

ORDINANCE NO. 5044

AN ORDINANCE REVISING ALBANY MUNICIPAL CODE CHAPTER 15.06, PRIVATE CONSTRUCTION OF PUBLIC IMPROVEMENTS, AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. Albany Municipal Code Chapter 15.06 is hereby revised to read as follows:

Chapter 15.06

PRIVATE CONSTRUCTION OF PUBLIC IMPROVEMENTS

Sections:

15.06.010	Definitions.
15.06.020	Permit required.
15.06.030	Approval of drawings and specifications required.
15.06.040	Drawing review application and fee.
15.06.050	Drawing submittal and public improvement standards.
15.06.060	Permit issuance.
15.06.070	Permit duration.
15.06.080	Permit fee.
15.06.090	Performance and payment guarantee.
15.06.100	Warranty guarantee.
15.06.110	Preconstruction conference.
15.06.120	Notice before beginning work.
15.06.130	Working hours and overtime costs.
15.06.140	Construction in accordance with permit conditions.
15.06.150	Testing.
15.06.160	Suspension of permit; Stop work order.
15.06.170	Penalties.
15.06.180	City acceptance of the public improvement.

15.06.010 Definitions. For the purposes of this chapter, the words set out in this section shall have the following meanings:

(1) "Acceptance" means written acknowledgement by the City of Albany that the public improvement has been completed in accordance with the drawings, specifications, and permit conditions, as approved; that the City of Albany has received and approved record drawings and warranty guarantee; and that all required right-of-way and easements have been approved and dedicated. The date of acceptance is the initial day of the warranty period.

(2) "City" means the City of Albany, Oregon.

(3) "City Engineer" means the City Engineer of the City of Albany.

(4) "Private Engineer" means a professional engineer (or engineering firm), registered by the State of Oregon, who designs the Public Improvement for City approval.

(5) "Public Improvement" means a facility to be privately constructed, to be owned by the City of Albany, and to be located within public right-of-way or easement, more specifically including but not limited to the following:

Water mains, valves, fittings, fire hydrants, etc. ;
Water service lines (upstream from the water meter), water meters, and appurtenant valves, fittings, etc. ;
Water Reservoirs ;
Sanitary sewer mains, manholes, and sewer service laterals ;
Pumping stations or pumping facilities ;
Streets, roadways, and alleys ;
Bikeways, and bridges ; and
Drainage piping, inlets, manholes, and detention facilities ;

(6) "Owner/Developer" means the person or entity in which record title to the property proposed for development is held or the duly authorized agent therefor, and shall be the applicant for review of the construction drawing and specifications and shall be the applicant for the permit to construct public facilities.

(7) "Contractor" means a person or entity licensed, bonded and insured in accordance with state and local requirements to install or perform work on public municipal facilities in Oregon, who has been retained by the owner to construct the public improvements as shown on the approved plans and specifications.

Facilities constructed under public contract with the City of Albany are not public improvements for the purposes of this chapter.

15.06.020 Permit required. Excepting persons under contract with the City of Albany or employees of the City performing work for the City, no person shall begin to construct or otherwise perform any work on a Public Improvement, as defined herein, without obtaining a Permit to Construct Public Facilities, and complying with the provisions of this chapter and all permit conditions.

15.06.030 Approval of drawings and specifications required. Construction drawings and specifications for Public Improvements shall be submitted to the City for drawing review and approval. Written approval, on the drawings, of the City Engineer or his/her designated representative is required prior to issuance of the permit.

(1) Drawings and specifications submitted for approval shall be subject to the standards, specifications, policies and procedures, and drawing review fees of the City in effect at the time of application or reapplication for drawing review. Additionally, said drawings shall be consistent with the City's facility plan for the type of facility being constructed.

(2) Unless specifically waived in writing by the City Engineer, all drawings and specifications must be stamped by a registered professional engineer who has possession of a set of the City of Albany Standard Construction Specifications.

