

TIGARD MUNICIPAL CODE

Chapter 14.04 BUILDING CODE

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- 14.04.010 Title**

This chapter shall be known as the building code ordinance and may also be referred to as “this chapter,” or the “building code.” (Ord. 86-53 §2)

14.04.020 Definitions

For the purpose of Sections 14.04.010 through 14.04.090, the following terms shall be defined as follows:

A. “Building official” means the designee or designees appointed by the director of community development who is responsible for building inspections and enforcement of the building code.

B. “State building code” means the combined specialty codes as listed in Section 14.04.030. (Ord. 86-53 §2)

14.04.030 State Codes Adopted

A. Except as otherwise provided in this chapter, the following codes, standards and rules are adopted and shall be in force and effect as part of this municipal code. The provisions of these codes, in addition to their individual scoping provisions found therein, shall also apply to demolition of structures, equipment and systems regulated by such codes:

1. Under the authority of ORS 455.150 (effective 9/5/95), the City of Tigard administers those specialty codes and building requirements adopted by the state which the City of Tigard is granted authority to administer, including: the Structural, Mechanical, Plumbing, Electrical and Residential Specialty Codes; mobile or manufactured dwelling parks requirements; temporary parks requirements; manufactured dwelling installation, support and tiedown requirements and park or camp requirements (as listed in ORS 455.153);

2. Appendix Chapter J of the International Building Code, as published by the International Code Council, regarding excavation, including the recognized standards for Appendix Chapter J listed in Chapter 35 of the International Building Code;

3. Section 104.8 of the International Building Code, as published by the International Code Council, regarding liability;

4. AN109.4.2 through AN109.4.3 of the State of Oregon Structural Specialty Code for alternate fire sprinkler system requirements.

B. At least one copy of each of these specialty codes shall be kept by the building official and the Tigard Public Library, and shall be available for inspection upon request. (Ord. 05-06; Ord. 04-10; Ord. 01-25; Ord. 99-04; Ord. 96-10; Ord. 93-04 §1; Ord. 90-14 §1)

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14.04.040 Administration

A. The city shall provide a program of building code administration, including plan review, permit issuing and inspection for structural, electrical, mechanical and plumbing work. The program shall be administered by the building official, under the supervision of the community development director. The program shall operate pursuant to the state specialty codes listed in Section 14.04.030 and the remainder of this chapter.

B. Administration and enforcement of Appendix Chapter J, Excavation, as adopted by Section 14.04.030.A.2, shall be by the building official and city engineer. Where the term "building official" is used in Appendix Chapter J, it shall mean either the building official or city engineer.

C. Fees for permits and other related services pursuant to the building code administration program shall be established by resolution of the city council. (Ord. 04-10; Ord. 99-08; Ord. 96-10; Ord. 95-16; Ord. 93-04 §2; Ord. 86-53 §2)

14.04.050 Repealed by Ord. 96-10

14.04.060 Repealed by Ord. 01-25

14.04.065 Electrical Program Administration

A. Permit Required. Except as permitted by OAR 918-261-0000 through 0039, electrical work exempt from permit, subsection O of this section for minor installations, subsection P of this section for temporary electrical permits and subsection Q of this section for industrial plant electrical permits, no electrical work shall be performed unless a separate electrical permit for each separate building or structure has first been obtained from the building official.

B. Expiration of Permits. Permits shall expire pursuant to OAR 918-309-0000(7).

C. Validity of Permit.

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 code or of other ordinances of the jurisdiction. 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 upon plans, specifications, computations and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications, and other data or from preventing building operations being carried on thereunder when in violation of this code or of other ordinances of this jurisdiction.

D. Revocation of Permits. The building official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied or in violation of other ordinances or regulation of the jurisdiction.

E. Plan Review Requirements. Electrical plan reviews shall be required. Plan review requirements and procedures shall be as stipulated in OAR 918-311-0000 through 0060.

