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Board of County Commissioners
Clackamas County

Members of the Board:

First Reading of Amendments to County Code Chapter 9.02, Application and Enforcement of the Clackamas County Building Code, and Chapter 9.03, Excavation and Grading to Maintain Current Business Practices, Services and Consistency

Purpose/Outcomes	Amending County Code Chapters 9.02, <i>Application and Enforcement of the Clackamas County Building Code</i> , and Chapter 9.03, <i>Excavation and Grading</i> to maintain current business practices, services and consistency.
Dollar Amount and Fiscal Impact	N/A
Funding Source	These changes are for the Building Codes Division, which is a dedicated fund, with all costs covered by fees for service.
Duration	Indefinitely
Previous Action	9/24/2019: Informational policy session with the Board to discuss the need for County Code amendments 11/5/2019: Policy session where the Board directed staff to prepare proposed amendments for public hearing and discussion at two separate business meetings.
Counsel Review	Reviewed by County Counsel on November 18, 2019
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Build public trust through good government 2. Build a strong infrastructure 3. Ensure safe, healthy and secure communities
Contact Person	Cheryl Bell, Assistant Director of Development, Transportation & Development, 503-742-4748

BACKGROUND

The State Building Code

As part of the Department of Transportation and Development's Land Use and Development line of business, Clackamas County administers a building codes program for unincorporated Clackamas County and, with intergovernmental agreements, select cities. The county is mandated to maintain a building code program by ORS 455.020, with the program delegated to the County from the State Building Codes Division (State BCD) through OAR 918-020.

On August 30, 2019, the State BCD issued a notice of rulemaking that revises the administrative provisions of the residential code (Oregon Residential Specialty Code or ORSC), and in October 2019 State BCD adopted a new commercial code (Oregon Structural Specialty Code or OSSC) with the same changes included in the Code's scoping provisions.

As presented to the Board in policy sessions held on September 24, 2019 and November 5, 2019, local action is required to address the extensive changes made by the State BCD to the building code's administrative provisions, referred to as *Chapter 1- Scope and Administration* (Chapter 1).

To keep critical elements as part of the building codes program, maintain interdisciplinary coordination, and to keep business practices and permitting processes as they have been since the adoption of a statewide building code in 1974, local jurisdictions must adopt *Scope and Administration* provisions (language taken from the original Chapter 1) in their local codes.

Additionally, while preparing these proposed amendments to the County Code, staff took the opportunity to make needed minor changes to Chapters 9.02 and 9.03.

Proposed Amendments to County Code Chapters 9.02 and 9.03

Reestablishing Technical Items and Code Enforcement Authority

The revised state code Chapter 1 language changes the scope of the building code's authority regarding technical items and code enforcement action that is a departure from practices in place since state building codes were established in 1974.

The revisions are driven by the State's desire to have the building code focus specifically and only on buildings under construction, or elements under construction that directly impact buildings. In doing this, the code removes regulation of items like new communications towers, retaining walls, private access bridges, and exterior tanks holding fuel, industrial chemicals, etc.

The building code's change in focus also led to the removal of the right-of-entry provisions and removal of the clear authority to require that building code violations be abated. This weakens our ability to use building codes to obtain compliance of building code violations.

The proposed amendments to County Code Chapter 9.02 (provided as attachment A) reestablish the technical elements to be consistent with model code, previous practice, and other metro area and state jurisdictions, providing important consistency for our customers (Section 9.02.020). The proposed amendments also add back model code language to allow for right-of-entry and authority for building code enforcement related to code violations (Sections 9.02.020, 9.02.100, 9.02.110, and 9.02.330).

Reestablishing the Tie between Permits, Occupancy Certificates and Other Ordinances

In model code and previous versions of the state building codes, the sections governing the issuance of permits and certificates of occupancy included language noting that issuance can be conditional based upon consideration of "other ordinances of the municipality."

