

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) TITLE 18 BY ESTABLISHING ADMINISTRATIVE PROCEDURES FOR THE BUILDING INSPECTION PROGRAM; BY PROVIDING STRUCTURAL AND PROPERTY MAINTENANCE STANDARDS AND PROCEDURES FOR ABATEMENT OF DANGEROUS PREMISES; AMENDING AMC TITLE 1 BY CREATING A PROCESS FOR ENFORCEMENT OF TITLE 18; AMENDING AMC TITLE 12, BY RELOCATING GRADING REGULATIONS; AND DECLARING AN EMERGENCY.

WHEREAS, from time to time it is appropriate to amend the Albany Municipal Code based on changing conditions; and

WHEREAS, the City Council believes that it is timely to update, revise, and clarify Title 18 of the Municipal Code ("Building and Construction"); and

WHEREAS, Oregon Administrative Rules 918-020-0090 states that a local jurisdiction shall have administrative procedures in place in order to operate a building inspection program; and

WHEREAS, dangerous properties create urban blight and community deterioration; and

WHEREAS, the City of Albany finds that, within the jurisdictional limits of the City, there exist buildings, premises, and structures which are unfit for human habitation or for commercial, manufacturing, or business occupancy or use, and that a public necessity exists for the repair or demolition of such buildings, premises, or structures; and

WHEREAS, the public health, safety, and general welfare require that such properties be regulated in order to reduce the potential for harm, and in order to preserve the quality of urban life in residential and commercial areas of the community; and

WHEREAS, the location of such properties may adversely affect property values, cause an increase in crime, and encourage residents and businesses therein to move elsewhere; and

WHEREAS, the City of Albany recognizes that the availability of housing in Albany is limited and that preservation of our existing housing stock is imperative for the health of our citizens and our economy; and

WHEREAS, additional penalties are needed to specifically address violations of Title 18; and

WHEREAS, grading regulations found in Title 18 ("Building and Construction") are currently administered by the Public Works Department and are more appropriately located in Title 12 ("Surface Water").

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

Section 1: The Albany Municipal Code text is hereby amended as shown in the attached Exhibits A, B, C, D, and E as summarized below:

EXHIBIT A: Building Inspection Administration (AMC 18.04 - 18.20)

Add administrative provisions, pursuant to Oregon Administrative Rules 918-020-0090, for the operation of the Building Division.

Add a cost recovery mechanism to support abatement of existing structures.

EXHIBIT B: Dangerous Buildings (AMC 18.28)

Repeal adoption of *Uniform Code for the Abatement of Dangerous Buildings*, and incorporate revised Dangerous Buildings, Structures, and Premises code into AMC Title 18.

Add contaminated drug lab properties to the list of standards used to determine whether a building, structure, or premises is dangerous to the public health, safety, or welfare.

Add property maintenance provisions to the list of standards used to determine whether a building, structure, or premises is dangerous to the public health, safety, or welfare.

EXHIBIT C: Property Maintenance (AMC 18.30)

Add non-structural standards to be used with AMC 18.28, "Dangerous Buildings, Structures, and Premises" in assessing whether a property is dangerous to the public health, safety, or welfare.

EXHIBIT D: Penalty for Violation of Title 18 (AMC 1.04.010)

Create separate penalties in AMC Title 1 for violations of Title 18.

EXHIBIT E: Grading Provisions (AMC 12.35)

Amend AMC 18.04.015-049, "Grading," by relocating provisions on grading to AMC Title 12, "Surface Water," and by replacing all references to "Building Official" with "Public Works Director or designee."

Exhibits A, B, C, D, and E, upon the effective date of this Ordinance, shall supercede the corresponding sections of the Municipal Code. Language shown in the Exhibits as having been struck is removed from the Municipal Code, and language shown in bold is added to the existing text.

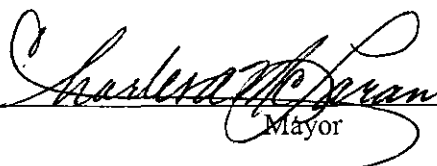
Section 2: Albany Municipal Code Chapter 18.30 ("Exhibit C, Property Maintenance") shall no longer be effective or apply and shall be repealed in its entirety on May 9, 2007, unless, prior to that time the City Council, by ordinance, makes permanent or extends the provisions of this Chapter. Notwithstanding the foregoing, Chapter 18.30 shall continue to apply to any abatement proceedings initiated prior to the expiration of AMC Chapter 18.30 as provided herein.

Section 3: Inasmuch as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the city of Albany, an emergency is hereby declared to exist; and this ordinance shall take effect immediately upon passage by the Council and approval by the Mayor.

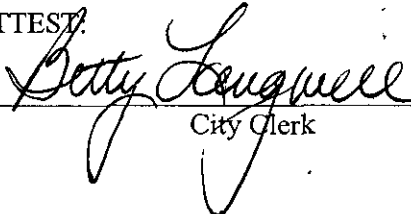
Passed by Council: May 10, 2006

Approved by Mayor: May 10, 2006

Effective Date: May 10, 2006



Mayor

ATTEST:


City Clerk

EXHIBIT A

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

Albany Municipal Code
Title 18

BUILDINGS CODE ADMINISTRATION AND CONSTRUCTION-PROPERTY MAINTENANCE

Chapters:

18.04 BUILDING CODES ADMINISTRATION

- ~~18.04.010~~ Adoption of the Oregon Structural Specialty Code.
- ~~18.04.015~~ Grading — When permits are required.
- ~~18.04.020~~ Grading — General provisions.
- ~~18.04.030~~ Grading — Permit procedure.
- ~~18.04.035~~ Grading — Notification of adjacent property owners.
- ~~18.04.040~~ Grading — Approval standards.
- ~~18.04.045~~ Grading — Permits shall be tentative pending resolution of appeals.
- ~~18.04.046~~ Grading — Standing to appeal.
- ~~18.04.047~~ Grading — Appeal procedure.
- ~~18.04.048~~ Grading — Fees.
- ~~18.04.049~~ Removal of excavation, embankment or fill required when determined to be a hazard.
- ~~18.04.050~~ Special permit fees.
- ~~18.04.060~~ Adoption of the Oregon Mechanical Specialty Code.
- ~~18.04.070~~ Adoption of the One and Two Family Dwelling Specialty Code.
- ~~18.04.080~~ Inspections.
- ~~18.04.090~~ Roof drains and gutters.
- ~~18.04.110~~ Unsafe buildings.
- ~~18.04.210~~ Demolition — Permit — Expiration.
- ~~18.04.220~~ Demolition — Permit — Suspension or revocation.
- ~~18.04.230~~ Demolition — Protection of public utilities.
- ~~18.04.240~~ Demolition — Protection for pedestrians.
- ~~18.04.250~~ Demolition — Protection of public sidewalks.
- ~~18.04.260~~ Demolition — Replacement and repair of streets and sidewalks.
- ~~18.04.270~~ Demolition — Notification of utilities.
- ~~18.04.280~~ Demolition — Basement or cellar walls.
- ~~18.04.290~~ Demolition — Fences.
- ~~18.04.300~~ Demolition — Cleanup.
- ~~18.04.310~~ Demolition — Sewer laterals.
- ~~18.04.320~~ Building Board of Appeals.
- ~~18.04.330~~ Unlawful acts.
- 18.04.010** Title.
- 18.04.020** Severability.
- 18.04.030** Purpose.
- 18.04.040** Scope.
- 18.04.050** Conflicting Provisions.
- 18.04.060** Codes.
- 18.04.070** Definitions.
- 18.04.080** Alternate Materials and Methods.
- 18.04.090** Modifications.
- 18.04.100** Tests.
- 18.04.110** Unsafe Buildings.
- 18.04.120** Grading — When permits are required.
- 18.04.130** Grading — General provisions.
- 18.04.140** Grading — Permit procedure.
- 18.04.150** Grading — Notification of adjacent property owners.

EXHIBIT A

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

- 18.04.160 Grading – Approval standards.
- 18.04.170 Grading – Permits shall be tentative pending resolution of appeals.
- 18.04.180 Grading – Standing to appeal.
- 18.04.190 Grading – Appeal procedure.
- 18.04.200 Grading – Fees.
- 18.04.210 Removal of excavation, embankment or fill required when determined to be a hazard.

18.06 PERMITS

- 18.06.010 Permits, Generally.
- 18.06.020 Application for a Building Permit.
- 18.06.030 Submittal Documents.
- 18.06.040 Permits Issuance.
- 18.06.050 Deferred Submittals and Phased Construction.
- 18.06.060 Retention of Plans, Permits, and Documentation.
- 18.06.070 Validity of Permit.
- 18.06.080 Expiration of Plan Review Application.
- 18.06.090 Permit Expiration.
- 18.06.100 Investigation.
- 18.06.110 Not Transferable.
- 18.06.120 Suspension/Revocation.
- 18.06.130 Swimming Pools – Permit Required.

18.08 INSPECTIONS

- 18.08.010 Inspections, Generally.
- 18.08.020 Inspection Requests.
- 18.08.030 Inspections Required.
- 18.08.040 Re-inspections.
- 18.08.050 Inspection Record Card.
- 18.08.060 Other Inspections.
- 18.08.070 Special Inspections.
- 18.08.080 Approval Required.
- 18.08.090 Certificate of Occupancy.
- 18.08.100 Proceeding Without Inspection or Approval.

~~**18.08 ELECTRICAL CODE**~~

- ~~18.08.010 Adoption of the Oregon Electrical Specialty Code.~~

18.10 COMPLIANCE AND ENFORCEMENT

- 18.10.010 Creation of Enforcement Program.
- 18.10.020 Designated Authority.
- 18.10.030 Powers and Duties of Building Official.
- 18.10.040 Deputies.
- 18.10.050 Right of Entry.
- 18.10.060 Stop Work Orders.
- 18.10.070 Occupancy Violations.
- 18.10.080 Authority to Disconnect Utilities.
- 18.10.090 Authority to Condemn Building Service Equipment.
- 18.10.100 Connection after Order to Disconnect.

EXHIBIT A

Text additions shown in bold;
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- 18.10.110 Liability.
- 18.10.120 Unlawful Acts.
- 18.10.130 Notice of Violation.
- 18.10.140 Form of Notices and Orders.
- 18.10.150 Method of Service.
- 18.10.160 Enforcing Compliance.
- 18.10.170 Prosecution of Violation.
- 18.10.180 Recording Notice of Substandard or Nonconforming Conditions.
- 18.10.190 Transfer of Ownership.
- 18.10.200 Penalties.

18.12 FEES AND COST RECOVERY

- 18.12.010 Fees, Generally.
- 18.12.020 Fee Refunds.
- 18.12.030 Cost Recovery.

~~**18.12 PLUMBING CODE**~~

- ~~18.12.010 Plumbing Code — Adoption of State Code.~~

18.14 APPEALS

- 18.14.010 Appeal to State.
- 18.14.020 Appeal to Building Board of Appeals.
- 18.14.030 Creation of Building Board of Appeals.
- 18.14.040 Appeal Procedure.
- 18.14.050 Staying of Order Under Appeal.

~~**18.16 DANGEROUS BUILDINGS**~~

- ~~18.16.010 Adoption of Code.~~
- ~~18.16.020 Board of Appeals.~~

18.16 DEMOLITION

- 18.16.010 Demolition – Permit – Required.
- 18.16.020 Demolition – Permit – Expiration.
- 18.16.030 Demolition – Permit – Suspension or Revocation.
- 18.16.040 Demolition – Notification of Utilities.
- 18.16.050 Demolition – Cleanup.

18.18 MOVING BUILDINGS

- 18.18.010 Permit – Required.
- 18.18.020 Permit – Conditions.
- ~~18.18.030 Permit – Fee.~~
- 18.18.040 Permit – Application – Contents.
- ~~18.18.050 Inspection.~~
- 18.18.060 Permit – Issuance conditions – Generally.
- ~~18.18.070 Permit – Issuance conditions – Utility installations.~~
- ~~18.18.080 Permit – Issuance conditions – Performance bond.~~
- 18.18.090 Permit – Revocation.

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- ~~18.18.100~~ Equipment.
- ~~18.18.110~~ Continuity.
- ~~18.18.120~~ Litter.
- ~~18.18.130~~ Liability.
- ~~18.18.140~~ Penalty for violation.

18.20 OTHER STRUCTURES

- 18.20.010 Temporary Structures.**
- 18.20.020 Portable Structures.**

18.28 SWIMMING POOLS

- ~~18.28.010~~ Building permit required before construction.
- ~~18.28.030~~ Side yard.
- ~~18.28.040~~ Fencing.
- ~~18.28.050~~ Electrical wiring.
- ~~18.28.060~~ Public water connection.
- ~~18.28.070~~ Drain line.
- ~~18.28.080~~ Discharge.
- ~~18.28.120~~ Public swimming pools.
- ~~18.28.130~~ Private construction—Compliance.

18.28 DANGEROUS BUILDINGS, STRUCTURES, AND PREMISES

- 18.28.010 Dangerous Buildings, Structures, and Premises.**
- 18.28.020 Abatement of Dangerous Buildings, Structures, and Premises.**
- 18.28.030 Repair or Demolition.**
- 18.28.040 Order to Vacate.**
- 18.28.050 Notice and Order.**
- 18.28.060 Temporary Safeguards.**
- 18.28.070 Vacated Buildings, Structures, and Premises.**
- 18.28.080 Historic Buildings.**

18.30 PROPERTY MAINTENANCE

- 18.30.010 Applicability.**
- 18.30.020 Scope.**
- 18.30.030 Responsibility of Owner.**
- 18.30.040 Enforcement.**
- 18.30.050 Closing of Vacant Buildings, Structures, and Premises.**
- 18.30.060 Vacant Buildings, Structures, and Premises.**

OUTDOOR PROPERTY MAINTENANCE

- 18.30.090 Exterior Property, Generally.**
- 18.30.095 Holes, Tanks, and Traps.**
- 18.30.100 Unsecured Structures.**
- 18.30.105 Excess Vegetation.**
- 18.30.110 Rodent Harborage.**
- 18.30.115 Trash and Debris.**
- 18.30.120 Storage of Non-Trash Items.**
- 18.30.125 Disabled Vehicles.**

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- 18.30.130 Exhaust Vents.**
- 18.30.135 Accessory Structures.**

EXTERIOR STRUCTURE

- 18.30.140 Exterior Structure, Generally.**
- 18.30.145 Exterior Walls and Exposed Surfaces.**
- 18.30.150 Structural Members.**
- 18.30.155 Foundation Walls.**
- 18.30.160 Roofs and Drainage.**
- 18.30.165 Decorative Features.**
- 18.30.170 Overhang Extensions.**
- 18.30.175 Stairways, Decks, Porches, and Balconies.**
- 18.30.180 Chimneys and Towers.**
- 18.30.185 Handrails and Guards.**
- 18.30.190 Window, Skylight, and Door Frames.**
- 18.30.195 Glazing.**
- 18.30.200 Openable Windows.**
- 18.30.205 Insect Screens.**
- 18.30.210 Doors.**
- 18.30.215 Basement Hatchways.**
- 18.30.220 Guards for Basement Windows.**

INTERIOR STRUCTURE

- 18.30.225 Interior Structure, Generally.**
- 18.30.230 Structural Members.**
- 18.30.235 Interior Surfaces.**
- 18.30.240 Stairs and Walking Surfaces.**
- 18.30.245 Handrails and Guards.**
- 18.30.250 Interior Doors.**
- 18.30.255 Interior Dampness.**

CLEANLINESS AND SANITATION

- 18.30.260 Accumulation of Rubbish or Garbage.**
- 18.30.265 Disposal of Rubbish.**
- 18.30.270 Garbage Facilities.**
- 18.30.275 Containers.**

INSECT AND RODENT HARBORAGE

- 18.30.280 Infestation.**
- 18.30.285 Owner.**
- 18.30.290 Single Occupant.**
- 18.30.295 Multiple Occupancy.**
- 18.30.300 Exception.**

LIGHT

- 18.30.305 Habitable Spaces.**
- 18.30.310 Common Halls and Stairways.**

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18.30.315 Other Spaces.**VENTILATION****18.30.320 Habitable Spaces.****18.30.325 Bathrooms and Toilet Rooms.****18.30.330 Cooking Facilities.****18.30.335 Process Ventilation.****18.30.340 Clothes Dryer Exhaust.****OCCUPANCY LIMITATIONS****18.30.345 Privacy.****18.30.350 Minimum Room Widths.****18.30.355 Minimum Ceiling Heights.****18.30.360 Bedroom Requirements.****18.30.365 Area for Sleeping Purposes.****18.30.370 Access from Bedrooms.****18.30.375 Water Closet Accessibility.****18.30.380 Prohibited Occupancy.****18.30.385 Other Requirements.****18.30.390 Overcrowding.****18.30.395 Sleeping Area.****18.30.400 Combined Spaces.****18.30.405 Efficiency Unit.****18.30.410 Food Preparation.****REQUIRED PLUMBING FACILITIES****18.30.415 Dwelling Units.****18.30.420 Rooming Houses.****18.30.425 Hotels.****18.30.430 Employees' Facilities.****18.30.435 Drinking Facilities.****TOILET ROOMS****18.30.440 Privacy.****18.30.445 Location.****18.30.450 Location of Employee Toilet Facilities.****18.30.455 Floor Surface.****PLUMBING SYSTEMS AND FIXTURES****18.30.460 Plumbing Systems and Fixtures, Generally.****18.30.465 Fixture Clearances.****18.30.470 Plumbing System Hazards.****WATER SYSTEM****18.30.475 Water System, Generally.****18.30.480 Contamination.**

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18.30.485 Supply.
18.30.490 Water Heating Facilities.