(3) Drawing and specification approval shall be void upon expiration of one year from the date of written approval. Drawing approval extensions may be granted by the City for a maximum of two extensions of one year (or portions thereof) each upon the finding by the City Engineer that the facts upon which the approval was based have not changed to an extent sufficient to require resubmittal of drawings for review.

(4) Only those drawings marked with the written approval of the City Engineer are valid for the purposes and requirements of this Chapter.

15.06.040 Drawing review application and fee. An application for drawing review is required and shall be accompanied by a drawing review fee. The application shall include an itemized construction estimate and such other information as may be required by the City Engineer. The fee for drawing review shall be as established by the Albany City Council by Resolution. The construction estimate

shall meet the approval of the City Engineer or his/her authorized representative. Unapproved drawings returned to the Private Engineer may be resubmitted a maximum of two additional times before a second (new) drawing review fee is charged.

15.06.050 Drawing submittal and public improvement standards. The City Engineer is authorized to develop application procedures for the submittal of drawings and specifications for approval, and standards for the form and content of drawings and specifications. The City Engineer is additionally authorized to develop design standards, construction standards, and testing procedures for proposed public improvements. In the case where drawings are submitted for public improvements for which no standards have been developed, the submittal and design shall meet the approval of the City Engineer. In making such approval, the City Engineer shall consider the future operation and maintenance of the facility, and sound engineering principles and practice.

15.06.060 Permit issuance. Issuance of a Permit to Construct Public Facilities shall be subject to all of the following:

- (1) Approval of the plans and specifications as specified in this chapter.
- (2) Payment of a permit fee as established in Section 15.06.080 herein.
- (3) Submittal of evidence of public liability and property damage insurance in the amounts listed in the City of Albany Standard Construction Specifications. This insurance shall cover the contractor, all subcontractors, and the City of Albany and its employees.
- (4) Dedication of all needed rights-of-way and easements, as determined by the City Engineer. The City may delay acceptance and recording of the dedications until the construction is completed.
- (5) Submittal of a signed contract with a Private Engineer to provide construction (including survey and staking where appropriate) and inspection services on the project, and to provide reproducible record drawings (as-builts) of the completed improvements.
- (6) Submittal of a performance and payment guarantee as specified in Section 15.06.090.
- (7) Submittal of a warranty guarantee as specified in Section 15.06.100.
- (8) Submittal of evidence that all contractors are licensed by the State of Oregon.
- (9) Submittal of evidence that the Contractor has purchased a set of the City of Albany Standard Construction Specifications.
- (10) Compliance with the City of Albany Standard Construction Specifications, except as specifically amended by the conditions of permit issuance or this chapter.
- (11) The applicant's signature on the permit form constituting acknowledgement of and agreement to abide by all conditions of permit approval.
- (12) The requirement that the permittee maintain an approved permit, including drawings, on the construction site for the entire period of construction.

The applicant is responsible for providing or otherwise complying with all items listed in this section.

15.06.070 Permit duration. An issued permit is valid for one year. A permit extension may be granted by the City for a maximum of two extensions of one year (or portions thereof), upon the submittal of documentation by the permittee and finding by the City Engineer that the conditions beyond the control of the permittee have created a condition whereby the work could not be completed within the time frame of permit validity and that the facts upon which the permit issuance was based have not changed to an extent sufficient to require resubmittal of permit application.

15.06.080 Permit fee. Permit fees shall be charged to offset City costs. The fees for water and sewer projects shall be credited to the City's water and sewer enterprise funds respectively. Fees for other projects shall be credited to the general fund.

(1) The permit fee, exclusive of the drawing review fee, shall be established by Resolution of the Albany City Council.

(2) The itemized estimated construction cost used to calculate the permit fee shall be developed by the Private Engineer based upon the approved plans. The itemized estimated construction cost shall be comparable with current bid prices for city contract projects and must meet the approval of the City Engineer.

(3) For storm drain and sanitary sewer lines an additional cost as set by City Council Resolution shall also be charged to cover the City's cost of television inspection of the line.