The State's revisions to Chapter 1 remove all references to these other requirements, making issuance of permits and occupancy certificates *contingent only upon the requirements of the*

building code. This would decouple the current, long-standing process where approval of issuance is tied to a variety of reviews, including:

- Zoning and development code,
- Roadway standards governing site development and site access,
- Adequate connection to septic or sanitary systems,
- Health Department permitting and inspections; and
- Payment of SDC fees.

The proposed Chapter 9.02 amendments maintain the tie between issuance of permits and certificates of occupancy and compliance with other ordinances (Sections 9.02.240 and 9.02.260). Not re-establishing this pairing could force staff to issue permits in violation of other important land use, zoning, access, roadway and health safety provisions. This could result in having to put properties that do not meet these other ordinances immediately into code enforcement action, rather than working with customers so they can come into compliance during permitting and plan review.

This forced path to code enforcement would increase costs, increase staff time and provide poor consultation and service to our customers. In addition, it could place properties in an expensive or dangerous position of having permits or certificates of occupancy issued when important land use, zoning, and other safety provisions are not included or provided in the project scope.

Minor Changes

Staff took the opportunity to review Chapters 9.02 and 9.03 and after this review have included the following minor amendments.

- **Use current code language.** Where the County Code uses language directly from the building codes, these sections were updated to use current code language.
- **Gender-neutral language.** Chapters 9.02 and 9.03 were revised to use gender-neutral language.
- **Definition of processing.** A definition of processing will help when parsing out the business practices allowed in agricultural buildings. Preparation and processing are different uses, and have different associated risk (e.g., packaging hemp verses cold-extracting hemp).
- **Grading ordinance.** When Chapter 9.03 (provided as Attachment B) was written, the text of an optional building code appendix was put directly into County Code. The proposed changes to Chapter 9.03 directly adopt Building Code Appendix J, with amendments as presented in Attachment B, in lieu of reproducing the text of the appendix in the body of the County Code. This allows for Chapter 9.03 to use current code language each time a new code is adopted, without revising the County Code itself.

Outreach

The process for these amendments was fast tracked due to the timing provided by the State. The notice of rulemaking for the residential code was published by the State BCD on August 30, 2019, with the comment period closing on September 20, 2019. The new commercial code, with the same changes to its Chapter 1, went into effect October 1, 2019.

The State BCD enacted a “grace period” allowing the previous Chapter 1 of each code to remain in effect, with the technical, code enforcement, and links to other ordinances in place, but this grace period ends January 1, 2020. Due to the decreased length of notice from the State BCD the County had limited time to make changes, which lead to a narrow window for public outreach.

Staff is providing public outreach of the proposed amendments using our website, social media, and through a notice to our Community Planning Organizations (CPO). The first and second readings of the ordinance also serves as an opportunity for the public to comment on the proposed changes.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the proposed amendments after a first and second reading, amending County Code Chapter 9.02, Application and Enforcement of the Clackamas County Building Code, and Chapter 9.03, Excavation and Grading.

ATTACHMENTS:

- A. Amended County Code, Chapter 9.02
- B. Amended County Code, Chapter 9.03

Respectfully submitted,

Dan Johnson, Director
Department of Transportation & Development

Chapter 9.02

9.02 APPLICATION AND ENFORCEMENT OF THE CLACKAMAS COUNTY BUILDING CODE

9.02.010 Purpose

The purpose of this chapter is to establish uniform performance standards for building-related codes and rules to reasonably safeguard the public health, safety, and general welfare of occupants and users of buildings within this jurisdiction, and provide for the use of modern methods, devices, materials and techniques and for superior energy conservation. The provisions of this chapter are in addition to the requirements of the State Building Code, as defined in ORS 455.010, and in many cases are intended to amend specific sections of the State Building Code pursuant to the authority granted to Clackamas County through ORS 455.020. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16]

9.02.020 Application

This chapter shall apply to the construction, reconstruction, alteration, relocation (i.e. moving), demolition, repair, maintenance and work associated with any building or structure except when such work is located in a public right of way.