F. Expiration of Plan Review. Applications for which no permit is issued within 180 days following the date of 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

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upon 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. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

G. Permit Fees. Fees for electrical permits shall be established by resolution of the city council.

H. Investigation Fees—Work Without a Permit.

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

2. Fee. 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 that would be required by this code if a permit were to be issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

I. Fee Refunds.

1. The building official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

2. The building official may authorize refunding of not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. The building official may authorize refunding of not more than 80% of the plan

review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

4. The building official shall not authorize 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.

J. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this section 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 section which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this section provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

K. Corrections and Stop Orders. When any work is being done contrary to the provisions of this section, the building official may order the work corrected or stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and such persons shall forthwith make the necessary corrections or stop work until authorized by the building official to proceed with the work.

L. Authority to Disconnect Utilities in Emergencies. The building official or the building official's authorized representative shall have the authority to disconnect electrical service to a

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building, structure, premises or equipment regulated by this section in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection immediately thereafter.

M. Authority to Condemn Equipment.

1. When the building official ascertains that any equipment, or portion thereof, regulated by this section has become hazardous to life, health or property, the building official shall order in writing that the equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice shall contain a fixed time limit for compliance with such order. Persons shall not use or maintain defective equipment after receiving a notice.

2. When equipment or an installation is to be disconnected, written notice of the disconnection and causes therefor shall be given within 24 hours to the serving utility, the owner and occupant of the building, structure or premises. When any equipment is maintained in violation of this section, and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute an appropriate action to prevent, restrain, correct or abate the violation.

N. Connection after Order to Disconnect. Persons shall not make connections from an electrical service nor supply electrical power to any equipment regulated by this section 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 proper permits have been

obtained, inspections approved, and the building official authorizes the reconnection and use of such equipment.

O. Minor Installation Labels. Rules for the use, issuance, and inspection of minor installation labels shall be as stipulated in OAR 918-050-0500 through 0520.

P. Temporary Electrical Permits. Rules for the use of temporary electrical permits shall be as stipulated in OAR 918-309-0080.

Q. Industrial Plant Electrical Permits and Inspection. Rules for the use of industrial plant electrical permits and inspections shall be as stipulated in OAR 918-309-0100. (Ord. 04-10; Ord. 01-25; Ord. 95-16)

14.04.070 Occupancy Restriction Recordation

An applicant for a building permit for new construction, as a condition for the issuance of the permit, may be required to execute, notarize and deliver to the city a recordable occupancy restriction in the form of Exhibit A-1, attached to Ordinance 86-53, codified in this chapter. This requirement shall be at the discretion of the building official and the community development director. Upon receipt of the occupancy restriction, the building official shall record it in the deed records of Washington County. The recording fees shall be charged to the applicant. When the conditions in the occupancy restriction have been satisfied, the restriction shall be released and the occupancy certificate shall be issued. (Ord. 86-53 §2)

14.04.090 Violation—Penalty—Remedies

A. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, occupy or maintain a building or structure in the city, or cause the same to be done

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contrary to or in violation of this chapter.

B. No person shall install, alter, replace, improve, convert, equip or maintain any mechanical equipment or system in the city, or cause the same to be done contrary to or in violation to this chapter.

C. No person shall install, alter, replace, improve, convert, equip or maintain any plumbing or drainage piping work or any fixture or water heating or treating equipment in the city, or cause the same to be done contrary to or in violation of this chapter.

D. No person shall install, alter, replace, improve, convert, equip or maintain any electrical equipment or system in the city, or cause the same to be done contrary to or in violation of this chapter.

E. Violation of a provision of this chapter shall be subject to an administrative civil penalty of not more than \$5,000 for each offense or, in the case of a continuing offense, not more than \$1,000 for each day of the offense and shall be processed in accordance with the procedures set forth in Section 14.04.095.

F. Each day that a violation of a provision of this chapter exists constitutes a separate violation.

G. Notwithstanding the other remedies in this chapter, if the building official determines that any building under construction, mechanical work, electrical work, or plumbing work on any building or any structure poses an immediate threat to the public health, safety or welfare, he or she may order the work halted and the building or structure vacated pending further action by the city and its legal counsel.