SANITARY DRAINAGE SYSTEM

18.30.495 Sanitary Drainage System, Generally.
18.30.500 Maintenance.

STORM DRAINAGE

18.30.505 Storm Drainage, Generally.

HEATING FACILITIES

18.30.510 Facilities Required.
18.30.515 Residential Occupancies.
18.30.520 Heat Supply.
18.30.525 Room Temperature Measurement.

MECHANICAL EQUIPMENT

18.30.530 Mechanical Appliances.
18.30.535 Removal of Combustion Products.
18.30.540 Clearances.
18.30.545 Safety Controls.
18.30.550 Combustion Air.
18.30.555 Energy Conservation Devices.

ELECTRICAL FACILITIES

18.30.560 Electrical Facilities Required.
18.30.565 Electrical Service.
18.30.570 Electrical System Hazards.

ELECTRICAL EQUIPMENT

18.30.575 Installation of Electrical Equipment.
18.30.580 Receptacles.
18.30.585 Lighting Fixtures.

DUCT SYSTEMS

18.30.590 Duct Systems, Generally.

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Chapter 18.04
BUILDING CODES ADMINISTRATION

Sections:

- ~~18.04.010~~ Adoption of the Oregon Structural Specialty Code.
- ~~18.04.015~~ Grading — When permits are required.
- ~~18.04.020~~ Grading — General provisions.
- ~~18.04.030~~ Grading — Permit procedure.
- ~~18.04.035~~ Grading — Notification of adjacent property owners.
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- 18.04.170** Grading — Permits shall be tentative pending resolution of appeals.
- 18.04.180** Grading — Standing to appeal.

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18.04.190 Grading – Appeal procedure.

18.04.200 Grading – Fees.

18.04.210 Removal of excavation, embankment or fill required when determined to be a hazard.

18.04.010 Adoption of the Oregon Structural Specialty Code.

The Oregon Structural Specialty Code effective January 1, 1993, with its appendices and separate bound standards, except Table No. 3-A, Building Permit Fees, is adopted as part of this code of ordinances. The foregoing is referred to as the "Structural Code" and is composed of the 1991 Edition of the Uniform Building Code with appendices and standards published by the International Conference of Building Officials and modified by the Administrator of the Oregon Building Codes Agency. (Ord. 5026 § 1, 1993; Ord. 4758 § 1, 1987; Ord. 4661 § 1, 1984; Ord. 4374 § 1, 1980; Ord. 4207 § 1, 1978; Ord. 4106 § 1, 1978).

18.04.015 Grading – When permits are required.

Grading permits are not required by the City of Albany for grading activities (including excavation and fill) within the City limits, except in the following circumstances:

(1) When any grading is proposed in floodplains. Floodplains are those areas subject to inundation from a 100-year flood and identified on federal Flood Insurance Rate Maps (FIRMS) and Floodway Maps by the letter A, A1 – A30, AE, or AO.

(2) When any grading is proposed in any watercourse shown in the City of Albany Drainage Master Plan, in any watercourse receiving drainage from a public roadway, or in any watercourse lying within a public easement or right-of-way. A watercourse is any natural or artificial stream, river, creek, ditch, drainageway, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

(3) When placement of a structure is proposed in a watercourse shown in the City of Albany Drainage Master Plan, or within a public easement or right-of-way.

(4) When grading involving more than 50 cubic yards is proposed in areas that have an average slope of 12 percent or greater.

(5) When grading is proposed over an existing public storm drain, sanitary sewer, or waterline. This does not include grading authorized under a public works contract awarded by the City of Albany, grading approved as part of a permit to construct public facilities as provided in Chapter 15.06 AMC, or grading conducted by City of Albany maintenance forces.

(6) Notwithstanding any of the foregoing, a grading permit is not required in any of the following circumstances:

(a) Grading incidental to a valid building permit and excavation below grade for basements, foundations, or footings for retaining walls or other structures authorized by a valid building permit;

(b) Construction of driveways or underground utilities;

(c) Grading or landscaping when less than 50 cubic yards of earth is moved;

(d) Grading or excavation associated with public works projects, roads, public ways, graves, or work controlled by other processes or regulations, such as wells, tunnels, utilities, or disposal sites;

(e) Minor adjustments in active grading permits or applications when necessary in order to adhere to City requirements or good engineering practices;

(f) Grading or excavation determined by the Building Official to be in substantial compliance with the intent of the grading ordinance. Such a determination shall be appealable to the Building Board of Appeals if made as an interpretation of the Oregon Building Code. In the event of such an appeal, the decision of the Building Board of Appeals shall be final. (Ord. 5328 § 1, 1997; Ord. 5265 § 4, 1996).

EXHIBIT AText additions shown in **bold**;Text deletions shown in ~~strike~~.**18.04.020 Grading — General provisions.**

The rules prescribed in this chapter shall apply to all lands within the City limits of the City of Albany.

(1) ~~Compliance.~~ No excavation or grading operation shall hereafter be performed, or existing graded lot altered, without full compliance with the terms of this chapter and other applicable regulations.

(2) ~~Abrogation and Greater Restrictions.~~ This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other chapters conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(3) ~~Relationship to Permits Required by State or Federal Agencies.~~ Excavation, grading, and fill activities may require state and/or federal permits. Such permits are likely to be required if hydric soils are present on the site or if the site contains other wetland characteristics. The issuance of a permit by the City of Albany under this chapter does not eliminate the need for compliance with other state, federal, or local regulations.

(4) ~~Warning and Disclaimer of Liability.~~ The issuance of a permit by the City of Albany under this chapter constitutes a determination that the applicant has met the minimum requirements for the City's regulatory purposes. Issuance of a permit does not relieve the permit holder from any responsibilities or liabilities that grading, excavation or fill activities may create if third parties are damaged or injured by such actions. (Ord. 5265 § 4, 1996).

18.04.030 Grading — Permit procedure.

Application for a grading permit shall be made to the Building Official. The Building Official shall provide the application forms. (Ord. 5265 § 4, 1996).

18.04.035 Grading — Notification of adjacent property owners.

The Building Official will provide written notice that a grading permit application has been filed to the owners of property adjacent to the property on which the grading is proposed. The list of owners to be notified will be compiled from the most recent property tax assessment roll. This requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given.

(1) ~~The notice and procedures used by the City will:~~

(a) ~~Provide a 14-day period for submission of written comments prior to the decision of the Building Official concerning whether the grading permit should be issued.~~

(b) ~~State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient detail that the Building Official will be able to respond to the issue.~~

(c) ~~List the approval standards of AMC 18.04.040.~~

(d) ~~Set forth the street address or other easily understood geographical reference to the subject property.~~

(e) ~~State the place, date and time that comments are due.~~

(f) ~~State that copies of all information submitted by the applicant is available for review, and that copies can be obtained at cost.~~

(g) ~~Include the name and phone number of the City representative to contact for information about the permit application.~~

(h) ~~Provide that any person who submits comments during the 14-day period referenced above shall receive a notice of the decision of the Building Official. The notice of decision will include an explanation of appeal procedures.~~

(i) ~~Include such other information as the Building Official deems appropriate.~~

(2) ~~The Building Official's decision on a grading permit application may be appealed as set forth in AMC 18.04.047.~~ (Ord. 5265 § 4, 1996).

EXHIBIT A

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

18.04.040 Grading—Approval standards.

~~Grading permit applications will be approved if the applicant has shown that each of the following criteria which are applicable have been met:~~

~~(1) Provisions have been made to maintain adequate flood carrying capacity of existing watercourses, including future maintenance of that capacity.~~

~~(2) No grading will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading will not be detrimental to the anticipated service life, operation and maintenance of the existing utility.~~

~~(3) In floodplain areas, where no floodway is shown on the applicable map, grading will not be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed grading, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.~~

~~(4) No grading will be permitted in a floodway, except where the applicant has supplied evidence prepared by a professional engineer that demonstrates the proposal will not result in any increase in flood levels during the occurrence of the 100-year flood.~~

~~(5) The applicant shall notify the City of Albany, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading activity that will result in alteration or relocation of a watercourse.~~

~~(6) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the Building Official as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive downdrains or other devices.~~

~~(7) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the Building Official; except the gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:~~

~~(a) No proposed fills are greater than 10 feet in maximum depth.~~

~~(b) No proposed finished cut or fill slope faces have a vertical height in excess of 10 feet.~~

~~(c) No existing slope faces, which have a slope face steeper than 10 horizontal to one vertical, have a vertical height in excess of 10 feet.~~

~~(8) In areas that have an average slope of 12 percent or greater, the following requirements also apply:~~

~~(a) Cut and fill slopes shall not exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (e.g., 1-1/2:1, or 1:1) may be approved by the Building Official, upon certification by a qualified soils engineer or geologist, that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist. (Ord. 5265 § 4, 1996).~~

18.04.045 Grading—Permits shall be tentative pending resolution of appeals.

~~Grading permits, if approved, shall be "tentative" permits and shall not permit grading action until the permit has become "final." A grading permit shall become "final" when the time for appeal has passed with no appeal made, or in the event of an appeal, until the appeal has been resolved by the City. (Ord. 5265 § 4, 1996).~~

18.04.046 Grading—Standing to appeal.*

~~Only those persons who own property adjacent to the premises on which grading is proposed and who have previously submitted comments in writing to the Building Official as provided in AMC 18.04.035(1) shall have standing to appeal the issuance of a grading permit. (Ord. 5265 § 4, 1996).~~

EXHIBIT A

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

* Code reviser's note: ~~Exhibit G of Ordinance 5265 added sections 18.04.050, 18.04.055, 18.04.060 and 18.04.070. These sections have been editorially renumbered to AMC 18.04.046 — 18.04.049, respectively, to avoid duplicating existing section numbers.~~

18.04.047 Grading — Appeal procedure.

(1) ~~An appeal of the Building Official's decision on a grading permit application shall be to the City Council. No appeal shall be timely unless a notice of appeal is actually received at the office of the Building Official not later than 14 days after the notice of decision is mailed. The notice of appeal shall contain:~~

(a) ~~An identification of the decision sought to be reviewed, including the date of the decision.~~

(b) ~~A statement of the standing of the person seeking review and that he/she submitted written comments to the Building Official during the period allowed in AMC 18.04.035(1)(a).~~

(c) ~~The specific approval standard on which the appeal is based.~~

(d) ~~If a de novo review is requested, a statement summarizing the new evidence which will be offered and the approval standard to which it will relate.~~

(2) ~~The person who appeals the Building Official's decision has the burden of proof to show that the decision is in error.~~

(3) ~~The City Council will determine the scope of review on appeal to be one of the following:~~

(a) ~~Restricted to the record.~~

(b) ~~Limited to such issues as the Board determines necessary for a proper resolution of the matter.~~

(c) ~~A de novo hearing.~~

(4) ~~The City Council may affirm, remand, reverse, or modify the Building Official's decision.~~

(5) ~~The decision of the City Council shall be final. (Ord. 5265 B 4, 1996).~~

18.04.048 Grading — Fees.

(1) ~~A minimum grading plan review fee, applicable to all grading permits, in the amount of \$ _____ is hereby established.~~

(2) ~~A minimum grading permit fee, applicable to all grading permits, in the amount of \$ _____ is hereby established.~~

(3) ~~In addition to the minimum fees called for in subsections (1) and (2) of this section, grading fees shall also include any cost incurred by the City and shall include overhead and any costs of outside consultants, inspectors or plan review by the Building Official. When services by outside consultants, inspectors or plan reviewers are required by the Building Official, an approximate cost of those services shall be collected at either the time of application for the plan review or at the time of issuance of the permit for inspection services. If the fees initially collected are not sufficient to cover the cost incurred by the City, adjustments to the fees owed the City may be made at the time of permit issuance or prior to final approval of the permitted work.~~

(4) ~~An appeal fee in the amount of \$ _____ is hereby established. (Ord. 5265 B 4, 1996).~~

18.04.049 Removal of excavation, embankment or fill required when determined to be a hazard.

~~If the Building Official determines that any excavation, embankment, or fill on private property has become a hazard, he may order the hazard abated by the owner or responsible party. The owner of the property upon which the excavation or fill is located, or the responsible party, upon receipt of notice in writing, shall repair or eliminate such excavation or embankment so as to eliminate the hazard. (Ord. 5265 B 4, 1996).~~

EXHIBIT A

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

18.04.050 Special permit fees.

In addition to the fees specified in Section 303(a) and (b) of the Uniform Building Code, the following fees shall be paid for each permit listed:

- (1) Moving of buildings or structures: [] each.
- (2) Demolition of building or structure: [] each except that a fee shall not be required for small, detached accessory buildings of 600 square feet in area or less.
- (3) Issuance of a certificate of occupancy at request of the owner: [] each. (Ord. 5026 § 1, 1993; Ord. 4106 § 3, 1978; Ord. 3825 § 2.11, 1974).

18.04.060 Adoption of the Oregon Mechanical Specialty Code.

The Oregon Mechanical Specialty Code effective January 1, 1993, with its appendices and separately bound standards, except Table No. 3-A, Mechanical Permit Fees, is adopted as part of this code of ordinances. The foregoing is referred to as the "Mechanical Code" and is composed of the 1991 Edition of the Uniform Mechanical Code with appendices and standards published by the International Conference of Building Officials and modified by the Administrator of the Oregon Building Codes Agency. (Ord. 4758 § 1, 1987; Ord. 4661 § 1, 1984; Ord. 4374 § 2, 1980; Ord. 4206 § 1, 1978).

18.04.070 Adoption of the One and Two Family Dwelling Specialty Code.

The Oregon One and Two Family Development Code effective April 1, 1990. The foregoing is referenced to as the "Dwelling Code" and is composed of the 1989 Edition of the CABO One and Two Family Dwelling Code and published by the Council of American Building Officials and modified by the Administrator of the Oregon Building Codes Agency. (Ord. 5026 § 1, 1993).

18.04.080 Inspections.

The Building Official or his/her assistants may require a minimum of eight hours' notice, excluding Saturdays, Sundays and holidays, after notification that a permittee is ready for any inspection required by the Building Official to insure compliance with this chapter. (Ord. 4661 § 1, 1984; Ord. 3825 § 2.4(a), 1974).

18.04.090 Roof drains and gutters.

All buildings and structures shall have an approved roof drainage system including gutters and downspouts. Such system shall be connected to an approved drainage system. Splashblocks are expressly prohibited on all dwellings constructed after December 23, 1974. (Ord. 3825 § 2.4(b), 1974).

18.04.210 Demolition — Permit — Expiration.

(1) Every demolition permit issued by the Building Official under the provisions of this code shall expire by limitation and become null and void if the demolition work is not commenced within 60 days from the date of such permit, or if the work authorized by such demolition permit is not completed within the time limit established by the Building Official. The Building Official may grant an extension of time limit if it is apparent that the permit holder has made every effort to meet the time limit and will be unable to do so because of unusual or difficult conditions.

(2) In the event that the permit holder should fail to meet the time limit specified by the demolition permit because of failure to prosecute the work, the City Council may declare the building an unsafe or substandard building under the terms of this chapter or a dangerous building under the terms of Chapter 18.16 of this code and may cause the demolition of the building to be completed by following the procedures outlined in Chapter 18.16. (Ord. 3825 § 3.3(b), 1974).

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18.04.220 Demolition — Permit — Suspension or revocation.

~~The Building Official may, in writing, suspend or revoke a demolition permit issued under 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 or any of the provisions of this chapter. (Ord. 3825 § 3.3(c), 1974).~~

18.04.230 Demolition — Protection of public utilities.

~~Street lights, parking meters, fire or police alarm boxes, hydrants, catch basins, manholes and other public facilities shall be protected as required in Section 4405 of the building code. (Ord. 3825 § 3.4, 1974).~~

18.04.240 Demolition — Protection for pedestrians.

~~Walkways, railings, fences and canopies shall be provided for the protection of pedestrians as specified by Section 4405 of the building code. (Ord. 3825 § 3.5, 1974).~~

18.04.250 Demolition — Protection of public sidewalks.

~~Public sidewalks shall be protected from damage by a pad of solid planking not less than two inches thick. (Ord. 3825 § 3.6(a), 1974).~~

18.04.260 Demolition — Replacement and repair of streets and sidewalks.

~~Any sidewalk or street which is damaged or broken during the demolition work shall be immediately replaced as directed by the City Engineer. (Ord. 3825 § 3.6(b), 1974).~~

18.04.270 Demolition — Notification of utilities.

~~All utility companies, such as telephone, power, gas, TV, shall be notified to disconnect all of such services from the main lines to the building. (Ord. 5026 § 1, 1993; Ord. 3825 § 3.7, 1974).~~

18.04.280 Demolition — Basement or cellar walls.

~~Where basements or cellars are involved in the demolition of a building or structure, the basement or cellar walls shall be maintained in a structurally sound condition in all areas adjacent to public sidewalks in order that such sidewalks may be adequately supported. If the basement or cellar wall adjacent to a public sidewalk is not adequate to support such sidewalk, a wall or bulkhead shall be provided according to specifications provided by the Building Official. (Ord. 3825 § 3.8(a), 1974).~~

18.04.290 Demolition — Fences.

~~(1) A temporary fence along the inside edge of a public sidewalk shall be maintained during demolition work to protect pedestrians from basements or cellars. As soon as the demolition work is completed, a fence shall be erected or installed according to specifications provided by the Building Official to protect from hazards remaining as a result of excavation.~~

~~(2) All permanent fences shall be maintained in a neat and attractive manner at all times. (Ord. 3825 § 3.8(b), 1974).~~

18.04.300 Demolition — Cleanup.

~~All debris, stumps, broken concrete, brick and other material shall be completely removed from the premises. All ground surfaces shall be raked clean and graded evenly. (Ord. 3825 § 3.9(a), 1974).~~

18.04.310 Demolition — Sewer laterals.

~~Each and every sewer lateral shall be tightly plugged against the entrance of ground water. The Building Official shall be notified when the sewer lateral is ready to be plugged and shall be~~

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given an opportunity to inspect the plug and to obtain the necessary data to relocate said lateral if necessary. (Ord. 3825 § 3.9(b), 1974).