Without limiting the generality of the foregoing, this chapter shall also apply to the following:

- A. Abatement of nuisances and dangerous buildings.
- B. Demolition
- C. Protection of adjoining property.
- D. Retaining walls.
- E. Fences.
- F. Tanks that are located exterior to and not attached to or supported by a regulated building.
- G. Telecommunications towers.
- H. Ground mounted flagpoles exceeding 25 feet.
- I. Signs not attached to or supported by a regulated building.
- J. Piers and wharves.
- K. Bridge structures outside of a public right of way.
- L. Structures associated with agricultural processing.

This chapter shall not apply to the following:

- A. Fire safety during construction.
- B. Structures within a public right of way.
- C. Floating structures.
- D. Docks.
- E. Equipment shelters not intended for human occupancy with a building area 250 square feet or less, designated as Risk Category I or II.
- F. Administration and implementation of a National Flood Insurance Program (NFIP).

- G. Transitional housing accommodations.
- H. Water tanks supported directly upon grade if the capacity does not exceed 5000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.

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

If any conflict arises between a provision of this Chapter and Oregon Revised Statutes or State Building Code, the statutory or State Building Code provision(s) shall govern.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16]

9.02.030 Definitions

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

- A. AGRICULTURAL PROCESSING is the processing, compounding, or conversion of an agricultural good into a product. The alteration of the physical makeup of the agricultural good is the primary characteristic of agricultural processing. Agricultural processing does not include preparation, cleaning, treatment, sorting, packing and storage of agricultural goods.
- B. AUTHORIZED REPRESENTATIVE may include, among others, the Deputy Building Codes Administrator and his/her authorized inspection personnel, and the Fire Marshal.
- C. BUILDING is any structure used or intended for supporting or sheltering any use or occupancy.
- D. BUILDING OFFICIAL is the official designated by order of the Clackamas County Board of Commissioners, charged with administration and enforcement the State of Oregon Building Codes as outlined in ORS 455.148, and includes that official's authorized representatives.
- E. PERSON includes human beings and, where appropriate, public or private corporations, unincorporated associations, partnerships, firms, governments, governmental instrumentality, joint stock companies, trusts and estates, trustees, and any other legal entities whatsoever, and shall indicate both the singular and the plural.
- F. STRUCTURE is that which is built or constructed, including buildings.
- G. STATE BUILDING CODE is defined in ORS 455.010.

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

9.02.040 Clackamas County Building Code

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

- A. The Oregon Structural Specialty Code, as adopted by OAR Chapter 918, Division 460,

- except as modified in this Chapter, shall be enforced as part of this Chapter.
- B. The Oregon Mechanical Specialty Code, as adopted by OAR Chapter 918, Division 440, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - C. The Oregon Plumbing Specialty Code, as adopted by OAR Chapter 918, Division 750, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - D. The Oregon Electrical Specialty Code, as adopted by OAR Chapter 918, Division 251 except as modified in this Chapter, shall be enforced as part of this Chapter.
 - E. The Oregon Residential Specialty Code, as adopted by OAR Chapter 918, Division 480, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - F. The manufactured dwelling park and mobile home park rules adopted by OAR Chapter 918 Division 600, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - G. The manufactured structure rules adopted by OAR Chapter 918, Division 500, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - H. The Recreational Park and Organizational Camp Rules adopted by OAR Chapter 918, Division 650, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - I. Chapter 9.01 of the Clackamas County Code: Code for the Abatement of Dangerous Buildings and Structures.
 - J. Chapter 9.03 of the Clackamas County Code: Excavation and Grading.
 - K. The On-Site Sewage Disposal Rules as adopted by OAR Chapter 340, Division 71 and OAR Chapter 340, Division 73, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - L. The Oregon Energy Efficiency Specialty Code as adopted by OAR Chapter 918, Division 460, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - M. The Oregon Solar Installation Specialty Code as adopted by ORS 455.010 through 455.897, except as modified in this Chapter, shall be enforced as part of this Chapter.
 - N. 2018 International Building Code, International Code Council (ICC IBC-2018) Section 105.2.
 - O. ICC IBC-2018 Section 1807.3
 - P. American Society of Civil Engineers (ASCE) 7.16, Section 15.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16]

