shall be reviewed by the Building Codes Division Manager. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Building Codes Division Manager finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this chapter and other pertinent laws and ordinances, and that the fees specified in Appendix A "A500 Building" have been paid, he shall issue
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- a permit therefore to the applicant.
1. In the review of the application, the Building Codes Division Manager may attach conditions of approval which in his opinion are necessary to comply with the purpose and requirements of this chapter and other pertinent laws and ordinances.
 2. When the Building Codes Division Manager issues the permit where plans are required, he/she shall endorse in writing or stamp the plans and specifications "REVIEWED." Such reviewed plans and specifications shall not be changed, modified or altered without authorizations from the Building Codes Division Manager, and work shall be done in accordance with the reviewed plans.
- H. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the Building Codes Division Manager for a period of not less than 90 days from date of completion of the work covered therein; and one set of reviewed plans and specifications shall be returned to applicant, and said set shall be kept on the site of the work at all times during which the work authorized thereby is in progress.
- I. Validity of Permit. The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any other codes or ordinances of the jurisdiction. No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid.
- J. The issuance of a permit based upon plans, specifications, and other data shall not prevent the Building Codes Division Manager from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this chapter or any other codes or ordinances of this jurisdiction.
- K. Expiration. Every permit issued by the Building Codes Division Manager, under the provisions of this chapter shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.
- L. Any permittee holding an unexpired permit may apply for an extension of the time within which he may commence work under that permit when he is unable to commence work within the time required by this section for good and satisfactory reasons. The Building Codes Division Manager may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.
- M. Suspension or Revocation. The Building Codes Division Manager may, in
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writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any code or ordinance or regulation or any of the provisions of this chapter.

[Codified by Ord. 05-2000, 7/13/00]

9.03.070 Fees

Fees are as set forth in Appendix A, "A500. Building". [Codified by Ord. 05-2000, 7/13/00]

9.03.080 Bonds

- A. The Building Codes Division Manager may require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.
- B. In lieu of surety bond the applicant may file a cash bond or instrument of credit with the Building Codes Division Manager in an amount equal to that which would be required in the surety bond.

[Codified by Ord. 05-2000, 7/13/00]

9.03.090 Cuts

- A. General. Unless otherwise recommended in the approved soil engineering and/or engineering geology report, cuts shall conform to the provisions of this section. In the absence of an approved soils engineering report these provisions may be waived for minor fills not intended to support structures.
- B. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical and unless the owner furnished a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut of a steeper slope will be stable and not create a hazard to public or private property.
- C. Drainage and Terracing. Drainage and terracing shall be provided as required by 9.03.120.

[Codified by Ord. 05-2000, 7/13/00]

9.03.100 Fills

- A. General.
 - 1. Unless otherwise recommended in the approved soil engineering report, fills shall conform to the provisions of this section.
 - 2. In the absence of an approved soil engineering report these provisions may be waived for minor fills not intended to support structures.
- B. Fill Location. Fill slopes shall not be constructed on natural slopes steeper than two to one.
- C. Preparation of Ground. The ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, top-soil and other unsuitable materials scarifying to provide a bond with the new fill, and where slopes are steeper than five to one, and height is greater than 5 feet, by benching into sound bedrock or

other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five to one shall be at least 10 feet wide. The area beyond the toe of the fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least 10 feet wide but the cut shall be made before placing the fill and approved by the Soils engineer and engineering geologist as a suitable foundation for fill.

- D. Fill Material. Detrimental amounts of organic material shall not be permitted in fills. Fill material is not solid waste as defined in ORS 459 or hazardous waste as defined in ORS 466. Except as Permitted by the Building Codes Division Manager, no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in fills.
- E. EXCEPTION: The Building Codes Division Manager may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement and approves the fill stability. The following conditions shall also apply:
 - 1. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan;
 - 2. Rock sizes greater than 12 inches in maximum dimension shall be 10 feet or more below grade, measured vertically; and
 - 3. Rocks shall be placed so as to assure filling of all voids with fines.
- F. Compaction. All fills shall be compacted to a minimum 90 percent of maximum density as determined by American Society for Testing and Materials (ASTM) Test D1557-78 Method A. Field density shall be determined in accordance with Test (ASTM) D1556-82 or equivalent as approved by the Building Codes Division Manager.
- G. Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than two horizontal to one vertical.
- H. Drainage and Terracing. Drainage and terracing shall be provided and the area above fill slopes and the surfaces of terraces shall be graded and paved as required by 9.03.120.