15.06.090 Performance and payment guarantee. A performance and payment guarantee in the amount of 100 percent of the approved estimated cost of construction shall be provided. The performance and payment guarantee shall ensure completion of the work in conformance with the approved drawings and specifications and payment of all bills and liabilities for work and materials, including the preparation of record drawings. The performance and payment guarantee shall be one of the following:

(1) A performance and payment bond referencing the approved drawings, specifications and permit requirements, or

(2) Written evidence in a form and of a content approved in writing by the City Attorney guaranteeing completion of the work to the City in conformance with the approved drawings, specifications, and other permit provisions, and payment of all billings and liabilities for work and materials, including the preparation of record drawings. The period of validity of the guarantee shall be for the duration of construction until written acceptance of the public improvement by the City.

~~15.06.100 Warranty guarantee. A warranty guarantee in the amount of 100 percent of the approved estimated cost of construction shall be provided. The warranty period provided for in the warranty guarantee shall be as defined in the City of Albany Standard Construction Specifications. The warranty guarantee may be combined with the performance and payment guarantee. The warranty guarantee shall include the cost of all or any part of the public facility which requires repair, reconstruction, or replacement (at the option of the City), or which does not continue to meet the requirements of the City of Albany Standard Construction Specifications during the warranty period beginning at the time of written acceptance of the public facility by the City. The warranty guarantee shall be one of the following:~~

~~(1) A warranty and maintenance bond referencing the approved plans, specifications and permit requirements, and the warranty period beginning at the time of written acceptance of the public facility by the City, or~~

~~(2) Written evidence in a form and of a content approved in writing by the City Attorney guaranteeing repair, reconstruction, or replacement of all or any portion of the public facilities (at the option of the City) during the warranty period beginning at the time of written acceptance of the public facility by the City.~~

~~The Owner/Developer and Contractor shall stipulate, on a form provided by the City, that 100 percent of the work performed in relation to the project shall be warranted and that a warranty guarantee shall be provided during the one-year warranty period as defined in the City of Albany Standard Construction Specifications. The warranty guarantee shall insure prompt~~

corrective work on all or any part of the public facility which requires repair, reconstruction, or replacement (at the option of the City), or which does not continue to meet the requirements of the City of Albany Standard Construction Specifications during the one-year warranty period. The one-year warranty period shall begin at the time of written acceptance of the public facility by the City and shall continue for an additional year following City acceptance of any warranty repair. The warranty guarantee for the 100 percent warranty shall reference the approved plans, specifications, and permit requirements, and the warranty period beginning at the time of written acceptance by the City. The warranty guarantee shall be one of the following:

(1) A 100 percent warranty guarantee incorporated with the payment and performance guarantee.

(2) A warranty maintenance bond in the amount of ten (10) percent of the approved estimated cost of construction, or the actual final construction cost if it exceeds the original estimated amount.

(3) Written evidence in a form and of a content approved in writing by the City Attorney guaranteeing repair, reconstruction, or replacement of all or any part of the public facilities (at the option of the City) during the warranty period beginning at the time of written acceptance of the public facility by the City and providing monetary assurance therefor.

If at any time the provided warranty guarantee is insufficient to cover the required warranty work, the City will be entitled to the necessary additional funds from the Owner/Developer 30 days following written demand. If the additional funds are not received by the City within 30 calendar days of written request, the City may file an action at law for the collection of the additional amounts plus all attorney fees and legal costs.

15.06.110 Preconstruction conference. Prior to construction, the permittee shall conduct a preconstruction conference to discuss the schedule, coordination, and specifics of the project. The private engineer and the contractor shall attend the preconstruction conference. In addition, representatives of the City and effected utilities shall be given an opportunity to attend. The requirement for a preconstruction conference may be waived in writing by the City Engineer.

15.06.120 Notice before beginning work. Written notice of at least two full working days, exclusive of weekends, after the preconstruction conference shall be given to the City by the permittee of the time that work is to begin. In the event of a temporary cessation of work activities, two full working days notice shall be given again before the resumption of any additional work.