9.02.050 Clackamas County Operating Plan

The provisions of the Clackamas County Operating Plan are hereby incorporated as if fully set forth herein. A copy of the operating Plan is on file with the Building Codes Division of the Department of Transportation and Development and may be reviewed upon request. Where the terms of the Clackamas County Operating Plan conflict with this Chapter, the provisions of this Chapter shall control.

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

9.02.060 Modifications

Repealed.

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

9.02.070 Tests

Repealed.

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

9.02.080 Powers And Duties Of The Building Official

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

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

The building official may request, and shall receive, the assistance and cooperation of other officials of this jurisdiction in the discharge of duties required by this chapter and other pertinent laws or ordinances.

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

9.02.090 Deputies

In accordance with prescribed procedures the building official may appoint a deputy building official, technical officers and inspectors and other employees to carry out the functions of code enforcement under this chapter. The building official may deputize such inspectors or employees as may be necessary to carry out the functions of code enforcement under this chapter as delegated by the building official.

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

9.02.100 Right Of Entry

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

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

9.02.110 Stop Work Orders, Warning Notices & Violation Notices

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

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

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

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

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

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

9.02.120 Authority To Disconnect Utilities In Emergencies

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

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

9.02.130 Connection After Order To Disconnect

Persons shall not make connections from an energy, fuel, power supply or plumbing service, nor supply energy, fuel, power or plumbing to any equipment regulated by this chapter which has

been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnection and use of such equipment. [Codified by Ord. 05-2000, 7/13/00]

9.02.140 Occupancy Violations

Whenever any structure or equipment therein regulated by this chapter become unsafe, insanitary, deficient, or is otherwise being used contrary to the provisions of this chapter, the building official may order such use discontinued and the building, structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Any person receiving notice shall discontinue the use within the time prescribed by the building official to make the building, or portion thereof, comply with the requirements of this chapter.
[Codified by Ord. 05-2000, 7/13/00]

9.02.150 Adjudicating Entities For Specific Appeals

- A. In the event an appeal of a staff interpretation of code is necessary during plan review, the appeal shall be processed as set forth in this subsection. If a permit applicant disagrees with a plans examiner's decision, the request is first sent to the Plans Examiner Supervisor or a Section Supervisor depending upon the nature of the problem and which specific code is being appealed. The Supervisor will make a decision regarding the matter. If the matter is not resolved at that level, the appeal is forwarded to the building official. After consultation with the appellant and the appropriate technical staff, the building official reviews the request and shall respond in writing within 10 business days.
- B. In the event an appeal of a staff interpretation of code is necessary during field inspections, the appeal shall be processed as set forth in this subsection. If a permit holder disagrees with a field inspector's correction, the request is first sent to the Structural/Mechanical Inspector Supervisor, the Plumbing Inspection Supervisor, Electrical Inspection Supervisor, or other Section Supervisor depending upon the nature of the problem and which specific code is being appealed. The Supervisor will make a decision regarding the matter. If the matter is not resolved at that level, the appeal is forwarded to the building official. After consultation with the appellant and the appropriate technical staff, the building official reviews the request and shall respond in writing within 10 business days.
- C. For those issues that are within the scope and application of the State Building Code, where the applicant is still aggrieved, the matter may be further appealed to the appropriate Division Chief at the State of Oregon and then further to the appropriate Advisory Board at the State of Oregon. Appeals to the State shall follow ORS 455.060, ORS 455.475, and the appropriate Oregon Administrative Rules.
- D. For those issues that are outside of the scope and application of the State Building Code, where the applicant is still aggrieved, the applicant may request a hearing as provided in County Code Section 2.07.040. The procedures associated with the applicant's requested hearing shall be subject to those provisions of County Code Section 2.07.
- E. Notwithstanding the provisions above, appeals related to a staff interpretation of the On-Site Sewage Disposal Rules as adopted by OAR Chapter 340, Division 71 and OAR

Chapter 340, Division 73 shall follow the appeal process set forth in OAR Chapter 340, Division 71.