[Codified by Ord. 05-2000, 7/13/00]

9.03.110 Setbacks

- A. General. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary. Setback dimensions shall be as shown in Figure No.1 and No. 2.
 - B. Top of Cut Slope. The top of cut slopes shall be made not nearer to a site boundary line than one fifth of the vertical height of cut with a minimum of 2 feet and a maximum of 10 feet. The setback may need to be increased for any required interceptor drains.
 - C. Toe of Fill Slope. The toe of fill slope shall be made not nearer to the site boundary line than one half of the height of the slope, with a minimum of 2 feet and a maximum of 20 feet. Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, special precautions
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shall be incorporated in the work as the Building Codes Division Manager deems necessary to protect the adjoining property from damage as a result of such grading. These precautions may include but are not limited to:

1. Additional setbacks.
 2. Provision for retaining or slough walls
 3. Mechanical or chemical treatment of the fill slope surface to minimize erosion.
 4. Provisions for the control of surface waters.
- D. Modification of Slope Location. The Building Codes Division Manager may approve alternate setbacks. The Building Codes Division Manager may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.
- [Codified by Ord. 05-2000, 7/13/00]

9.03.120 Drainage and Terracing.

- A. General. Unless otherwise indicated on the approved grading Plan, drainage facilities and terracing shall conform to the provision of this section for cut or fill slopes steeper than three (3) horizontal to one (1) vertical.
- B. Terrace. Terraces at least 6 feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height, one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in height shall be designed by the civil engineer and approved by the Building Codes Division Manager. Suitable access shall be provided to permit proper cleaning and maintenance.
1. Swales or ditches on terraces shall have a minimum gradient of 5 percent and must be paved with reinforced concrete not less than 3 inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of 1 foot and a minimum paved width of 5 feet.
 2. A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a down drain.
- C. Subsurface Drainage. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.
- D. Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the Building Codes Division Manager and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down-drains or other devices.
- E. Building pads shall have a drainage gradient of 2 percent toward approved drainage facilities, unless waived by the Building Codes Division Manager.
- F. EXCEPTION: The gradient from the building pad may be 1 percent if all of the following conditions exist through the permit area:
1. No proposed fills are greater than 10 feet in maximum depth;
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2. No proposed finish cut or fill slope faces have a vertical height in excess of 10 feet; and
 3. No existing slope faces, which have a slope face steeper than 10 horizontally to 1 foot vertically, have a vertical height in excess of 10 feet.
- G. Interceptor Drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of 3 inches of concrete or gunite and reinforced. They shall have a minimum depth of 12 inches and minimum paved width of 30 inches measured horizontally across the drain. The slope of drain shall be approved by the Building Codes Division Manager.
- [Codified by Ord. 05-2000, 7/13/00]

9.03.130 Erosion Control

- A. Slopes. The faces of cut and fill slopes shall be prepared and maintained to control against erosion. This control may consist of effective planting. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.
- B. Other Devices. Where necessary, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.
- [Codified by Ord. 05-2000, 7/13/00]

9.03.140 Grading Inspection

- A. General.
1. All grading operations for which a permit is required shall be subject to inspection by the Building Codes Division. When required by the Building Codes Division Manager, special inspection of grading operations and special testing shall be performed in accordance with the provisions of 9.03.140 C.
 2. A survey of the lot may be required by the Building Codes Division Manager to verify that the site is in accordance with the approved plans. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the Building Codes Division Manager nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.
- B. Inspection Requests. It shall be the duty of the person doing the work authorized by a permit to notify the Building Codes Division Manager that such work is ready for inspection. The Building Codes Division Manager may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing or by telephone at the option of the Building Codes Division Manager.
- C. Required Inspections.
1. Pre-inspection. After all organic material or other deleterious material
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has been removed from the site and before any fill material is placed on site.

2. Final Inspection. To be made after all finish grading is completed and all conditions of approval have been satisfied
- D. Grading Designation. All grading in excess of 5000 cubic yards shall be performed in accordance with the approved grading plan prepared by a civil engineer, and shall be designated as “engineering grading.” Grading, involving less than 5000 cubic yards shall be designated “regular grading” unless the permittee, with the approval of the Building Codes Division Manager, chooses to have the grading performed as “engineered grading.”
- E. Engineered Grading Requirements. For engineering grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He also shall be responsible for the professional inspection and approval of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade and drainage of the development area. The civil engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the Building Codes Division Manager. The civil engineer also shall be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work. The grading contractor shall submit in a form prescribed by the Building Codes Division Manager a statement of compliance to said as-built plan.
1. Soil engineering and engineering geology reports shall be required as specified in Section 9.03.030. During grading all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the Building Codes Division Manager by the soils engineer and the engineering geologist.
 2. The soils engineer’s area of responsibility shall include, but need not be limited to the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.
 3. The engineering geologist’s area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters and the need for sub-drains or other ground water drainage devices. He shall report his findings to the soils engineer and the civil engineer for engineering analysis.
 4. The Building Codes Division Manager shall inspect the project at the various stages of the work requiring approval to determine that adequate control is being exercised by the professional consultants.
- F. Regular Grading Requirements.
1. The Building Codes Division Manager may require inspection and
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- testing by an approved testing agency.
 2. The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.
 3. When the Building Codes Division Manager has cause to believe that geologic factors may be involved, the grading operation will be required to conform to "engineering grading" requirements.
- G. Notification Of Noncompliance. If, in the course of fulfilling their responsibility under this chapter, the civil engineer, the soils engineer, the engineering geologist or the testing agency finds that the work is not being done in conformance with this ordinance or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the Building Codes Division Manager. Recommendations for corrective measures, if necessary, shall be submitted.
- H. Transfer of Responsibility for Approval. If the civil engineer, the soils engineer, the engineering geologist or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.

