

## CHAPTER 11

### BENTON COUNTY BUILDING CODE

#### ADMINISTRATION AND ENFORCEMENT

**11.000 Jurisdiction.** The Benton County Building Code shall apply in all areas of Benton County except to the extent which incorporated cities within the county have elected, Pursuant to ORS 455.020, to administer all or part of the codes listed in the Benton County Code. [Ord. 97-0123]

**11.005 Title.** These regulations shall be known as the Benton County Building Code, may be cited as such and will be referred to herein as “this code.” [Ord. 97-0123]

**11.010 Purpose.** The purpose of this code is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of this jurisdiction who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation. [Ord. 97-0123]

**11.015 Scope.** This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way.

(1) Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(2) Where, in any specific case, there is a conflict between this code and Oregon Revised Statute, the statute shall govern. [Ord. 97-0123]

**11.020 Definitions.** For the purpose of this code, the following definition shall apply:

(1) Building Official - shall mean the Chief Building Official. [Ord. 97-0123]

**11.025 Alternate Materials and Methods.** The provisions of this code are not intended to prevent the use of any alternate material, design or method of construction not specifically prescribed by this code, provided such alternate has been approved and its use authorized by the building official.

(1) 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 of this code and that it is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

(2) The building official shall require that evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of any alternate material, design or method shall be recorded and entered in the files of the agency. [Ord. 97-0123]

**11.030 Modifications.** When there are practical difficulties in carrying out the provisions of this code, the building official may grant modifications provided the building official finds that the modification is in conformance with the intent and purpose of this code and that said modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the code enforcement agency. [Ord. 97-0123]

**11.035 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code or that any material, method or design does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to this jurisdiction.

(2) Test methods shall be as specified by this code 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 an approved testing agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records. [Ord. 97-0123]

#### **11.040 Powers and Duties of Building Official**

##### **11.045 General**

(1) There is hereby established a code enforcement agency which shall be under the administrative and operational control of the building official.

(2) The building official is authorized to enforce all the provisions of this code.

(3) The building official shall have the power to render written and oral interpretations of this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this code. [Ord. 97-0123]

**11.050 Deputies.** In accordance with prescribed procedures and with the approval of the appointing authority, the building official may appoint technical officers and inspectors and other employees to carry out the functions of the code enforcement agency. [Ord. 97-0123]

**11.055 Right of Entry.** When it may be necessary to inspect to enforce the provisions of this code, or 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 code, or which otherwise makes the building or premises 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 code, 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 ORS to secure entry. [Ord. 97-0123]

**11.060 Stop Work Orders.** Whenever any work is being done contrary to the provisions of this code (or other pertinent laws or ordinances implemented through its enforcement), the building official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the building official to proceed thereafter. [Ord. 97-0123]

**11.065 Authority to Disconnect Utilities in Emergencies.** The building official or the building official's authorized representative shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this code when 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 within a reasonable time thereafter. [Ord. 97-0123]

**11.070 Authority to Abate Hazardous Equipment**

(1) When the building official ascertains that equipment, or any portion thereof, regulated by this code has become hazardous to life, health or property, the building official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The notice shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the 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 involved utility, the owner and/or occupant of the building, structure or premises. When equipment is maintained in violation of this code and in violation of a notice issued pursuant to the provisions of this section, the building official may institute such action as he/she deems necessary to prevent, restrain, correct or abate the violation. [Ord. 97-0123]

**11.075 Connection after Order to Disconnect.** No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this code which has been disconnected or ordered disconnected or discontinued by the building official until the building official specifically authorizes the reconnection and/or use of such equipment. [Ord. 97-0123]

**11.080 Maintenance.** All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards

which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the building official may cause a structure to be re-inspected. [Ord. 97-0123]

**11.085 Occupancy Violations.** Whenever any building, structure or equipment therein regulated by this code is used contrary to the provisions of this code, the building official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the building official in his notice and make the structure, or portion thereof, comply with the requirements of this code. [Ord. 97-0123]

## **11.090 Appeals**

### **11.095 Appeal Procedure**

(1) Any person aggrieved by a decision of the building official made pursuant to the following specialty codes may appeal that decision to the following:

(a) Electrical Specialty Code - appeals may be made to the State of Oregon, Building Codes Division, Chief Electrical Inspector.

(b) Structural Specialty Code - appeals may be made to the State of Oregon, Building Codes Structures Board.

(c) Mechanical Specialty Code - appeals may be made to the State of Oregon, Building Codes Structures Board.

(d) Plumbing Specialty Code - appeals may be made to the State of Oregon, Building Codes Division.

(e) One and Two Family Dwelling Specialty Code - appeals may be made to the State of Oregon, Building Codes Structures Board.

(f) Manufactured Dwelling Code - appeals may be made to the State of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

(g) Recreational Park and Organizational Camp Regulations - appeals may be made to the State of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

(2) An appeal shall be in writing, shall describe the basis for the appeal and shall first be filed with the building official. [Ord. 97-0123]

## **11.100 Plans and Permits**

### **11.105 Issuance**

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

(2) When the building official issues the 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 and altered without authorizations from the building official, and all work regulated by this code shall be done in accordance with the approved plans.

(3) 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 code. The holder of a partial permit may proceed without assurance that the permit for the entire building or structure will be granted. [Ord. 97-0123]

**11.110 Retention of Plans.** One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than 90 days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant. Said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress. [Ord. 97-0123]

**11.115 Validity of Permit**

(1) The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction or any other federal, state, or local law, statute, rule, regulation, or ordinance.