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

9.02.160 Board Of Appeals

Repealed.

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

9.02.170 Form Of Appeal

Repealed.

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

9.02.180 Effect Of Failure To Appeal

Repealed.

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

9.02.190 Scope Of Hearing On Appeal

Repealed.

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

9.02.200 Procedures For Conduct Of Appeals Hearings

Repealed.

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

9.02.210 Form Of Notice Of Hearing

Repealed.

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

9.02.220 Conduct Of Hearing

Repealed.

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

9.02.230 Method And Form Of Decision

Repealed.

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

9.02.240 Plans And Permits

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

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

The building official may issue a permit for the construction of part of a building or structure before the complete plans and specifications for the whole building or structure have been submitted or approved, if adequate information and detailed statements have been filed to assure compliance with all pertinent requirements of this chapter. The holder of a partial permit who chooses to proceed assumes the risk that the permit for the entire building or structure may be denied. Clackamas County is not responsible for any costs associated with work performed under a partial permit if the full permit is denied.

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

9.02.250 Retention Of Plans

Repealed.

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

9.02.260 Validity Of Permit

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

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

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

violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall be null and void.

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

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

9.02.270 Expiration Of Applications, Plans And Permits

- A. Automatic Expiration of Applications -- Applications for which no permit is issued within 180 days following the date of the application shall automatically expire, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official.
- B. Extensions on Unexpired Applications – The building official may extend the time for action by the applicant for a period not exceeding 90 days if:
 - 1. The applicant so requests in writing;
 - 2. The applicant shows that circumstances beyond applicant’s control have prevented action from being taken; and
 - 3. The application is consistent with the relevant provisions of this Chapter in effect on the date the request for a time extension is submitted.
- C. Pre-Conditions to Renewing Action on an Expired Application – In order to renew action on an application after expiration, the applicant shall resubmit plans if directed by the building official and shall pay a new plan review fee. The building official shall have authority to modify renewal fees where warranted.
- D. Automatic Expiration of Permits – Every permit issued by the building official under the provisions of this Chapter shall automatically expire and become null and void if the building or work authorized by the permit is:
 - 1. Not commenced within 180 days from the date of the permit; or
 - 2. Suspended or abandoned for a period of 180 days at any time after the work is commenced, or
 - 3. Not subject to inspection approval for a period of 180 days at any time after the work is commenced.
- E. Extensions on Unexpired Permits – Any permittee holding an unexpired permit may apply for an extension of the time within which to commence work under that permit when the permittee is unable to commence work within the time originally required for good reason. The building official may extend the time for action by the permittee for a period not exceeding 180 days if:
 - 1. The permittee requests an extension in writing; and
 - 2. The permittee shows that circumstances beyond permittee’s control have impeded progress under the permit.
 - 3. The unexpired permit remains consistent with the relevant provisions of this Chapter in effect on the date the request for a time extension is submitted.
- F. Timelines for Permits Issued to Resolve Violations – In those instances where a permit is issued to resolve a violation, the building official may specify the length of time an issued

- permit may remain valid and they may establish specific timelines for compliance.
- G. Pre-Conditions to Resuming Work on Expired Permit – Before resuming work under an expired permit, an existing permit must be renewed where appropriate or a new permit must be obtained if directed to do so by the building official, and an additional fee remitted. The fee will be determined under the following guidelines:
1. If no changes have been made or will be made in the original plans and specifications for the work to be resumed; and the suspension or abandonment of work under the permit has not exceeded six months, then no fee will be required to renew the permit; or
 2. If there have been or will be changes to the original plans and specifications for the work to be resumed, or the suspension or abandonment of work under the permit has exceeded six months but has not exceeded one year, then the permittee shall pay one half the amount of the full permit fee, plus additional plan review fees assessed at the County's currently hourly rate where applicable.
 3. If the suspension or abandonment of work under the permit has exceeded one year, then the permittee shall pay an amount equivalent to the full permit fee, plus additional plan review fees assessed at the County's current hourly rate where applicable.
 4. The building official shall have authority to modify renewal fees where warranted.