15.06.130 Working hours and overtime costs. Except as approved by the City in writing, construction activities shall be limited to the daytime, 7:00 a.m. to 6:00 p.m., Monday through Friday. If it is necessary to perform construction work on Saturdays, Sundays, City holidays, or outside the 8 hour regular working day, City approval is required a minimum of 2 full working days, exclusive of weekends, prior to such work. Any costs, including inspection overtime and benefit costs, incurred by the City due to such work shall be fully paid to the City prior to acceptance of the work. Said costs are in addition to any other permit or inspection fees specified in this chapter.

15.06.140 Construction in accordance with permit conditions. All construction of public facilities shall be performed in accordance with the approved plans, specifications, and other requirements and conditions of a Permit to Construct Public Facilities. Any deviations shall require written approval of the City Engineer or his/her authorized representative.

15.06.150 Testing. Certification and Testing of products, materials, compaction, and work shall be performed in accordance with the procedures and standards referenced in Section 15.06.050 of this chapter, and the City of Albany Standard Construction Specification. All costs for testing and certification, including compaction testing, shall be the responsibility of the permittee. These costs are not included in any permit or inspection fees listed elsewhere in this chapter.

15.06.160 Suspension of permit; stop work order. (1) At any time after the issuance of a permit required by this chapter, the City Engineer may suspend the same upon a finding that any of the following grounds exist:

- (a) False, misleading, or erroneous data or information submitted in connection with securing the permit; or
- (b) Materials, workmanship, installation, work, or conditions which do not meet the requirements of the approved plans, specifications, permit requirements and conditions; or
- (c) Any contractor performing or proposed to perform work is not licensed by the State of Oregon; or
- (d) Violation of any of the provisions of this code governing the work being done under the permit.

(2) Upon suspension of a permit as provided in subsection (1) of this section, the City Engineer shall cause to be issued a written "stop work order", one copy of which shall be sent by regular mail to the permittee at the address shown on the permit application, one copy of which shall be sent by regular mail to the permittee's engineer overseeing the work, and one copy of which shall be delivered to the contractor (or the contractor's employee).

(3) It shall be unlawful for any person to cause, suffer, or permit any work to be done for which a permit is required by this chapter when a "stop work order" has been issued as provided in subsection (2) of this section, or when a permit has expired, or prior to permit issuance.

15.06.170 Penalties. In addition to the penalties for an infraction as set forth within Section 1.04.010(b)(1) of the Albany Municipal Code; permittees, Private Engineers, and Contractors who violate the permit conditions or the provisions of this chapter may be denied future permits or prohibited from designing or constructing future public improvements within the City. Said denial or prohibition shall be made in writing by the City Engineer, and shall remain in effect for one year.

15.06.180 City acceptance of the public improvement. Once completed in accordance with the approved plans, specifications, and permit requirements and conditions, the City shall accept the public improvement provided:

(1) The City has received and approved reproducible record drawings referenced in Section 15.06.060(5), and

(2) All required right-of-way and easements have been approved and dedicated, and

(3) The Warranty guarantee specified in Section 15.06.100 of this Chapter is provided and approved.

(4) Payment to the City for any costs due to overtime, weekend, or holiday inspection.

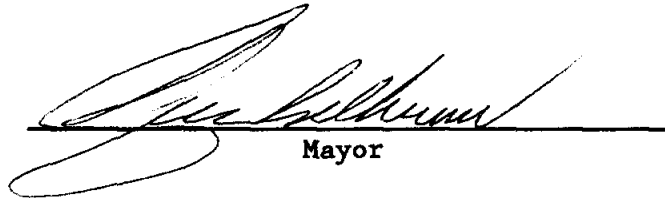
Acceptance of public improvements shall be made in writing by the City Engineer.

Section 2. Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.

Passed by Council: April 14, 1993

Approved by Mayor: April 14, 1993

Effective Date: April 14, 1993



Mayor

ATTEST:

Norm C. Witham
Deputy City Recorder