18.04.320 Building Board of Appeals.

~~(1) In order to determine the suitability of alternate materials and methods of construction and to provide reasonable interpretations of the provisions of this code, there is created a Building Board of Appeals, consisting of not less than five members who are qualified by experience and training to pass upon matters pertaining to the State Building Code as defined by ORS 456.750. The Building Official shall be an ex officio member and shall act as secretary of the Board. The Building Board of Appeals shall be appointed by the Mayor and approved by the City Council. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy of the appellant and the administrator of the State of Oregon Building Code Division.~~

~~(2) The membership of the Board shall consist of at least: one local architect or engineer along with an alternate to this position so that technical expertise would still be available should there on occasions be a conflict of interest, one lay person from the community, and three members from the building community. (Ord. 4586 § 1, 1983; Ord. 3825 § 2.6(a), 1974.)~~

18.04.330 Unlawful acts.

~~It is unlawful for any person, firm or corporation to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by this chapter or other regulation without first obtaining such permit, certificate, label or other formal authorization. (Ord. 3825 § 2.7(A), 1974).~~

18.04.010 Title.

This Title shall be known as the "Building Regulations," and may be so cited and pleaded and is referred to herein as "this Title."

18.04.020 Severability.

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

18.04.030 Purpose.

The purpose of this Title is, consistent with available resources, to establish uniform performance, minimal standards, enforcement procedures, and administrative standards in order to provide reasonable safeguards for the health, safety, welfare, comfort and security of the residents of this jurisdiction, and to provide for the use of modern methods, devices, materials, techniques, practicable maximum energy conservation standards, and fire and life safety features in the construction and use of structures.

18.04.040 Scope.

This Title shall apply to new and existing construction and premises, and construction-related activities including, but not limited to, installation of: electrical, plumbing, mechanical, energy, grading, disability access, alteration, moving, demolition, repair, maintenance, fire and life safety and work associated with any building, structure,

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premises, property, or license regulated by this Title, mandated under any of the Oregon construction specialty codes, rules or statutes, and/or regulated by various other codes of the City of Albany, including zoning or land use regulations. The City of Albany enforces the State Building Code as per ORS Chapter 455 and the rules adopted thereunder.

18.04.050 Conflicting Provisions.

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

18.04.060 Codes.

(1) **State Building Code.** The provisions of the State of Oregon Building Code, as provided in ORS 455.010, are hereby adopted by reference. The State Building Code is on file in the Community Development Department of the City of Albany.

(2) **Fire Code.** Where requirements of this Title do not provide necessary regulation or are not fully detailed with regard to processes, methods, specifications, equipment testing, and maintenance, standards of design, performance, and installation, and other pertinent criteria, the applicable standards and requirements of the State Fire Code shall apply, copies of which are on file in the Fire Department of the City of Albany. Said volumes and all subsequent editions of these codes, including all amendments, are hereby incorporated in this Title by reference.

(3) **Development Code.** Nothing in this Title is intended to permit the establishment or conversion of any structure or use of any land in any zone which is not in accordance with the applicable sections of the Albany Development Code.

18.04.070 Definitions.

For the purpose of this Title, the following definitions shall apply.

(1) **ADJACENT PROPERTY** is property that has a common border with another property or tax lot. Does not include property separated by roads, rivers or other such separations.

(2) **APPROVED** is approved by the Building Official.

(3) **ATTRACTIVE NUISANCE** is a condition that may attract and injure children, vagrants, or other unauthorized trespassers.

(4) **BASEMENT** is that portion of a building which is partly or completely below grade.

(5) **BATHROOM** is a room containing plumbing fixtures including a toilet, lavatory, and bathtub or shower.

(6) **BEDROOM** is a room which is designated as a bedroom on the applicable plans or documents or which, in the reasonable opinion of the Building Official, is likely to be regularly used for sleeping purposes. In making this determination, the Building Official shall consider the following factors, the presence or absence of which shall not be conclusive:

- (a) the presence of a closet (usually found a bedroom);
- (b) the presence of an exterior window (usually found in a bedroom);

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- (c) the size of the room (bedrooms are usually less than 350 square feet);
 - (d) the presence of plumbing (usually absent in a bedroom);
 - (e) the presence of heating (usually found in a bedroom);
 - (f) the number of other designated bedrooms relative to the size of the entire structure (typically, homes over 1,000 square feet in size have three bedrooms and homes over 2,000 square feet in size have more than three bedrooms).
- (7) **BUILDING** is a structure used or intended for supporting or sheltering a use or occupancy.
- (8) **BUILDING OFFICIAL** shall mean the Albany Building Official Manager or Deputy thereof, with powers granted by ORS 455.153.
- (9) **BUILDING SERVICE EQUIPMENT** is all support systems/equipment such as piping, ducts, vents, and other components of systems other than portable appliances that are permanently in place to serve the building.
- (10) **CERTIFICATE OF OCCUPANCY** is a certificate of approval issued by the Building Official after all provisions of the building code, laws, codes and conditions of approval enforced by the Building Official are met for a commercial building. The Certificate of Occupancy for a residential building is considered the same as the final approval of the permit after the building is constructed and all corrections have been completed.
- (11) **CONCURRENT PLAN REVIEW** is a review of a construction application by one or more other divisions at the same time the building inspection plans reviewer is reviewing the application for compliance with the State Building Code.
- (12) **CONDEMNATION** is to adjudge unfit for occupancy.
- (13) **DWELLING UNIT** is one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with housekeeping facilities for living, sleeping, cooking, and eating.
- (14) **DWELLING UNIT, QUAD** is a dwelling, which for purposes of this Code shall count as two dwelling units, which has separate sleeping and living quarter for four individuals but which is centered around a common kitchen facility.
- (15) **DWELLING UNIT, QUINT** is a dwelling, which for purposes of this Code shall count as two and one-half dwelling units, which has separate sleeping and living quarters for five individuals but which is centered around a common kitchen facility.
- (16) **EASEMENT** is that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above a said lot or lots.
- (17) **ENFORCEMENT ACTION** is an action in which an order to correct has been issued, or which seeks or results in a civil penalty.
- (18) **EXTERIOR PROPERTY** is the open space on the premises and on adjoining property under the control of owners or operators of such premises.

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(19) **EXTERMINATION** is the control and elimination of insects, rats, or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

(20) **GARBAGE** is food waste, animal and vegetable waste, dead animal carcasses, refuse, rubbish, trash, or other useless or discarded material.

(21) **GUARD** is a building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

(22) **HABITABLE SPACE** is space in a structure approved for living, sleeping, eating or cooking. Bathrooms, toilet rooms, garages, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

(23) **HOUSEKEEPING UNIT** is a room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

(24) **IMMINENT DANGER** or **IMMINENT HAZARD** is a condition which could cause serious or life-threatening injury or death at any time.

(25) **INFESTATION** is the evidence, within or contiguous to a structure or premises, of insects, rats, vermin, or other pests.

(26) **INOPERABLE MOTOR VEHICLE** is a vehicle which cannot be driven upon the public streets for reason including, but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

(27) **JUNK** is all inoperable motor vehicles, in which multiple major components are defective or removed for more than 30 consecutive days; any motor vehicle which has been unlicensed for more than 30 consecutive days; defective motor vehicle parts, abandoned automobiles, used tires, inoperable and defective machinery, or parts thereof, inoperable and defective appliances and parts thereof, metal portions of inoperable machinery, broken glass, empty glass, plastic or metal containers, scrap lumber, broken furniture, other wastes and/or discarded materials.

(28) **LABELED** is devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

(29) **LET FOR OCCUPANCY** or **LET** is to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises, or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

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(30) **NONCONFORMING** is any building, premises, or structure which lawfully existed prior to the effective date of this Code, but which, due to the requirements adopted herein, no longer complies with one or more provisions of this Code.

(31) **OCCUPANCY** is the purpose for which a building, or part thereof, is used or intended to be used.

(32) **OCCUPANT** is any individual living or sleeping in a building, or having possession of a space within a building.

(33) **OPENABLE AREA** is that part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

(34) **OPERATING PLAN** is a state-mandated document, as required by OAR 918-020-0080, created and maintained by the Building Official, that outlines policies, procedures, rules, time lines, hours of operation and general administrative procedures describing the operation of the building division.

(35) **OPERATOR** is any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

(36) **OWNER** is any person, agent, firm, or corporation having a legal or equitable interest in a property; or recorded in the official records of the state, county or municipality as holding title to a property; or otherwise having control of a property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

(37) **PERMIT** is an official document or certificate issued by the Building Official authorizing performance of a specified activity.

(38) **PERSON** is a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

(39) **PORTABLE STRUCTURE** is a structure that is easily moveable, is of a size which accommodates portability, and is otherwise constructed for easy movement. Portable structures are typically regulated by State agencies and are not built in a location where the structure is intended to remain permanently.

(40) **PREMISES** is any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For Premises consisting of more than one unit, Premises may be limited to the unit or the portion of the Premises on which any Nuisance Activity has occurred or is occurring, but includes areas of the Premises used in common by all units of Property including, without limitation, other structures erected on the Property and areas used for parking, loading, and landscaping.

(41) **PUBLIC WAY** is any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

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(42) **ROOMING HOUSE** is a building arranged or occupied for lodging, with or without meals, for compensation, and not occupied as a one- or two-family dwelling.

(43) **ROOMING UNIT** is any room or group of rooms forming a single habitable unit occupied, or intended to be occupied, for sleeping or living, but not for cooking purposes.

(44) **RUBBISH** is combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

(45) **STATE BUILDING CODE** is all of the combined specialty codes together, including the electrical, plumbing and mechanical codes, as provided in ORS 455.010(8).

(46) **STRICT LIABILITY OFFENSE** is an offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

(47) **STRUCTURE** is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(48) **SUBSTANDARD** is in violation of any of the minimum requirements as set out in this Title or in the building code in effect at the time the structure was built.

(49) **TEMPORARY BUILDINGS OR STRUCTURES** are buildings and/or structures erected for use of very limited duration and not taking the place of permanent buildings or structures; including, but not limited to, tents, trailers, motorhomes, RVs, sheds, cargo containers, boxes, crates, pallets, hooches.

(50) **TENANT** is a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(51) **TOILET ROOM** is a room containing a water closet or urinal, at minimum, but may also include a lavatory, bathtub, or shower.

(52) **VALUATION OR VALUE**, as applied to a building and its building service equipment, shall be the estimated cost to build or replace the building and its building service equipment in kind, based upon current costs.

(53) **VENTILATION** is the natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

(54) **WORKMANLIKE** is executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

(55) **YARD** is an open space on the same lot with a structure.

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18.04.080 Alternate Materials and Methods.

(1) The provisions of this Title are not intended to prevent the use of any alternate material, design or method of construction not specifically prescribed by this Title, provided such alternate material, design, or method has been approved and its use authorized by the Building Official.

(2) The Building Official may approve any such alternate material, design or method, provided the Building Official finds that the proposed material, design or method complies with the provisions and intent of this Title and that it is, for the purpose intended, at least the equivalent of that prescribed in this Title in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

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

18.04.090 Modifications.

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

18.04.100 Tests.

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

(2) Test methods shall be as specified by this Title, the technical codes, or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the Building Official shall determine test procedures.

(3) All tests shall be made by a testing agency approved by the Building Official. The Building Official shall retain reports of such tests for the period required for the retention of public records.

18.04.110 Unsafe buildings.

All buildings described in Chapter 18.46 ~~28~~ of this code are declared to be unsafe buildings for the purposes of this section. All such unsafe buildings are public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures described in Chapter 18.46 ~~28~~ of this code. (Ord. 3825 § 2.5, 1974).

~~18.04.120 Grading – When permits are required.~~

~~Grading permits are not required by the City of Albany for grading activities (including excavation and fill) within the City limits, except in the following circumstances:~~

~~(1) When any grading is proposed in floodplains. Floodplains are those areas subject to inundation from a 100-year flood and identified on federal Flood Insurance Rate Maps (FIRMS) and Floodway Maps by the letter A, A1 – A30, AE, or AO.~~

~~(2) When any grading is proposed in any watercourse shown in the City of Albany Drainage Master Plan, in any watercourse receiving drainage from a public roadway, or in any watercourse lying within a public easement or right-of-way. A watercourse is any natural or~~

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~~artificial stream, river, creek, ditch, drainageway, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.~~

~~(3) When placement of a structure is proposed in a watercourse shown in the City of Albany Drainage Master Plan, or within a public easement or right-of-way.~~

~~(4) When grading involving more than 50 cubic yards is proposed in areas that have an average slope of 12 percent or greater.~~

~~(5) When grading is proposed over an existing public storm drain, sanitary sewer, or waterline. This does not include grading authorized under a public works contract awarded by the City of Albany, grading approved as part of a permit to construct public facilities as provided in Chapter 15.06 AMC, or grading conducted by City of Albany maintenance forces.~~

~~(6) Notwithstanding any of the foregoing, a grading permit is not required in any of the following circumstances:~~

~~(a) Grading incidental to a valid building permit and excavation below grade for basements, foundations, or footings for retaining walls or other structures authorized by a valid building permit;~~

~~(b) Construction of driveways or underground utilities;~~

~~(c) Grading or landscaping when less than 50 cubic yards of earth is moved;~~

~~(d) Grading or excavation associated with public works projects, roads, public ways, graves, or work controlled by other processes or regulations, such as wells, tunnels, utilities, or disposal sites;~~

~~(e) Minor adjustments in active grading permits or applications when necessary in order to adhere to City requirements or good engineering practices;~~

~~(f) Grading or excavation determined by the Building Official to be in substantial compliance with the intent of the grading ordinance. Such a determination shall be appealable to the Building Board of Appeals if made as an interpretation of the Oregon Building Code. In the event of such an appeal, the decision of the Building Board of Appeals shall be final. (Ord. 5328 § 1, 1997; Ord. 5265 § 4, 1996).~~

18.04.130 Grading – General provisions.

~~The rules prescribed in this chapter shall apply to all lands within the City limits of the City of Albany.~~

~~(1) Compliance. No excavation or grading operation shall hereafter be performed, or existing graded lot altered, without full compliance with the terms of this chapter and other applicable regulations.~~

~~(2) Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other chapters conflict or overlap, whichever imposes the more stringent restrictions shall prevail.~~

~~(3) Relationship to Permits Required by State or Federal Agencies. Excavation, grading, and fill activities may require state and/or federal permits. Such permits are likely to be required if hydric soils are present on the site or if the site contains other wetland characteristics. The issuance of a permit by the City of Albany under this chapter does not eliminate the need for compliance with other state, federal, or local regulations.~~

~~(4) Warning and Disclaimer of Liability. The issuance of a permit by the City of Albany under this chapter constitutes a determination that the applicant has met the minimum requirements for the City's regulatory purposes. Issuance of a permit does not relieve the permit holder from any responsibilities or liabilities that grading, excavation or fill activities may create if third parties are damaged or injured by such actions. (Ord. 5265 § 4, 1996).~~

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18.04.140 Grading—Permit procedure.