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

9.02.280 Work Without A Permit; Investigation Fees

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

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is ever issued. The investigation fee shall be based on the actual cost of the investigation or the average cost of such investigations per ORS 455.058, but not less than the amount specified in Appendices A&B of the Clackamas County Code. The payment of the investigation fee shall not exempt any person from compliance with all other provisions of this chapter nor from any penalty prescribed by law.

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

9.02.290 Transferability

With the permission of the building official a permit issued and paid for by a person or firm may be transferred to another person or firm to perform any work thereunder.

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

9.02.300 Suspension; Revocation

The building official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect, inaccurate or

incomplete information supplied, or in violation of any ordinance or regulation of any of the provisions of this chapter.

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

9.02.310 Inspections

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

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

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

9.02.320 Fees

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

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

The determination of value or valuation under any provisions of this chapter shall be made by the building official. The value to be used in computing building permit and plan review fees shall be the total value of all construction work associated with the permit, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. Valuations shall be determined as specified in OAR 918-050-0100. The building official may modify the valuation of any building or structure where warranted.

Enforcement fees are in addition to and not in lieu of civil penalties that may be imposed by a Compliance Hearings Officer or court. Enforcement fees shall be used to defray the costs of enforcement of the provisions of this chapter.

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

9.02.330 Violations And Enforcement

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

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

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

The County may, in addition to the other remedies provided by law, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove violations of this Chapter. The County may also enforce this chapter through the provisions of the Clackamas County Compliance Hearing Officer Ordinance.

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

9.02.340 Prioritization Of Violations For Enforcement

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

The top priority for Division resources is the processing of plans and permits properly applied for under the Codes. Although the Division must also address Code violations, violations vary greatly in severity, with some violations having a negligible impact on the public interest and others having a potentially great impact on the public interest. For this reason, the Board of County Commissioners has determined that the building official may prioritize violations for enforcement action without unduly compromising public policy. The Board of County Commissioners believes that this prioritization of violations for enforcement will result in the most effective and efficient re-allocation of Building Division resources.

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

Chapter 9.03

9.03 EXCAVATION AND GRADING

9.03.010 Purpose

The purpose of this chapter is to safeguard life, limb, property and the public welfare by regulating grading on private property.

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

9.03.020 Scope

This chapter sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction. All excavation, grading and earthwork construction, including fills and embankments, shall be performed in accordance with Appendix J of the Oregon Structural Specialty Code (OSSC), modified as follows:

- A. OSSC Section J104.1: Submittal requirements. In addition to the provisions of Section 105.3, the applicant shall state the estimated quantities of excavation and fill, and provide a quantity calculation and/or methodology.
- B. OSSC Section J104.2: Site Plan Requirements. In addition to the provisions of Section 107, a grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of this code. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this code. Cross section drawing(s) shall be provided and shall be of sufficient quality and detail to accurately represent the proposed work, and that it conforms to the requirements of this code.

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

9.03.030 Permits Required; Exceptions

No person shall do any excavation, grading or earthwork construction without first having obtained a permit from the Clackamas County Building Official or his/her designee. The following activities shall be exempt from this Chapter:

- A. Farm grading, as defined in ORS 30.936. All farm grading shall be done in accordance with ORS 455.315; and
- B. Grading performed as part of stream or habitat improvements, including turtle nests and log jams.

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

9.03.040 Fees

Fees are as set forth in Appendix A, “A500. Building”.

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

9.03.050 Bonds

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

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

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