H. The penalties and remedies provided in this section are not exclusive and are in addition

to other penalties and remedies available under city ordinance or state statute, except that violations of this chapter shall not be charged as civil infractions and prosecuted in Tigard Municipal Court. (Ord. 09-16 § 1; Ord. 95-16; Ord. 90-08 §4)

14.04.095 Building Official—Authority to Impose Administrative Civil Penalty.

A. In addition to, and not in lieu of, any other enforcement mechanism authorized by this code, upon a determination by the building official that a person has violated a provision of this chapter or a rule adopted thereunder, the building official may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by subsections A through L of this section. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

B. Prior to imposing an administrative civil penalty under this section, the building official shall pursue reasonable attempts to secure voluntary correction, failing which the building official may issue a notice of civil violation to one or more of the responsible persons to correct the violation. Except where the building official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than five calendar days.

C. Following the date or time by which the correction must be completed as required by an order to correct a violation, the building official shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the building official may issue a notice of civil violation to each person to whom an order to

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correct was issued.

D. Notwithstanding subsection B of this section, the building official may impose a civil penalty without having issued an order to correct violation or made attempts to secure voluntary correction where the building official determines that the violation was knowing or intentional or a repeat of a similar violation.

E. In imposing a penalty authorized by this section, the building official shall consider:

1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
2. Any prior violations of statutes, rules, orders, and permits;
3. The gravity and magnitude of the violation;
4. Whether the violation was repeated or continuous;
5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
6. The violator's cooperativeness and efforts to correct the violation; and
7. Any relevant rule of the building official.

F. The notice of civil penalty shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. A notice of civil penalty shall include:

1. A description of the alleged violation, including any relevant code provision numbers, ordinance numbers or other identifying references;

2. A statement that the city intends to assess a civil penalty for the violation and states the amount of the civil penalty;

3. A statement that the party may challenge the assessment of a civil penalty; and

4. A description of the means and the deadline for informing the city that the party is challenging the assessment of the civil penalty.

G. Any person who is issued a notice of civil penalty may appeal the penalty to the city manager or city manager's designee. The city manager's designee shall not be the building official or building inspector. The provisions of Section 14.04.098 shall govern any requested hearing, except that the burden of proof shall be on the building official.

H. A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the city manager or city manager's designee pursuant to, and within the time limits established by, Section 14.04.098. If the responsible person appeals the civil penalty to the city manager or city manager's designee, the penalty shall become final, if at all, upon issuance of the city manager or city manager's designee's decision affirming the imposition of the administrative civil penalty.

I. Each day the violator fails to remedy the code violation shall constitute a separate violation.

J. Failure to pay a penalty imposed hereunder within 10 days after the penalty becomes final as provided in subsection H of this section shall constitute a violation of this code.

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Each day the penalty is not paid shall constitute a separate violation. The building official also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection K of this section, other provisions of this code, or state statutes.

The civil penalty authorized by this section shall be in addition to:

1. Assessments or fees for any costs incurred by the city in remediation, cleanup, or abatement; and
2. Any other actions authorized by law.

K. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty become final, the building official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of city liens. At the time such an assessment is made, the building official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of city liens. The lien shall be enforced in the same manner as liens established by judgment of a hearings officer pursuant to Section 1.16.710 of this code, except that the building official shall be substituted for the hearings officer and a civil penalty shall be substituted for a judgment. The interest shall commence from the date of entry of the lien in the lien docket.

L. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to subsection A of this section shall be grounds for withholding issuance of requested permits or

licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy. (Ord. 12-01 §2; Ord. 09-16 §2)

14.04.098 Appeal Procedures

A. A person aggrieved by an administrative action of the building official taken pursuant to a section of this code authorizing an appeal under this section may, within 20 days after the date of notice of the action, appeal in writing to the building official. The appeal shall be accompanied by an appeal fee as established by the city and shall state:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives the objections, and the appeal shall be dismissed. Except as provided in subsection E of this section, the appeal fee is not refundable.

B. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.

C. Unless the appellant and the city agree to a longer period, an appeal shall be heard by the city manager or city manager's designee within 30

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days of the receipt of the notice of intent to appeal. At least 10 days prior to the hearing, the city shall mail notice of the time and location thereof to the appellant.

D. The city manager or city manager's designee shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the city manager or city manager's designee deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.

E. The city manager or city manager's designee shall issue a written decision within 10 days of the hearing date. The decision of the city manager or city manager's designee after the hearing is final and may include a determination that the appeal fee be refunded to the applicant upon a finding by the city manager or city manager's designee that the appeal was not frivolous. (Ord. 09-16 §3) ■