~~Application for a grading permit shall be made to the Building Official. The Building Official shall provide the application forms. (Ord. 5265 § 4, 1996).~~

18.04.150 Grading—Notification of adjacent property owners.

~~The Building Official will provide written notice that a grading permit application has been filed to the owners of property adjacent to the property on which the grading is proposed. The list of owners to be notified will be compiled from the most recent property tax assessment roll. This requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given.~~

~~(1) The notice and procedures used by the City will:~~

~~(a) Provide a 14-day period for submission of written comments prior to the decision of the Building Official concerning whether the grading permit should be issued.~~

~~(b) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient detail that the Building Official will be able to respond to the issue.~~

~~(c) List the approval standards of AMC 18.04.040.~~

~~(d) Set forth the street address or other easily understood geographical reference to the subject property.~~

~~(e) State the place, date and time that comments are due.~~

~~(f) State that copies of all information submitted by the applicant is available for review, and that copies can be obtained at cost.~~

~~(g) Include the name and phone number of the City representative to contact for information about the permit application.~~

~~(h) Provide that any person who submits comments during the 14-day period referenced above shall receive a notice of the decision of the Building Official. The notice of decision will include an explanation of appeal procedures.~~

~~(i) Include such other information as the Building Official deems appropriate.~~

~~(2) The Building Official's decision on a grading permit application may be appealed as set forth in AMC 18.04.047. (Ord. 5265 § 4, 1996).~~

18.04.160 Grading—Approval standards.

~~Grading permit applications will be approved if the applicant has shown that each of the following criteria which are applicable have been met:~~

~~(1) Provisions have been made to maintain adequate flood carrying capacity of existing watercourses, including future maintenance of that capacity.~~

~~(2) No grading will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading will not be detrimental to the anticipated service life, operation and maintenance of the existing utility.~~

~~(3) In floodplain areas, where no floodway is shown on the applicable map, grading will not be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed grading, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.~~

~~(4) No grading will be permitted in a floodway, except where the applicant has supplied evidence prepared by a professional engineer that demonstrates the proposal will not result in any increase in flood levels during the occurrence of the 100-year flood.~~

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~~(5) The applicant shall notify the City of Albany, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading activity that will result in alteration or relocation of a watercourse.~~

~~(6) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the Building Official as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive downdrains or other devices.~~

~~(7) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the Building Official; except the gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:~~

~~(a) No proposed fills are greater than 10 feet in maximum depth.~~

~~(b) No proposed finished cut or fill slope faces have a vertical height in excess of 10 feet.~~

~~(c) No existing slope faces, which have a slope face steeper than 10 horizontal to one vertical, have a vertical height in excess of 10 feet.~~

~~(8) In areas that have an average slope of 12 percent or greater, the following requirements also apply:~~

~~(a) Cut and fill slopes shall not exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (e.g., 1-1/2:1, or 1:1) may be approved by the Building Official, upon certification by a qualified soils engineer or geologist, that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist. (Ord. 5265 § 4, 1996).~~

~~18.04.170 Grading — Permits shall be tentative pending resolution of appeals.~~

~~Grading permits, if approved, shall be "tentative" permits and shall not permit grading action until the permit has become "final." A grading permit shall become "final" when the time for appeal has passed with no appeal made, or in the event of an appeal, until the appeal has been resolved by the City. (Ord. 5265 § 4, 1996).~~

18.04.180 Grading — Standing to appeal.

~~Only those persons who own property adjacent to the premises on which grading is proposed and who have previously submitted comments in writing to the Building Official as provided in AMC 18.04.035(1) shall have standing to appeal the issuance of a grading permit. (Ord. 5265 § 4, 1996).~~

18.04.190 Grading — Appeal procedure.

~~(1) An appeal of the Building Official's decision on a grading permit application shall be to the City Council. No appeal shall be timely unless a notice of appeal is actually received at the office of the Building Official not later than 14 days after the notice of decision is mailed. The notice of appeal shall contain:~~

~~(a) An identification of the decision sought to be reviewed, including the date of the decision.~~

~~(b) A statement of the standing of the person seeking review and that he/she submitted written comments to the Building Official during the period allowed in AMC 18.04.035(1)(a).~~

~~(c) The specific approval standard on which the appeal is based.~~

~~(d) If a de novo review is requested, a statement summarizing the new evidence which will be offered and the approval standard to which it will relate.~~

~~(2) The person who appeals the Building Official's decision has the burden of proof to show that the decision is in error.~~

~~(3) The City Council will determine the scope of review on appeal to be one of the following:~~

~~(a) Restricted to the record.~~

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~~(b) Limited to such issues as the Board determines necessary for a proper resolution of the matter.~~

~~(c) A de novo hearing.~~

~~(4) The City Council may affirm, remand, reverse, or modify the Building Official's decision.~~

~~(5) The decision of the City Council shall be final. (Ord. 5265 B 4, 1996).~~

18.04.200 Grading—Fees.

~~(1) A minimum grading plan review fee, applicable to all grading permits, in the amount of \$_____ is hereby established.~~

~~(2) A minimum grading permit fee, applicable to all grading permits, in the amount of \$_____ is hereby established.~~

~~(3) In addition to the minimum fees called for in subsections (1) and (2) of this section, grading fees shall also include any cost incurred by the City and shall include overhead and any costs of outside consultants, inspectors or plan review by the Building Official. When services by outside consultants, inspectors or plan reviewers are required by the Building Official, an approximate cost of those services shall be collected at either the time of application for the plan review or at the time of issuance of the permit for inspection services. If the fees initially collected are not sufficient to cover the cost incurred by the City, adjustments to the fees owed the City may be made at the time of permit issuance or prior to final approval of the permitted work.~~

~~(4) An appeal fee in the amount of \$_____ is hereby established. (Ord. 5265 B 4, 1996).~~

18.04.210 Removal of excavation, embankment or fill required when determined to be a hazard.

~~If the Building Official determines that any excavation, embankment, or fill on private property has become a hazard, he may order the hazard abated by the owner or responsible party. The owner of the property upon which the excavation or fill is located, or the responsible party, upon receipt of notice in writing, shall repair or eliminate such excavation or embankment so as to eliminate the hazard. (Ord. 5265 B 4, 1996).~~

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**Chapter 18.06
PERMITS**

Sections:

- 18.06.010 Permits, Generally.**
- 18.06.020 Application for a Building Permit.**
- 18.06.030 Submittal Documents.**
- 18.06.040 Permits Issuance.**
- 18.06.050 Deferred Submittals and Phased Construction.**
- 18.06.060 Retention of Plans, Permits, and Documentation.**
- 18.06.070 Validity of Permit.**
- 18.06.080 Expiration of Plan Review Application.**
- 18.06.090 Permit Expiration.**
- 18.06.100 Investigation.**
- 18.06.110 Not Transferable.**
- 18.06.120 Suspension/Revocation.**
- 18.06.130 Swimming Pools – Permit Required.**

18.06.010 Permits, Generally.

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

18.06.020 Application for a Building Permit.

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

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

18.06.030 Submittal Documents.

- (1) Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs, and other data shall constitute

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the submittal documents and shall be submitted in one or more sets with each application for a permit. When such plans are not prepared by an architect or engineer, the Building Official may require the applicant submitting such plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer. The Building Official may require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law.

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

18.06.040 Permits Issuance.

(1) The application, plans, specifications, computations and other data filed by an applicant for permit shall be reviewed by the Building Official or his/her designee. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Building Official finds that the work described in an application for a permit and the plans, specifications, and other data filed therewith conform to the requirements of this Title and the technical codes and other pertinent laws and ordinances, and that the fees specified in Chapter 18.12 have been paid, the Building Official shall issue a permit therefor to the applicant.

(2) When the Building Official issues a permit where plans are required, the Building Official shall endorse in writing or stamp the plans and specifications **APPROVED**. Such approved plans and specifications shall not be changed, modified, or altered without authorizations from the Building Official, and all work regulated by this Title shall be done in accordance with the approved plans.

18.06.050 Deferred Submittals and Phased Construction.

(1) Deferred submittal of plans and phased construction may be permitted by the Building Official when the deferred submittals or phasing of construction is not likely to result in mistakes, faulty construction, or violation of any local or state codes or laws. Construction associated with phased, partial, or deferred submittals and permits shall be done at the permit holder's risk.

(2) The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this Title. If the holder of a partial permit elects to proceed, he/she shall do so without assurance that the permit for the entire building or structure will be granted. Additional costs for partial permits and/or deferred submittals shall be determined and assessed by the Building Official and charged to the applicant for the permit.

18.06.060 Retention of Plans, Permits and Documentation.

One set of approved plans, specifications, computations, and permits shall be retained by the Building Official, shall not be used as field plans, and shall be stored as required by the State Archivist. One set of approved plans and specifications shall be returned to the applicant, and said set shall be kept in good order and in clean, legible condition on the site of the building or work at all times during which the work authorized thereby is in progress. If the applicant needs additional copies of approved plans, the Building Official may review and approve additional copies, charging the applicant the review cost plus overhead charges for providing the additional plan copies.

18.06.070 Validity of Permit.

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(1) The issuance of a permit or approval of plans, specifications, and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Title or of any other code of the jurisdiction, or any other federal, state, or local law, statute, rule, regulation, or code. Permits presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

(2) The issuance of a permit based on plans, specifications, and other data shall not prevent the Building Official from thereafter requiring the correction of errors in said plans, specifications, and other data, requiring additional engineering data, or from preventing building operations being carried on thereunder when in violation of this Title or of any other codes of this jurisdiction.

18.06.080 Expiration of Plan Review Application.

Applications for which no permit is issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once, unless expressly authorized by the Building Official. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee. When an applicant applies for concurrent plan review, the applicant assumes the responsibility and risk of obtaining all approvals required by other departments within the 180-day period.

18.06.090 Permit Expiration.

(1) Every permit issued by the Building Official, under the provisions of this Title and the technical codes, shall expire by limitation and become null and void 36 months after the date of permit issuance, or 180 days from the date of such permit issuance if the building or work authorized by such permit is not commenced, or pursuant to any time limits designated by conditions of approval, or after the building or work authorized by such permit is suspended or abandoned for 180 consecutive days at any time after the work is commenced. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the Building Official to indicate the intent to start and complete the project. The Building Official may require the permittee to document these activities.

(2) Any permittee holding an unexpired permit may apply to the Building Official for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once, unless expressly authorized by the Building Official.

(3) Where a permit has expired, the permit may be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

(a) The building code, land use regulations, and fees under which the original permit was issued and other laws or fees which are enforced or collected by the Community Development Department have not been amended in any manner which affects the work authorized by the original permit.

(b) No changes have been made or will be made in the original plans and specifications for such work.

(c) The original permit expired less than one year from the request to reinstate.

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

18.06.100 Investigation.

(1) Whenever any work for which a permit is required by this Title or the technical codes has been commenced without first obtaining said permit, an investigation shall be made before a permit may be issued for such work. This investigation is subject to the fees described below, and may or may not result in a penalty.

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

(3) Unless waived by the Building Official, an investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Title. A party aggrieved by the imposition of a special investigation fee may appeal the imposition of the special investigation fee to the Albany Building Board of Appeals in the manner prescribed in Chapter 18.14. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Title or the technical codes, nor from any penalty prescribed by law.

18.06.110 Not Transferable.

A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder unless specifically approved by the Building Official.

18.06.120 Suspension/Revocation.

The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this Title and the technical codes whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance, or activity thereunder, is in violation of any state or local statute, code, or regulation, or if the permittee violates any term or condition of the permit or this Title.

18.06.130 Swimming Pools - Permit Required.

Any person, firm or corporation desiring to construct a private swimming pool in the City of Albany, prior to commencing of construction, is hereby required to obtain a building permit.

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Chapter ~~18.08~~
~~ELECTRICAL CODE~~

Sections:

~~18.08.010 Adoption of the Oregon Electrical Specialty Code.~~

~~18.08.010 Adoption of the Oregon Electrical Specialty Code.~~

~~The Oregon Electrical Specialty Safety Code effective January 1, 1992 is adopted as part of this code of ordinances. The foregoing is referred to as the "Electrical Code" and is composed of the 1991 Edition of the National Electrical Code published by the National Fire Protection Association and modified by the Administrator of the Oregon Building Codes Agency. (Ord. 5026 β 1, 1993; Ord. 4661 β 1, 1984; Ord. 4439 β 1, 1981; Ord. 4124 β 1, 1978).~~

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**Chapter 18.08
INSPECTIONS****Sections:**

- 18.08.010 Inspections, Generally.**
- 18.08.020 Inspection Requests.**
- 18.08.030 Inspections Required.**
- 18.08.040 Re-inspections.**
- 18.08.050 Inspection Record Card.**
- 18.08.060 Other Inspections.**
- 18.08.070 Special Inspections.**
- 18.08.080 Approval Required.**
- 18.08.090 Certificate of Occupancy.**
- 18.08.100 Proceeding Without Inspection or Approval.**

18.08.010 Inspections, Generally.

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

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

(3) It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor this jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

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

18.08.020 Inspection Requests.

(1) It shall be the duty of the person doing the work authorized by a permit to notify the Building Official that such work is ready for inspection, and to make provision for access during normal business hours. The Building Official may require that every request for inspection be filed at least one working day before such inspection is desired.

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

(3) It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary, or otherwise required, in a timely manner, to provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the Building Official. The permit holder shall not proceed with construction activity until authorized to do so by the Building Official.

(4) Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card, if required, such as to allow the Building Official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained at the worksite in good order and in clean, legible condition by the permit holder until final approval has been granted by the Building Official.

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18.08.030 Inspections Required.

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

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

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

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

18.08.040 Re-inspections.

(1) A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This subsection is not to be interpreted as necessarily requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of this Title, but as controlling the practice of calling for inspections before the job is ready for such inspection or re-inspection.

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

(3) In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid, unless authorized by the Building Official.

18.08.050 Inspection Record Card.

It is the responsibility of the permit holder to post or otherwise make available an inspection record card, such as to allow the Building Official to conveniently make the required entries thereon regarding inspection results of the work at the time of the inspection. It is the responsibility of the permit holder to refer to this card for the status of the inspections. This card shall be maintained at the worksite in good order and in clean, legible condition by the permit holder until final approval has been granted by the Building Official.

18.08.060 Other Inspections.

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

18.08.070 Special Inspections.

Special inspections shall be conducted as required by the state building code. In addition, additional inspections may be determined necessary and required by the

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Building Official. The Building Official shall approve any special inspector prior to any inspections. All special inspections shall be conducted as required by the Building Division's operational plan and prior to the regular and corresponding city inspection. It shall be the responsibility of the permit holder to ensure that the results of the special inspection are made available to the Building Official and the city inspector at the job site prior to, and at the time of, the city inspection.

18.08.080 Approval Required.

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

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

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

18.08.090 Certificate of Occupancy.

(1) Upon approval for occupancy, the Building Official shall issue a Certificate of Occupancy.

(2) In Group R-3 (one- and two-family dwelling) and U occupancies, the final approval and sign-off of the permit shall serve as the Certificate of Occupancy.

(3) The Certificate of Occupancy for buildings other than single-family dwellings and U Occupancies shall be posted in a conspicuous place and shall not be removed except by the Building Official.

(4) In cases where there are outstanding corrections and/or deficiencies that do not present a hazard or immediate public concern, the Building Official may grant a Temporary Certificate of Occupancy. When granting a Temporary Certificate of Occupancy, the Building Official shall provide the permit holder with conditions and time restrictions for compliance and final approval.

(5) Upon failure to obtain final approval and a Certificate of Occupancy, when applicable, and/or upon the expiration of the permit, the Building Official, in addition to other remedies, may file a "Notice of Non-Compliance" with the County Recorder. To remove the notice, proof of compliance must be provided and all enforcement costs, recording costs, and filing costs determined by the Building Official must be paid by the permit holder.

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

(7) The Building Official may, in writing, suspend or revoke a Certificate of Occupancy issued under the provisions of this Title when the certificate is issued in error, or on the basis of incorrect information, or when it is determined that the building or structure, or portion thereof, is in violation of an ordinance, regulation, or the provisions of this Title.

18.08.100 Proceeding Without Inspection or Approval.

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

**Chapter 18.10
COMPLIANCE AND ENFORCEMENT**

Sections:

- 18.10.010 Creation of Enforcement Program.**
- 18.10.020 Designated Authority.**
- 18.10.030 Powers and Duties of Building Official.**
- 18.10.040 Deputies.**
- 18.10.050 Right of Entry.**
- 18.10.060 Stop Work Orders.**
- 18.10.070 Occupancy Violations.**
- 18.10.080 Authority to Disconnect Utilities.**
- 18.10.090 Authority to Condemn Building Service Equipment.**
- 18.10.100 Connection after Order to Disconnect.**
- 18.10.110 Liability.**
- 18.10.120 Unlawful Acts.**
- 18.10.130 Notice of Violation.**
- 18.10.140 Form of Notices and Orders.**
- 18.10.150 Method of Service.**
- 18.10.160 Enforcing Compliance.**
- 18.10.170 Prosecution of Violation.**
- 18.10.180 Recording Notice of Substandard or Nonconforming Conditions.**
- 18.10.190 Transfer of Ownership.**
- 18.10.200 Penalties.**

18.10.010 Creation of Enforcement Program.

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

18.10.020 Designated Authority.

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

18.10.030 Powers and Duties of Building Official.

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

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

(3) For purposes of the State Building Code and the Albany Development Code, in furtherance of public health, safety, and welfare, the Building Official shall have the authority to abate conditions which are contrary to, or in violation of, this Title or the

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referenced technical codes, or which otherwise make the building or premises substandard, unsafe, dangerous, uninhabitable, or hazardous.

18.10.040 Deputies.

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

18.10.050 Right of Entry.

(1) When necessary to make an inspection to enforce the provisions of this Title or the referenced technical codes, or when the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, or in violation of, this Title, or which otherwise makes the building or premises substandard, unsafe, dangerous or hazardous, the Building Official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this Title.

(2) The Building Official may request entry of said building or premises when there are reasonable grounds to believe the property is substandard, unsafe, dangerous, hazardous, or when there are reasonable grounds to believe that there has been work done that would otherwise require a permit. If such building or premises be occupied, credentials shall first be presented to the occupant and entry requested. If such building or premises are unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry.

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

18.10.060 Stop Work Orders.

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

18.10.070 Occupancy Violations.

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

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18.10.080 Authority to Disconnect Utilities.

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

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

18.10.090 Authority to Condemn Building Service Equipment.

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

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

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

18.10.100 Connection after Order to Disconnect.

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

18.10.110 Liability.

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

(2) This Title shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling a building, structure, or building service

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equipment therein for damages to persons or property caused by defects, nor shall the City of Albany be held as assuming such liability by reason of the inspections authorized by this Title or permits or certificates issued under this Title.

18.10.120 Unlawful Acts.

(1) It shall be unlawful for a person, firm, or corporation to be in conflict with, or in violation of, any of the provisions of this Title.

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

18.10.130 Notice of Violation.

(1) Whenever the Building Official determines that there has been a violation of the State Building Code, this Title, or any provisions of the Albany Development Code, or has grounds to believe that a violation has occurred, the Building Official may serve a correction notice in accordance with the State Building Code, or a stop work order in accordance with Section 18.10.060 of this Title.

(2) In instances of continued non-compliance regarding substandard or nonconforming conditions relating to buildings, premises, or structures, or in instances of dangerous buildings, premises, or structures, notice of violation and order shall be served in accordance with Sections 18.10.140 and 18.10.150.

18.10.140 Form of Notices and Orders.

Such notices and orders prescribed in Section 18.10.130 shall be in accordance with all of the following:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the violation(s), a brief and concise description of the conditions found, and why the notice and/or order is being issued;
- (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure or premises into compliance with the provisions of this code;
- (5) Include a statement advising that if any required repair or demolition work is not commenced within the time specified, the Building Official will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs thereof against the property or its owner;
- (6) Include a statement of the City's right to file a lien, in accordance with Section 18.12.030, and/or a Notice of Substandard or Non-Conforming Conditions, in accordance with Section 18.10.180; and
- (7) Inform the property owner(s) or responsible party of the right to appeal and the appeal process.