[Codified by Ord. 05-2000, 7/13/00]

9.03.150 Completion of Work

- A. Final Reports. Upon completion of the rough grading work and at the final completion of the work the Building Codes Division Manager may require the following reports and drawings and supplements thereto:
1. An as-graded grading plan prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. He/she shall state that to the best of his knowledge the work was done in accordance with the final approved grading plan;
 2. A soils grading report prepared by the soils engineer including locations and elevation of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. He/she shall render a finding as to the adequacy of the site for the intended use; and
 3. A geologic grading report prepared by the engineering geologist including a final description of the geology of the site and any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan; He/she shall render a finding as to the adequacy of the site for the intended use as affected by geologic factors.
- B. Notification of Completion. The permittee or his/her agent shall notify the Building Codes Division Manager when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation
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of all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the final approved grading plan and the required reports have been submitted.

[Codified by Ord. 05-2000, 7/13/00]

9.03.160 Powers and Duties of Building Codes Division Manager

- A. General. The Building Codes Division Manager is hereby authorized and directed to enforce all the provisions of this ordinance. For such purposes he/she shall have the powers of a law enforcement officer.
 - B. Deputies. The Building Codes Division Manager may appoint technical officers, deputies, agents, inspectors and other employees, and may authorize and empower them to act, enforce and carry out the functions, terms and provisions of this ordinance.
 - C. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Building Codes Division Manager or his/her authorized representative has reasonable cause to believe that there exists upon any premises any condition or violation which makes such premises unsafe, dangerous or hazardous, the Building Codes Division Manager or his/her deputies, or other employees, agents or authorized representative may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Codes Division Manager by this chapter, provided that if such premises be occupied, he/she shall first present proper credentials and request entry; and if such premises be unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and request entry. If such entry is refused, The Building Codes Division Manager or his/her deputies, or other employees, agents or authorized representative shall have recourse to every remedy provided by law to secure entry.
 - D. Stop Orders. Whenever any work is being done contrary to the provisions of this chapter, the Building Codes Division Manager or his/her authorized representative may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Codes Division Manager to proceed with the work.
 - E. Liability
 - 1. The Building Codes Division Manager, or his/her deputies, or other employees, agents or authorized representative charged with the enforcement of this chapter, acting in good faith and without malice in the discharge of his/her duties, shall not thereby render him/herself personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his/her duties. Any suit brought against the Building Codes Division Manager or employee because of such act or omission performed by him/her in the enforcement of any provision of such chapters shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by this
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- jurisdiction.
2. This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the chapter enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this chapter or any certificates of inspection issued under this chapter.
- F. Cooperation of Other Officials and Officers. The Building Codes Division Manager may request, and shall receive so far as is required in the discharge of his duties, the assistance and cooperation of other officials of this jurisdiction. [Codified by Ord. 05-2000, 7/13/00]

9.03.170 Violation Constitutes Nuisance; Abatement Remedies

- A. General. Any violation of any term or provision of this chapter is hereby deemed to constitute a public nuisance. In addition to any other remedies or actions provided for under the terms and provisions of this chapter, or by law, violation of this chapter may be abated by a civil action filed by Clackamas County Counsel in Circuit Court in the name of the County against any violator, including the property owner or occupier.
- B. Remedies. Procedure for remedy of said violation shall be:
1. Issuance of Warnings—The Building Codes Division Manager or his deputy may issue a warning notice of an alleged violation: if issued, such warning notice shall give a brief description of the violation alleged to exist, and shall be deemed to be served upon the person accused of the offense when sent by certified mail to the address of the violation or to the address of the owner of the property as shown on the Clackamas County Assessor's ownership records;
 2. The warning notice shall further contain the name of the County Department to contact regarding the violation, the name of the person issuing the warning notice, the date the warning was issued and a statement that failure to correct the alleged violation or to contact the appropriate County Department may result in civil proceedings being filed to abate the nuisance;
 3. If the alleged violation has not been corrected within ten(10) days after service of the warning notice as set forth above, the County may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the alleged violation; and
 4. Emergencies - In the event that the Building Codes Division determines that an immediate threat exists to the public health, safety or welfare, the ten (10) day notice period may be waived and immediate action to resolve the alleged violation may be taken.
- C. Penalties. Any person who violates this chapter shall be subject to a civil penalty in an amount set by County Code Chapter 2.07 as determined by the Compliance Hearings Officer.
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D. The aforesaid monetary penalties are in addition to any other remedies provided by law.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03]