18.10.150 Method of Service.

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

- (1) Delivered personally;
- (2) Sent by certified or first-class mail addressed to the last known address of the property owner(s) or responsible party;

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(3) Sent by certified or first-class mail addressed to the **listed address of the property owners(s) or responsible party as shown by the records of the Oregon Department of Motor Vehicles, United States Post Office, county tax records, or other similar governmental source; or**

(4) If notice and/or order is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice and/or order.

18.10.160 Enforcing Compliance.

To enforce any of the requirements of this Title, the State Building Code, or the Albany Development Code, the Building Official may gain compliance by:

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

18.10.170 Prosecution of Violation.

Any person failing to comply with a notice of violation or order, served in accordance with Section 18.10.150, shall be deemed guilty of a misdemeanor, unless the City requests that the violation be treated as an infraction, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Building Official may institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any abatement costs, including overhead, staff time, and other administrative costs incurred by the City, shall be charged against the real estate upon which the structure is located, and shall be a lien upon such real estate, as described in Section 18.12.030 of this Title.

18.10.180 Recording Notice of Substandard or Nonconforming Condition(s).

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

18.10.190 Transfer of Ownership.

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

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18.10.200 Penalties.

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

(1) Penalty for first-time violation.

(a) In the case of a violation committed by someone who holds a contractor's license issued by the State of Oregon, or someone who is not so licensed but charges, or charged, a fee for the work in question, a civil penalty of \$1000 per violation shall be assessed. If the violation is corrected within 10 working days of the issuance of the citation, the civil penalty shall be reduced to the greater of \$250, or double the applicable permit fee, up to a maximum of \$1000.

(b) In the case of a violation committed by a property owner who causes work to be done by unpaid persons, or performs work on his/her own property and does not hold a contractor's license, or transfers property in violation of AMC 18.10.190, a civil penalty of \$500 per violation shall be assessed. If the violation has been corrected within 10 working days of the issuance of the citation, the civil penalty shall be reduced to the greater of \$125 or double the applicable permit fee, up to a maximum of \$500.

(c) In the case of a violation of Chapters 18.28 or 18.30, herein, or the Albany Development Code, a civil penalty of \$500 per violation shall be assessed. If the violation has been corrected within 10 working days of the issuance of the citation, the civil penalty shall be reduced to \$250 per violation.

(2) Repeat violations.

(a) In the case of subsequent violations of this Title by the same person, business, or corporation within 12 consecutive months the civil penalty for each subsequent violation shall be doubled.

(b) The doubled penalty amount shall remain due even if correction is achieved within 10 working days.

(3) Violations which present an imminent life safety hazard.

(a) In those cases where the Building Official determines that the violation presents an imminent risk of serious physical injury or death to any person, civil penalties shall be doubled.

(b) The doubled penalty amount shall remain due even if correction is achieved within 10 working days.

(c) The Building Official's determination of imminent risk of serious injury or death to any person shall be subject to review by the Building Board of Appeals upon appeal and the doubled penalty shall not be due if the Building Board of Appeals concludes that the Building Official's assessment of hazard was in error.

(4) Application of collected cost recovery and penalties.

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

(b) When abatement of a violation is achieved by issuing a citation, but there is not action on the violation in Municipal Court, thirty percent of the funds collected by the City pursuant to this section shall be paid to the Court for overhead costs, and the remaining seventy percent shall be paid to Building Division accounts.

(c) When abatement of a violation is achieved by action in Municipal Court, all funds collected by the City pursuant to this section shall be paid to such accounts as the City may maintain for the support of the Municipal Court.

(5) The penalties provided herein are in addition to any other remedies available. The imposition of the penalties herein shall not preclude the Building Official from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.

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

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Chapter 18.12
PLUMBING CODE

Sections:

18.12.010 ~~Plumbing Code—Adoption of State Code.~~

~~The Oregon State Plumbing Specialty Code effective January 1, 1992 with its administrative rules, appendices, and separately bound standards is adopted as part of this code of ordinances. The foregoing is referred to as the "Plumbing Code" and is composed of the 1991 Edition of the Uniform Plumbing Code with appendices and standards published by the International Association of Plumbing and Mechanical Officials and modified by the Administrator of the Oregon Building Codes Agency. (Ord. 5026 β 1, 1993; Ord. 4762 β 1, 1987; Ord. 4661 β 1, 1984; Ord. 4436 β 1, 1981; Ord. 4087 β 1, 1978).~~

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**Chapter 18.12
FEES AND COST RECOVERY**

Sections:**18.12.010 Fees, Generally.****18.12.020 Fee Refunds.****18.12.030 Cost Recovery.****18.12.010 Fees, Generally.**

(1) Fees charged under this Title shall be as adopted by resolution.

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

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

18.12.020 Fee Refunds.

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

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

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

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

18.12.030 Cost Recovery.

(1) Recovery of costs for investigations and/or enforcement actions deemed necessary and taken by the City to correct violations of this Title, the State Building Code, the Municipal Code, the Development Code, or violations of other laws or codes enforced by the City, shall be paid by the responsible person(s) and/or the owner(s) of the property where said substandard or non-conforming condition or violation exists/existed. The Building Official shall keep an itemized account of the expense, including staff costs, materials, and third-party costs, incurred by this jurisdiction in the investigation and abatement of said conditions or violations, including the repair or demolition of any structure, done pursuant to this code. Upon completion of the City's abatement of the condition, the Building Official shall prepare a statement specifying the work done, the itemized and total cost of the work, a description of the real property on which the building or structure is or was located, and the names and addresses of the persons entitled to notice. Said statement shall be hand-delivered or mailed by first-class mail, postage prepaid, at the address shown in the records of the City Building Division or, in the absence of such records, as revealed on the tax assessment records of Linn or Benton County, to the responsible person for payment.

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(2) The property owner, or other person(s) responsible for enforcement costs or penalties, may appeal in the manner provided in Chapter 18.14, herein. The issues on appeal shall be limited to the following:

(a) Whether or not a violation of this Title occurred, other than a decision of the Building Official appealable pursuant to AMC 18.14.010, and;

(b) The reasonableness of the amount of time and/or other expenses charged by the City in response to said violation. This consideration shall apply only to cost recovery and not to the amount of a penalty.

(3) If payment or notice of appeal has not been made within sixty (60) days of the date notice was mailed or delivered, the Building Official, or designee, shall provide a statement identifying the property and structure, the amount of the costs, fees, and/or penalties plus additional charges to cover overhead and administrative costs to the City Recorder, who shall record all such costs in the City Lien Docket and shall provide notice of the lien to the County Recorder for the county in which the property is located. The County Recorder shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

(4) Immediately on 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 continue until the assessment and all interest due and payable thereon are paid.

(5) 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.

(6) All such assessments remaining unpaid after thirty (30) days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 9 percent per annum from and after said date.

(7) 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 Division of Building Inspection repair and demolition fund.

(8) The lien shall be removed when all costs, fees, penalties, and interest have been paid and all violations noted and the original and subsequent notices of violations have been corrected.

Chapter 18.14 APPEALS

Sections:

18.14.010 Appeal to the State.

18.14.020 Appeal to Building Board of Appeals.

18.14.030 Creation of Building Board of Appeals.

18.14.040 Appeal Procedure.

18.14.050 Staying of Order Under Appeal.

18.14.010 Appeal to the State.

(1) A person aggrieved by a decision made by the Building Official relating to the State Building Code shall first appeal to the appropriate state specialty code chief inspector of the Oregon Department of Consumer and Business Services, as required in OAR 918-008-0120. The decision of the department chief inspector may be appealed to the appropriate state advisory board. The decision of the advisory board may only be appealed to the Director of the Department of Consumer and Business Services if State-mandated codes, in addition to the applicable specialty code, are at issue.

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

18.14.020 Appeal to Building Board of Appeals.

A person aggrieved by a decision made by the Building Official relating to any law, code, or regulation, other than a provision of the State Building Code, may appeal to the Albany Building Board of Appeals as set forth in this Title. This shall serve as the appeal procedure for all decisions made by the Building Official pursuant to the Dangerous Buildings and the Property Maintenance chapters herein.

18.14.030 Creation of Building Board of Appeals.

(1) In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application, enforcement, and interpretation of provisions of this Title which are not governed by the State Building Code, there shall be and hereby is created a Board of Appeals consisting of five members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The Building Official shall be an ex-officio member of and shall act as secretary to said board, but shall have no vote on any matter before the board. The Board of Appeals shall be appointed by the City Council of the City of Albany and shall hold office at the Council's pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

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

18.14.040 Appeal Procedure.

(1) An appeal shall be in writing, shall describe the basis for the appeal, and shall first be filed with the Building Official. No appeal shall be timely unless it is actually received

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at the office of the Building Official within fourteen (14) days of the Building Official's determination which is the subject of the appeal.

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

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

(4) An appeal of the Building Board of Appeals' decision shall be made in writing to the Albany City Council within 14 days of the Board's notice of said decision.

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

18.14.050 Staying of Order Under Appeal.

Except for vacation orders made pursuant to Section 18.28.060 of this Title, enforcement of any Notice and Order of the Building Official issued under this Title shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

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~~Chapter 18.16~~
DANGEROUS BUILDINGS

Sections:

~~18.16.010 Adoption of Code.~~

~~18.16.020 Board of Appeals.~~

18.16.010 Adoption of Code.

~~That certain publication marked and designated as the Uniform Code for the Abatement of Dangerous Buildings 1991 is adopted by reference and incorporated into and made a part of this code of the City. (Ord. 5026 § 1, 1993; Ord. 4759 § 1, 1987; Ord. 4328 § 1, 1979).~~

18.16.020 Board of Appeals.

~~The Building Code Board of Appeals shall be designated as the Board of Appeals for the Uniform Code for the Abatement of Dangerous Buildings. (Ord. 4328 § 2, 1979).~~

Chapter 18.16
DEMOLITION

Sections:

18.16.010 Demolition – Permit – Required.

18.16.020 Demolition – Permit - Expiration.

18.16.030 Demolition – Permit – Suspension or Revocation.

18.16.040 Demolition – Notification of Utilities.

18.16.050 Demolition – Cleanup.

18.16.010 Demolition – Permit – Required.

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

18.16.020 Demolition - Permit - Expiration.

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

18.16.030 Demolition - Permit - Suspension or Revocation.

The Building Official may, in writing, suspend or revoke a demolition permit issued under provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any code or regulation or any of the provisions of this chapter. (Ord. 3825 ' 3.3(c), 1974).

18.16.040 Demolition - Notification of Utilities.

All utility companies, such as telephone, power, water, sewer, gas, TV, shall be notified by the applicant to disconnect all of such services from the main lines to the building. (Ord. 5026 ' 1, 1993; Ord. 3825 ' 3.7, 1974).

EXHIBIT AText additions shown in **bold**;Text deletions shown in ~~strike~~.**18.16.050 Demolition - Cleanup.**

All debris, stumps, broken concrete, brick and other material shall be completely removed from the premises. All ground surfaces shall be raked clean and graded evenly within 30 days of completion of demolition. (Ord. 3825 ' 3.9(a), 1974).

EXHIBIT A

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

**Chapter 18.18
MOVING BUILDINGS**

Sections:

18.18.010 Permit – Required.

18.18.020 Permit – Conditions.

~~18.18.030~~ Permit – Fee.

18.18.040 Permit – Application – Contents.

~~18.18.050~~ Inspection.

18.18.060 Permit – Issuance conditions – Generally.

~~18.18.070~~ Permit – Issuance conditions – Utility installations.

~~18.18.080~~ Permit – Issuance conditions – Performance bond.

18.18.090 Permit – Revocation.

~~18.18.100~~ Equipment.

~~18.18.110~~ Continuity.

18.18.120 Litter.

18.18.130 Liability.

~~18.18.140~~ Penalty for violation.

18.18.010 Permit – Required.

~~A building that exceeds eight feet in width or, as loaded for moving, extends upward more than 13 1/2 feet from the ground may be moved across or along a public thoroughfare of the City only in accordance with a permit applied for in issue with this chapter. (Ord. 4069 § 1, 1977). A building permit is required for moving any building regulated by the State Building Code, per ORS 455.410.~~

18.18.020 Permit – Conditions.

The permit shall specify:

- (1) The route for the building;
- ~~(2) Twenty-four-hour notice of intent to move;~~
- ~~(3)~~(2) The time in which the moving is to be completed;
- (4)~~(3)~~ Whatever additional conditions the Building Inspector **Official** deems necessary to minimize the obstruction of traffic, protect property and to protect the public safety. **rehabilitate the building to the minimum requirements of state and local codes.** (Ord. 4069 § 7, 1977).

~~**18.18.030 Permit – Fee.**~~

~~The fee to be paid by an applicant for a permit required by this chapter shall be the sum of [] per day for each day that the movement of the building is in a public thoroughfare. (Ord. 5026 § 1, 1993; Ord. 4069 § 12, 1977).~~

18.18.040 Permit – Application – Contents.

An application for a permit to move a building will be submitted to the Building Inspector **Official** and so state the following information:

- (1) The location for which the building is proposed to be moved;
- (2) **A site plan of the proposed new-site of the building, including setbacks;**
- (3) The proposed route for moving the building, **including the location of any trees that may be impacted as a result of the move;**
- (4) The dimensions of the building;
- (5) The type of construction of the building;
- (6) The approximate age of the building;
- (7) **New foundation details; and**

EXHIBIT AText additions shown in **bold**;Text deletions shown in ~~strike~~.

(8) Such additional information as the Building Inspector **Official** deems necessary, ~~for the purpose of preventing property damage and minimizing public danger and inconvenience that might result from moving.~~ (Ord. 4069 § 2, 1977).

18.18.050 Inspection.

~~After receiving the application, the Building Inspector shall inspect the building, the new site proposed for it, and the route proposed for moving it.~~ (Ord. 4069 § 3, 1977).

18.18.060 Permit – Issuance conditions – Generally.

The Building Inspector **Official** shall issue such permit applied for:

- ~~(1) If the application therefor complies with the requirements of this chapter;~~
- ~~(2) If the moving can be accomplished without damage to property or, in the case of damage, if it is consented to by the owner of the property or is to be paid to his/her satisfaction;~~
- ~~(3)~~**(1)** If the building at its new site will conform to the land use requirements of the City. (Ord. 4069 § 6, 1977).

(2) The building shall meet all of the requirements of the State Building Code and local building, fire, land use, electrical and sanitation codes and ordinances, as required by ORS 455.410.

18.18.070 Permit – Issuance conditions – Utility installations.

~~Permits shall not be issued unless the applicant therefor submits statements from the owners of the electric wires and poles and other utility installations along the route in which the building is to be moved that the moving will not interfere with or endanger installations, or that the applicant has made arrangements to the satisfaction of the owners for protecting the installations, paying for whatever damages the moving causes them, and reimburses the owners for whatever removal and reinstallation of the installation the moving necessitates.~~ (Ord. 4069 § 4, 1977).

18.18.080 Permit – Issuance conditions – Performance bond.

~~The permit shall not be issued unless the applicant therefor furnishes the City a performance bond in the penal sum of \$5,000, conditioned that the mover will pay the City for any damage done to the streets or walks, or to any other person or utility in the course of the moving, on condition that the holder of the permit will place the building or structure after moving the same in a good and sufficient condition necessary to meet the following requirements:~~

- ~~(1) The use for which the building was designed and intended should be in keeping with the zone to which the building is moved.~~
- ~~(2) The building should meet all of the requirements of the City building, fire, electrical and sanitation codes.~~
- ~~(3) The expected usable life of the building after moving will be not more than 50 percent expended.~~
- ~~(4) The building or structure will be in keeping with and not detrimental to the character and welfare of the area in which it is moved.~~ (Ord. 4069 § 5, 1977).

18.18.090 Permit – Revocation.

A permit issued pursuant to this chapter may be summarily revoked in the event that the permittee violates any term of the permit or this chapter. (Ord. 4069 § 13, 1977).

18.18.100 Equipment.

~~Equipment used to move buildings along or across the public thoroughfares of the City shall be equipped with laminated wood wheels or rubber-tired wheels, which shall be the only part of the equipment to come in contact with the surfaces of the thoroughfare, except such planking as may be required by the Building Inspector. The Building Inspector may require the permittee to~~

EXHIBIT AText additions shown in **bold**;Text deletions shown in ~~strike~~.

~~proceed upon planking, of whatever dimensions the Building Inspector specifies, at whatever place he/she deems the planking necessary, to prevent damage to a public thoroughfare or other property damage. (Ord. 5026 § 1, 1993; Ord. 4069 § 9, 1977).~~

18.18.110 Continuity.

~~Once the building has been moved into a public thoroughfare pursuant to a permit authorized by this chapter, the party moving the building shall continue with the moving project without interruption until he/she has completed the moving, except as the permit for the moving or the Building Inspector specifically allows to the contrary. (Ord. 5026 § 1, 1993; Ord. 4069 § 10, 1977).~~

18.18.120 Litter.

The party moving a building pursuant to a permit authorized by this chapter shall promptly remove from public thoroughfares and private property all litter produced by the moving and shall clean up and leave the site from which the building is moved in a sightly condition. (Ord. 4069 § 11, 1977).

18.18.130 Liability.

Permits shall not constitute authorization for damaging property. Permits shall constitute no defense against whatever liability the permittee incurs for personal injury or property damage caused by the moving. (Ord. 4069 § 8, 1977).

18.18.140 Penalty for violation.

~~Any person violating a provision of this chapter will be punished by a fine not exceeding \$1,000. (Ord. 4069 § 14, 1977).~~

EXHIBIT A

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

Chapter 18.20 OTHER STRUCTURES

Sections:

18.20.010 Temporary Structures.

~~18.20.020~~ Portable Structures.

18.20.010 Temporary Structures.

(1) **Approval.** A temporary structure may not be constructed or placed upon real property without prior approval by the City. The approval may limit the duration of time during which the structure may be sited, used, or occupied. The approval will be site-specific and a temporary structure may not be relocated to any other site without a new approval having been obtained.

(2) **Connections.** No temporary structures shall be permanently connected to any utilities and all utility connections should be disconnected and removed immediately upon removal of the temporary structure or expiration of the placement approval. The Building Official may require water and sanitation facilities when necessary for public health considerations.

18.20.020 Portable Structures.

(1) **Approval.** A portable structure may not be constructed or placed upon real property without prior approval by the City. The approval may limit the duration of time during which the structure may be sited, used, or occupied. The approval will be site-specific and a portable structure may not be relocated to any other site without a new approval having been obtained.

(2) **Connections.** No portable structures shall be permanently connected to any utilities and all utility connections should be disconnected and removed immediately upon removal of the portable structure or expiration of the placement approval. The Building Official may require water and sanitation facilities when necessary for public health considerations.

(3) **Placement.** Structures such as cargo containers and other pre-constructed structures shall not be placed in parking lots or areas not specifically approved for such use and shall not be used in place of permanent structures.

EXHIBIT A

Text additions shown in bold;
Text deletions shown in strike.

**Chapter 18.28
SWIMMING POOLS**

Sections:

~~18.28.010 Building permit required before construction.~~

~~18.28.030 Side yard.~~

~~18.28.040 Fencing.~~

~~18.28.050 Electrical wiring.~~

~~18.28.060 Public water connection.~~

~~18.28.070 Drain line.~~

~~18.28.080 Discharge.~~

~~18.28.120 Public swimming pools.~~

~~18.28.130 Private construction — Compliance.~~

~~18.28.010 — Building permit required before construction.~~

~~Any person, firm or corporation desiring to construct a private swimming pool in the City of Albany, prior to commencing of construction, is hereby required to obtain a building permit and pay the fee provided in Ordinance No. 2605. (Ord. 3162 § 1, 1964).~~

~~18.28.030 Side yard.~~

~~All private swimming pools constructed in the City shall have a side yard of not less than five feet. (Ord. 3162 § 3, 1964).~~

~~18.28.040 Fencing.~~

~~All pools constructed within the City shall be fenced in such a manner as to prevent the entry of small children, such fencing to be a minimum height of four feet and equipped with a self-locking gate which closes automatically. The lock therein shall be a minimum height above the ground of four feet. (Ord. 3162 § 4, 1964).~~

~~18.28.050 Electrical wiring.~~

~~No electrical open wiring shall be within six feet of the side of such pool and no overhead open wiring shall be permitted over the pool without first obtaining approval of the Electrical Inspector of the State of Oregon through the Building Department of the City. All pool lighting and wiring shall meet the requirements of the law. (Ord. 3162 § 5, 1964).~~

~~18.28.060 Public water connection.~~

~~There shall be no cross-connections of the public water supply to any water supply to such pool. The line from the public water supply to the pool shall be protected against backflow of polluted water by means of an air gap of at least six inches or by installation of an approved vacuum breaker, in the manner provided by the State Code. (Ord. 3162 § 6, 1964).~~

EXHIBIT A

Text additions shown in bold;
Text deletions shown in strike.

~~18.28.070 Drain line.~~

~~The drain line of the pool may be connected to the City's system as follows: Where possible the drain line shall connect to the City's storm sewer. Where no storm sewer exists, the drain line shall be connected to the City's sanitary sewer line, and may be further limited to the discharges provided for pumped discharges as hereinafter provided. In the event that drainage facilities of the pool utilize pumping, the capacity of such discharge pumps shall be limited to the following gallons per minute for the size of sewer lines indicated: 6 inch — 75 G.P.M.; 8 inch — 100 G.P.M.; and 10 inch and over — 150 G.P.M. All such connections shall have the approval of the City Engineer. (Ord. 3162 § 7, 1964).~~

~~18.28.080 Discharge.~~

~~The construction of the pool shall be in such a manner that all scum, splash and deck water does not return to the pool except through a filter system. (Ord. 3162 § 8, 1964).~~

~~18.28.120 Public swimming pools.~~

~~Public swimming pools shall meet the standards of the Oregon State Board of Health. (Ord. 3162 § 12, 1964).~~

~~18.28.130 Private construction — Compliance.~~

~~Presently constructed private swimming pools shall, within a period of 60 days after November 10, 1964, be made to meet with the requirements of Sections 18.28.040 through 18.28.110, and upon failing to bring the pool to meet the requirements of these sections, within the period of time, the owner, or party having the control and management of the swimming pool shall be subject to the penalties as set forth in Section 1.04.010. (Ord. 3162 § 13, 1964).~~

EXHIBIT B

Text additions shown in bold;
Text deletions shown in strike.

**Chapter 18.28
DANGEROUS BUILDINGS, STRUCTURES, AND PREMISES**

Sections:~~18.16.010 Adoption of Code.~~~~18.16.020 Board of Appeals.~~**18.28.010 Dangerous Buildings, Structures, and Premises.****18.28.020 Abatement of Dangerous Buildings, Structures, and Premises.****18.28.030 Repair or Demolition.****18.28.040 Order to Vacate.****18.28.050 Notice and Order.****18.28.060 Temporary Safeguards.****18.28.070 Vacated Buildings, Structures, and Premises.****18.28.080 Historic Buildings.**~~**18.16.010 Adoption of Code.**~~

~~That certain publication marked and designated as the Uniform Code for the Abatement of Dangerous Buildings 1991 is adopted by reference and incorporated into and made a part of this code of the City. (Ord. 5026 B 1, 1993; Ord. 4759 B 1, 1987; Ord. 4328 B 1, 1979).~~

~~**18.16.020 Board of Appeals.**~~

~~The Building Code Board of Appeals shall be designated as the Board of Appeals for the Uniform Code for the Abatement of Dangerous Buildings. (Ord. 4328 B 2, 1979).~~

18.28.010 Dangerous Buildings, Structures, and Premises.

(1) Generally. No premises shall contain any dangerous building or structure as described in this Title. Once identified and determined to be dangerous by the Building Official, all such buildings, premises, or structures shall be repaired or demolished.

(2) Definition. A dangerous building, premises, or structure shall be considered to exist whenever any premises, building, structure, or portion thereof meets any of the following criteria to the extent that the life, health, property, or safety of the public or the building, structure, or premises' occupants are unreasonably endangered:

(a) High loads. Whenever the stress in any materials, member, or portion of a structure, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the State Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.

(b) Weakened or unstable structural members or appendages.

(i) Whenever any portion of a structure has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the State Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location; and/or

(ii) Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuary, signs, or other appendages or structural members which are supported by, attached to, or part of a building, are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the State Building Code and Fire and Life Safety Code.

(c) Buckled or leaning walls, structural members. 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.

EXHIBIT B

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

(d) Vulnerability to earthquakes, high winds.

(i) Whenever any portion of a structure has wracked, warped, buckled, or has 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; and/or

(ii) Whenever any portion of a building, or any member, appurtenance, or ornamentation of 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 State Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the State Building Code and Fire and Life Safety Code for such buildings.

(e) Insufficient strength or fire resistance. Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:

(i) Has in any non-supporting part, member, or portion, less than 50 percent of the strength or the fire-resisting qualities or characteristics required by law for a newly constructed building of like area, height, and occupancy in the same location.

(ii) Has in any supporting part, member, or portion less than 66 percent of the strength or the fire-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.

(iii) This subsection does not apply to strength required to resist seismic loads. For application of seismic requirements see the State Building Code.

(f) Risk of failure or collapse.

(i) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(ii) Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including but not limited to:

(a) Dilapidation, deterioration, or decay;

(b) Faulty construction;

(c) The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or

(d) The deterioration, decay, or inadequacy of its foundation.

(g) Excessive damage or deterioration. Whenever the structure, exclusive of the foundation:

(i) Shows 33 percent or more damage or deterioration of its supporting member or members.

(ii) Shows 50 percent damage or deterioration of its non-supporting members.

(iii) Shows 50 percent damage or deterioration of its enclosing or outside wall coverings.

(h) Demolition remnants on site. Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure.

(i) Lack of approved foundation.

(i) Where a structure is not placed on an approved foundation and no valid permit exists for a foundation for that structure.

(ii) For more than 90 days after issuance of a permit for a foundation for a structure, where the structure is not placed on an approved foundation.

(j) Fire hazard.

(i) Whenever any structure is a fire hazard as a result of any cause, including but not limited to: Dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; vegetation overgrowth; faulty electric wiring, gas

EXHIBIT B

Text additions shown in bold;

Text deletions shown in ~~strike~~.

connections, or heating apparatus; storage or keeping of combustibles; or any other cause that is determined by the Fire Marshal or Building Official to be a fire hazard.

(ii) Whenever any door, aisle, passageway, stairway, or other 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.

(iii) 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.

(k) Other hazards to health, safety, or public welfare.

(i) Whenever, for any reason, the structure, building, or premises, or any portion thereof, is manifestly unsafe for the purpose for which it is currently being used.

(ii) Whenever a structure, building, or premises has any of the conditions or defects described in Chapter 18.30 of this Title, to the extent that life, health, property, or safety of the public or its occupants are endangered.

(l) Public nuisance.

(i) Whenever any structure, building, or premises is in such a condition as to constitute a public nuisance as defined in AMC 7.84.010 or 7.84.020.

(ii) Whenever the structure, building, or premises has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become:

(a) An attractive nuisance;

(b) A harbor for vagrants or criminals; or as to

(c) Enable persons to resort thereto for the purpose of committing unlawful acts.

(m) Drug lab property. Is currently listed as "unfit for use" by the State of Oregon due to toxic contamination resulting from illegal drug manufacturing.

(n) Violations of codes, laws. Whenever any structure, building, or premises has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City, as specified in the State Building Code, Fire and Life Safety Code, or any law or ordinance of this State or City relating to the condition, location, or structure of buildings.

18.28.020 Abatement of Dangerous Buildings, Structures, and Premises.

All buildings, structures, or premises, or portions thereof, which are determined after inspection by the Building Official to be dangerous as defined in this Title, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein. The Building Official, upon making such a determination, may, in addition to commencing abatement proceedings, secure the property to protect the public health, safety, and welfare pending repair or demolition.

18.28.030 Repair or Demolition.

These standards shall be followed by the Building Official and by the Board of Appeals in ordering the repair or demolition of any derelict or dangerous building, structure, or premises:

(1) Any condition(s) that results in a building, structure, or premises being declared a dangerous building under this Title 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 or structure shall be demolished at the option of the building owner, subject to issuance of a demolition permit by the Building Division.

EXHIBIT B

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

18.28.040 Order to Vacate.

(1) If the building, structure, or premises is in such condition as to make it immediately dangerous to the life, limb, property, or safety of its occupants or the public, it shall be ordered to be vacated.

(2) If the Building Official has determined that the building, structure, or premises must be vacated, the notice and order shall require that it be vacated within a time certain from the date of the order, as determined by the Building Official to be reasonable.

(3) Every notice to vacate shall, in addition to being served as provided in Section 18.10.150, be posted at or upon each exit of the building and shall be in substantially the following form:

**DANGEROUS BUILDING
DO NOT OCCUPY**

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
City of Albany

18.28.050 Notice and Order.

Whenever the Building Official determines that a building, structure, or premises is dangerous, as defined by this Title, notice shall be given in the manner prescribed in Sections 18.10.130 through 18.10.150 of this Title to the owner(s) of the property and/or the person(s) responsible for the violation.

18.28.060 Temporary Safeguards.

Notwithstanding other provisions of this Title, whenever the Building Official determines, based upon commonly accepted safe practices and principles of structural soundness, or methods of construction and repair, that there is imminent danger due to an unsafe condition, the Building Official may employ the necessary labor and materials to perform the required work as expeditiously as possible, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedures herein described have been instituted; and may cause such other action to be taken as the Building Official deems necessary to meet such emergency.

18.28.070 Vacated Buildings, Structures, and Premises.

Upon posting by the Building Official, all vacated buildings, structures, and premises shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to adversely affect the public health, safety, or welfare.

18.28.080 Historic buildings.

The provisions of this Code shall not be mandatory for structures designated as historic buildings when such buildings or structures are judged by the Building Official to be safe and in the interest of public health, safety and welfare.

EXHIBIT C

Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

**Chapter 18.30
PROPERTY MAINTENANCE**

Sections:

18.30.010 Applicability.

18.30.020 Scope.

18.30.030 Responsibility of Owner.

18.30.040 Enforcement.

18.30.050 Closing of Vacant Buildings, Structures, and Premises,.

18.30.060 Maintenance of Vacant Buildings, Structures, and Premises.

OUTDOOR PROPERTY MAINTENANCE

18.30.090 Exterior Property, Generally.

18.30.095 Holes, Tanks, and Traps.

18.30.100 Unsecured Structures.

18.30.105 Excess Vegetation.

18.30.110 Rodent Harborage.

18.30.115 Trash and Debris.

18.30.120 Storage of Non-Trash Items.

18.30.125 Disabled Vehicles.

18.30.130 Exhaust Vents.

18.30.135 Accessory Structures.

EXTERIOR STRUCTURE

18.30.140 Exterior Structure, Generally.

18.30.145 Exterior Walls and Exposed Surfaces.

18.30.150 Structural Members.

18.30.155 Foundation Walls.

18.30.160 Roofs and Drainage.

18.30.165 Decorative Features.

18.30.170 Overhang Extensions.

18.30.175 Stairways, Decks, Porches, and Balconies.

18.30.180 Chimneys and Towers.

18.30.185 Handrails and Guards.

18.30.190 Window, Skylight, and Door Frames.

18.30.195 Glazing.

18.30.200 Openable Windows.

18.30.205 Insect Screens.

18.30.210 Doors.

18.30.215 Basement Hatchways.

18.30.220 Guards for Basement Windows.

INTERIOR STRUCTURE

18.30.225 Interior Structure, Generally.

18.30.230 Structural Members.

18.30.235 Interior Surfaces.

18.30.240 Stairs and Walking Surfaces.

18.30.245 Handrails and Guards.

18.30.250 Interior Doors.

18.30.255 Interior Dampness.

EXHIBIT C

Text additions shown in **bold**;
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CLEANLINESS AND SANITATION

- 18.30.260** Accumulation of Rubbish or Garbage.
- 18.30.265** Disposal of Rubbish.
- 18.30.270** Garbage Facilities.
- 18.30.275** Containers.

INSECT AND RODENT HARBORAGE

- 18.30.280** Infestation.
- 18.30.285** Owner.
- 18.30.290** Single Occupant.
- 18.30.295** Multiple Occupancy.
- 18.30.300** Exception.

LIGHT

- 18.30.305** Habitable Spaces.
- 18.30.310** Common Halls and Stairways.
- 18.30.315** Other Spaces.

VENTILATION

- 18.30.320** Habitable Spaces.
- 18.30.325** Bathrooms and Toilet Rooms.
- 18.30.330** Cooking Facilities.
- 18.30.335** Process Ventilation.
- 18.30.340** Clothes Dryer Exhaust.

OCCUPANCY LIMITATIONS

- 18.30.345** Privacy.
- 18.30.350** Minimum Room Widths.
- 18.30.355** Minimum Ceiling Heights.
- 18.30.360** Bedroom Requirements.
- 18.30.365** Area for Sleeping Purposes.
- 18.30.370** Access from Bedrooms.
- 18.30.375** Water Closet Accessibility.
- 18.30.380** Prohibited Occupancy.
- 18.30.385** Other Requirements.
- 18.30.390** Overcrowding.
- 18.30.395** Sleeping Area.
- 18.30.400** Combined Spaces.
- 18.30.405** Efficiency Unit.
- 18.30.410** Food Preparation.

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- 18.30.415** Dwelling Units.
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- 18.30.425** Hotels.
- 18.30.430** Employees' Facilities.

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Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

18.30.435 Drinking Facilities.**TOILET ROOMS****18.30.440 Privacy.****18.30.445 Location.****18.30.450 Location of Employee Toilet Facilities.****18.30.455 Floor Surface.****PLUMBING SYSTEMS AND FIXTURES****18.30.460 Plumbing Systems and Fixtures, Generally.****18.30.465 Fixture Clearances.****18.30.470 Plumbing System Hazards.****WATER SYSTEM****18.30.475 Water System, Generally.****18.30.480 Contamination.****18.30.485 Supply.****18.30.490 Water Heating Facilities.****SANITARY DRAINAGE SYSTEM****18.30.495 Sanitary Drainage System, Generally.****18.30.500 Maintenance.****STORM DRAINAGE****18.30.505 Storm Drainage, Generally.****HEATING FACILITIES****18.30.510 Facilities Required.****18.30.515 Residential Occupancies.****18.30.520 Heat Supply.****18.30.525 Room Temperature Measurement.****MECHANICAL EQUIPMENT****18.30.530 Mechanical Appliances.****18.30.535 Removal of Combustion Products.****18.30.540 Clearances.****18.30.545 Safety Controls.****18.30.550 Combustion Air.****18.30.555 Energy Conservation Devices.****ELECTRICAL FACILITIES****18.30.560 Electrical Facilities Required.****18.30.565 Electrical Service.****18.30.570 Electrical System Hazards.**

EXHIBIT C

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ELECTRICAL EQUIPMENT

18.30.575 Installation of Electrical Equipment.

18.30.580 Receptacles.

18.30.585 Lighting Fixtures.

DUCT SYSTEMS

18.30.590 Duct Systems, Generally.

18.30.010 Applicability.

The provisions of this Chapter shall apply to all matters affecting or relating to buildings, structures, and premises.

18.30.020 Scope.

The provisions of this Chapter are intended to be used as supplemental standards for the Dangerous Buildings provisions of AMC 18.28 to address maintenance of buildings, premises, structures, equipment, and exterior property.

18.30.030 Responsibility of Owner.

The owner of the premises should maintain the buildings and structures and exterior property in compliance with these requirements, except as otherwise provided for in this Title. A person should not occupy as owner-occupant or permit another person to occupy buildings, premises, or structures which are not in a sanitary and safe condition and which do not comply with the requirements of this Chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

18.30.040 Enforcement.

Any building, premises, or structure which, due to an accumulation of the conditions listed in this Chapter, is determined by the Building Official to be an unreasonable hazard to safety, health, or public welfare, may be declared a dangerous building, premises, or structure, and may be abated subject to the provisions of Chapter 18.28 of this Title.

18.30.050 Closing of Vacant Buildings, Structures, and Premises.

(1) If the building, premises, or structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Building Official is authorized to post a placard of vacation on the premises and order the building, premises, or structure closed up and secured from public access so as not to be an attractive nuisance.

(2) Upon failure of the owner to close up the building, premises, or structure within the time specified in the order, the Building Official may cause the building, premises, or structure to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

(3) Any person who defaces or removes a vacation placard without the approval of the Building Official may be subject to the penalties provided by this Title.

18.30.060 Vacant Buildings, Structures, and Premises.

All vacant buildings, premises, and structures should be maintained in a clean, safe, secure, and sanitary condition in accordance with the standards provided herein so as

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not to adversely affect the public health, safety, or welfare. Vacant buildings, premises, and structures will be subject to the same maintenance standards, enforcement, and penalties as occupied buildings, premises, and structures.

OUTDOOR PROPERTY MAINTENANCE**18.30.090 Exterior Property, Generally.**

All exterior property and premises should be maintained in a clean, safe and sanitary condition. The occupant should keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

18.30.095 Holes, Tanks, and Traps.

All holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors, and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property should be removed or filled, where filling will abate the nuisance.

18.30.100 Unsecured Structures.

All open or broken exterior doors, windows, or apertures of any structure should be boarded over or otherwise secured, and kept boarded over or otherwise secured, so as to prevent access by unauthorized persons through such openings.

18.30.105 Excess Vegetation.

All weeds and grass that are located in lawn areas and have a prevailing height in excess of 15 inches should be cut and removed and kept cut and removed.

18.30.110 Rodent Harborage.

Any condition that provides a place where rats get shelter, feed, or breed should be removed or repaired and kept removed or repaired.

18.30.115 Trash and Debris.

The following should be removed, and should be kept removed, unless specifically authorized by ordinance to do otherwise:

- (1) All household garbage, offal, dead animals, animal and human waste, and waste materials;
- (2) Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;
- (3) All dead bushes, dead trees, and stumps, with the exception of such material which:
 - (a) Is being maintained as part of a naturescaped property;
 - (b) Does not result in a nuisance as otherwise defined in this Code; and
 - (c) Is located on a property which is otherwise substantially in compliance with this chapter.
- (4) Accumulations of clothing and any other items not designed for outdoor storage.

18.30.120 Storage of Non-Trash Items.

The following should be removed, and should be kept removed, unless specifically authorized by ordinance to do otherwise:

- (1) Accumulations of wood pallets.
- (2) All firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property.

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- (3) Accumulations of vehicle parts or tires.
- (4) All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration, and are reasonably expected to be used at the site.
- (5) All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration.
- (6) All indoor furniture, except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.
- (7) All recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well-maintained manner.
- (8) All other non-trash items which:
 - (a) Are of a type or quantity inconsistent with normal and usual use; or
 - (b) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

18.30.125 Disabled Vehicles.

- (1) A disabled vehicle is one that is no longer mechanized or capable of transporting goods or people.
- (2) For the purposes of Property Maintenance, a disabled vehicle, along with vehicle parts or portions of the vehicle, are considered junk.
- (3) The storing of a disabled vehicle, vehicle body, or an accumulation of vehicle parts should not be permitted for more than 7 days unless the vehicle is enclosed within a legally permitted building approved for such use or unless it is stored by a licensed business enterprise dealing in junked vehicles lawfully conducted within the City.

18.30.130 Exhaust Vents.

Pipes, ducts, conductors, fans or blowers should not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

18.30.135 Accessory Structures.

All accessory structures, including detached garages, fences and walls, should be maintained structurally sound and in good repair.

EXTERIOR STRUCTURE**18.30.140 Exterior Structure, Generally.**

The exterior of a structure should be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

18.30.145 Exterior Walls and Exposed Surfaces.

- (1) Every exterior wall and weather-exposed exterior surface or attachment should be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building.
- (2) All exterior wood surfaces should be made substantially impervious to the adverse effects of weather by periodic application of a protective coating of weather-resistant preservative, and be maintained in good condition. Wood used in construction of permanent structures and located nearer than six inches to earth should be treated wood or wood having a natural resistance to decay.
- (3) Exterior metal surfaces should be protected from rust and corrosion.

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(4) Every section of exterior brick, stone, masonry, or other veneer should be maintained structurally sound and be adequately supported and tied back to its supporting structure.

18.30.150 Structural Members.

All structural members should be maintained free from deterioration, and should be capable of safely supporting the imposed dead and live loads.

18.30.155 Foundation Walls.

All foundation walls should be maintained plumb and free from open cracks and breaks and should be kept in such condition as to prevent the entry of rodents and other pests.

18.30.160 Roofs and Drainage.

All buildings and structures shall have an approved roof drainage system including gutters and downspouts. Such system shall be connected to an approved drainage system. (Ord. 3825 § 2.4(b), 1974).

The roof and flashing should be sound, tight and have no defects that might admit rain. Roof drainage should be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts should be maintained in good repair and free from obstructions. Roof water should not be discharged in a manner that creates a public nuisance.

18.30.165 Decorative Features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features should be maintained in good repair with proper anchorage and in a safe condition.

18.30.170 Overhang Extensions.

All overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts should be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood should be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

18.30.175 Stairways, Decks, Porches and Balconies.

Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, should be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

18.30.180 Chimneys and Towers.

All chimneys, cooling towers, smoke stacks, and similar appurtenances should be maintained in a condition which ensures there will be no leakage or backup of noxious gases. Every chimney should be reasonably plumb. Loose bricks or blocks should be repaired in an approved manner and loose or missing mortar should be replaced. Unused openings into the interior of the structure must be permanently sealed using approved materials. All exposed surfaces of metal or wood should be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

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18.30.185 Handrails and Guards.

Every handrail and guard should be firmly fastened and properly designed for and capable of supporting normally imposed loads and should be maintained in good condition.

18.30.190 Window, Skylight and Door Frames.

Every window, skylight, door and frame should be kept in sound condition, good repair and weather tight.

18.30.195 Glazing.

All glazing materials should be maintained free from cracks and holes.

18.30.200 Openable Windows.

Every window, other than a fixed window, that is required to be properly designed for emergency egress or ventilation should be easily openable and capable of being held in position by window hardware.

18.30.205 Insect Screens.

Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, should be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door should have a self-closing device in good working condition.

Exception: Screens should not be required where other approved means, such as air curtains or insect repellent fans, are employed.

18.30.210 Doors.

All exterior doors, door assemblies and hardware should be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms should tightly secure the door.

18.30.215 Basement Hatchways.

Every basement hatchway should be maintained to prevent the entrance of rodents, rain and surface drainage water.

18.30.220 Guards for Basement Windows.

Every basement window that is openable should be supplied with storm windows or other approved protection against the entry of rodents.

INTERIOR STRUCTURE**18.30.225 Interior Structure, Generally.**

The interior of a structure and equipment therein should be maintained in good repair, structurally sound and in a sanitary condition. Occupants should keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, should maintain, in a clean and sanitary condition, the shared or public areas of the structure, outdoor property, and exterior structure.

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Text additions shown in **bold**;
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18.30.230 Structural Members.

All structural members should be maintained structurally sound, and be capable of supporting the imposed loads.

18.30.235 Interior Surfaces.

Every interior wall, floor, ceiling, and cabinet should be maintained in a clean, sanitary, safe, and structurally sound condition, free of large holes and serious cracks, loose plaster or wallpaper, flaking or scaling paint.

18.30.240 Stairs and Walking Surfaces.

Every stair, ramp, landing, balcony, porch, deck or other walking surface should comply with the code in effect at time of construction and should be properly designed for its use and be maintained in sound condition and good repair.

18.30.245 Handrails and Guards.

(1) Every handrail and guard should comply with the code in effect at time of construction, but at a minimum should be firmly fastened and capable of supporting normally imposed loads and should be maintained in good condition.

(2) Every exterior and interior flight of stairs having more than four risers should comply with the code in effect at time of construction, but at a minimum should have a handrail on one side of the stair, and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below should have guards. Handrails should not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards should not be less than 30 inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards should not be required where exempted by the state building code.

18.30.250 Interior Doors.

Every interior door should fit reasonably well within its frame and should be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

18.30.255 Interior Dampness.

Every dwelling, including basements and crawl spaces, should be maintained reasonably free from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

CLEANLINESS AND SANITATION**18.30.260 Accumulation of Rubbish or Garbage.**

All exterior property and premises, and the interior of every structure, should be free from any accumulation of rubbish or garbage so as not to harbor insects and rodents, produce dangerous or offensive gases, odors and bacteria, or other unsanitary conditions, or create a fire hazard.

18.30.265 Disposal of Rubbish.

Every occupant of a structure should dispose of all rubbish or garbage in a clean and sanitary manner by placing such rubbish or garbage in containers which are free from holes and covered with tight-fitting lids.

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18.30.270 Garbage Facilities.

The owner of every dwelling should supply, or arrange for occupants to supply, one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container with accompanying regular garbage removal service.

18.30.275 Containers.

The operator of every establishment producing garbage should provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

INSECT AND RODENT HARBORAGE**18.30.280 Infestation.**

All structures should be kept free from insect and rodent infestation. All structures in which evidence of insect or rodent infestation are found should be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions should be taken to prevent re-infestation.

18.30.285 Owner.

The owner of any structure should be responsible for extermination within the structure prior to renting or leasing the structure.

18.30.290 Single Occupant.

The occupant of a one-family dwelling or of a single-tenant nonresidential structure should be responsible for extermination on the premises.

18.30.295 Multiple Occupancy.

The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure should be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant should be responsible for extermination.

18.30.300 Exception.

Where the infestations are caused by defects in the structure, the owner should be responsible for extermination.

LIGHT**18.30.305 Habitable Spaces.**

Every habitable space should have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space should be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window should not be deemed to face directly to the outdoors nor to a court and should not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room should be at least 8 percent of the floor area of the interior room or space, but not less

than 25 square feet (2.33 m²). The exterior glazing area should be based on the total floor area being served.

18.30.310 Common Halls and Stairways.

Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, should be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights should not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress stairways, should be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

18.30.315 Other Spaces.

All other spaces should be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

VENTILATION

18.30.320 Habitable Spaces.

Every habitable space should have at least one openable window, unless ventilation is provided mechanically. The total openable area of the window in every room should be equal to at least 45 percent of the minimum glazed area required in Section 18.30.490. Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room should be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The ventilation openings to the outdoors should be based on a total floor area being ventilated.

18.30.325 Bathrooms and Toilet Rooms.

Every bathroom and toilet room should comply with the ventilation requirements for habitable spaces as required by Section 18.30.520, except that a window should not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room should discharge to the outdoors and should not be recirculated.

18.30.330 Cooking Facilities.

Unless approved through the certificate of occupancy, cooking should not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance should not be permitted to be present in a rooming unit or dormitory unit. Exception: Where specifically approved in writing by the code official.

18.30.335 Process Ventilation.

Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system should be provided to remove the contaminating agent at the source. Air should be exhausted to the exterior and not be recirculated to any space.

18.30.340 Clothes Dryer Exhaust.

Clothes dryer exhaust systems should be independent of all other systems and should be exhausted in accordance with the manufacturer's instructions.

OCCUPANCY LIMITATIONS

18.30.345 Privacy.

Dwelling units, hotel units, housekeeping units, rooming units and dormitory units should be arranged to provide privacy and be separate from other adjoining spaces.

18.30.350 Minimum Room Widths.

A habitable room, other than a kitchen, should not be less than 7 feet (2134 mm) in any plan dimension. Kitchens should have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

18.30.355 Minimum Ceiling Heights.

Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas should have a clear ceiling height of not less than 7 feet (2134 mm).

Exceptions:

(1) In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.

(2) Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

(3) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more should be included.

18.30.360 Bedroom Requirements.

Every bedroom should comply with the requirements of Sections 18.30.365 through 18.30.400.

18.30.365 Area for Sleeping Purposes.

Every bedroom occupied by one person should contain at least 70 square feet (6.5 m²) of floor area, and every bedroom occupied by more than one person should contain at least 50 square feet (4.6 m²) of floor area for each occupant thereof.

18.30.370 Access from Bedrooms.

Bedrooms should not constitute the only means of access to other bedrooms or habitable spaces and should not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

18.30.375 Water Closet Accessibility.

Every bedroom should have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit should have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

18.30.380 Prohibited Occupancy.

Kitchens and non-habitable spaces should not be used for sleeping purposes.

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Text additions shown in **bold**;
Text deletions shown in ~~strike~~.

18.30.385 Other Requirements.

Bedrooms should comply with the applicable provisions of this Title including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this Chapter; the plumbing facilities and water-heating facilities requirements of this Chapter; the heating facilities and electrical receptacle requirements of this Chapter; and the smoke detector and emergency escape requirements of this Chapter.

18.30.390 Overcrowding.

Dwelling units should not be occupied by more occupants than permitted by the minimum area guidelines of Table 18.30.390.

**TABLE 18.30.390
MINIMUM AREA GUIDELINES**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-3 occupants	4-6 occupants	More than 6 occupants
Living room – a,b	No requirements	120	150
Dining room—a,b	No requirements	80	100
Bedrooms	Should comply with Section 18.30.360		

For SI: 1 square foot = 0.093 m².

a. See Section 18.30.400 for combined living room/dining room spaces.

b. See Section 18.30.395 for limitations on determining the minimum occupancy area for sleeping purposes.

18.30.395 Sleeping Area.

The minimum occupancy area described in Table 18.30.390 should not be included as a sleeping area in determining the minimum occupancy area guideline for sleeping purposes. All sleeping areas should comply with Section 18.30.365.

18.30.400 Combined Spaces.

Combined living room and dining room spaces should comply with the requirements of Table 18.30.390 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

18.30.405 Efficiency Unit.

Nothing in this section should prohibit an efficiency living unit from meeting the following requirements:

(1) A unit occupied by not more than two occupants should have a clear floor area of not less than 220 square feet (20.4 m²). A unit occupied by three occupants should have a clear floor area of not less than 320 square feet (29.7 m²). These required areas should be exclusive of the areas required by Items (2) and (3).

(2) The unit should be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code should be provided.

(3) The unit should be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(4) The maximum number of occupants should be three.

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18.30.410 Food Preparation.

All spaces to be occupied for food preparation purposes should contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There should be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

REQUIRED PLUMBING FACILITIES**18.30.415 Dwelling Units.**

Every dwelling unit should contain its own bathtub or shower, lavatory, water closet and kitchen sink, which should be maintained in a sanitary, safe working condition. The lavatory should be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink should not be used as a substitute for the required lavatory.

18.30.420 Rooming Houses.

At least one water closet, lavatory and bathtub or shower should be supplied for each *four rooming units*.

18.30.425 Hotels.

Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway should be provided for each ten occupants.

18.30.430 Employees' facilities.

A minimum of one water closet, one lavatory and one drinking facility should be available to employees.

18.30.435 Drinking facilities.

Drinking facilities should be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities should not be located in toilet rooms or bathrooms.

TOILET ROOMS**18.30.440 Privacy.**

Toilet rooms and bathrooms should provide privacy and should not constitute the only passageway to a hall or other space, or to the exterior. A *door and interior locking device* should be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

18.30.445 Location.

Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, should have access by traversing not more than one flight of stairs and should have access from a common hall or passageway.

18.30.450 Location of Employee Toilet Facilities.

Toilet facilities should have access from within the employees' working area. The required toilet facilities should be located not more than one story above or below the employees' working area and the path of travel to such facilities should not exceed a distance of 500 feet (152 m). Employee facilities should either be separate facilities or combined employee and public facilities.

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Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, should not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

18.30.455 Floor Surface.

In other than dwelling units, every toilet room floor should be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

PLUMBING SYSTEMS AND FIXTURES**18.30.460 Plumbing Systems and Fixtures, Generally.**

All plumbing fixtures should be properly installed and maintained in working order, as required in OAR 918-750-0120(4), and should be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures should be maintained in a safe, sanitary and functional condition.

18.30.465 Fixture Clearances.

Plumbing fixtures should have adequate clearances for usage and cleaning.

18.30.470 Plumbing System Hazards.

Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back-siphonage, improper installation, deterioration or damage or for similar reasons, the code official should require the defects to be corrected to eliminate the hazard.

WATER SYSTEM**18.30.475 Water System, Generally.**

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture should be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers should be supplied with hot or tempered and cold running water in accordance with the State Plumbing Code.

18.30.480 Contamination.

The water supply should be maintained free from contamination, and all water inlets for plumbing fixtures should be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, should be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

18.30.485 Supply.

The water supply system should be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

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18.30.490 Water Heating Facilities.

Water heating facilities should be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110° F (43° C). A gas-burning water heater should not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe should be properly installed and maintained on water heaters.

SANITARY DRAINAGE SYSTEM**18.30.495 Sanitary Drainage System, Generally.**

All plumbing fixtures should be properly connected to either a public sewer system or to an approved private sewage disposal system.

18.30.500 Maintenance.

Every plumbing stack, vent, waste and sewer line should function properly and be kept free from obstructions, leaks and defects.

STORM DRAINAGE**18.30.505 Storm Drainage, Generally.**

Drainage of roofs and paved areas, yards and courts, and other open areas on the premises should not be discharged in a manner that creates a public nuisance.

HEATING FACILITIES**18.30.510 Facilities Required.**

Heating facilities should be provided in structures as required by this section.

18.30.515 Residential Occupancies.

Dwellings should be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances should not be used to provide space heating to meet the requirements of this section.

18.30.520 Heat Supply.

Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof should supply heat and maintain heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature should not be required provided that the heating system is operating at its full design capacity.

18.30.525 Room Temperature Measurement.

The required room temperatures should be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

EXHIBIT C

Text additions shown in bold;
Text deletions shown in strike.

MECHANICAL EQUIPMENT**18.30.530 Mechanical Appliances.**

All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances should be properly installed and maintained in a safe working condition, and should be capable of performing the intended function.

18.30.535 Removal of Combustion Products.

All fuel-burning equipment and appliances should be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

18.30.540 Clearances.

All required clearances to combustible materials should be maintained.

18.30.545 Safety Controls.

All safety controls for fuel-burning equipment should be maintained in effective operation.

18.30.550 Combustion Air.

A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment should be provided for the fuel-burning equipment.

18.30.555 Energy Conservation Devices.

Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, should not be installed unless labeled for such purpose and the installation is specifically approved.

ELECTRICAL FACILITIES**18.30.560 Electrical Facilities Required.**

Every occupied building should be provided with an electrical system in compliance with the requirements of this section and Section 18.30.994.

18.30.565 Electrical Service.

The size and usage of appliances and equipment should serve as a basis for determining the need for additional facilities in accordance with the State Electrical Code. Dwelling units should be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

18.30.570 Electrical System Hazards.

Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Building Official should require the defects to be corrected to eliminate the hazard.

ELECTRICAL EQUIPMENT**18.30.575 Installation of Electrical Equipment.**

EXHIBIT C

Text additions shown in **bold**;
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All electrical equipment, wiring and appliances should be **properly installed and maintained in a safe and approved manner.**

18.30.580 Receptacles.

Every habitable space in a dwelling should contain at least two separate and remote receptacle outlets. Every laundry area should contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom should contain at least one receptacle. Any new bathroom receptacle outlet should have ground fault circuit interrupter protection.

18.30.585 Lighting Fixtures.

Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room should contain at least *one electric lighting fixture.*

DUCT SYSTEMS**18.30.590 Duct Systems, Generally.**

Duct systems should be maintained free of obstructions and should be capable of performing the required function.

EXHIBIT D

Text additions shown in **bold**;
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Chapter 1.04 GENERAL PENALTY

Sections:

1.04.010 Penalty for violation.

1.04.020 Procedure for the prosecution of certain misdemeanors as infractions.

1.04.030 *Repealed*.

1.04.010 Penalty for violation.

(1) Except as provided in subsection 2 hereof:

(a) Whenever in this code or in any ordinance of the City of Albany, an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required or the failure to do an act is declared to be unlawful or an offense, the violation of any such provision of the Albany Municipal Code or any other ordinance of the City of Albany shall be either a misdemeanor or an infraction, and shall be punished as provided in this section.

(b) Maximum penalties for offenses shall be as follows:

(i) Infraction – a civil penalty of \$500.00, or such lesser sum as may be provided in the ordinance defining the offense.

(ii) Misdemeanor – a fine of not more than \$2,500 or imprisonment not to exceed one year, or both such fine or imprisonment.

(iii) Violations of AMC Title 18 – shall have the penalties prescribed therein.

(c) Where an offense is defined in the Albany Municipal Code or any other ordinance of the City of Albany, and no penalty is provided, the offense shall be deemed a misdemeanor.

(d) Every day, or portion thereof, during which any violation of any provision of the Albany Municipal Code or any ordinance of the City of Albany is committed, continued or permitted, shall be a separate offense.

(e) An infraction, as classified in the Albany Municipal Code, is declared to be an offense, but not a crime. It is intended to be an offense which can be disposed of in all respects as a civil proceeding and not governed by procedural, evidentiary, substantive and constitutional rules applicable to criminal charges and proceedings. A person adjudged responsible for an infraction shall not be deemed "guilty" of the infraction and a judgment of responsibility shall not be deemed a "conviction" for any purpose.

(f) Notwithstanding anything in this section or any other ordinance to the contrary, no greater penalty shall be imposed for any violation of the Albany Municipal Code or any ordinance of the City of Albany than the maximum penalty prescribed under Oregon Statute for the same act or omission.

(g) For the purpose of facilitating disposition of infractions, the Municipal Judge may promulgate a schedule of forfeitures for particular infractions, and the person charged with such an infraction may deposit with the court the amount so scheduled, waive further appearance, and have the sum so deposited forfeited as a plea of "no contest." The court shall not, however, be bound by the schedule on appearance and admission by the person charged, or on trial and judgment against the person charged; the court in such a case may impose any forfeiture allowed by subdivision (a) of this subsection.

(2) Violation of Albany Municipal Code Chapter 10.08 through Chapter 10.12 shall be adjudicated and punished as provided in AMC 10.12.060, Enforcement, and 10.12.070,

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Penalties. (Ord. 4901 § 1, 1990; Ord. 4812 § 1, 1988; Ord. 4579 § 1, 1983; Ord. 3462 § 1, 1970).

Title 12 SURFACE WATER

Chapters:

12.01 GENERAL PROVISIONS

- 12.01.010 Intent and purpose.
- 12.01.020 Objectives.
- 12.01.030 Abbreviations.
- 12.01.040 Definitions.
- 12.01.050 Applicability.
- 12.01.060 Responsibility for administration.
- 12.01.070 Severability.
- 12.01.080 Ultimate responsibility of the discharger.

12.10 PROHIBITED DISCHARGES

- 12.10.010 Illegal discharges.
- 12.10.050 Illicit connections.
- 12.10.070 Waste disposal prohibitions.
- 12.10.080 Watercourse protection.
- 12.10.090 Discharges in violation of industrial or construction activity
NPDES stormwater discharge permit.
- 12.10.100 Notification of spills.
- 12.10.120 Requirement to eliminate illegal discharges.
- 12.10.140 Requirement to eliminate illicit connections.
- 12.10.143 Requirement to remediate.
- 12.10.147 Requirement to monitor and analyze.
- 12.10.150 Suspension of access.
- 12.10.160 Damage to the stormwater system.

12.20 PERMITS FOR CONNECTION OR CONSTRUCTION

- 12.20.010 Permits required.
- 12.20.020 Approval of drawings.
- 12.20.030 Construction to conform to standards.
- 12.20.040 Inspection, approval of construction.
- 12.20.050 Connection to stormwater mains.
- 12.20.060 Extension of stormwater systems.
- 12.20.070 Tapping of manholes.

12.30 STORMWATER MANAGEMENT FEES

(Reserved)

12.35 GRADING

- 12.35.010 Grading – When permits are required.
- 12.35.020 Grading – General provisions.
- 12.35.030 Grading – Permit procedure.

EXHIBIT E

Text additions shown in **bold**;
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12.35.040 Grading – Notification of adjacent property owners. |

12.35.050 Grading – Approval standards.

12.35.060 Grading – Permits shall be tentative pending resolution of appeals.

12.35.070 Grading – Standing to appeal.

12.35.080 Grading – Appeal procedure.

12.35.090 Grading – Fees.

12.35.100 Removal of excavation, embankment or fill required when determined to be a hazard.

12.40 EROSION PREVENTION AND CONTROL

(Reserved)

12.50 CONNECTIONS OF UNASSESSED PROPERTIES (Repealed)

12.60 FLOODPLAIN PRESERVATION AND MANAGEMENT

(Reserved)

12.70 STREAM BUFFERS/RIPARIAN ZONE PROTECTION – OPEN WATERWAYS

(Reserved)

12.80 ENFORCEMENT

12.80.010 Notice of violation.

12.80.020 Compliance schedule.

12.80.030 Appeal.

12.80.040 Abatement by City.

12.80.050 Recovery of abatement costs.

12.80.060 Immediate abatement.

12.80.070 Penalties for violations.

12.80.080 Compensatory action.

12.80.090 Violations deemed a public nuisance.

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**Chapter 12.35
GRADING**

Sections:

12.35.010 Grading – When permits are required.

12.35.020 Grading – General provisions.

12.35.030 Grading – Permit procedure.

12.35.040 Grading – Notification of adjacent property owners.

12.35.050 Grading – Approval standards.

12.35.060 Grading – Permits shall be tentative pending resolution of appeals.

12.35.070 Grading – Standing to appeal.

EXHIBIT E

Text additions shown in **bold**;
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12.35.080 Grading – Appeal procedure.

12.35.090 Grading – Fees.

12.35.100 Removal of excavation, embankment or fill required when determined to be a hazard.

12.35.010 Grading – When permits are required.

Grading permits are not required by the City of Albany for grading activities (including excavation and fill) within the City limits, except in the following circumstances:

(1) When any grading is proposed in floodplains. Floodplains are those areas subject to inundation from a 100-year flood and identified on federal Flood Insurance Rate Maps (FIRMS) and Floodway Maps by the letter A, A1 – A30, AE, or AO.

(2) When any grading is proposed in any watercourse shown in the City of Albany Drainage Master Plan, in any watercourse receiving drainage from a public roadway, or in any watercourse lying within a public easement or right-of-way. A watercourse is any natural or artificial stream, river, creek, ditch, drainageway, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

(3) When placement of a structure is proposed in a watercourse shown in the City of Albany Drainage Master Plan, or within a public easement or right-of-way.

(4) When grading involving more than 50 cubic yards is proposed in areas that have an average slope of 12 percent or greater.

(5) When grading is proposed over an existing public storm drain, sanitary sewer, or waterline. This does not include grading authorized under a public works contract awarded by the City of Albany, grading approved as part of a permit to construct public facilities as provided in Chapter 15.06 AMC, or grading conducted by City of Albany maintenance forces.

(6) Notwithstanding any of the foregoing, a grading permit is not required in any of the following circumstances:

(a) Grading incidental to a valid building permit and excavation below grade for basements, foundations, or footings for retaining walls or other structures authorized by a valid building permit;

(b) Construction of driveways or underground utilities;

(c) Grading or landscaping when less than 50 cubic yards of earth is moved;

(d) Grading or excavation associated with public works projects, roads, public ways, graves, or work controlled by other processes or regulations, such as wells, tunnels, utilities, or disposal sites;

EXHIBIT E

Text additions shown in **bold**;
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(e) **Minor adjustments in active grading permits or applications when necessary in order to adhere to City requirements or good engineering practices;**

(f) **Grading or excavation determined by the Public Works Director or designee to be in substantial compliance with the intent of the grading ordinance. Such a determination shall be appealable to the City Council. In the event of such an appeal, the decision of the City Council shall be final.**

12.35.020 Grading – General provisions.

The rules prescribed in this chapter shall apply to all lands within the City limits of the City of Albany.

(1) **Compliance.** No excavation or grading operation shall hereafter be performed, or existing graded lot altered, without full compliance with the terms of this chapter and other applicable regulations.

(2) **Abrogation and Greater Restrictions.** This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other chapters conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(3) **Relationship to Permits Required by State or Federal Agencies.** Excavation, grading, and fill activities may require state and/or federal permits. Such permits are likely to be required if hydric soils are present on the site or if the site contains other wetland characteristics. The issuance of a permit by the City of Albany under this chapter does not eliminate the need for compliance with other state, federal, or local regulations.

(4) **Warning and Disclaimer of Liability.** The issuance of a permit by the City of Albany under this chapter constitutes a determination that the applicant has met the minimum requirements for the City's regulatory purposes. Issuance of a permit does not relieve the permit holder from any responsibilities or liabilities that grading, excavation or fill activities may create if third parties are damaged or injured by such actions.

12.35.030 Grading – Permit procedure.

Application for a grading permit shall be made to the Public Works Director or designee. The Public Works Director or designee shall provide the application forms.

12.35.040 Grading – Notification of adjacent property owners.

The Public Works Director or designee will provide written notice that a grading permit application has been filed to the owners of property adjacent to the property on which the grading is proposed. The list of owners to be notified will be compiled from the most recent property tax assessment roll. This requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given.

(1) **The notice and procedures used by the City will:**

EXHIBIT E

Text additions shown in bold;
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(a) Provide a 14-day period for submission of written comments prior to the decision of the Public Works Director or designee concerning whether the grading permit should be issued.

(b) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient detail that the Public Works Director or designee will be able to respond to the issue.

(c) List the approval standards of AMC 12.35.050.

(d) Set forth the street address or other easily understood geographical reference to the subject property.

(e) State the place, date and time that comments are due.

(f) State that copies of all information submitted by the applicant is available for review, and that copies can be obtained at cost.

(g) Include the name and phone number of the City representative to contact for information about the permit application.

(h) Provide that any person who submits comments during the 14-day period referenced above shall receive a notice of the decision of the Public Works Director or designee. The notice of decision will include an explanation of appeal procedures.

(i) Include such other information as the Public Works Director or designee deems appropriate.

(2) The Public Works Director's or designee's decision on a grading permit application may be appealed as set forth in AMC 12.35.080.

12.35.050 Grading – Approval standards.

Grading permit applications will be approved if the applicant has shown that each of the following criteria which are applicable have been met:

(1) Provisions have been made to maintain adequate flood carrying capacity of existing watercourses, including future maintenance of that capacity.

(2) No grading will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading will not be detrimental to the anticipated service life, operation and maintenance of the existing utility.

(3) In floodplain areas, where no floodway is shown on the applicable map, grading will not be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed grading, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(4) No grading will be permitted in a floodway, except where the applicant has supplied evidence prepared by a professional engineer that demonstrates the proposal will not result in any increase in flood levels during the occurrence of the 100-year flood.

EXHIBIT E

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(5) The applicant shall notify the City of Albany, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading activity that will result in alteration or relocation of a watercourse.

(6) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the or designee as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive downdrains or other devices.

(7) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the Public Works Director or designee; except the gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:

(a) No proposed fills are greater than 10 feet in maximum depth.

(b) No proposed finished cut or fill slope faces have a vertical height in excess of 10 feet.

(c) No existing slope faces, which have a slope face steeper than 10 horizontal to one vertical, have a vertical height in excess of 10 feet.

(8) In areas that have an average slope of 12 percent or greater, the following requirements also apply:

(a) Cut and fill slopes shall not exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (e.g., 1-1/2:1, or 1:1) may be approved by the Public Works Director or designee, upon certification by a qualified soils engineer or geologist, that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist.

12.35.060 Grading – Permits shall be tentative pending resolution of appeals.

Grading permits, if approved, shall be “tentative” permits and shall not permit grading action until the permit has become “final.” A grading permit shall become “final” when the time for appeal has passed with no appeal made, or in the event of an appeal, until the appeal has been resolved by the City.

12.35.070 Grading – Standing to appeal.

Only those persons who own property adjacent to the premises on which grading is proposed and who have previously submitted comments in writing to the Public Works Director or designee as provided in AMC 12.35.040(1) shall have standing to appeal the issuance of a grading permit.

12.35.080 Grading – Appeal procedure.

(1) An appeal of the Public Works Director’s or designee’s decision on a grading permit application shall be to the City Council. No appeal shall be timely unless a notice of appeal is actually received at the office of the

EXHIBIT E

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Public Works Director or designee not later than 14 days after the notice of decision is mailed. The notice of appeal shall contain:

(a) An identification of the decision sought to be reviewed, including the date of the decision.

(b) A statement of the standing of the person seeking review and that he/she submitted written comments to the Public Works Director or designee during the period allowed in AMC 12.35.040(1)(a).

(c) The specific approval standard on which the appeal is based.

(d) If a de novo review is requested, a statement summarizing the new evidence which will be offered and the approval standard to which it will relate.

(2) The person who appeals the Public Works Director's or designee's decision has the burden of proof to show that the decision is in error.

(3) The City Council will determine the scope of review on appeal to be one of the following:

(a) Restricted to the record.

(b) Limited to such issues as the City Council determines necessary for a proper resolution of the matter.

(c) A de novo hearing.

(4) The City Council may affirm, remand, reverse, or modify the Public Works Director's or designee's decision.

(5) The decision of the City Council shall be final.

12.35.090 Grading – Fees.

(1) A minimum grading plan review fee, applicable to all grading permits, in the amount of \$____ is hereby established.

(2) A minimum grading permit fee, applicable to all grading permits, in the amount of \$____ is hereby established.

(3) In addition to the minimum fees called for in subsections (1) and (2) of this section, grading fees shall also include any cost incurred by the City and shall include overhead and any costs of outside consultants, inspectors or plan review by the Public Works Director or designee. When services by outside consultants, inspectors or plan reviewers are required by the Public Works Director or designee, an approximate cost of those services shall be collected at either the time of application for the plan review or at the time of issuance of the permit for inspection services. If the fees initially collected are not sufficient to cover the cost incurred by the City, adjustments to the fees owed the City may be made at the time of permit issuance or prior to final approval of the permitted work.

(4) An appeal fee in the amount of \$____ is hereby established.

12.35.100 Removal of excavation, embankment or fill required when determined to be a hazard.

If the Public Works Director or designee determines that any excavation, embankment, or fill on private property has become a hazard, he/she may order the hazard abated by the owner or responsible party. The owner of

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the property upon which the excavation or fill is located, or the responsible party, upon receipt of notice in writing, shall repair or eliminate such excavation or embankment so as to eliminate the hazard.

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