(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, or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinances of this jurisdiction. [Ord. 97-0123]

**11.120 Expiration of Plan Reviews.** 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 to exceed 180 days on 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. [Ord. 97-0123]

### **11.125 Permit Expiration, Extension and Reinstatement**

(1) Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section.

(2) Every permit issued by the building official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. 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.

(3) Every permit issued by the building official shall expire by limitation and become null and void 6 months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

(4) EXCEPTION: At the time of permit issuance, the building official may approve a period exceeding 12 months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within 12 months unreasonable. The permittee shall pay an extension fee.

(5) Any permittee holding an unexpired permit may apply 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 to exceed 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.

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

(a) The Building Code under which the original permit was issued and other laws which are enforced by the code enforcement agency 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.

(7) The fee for a reinstated permit shall be one-half the amount required for a new permit or a permit reinstatement fee approved by the building official prior to expiration. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required. [Ord. 97-0123]

### **11.130 Work Without a Permit/Investigation Fees**

(1) 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) An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently 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. [Ord. 97-0123]

**11.135 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. [Ord. 97-0123]

**11.140 Suspension/Revocation.** The building official may, in writing, suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error on the basis of information supplied being incorrect, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provision of the County code. [Ord. 97-0123]

### **11.145 Inspections**

(1) 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, 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. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

(2) 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 such as to allow the building official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the building official. [Ord. 97-0123]

### **11.150 Various Codes**

#### **Structural Code**

**11.155 Enforcement of State Code.** The Oregon Structural Specialty Code, as adopted by OAR 918-460-010 through 918-460-015, except as modified in this code, is enforced as part of this code. [Ord. 97-0123]

**11.160 Adoption of Fire Flow Requirements (OPTIONAL).** Appendix Chapter 9 Division II of the 1996 edition of the Oregon Structural Specialty Code is adopted as part of this code with the following modifications:

**11.165 Decreases.** Fire-flow requirements may be modified downward by joint approval of the building official and the Chief of the Fire Department for isolated buildings or a group of buildings in rural areas or small communities where the development of full fire-flow requirements is impractical. [Ord. 97-0123]

**11.170 Increases.** Fire-flow requirements may be modified upward by joint approval of the building official and the Chief of the Fire Department where conditions indicated an unusual susceptibility to group fires or conflagrations. An upward modification shall not be more than twice that required for the building under construction. [Ord. 97-0123]

**11.175 Required Fire Flow.** No building shall be constructed, altered, enlarged, or repaired in a manner that by reason of size, type of construction, number of stories, occupancy, or any combination thereof creates a need for a fire flow in excess of 3000 gallons per minute (1.14 m<sup>3</sup>/min) at 20 pounds per square inch residual pressure, or exceeds the available fire flow at the site of the structure, whichever is less. [Ord. 97-0123]

**11.180 Fire Flow Requirements.** Fire flow requirements in excess of 3000 gallons per minute (1.14 m<sup>3</sup>/min) for buildings protected with automatic sprinkler systems may be allowed by the building official and the Chief of the Fire Department when:

- (a) the greater flow is made available at the building site through the existing water distribution system; and,
- (b) vehicle access as specified in Section 902.2.2 of the Uniform Fire Code is provided to all sides of the building. [Ord. 97-0123]

**11.185 Adoption of Additional NFPA Standards (OPTIONAL)**

(1) National Fire Protection Association (NFPA) standard 20, Centrifugal Fire Pumps (1993 Edition), is adopted as part of this code.

(2) National Fire Protection Association (NFPA) standard 22, Water Tanks for Private Fire Protection (1996 Edition), is adopted as part of this code.

(3) National Fire Protection Association (NFPA) standard 24, Private Fire Service Mains and Their Appurtenances (1995 Edition), is adopted as part of this code. [Ord. 97-0123]

**11.190 Mechanical Code**



**11.195 Enforcement of State Code.** The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-010 through 918-440-040, except as modified in this code, is enforced as part of this code. [Ord. 97-0123]

### **11.200 Process Piping**

(1) Appendix Chapter 14 of the Uniform Mechanical Code, 1994 Edition, published by the International Conference of Building Officials, except as modified in the following paragraph, is adopted as part of this code.

(2) Section 1401 of this Appendix chapter is modified to read as follows: The regulations of this chapter shall govern the installation of hazardous process piping in or in conjunction with a building or structure or located upon the premises. [Ord. 97-0123]

### **11.205 Plumbing Code**

**11.210 Enforcement of State Code.** The Oregon Plumbing Specialty Code, as adopted by 918-750-010, except as modified in this code, is enforced as part of this code. [Ord. 97-0123]

### **11.215 Electrical Code**

**11.220 Enforcement of State Code.** The Oregon Electrical Specialty Code, as adopted by OAR 918-290-010, except as modified in this code, is enforced as part of this code. [Ord. 97-0123]

### **11.225 One and Two Family Dwelling Code**

**11.230 Enforcement of State Code.** The Oregon One and Two Family Dwelling Specialty Code, as adopted by OAR 918-480-000 through 918-480-010, except as modified in this code, is enforced as part of this code. [Ord. 97-0123]

### **11.235 Manufactured Dwelling Code**

### **11.240 Parks**

**11.245 Enforcement of State Rules.** The manufactured dwelling park and mobile home park rules adopted by OAR 918-600-005 through 918-600-110, except as modified in this code, are enforced as part of this code. [Ord. 97-0123]

### **11.250 Manufactured Home Installations**

**11.255 Enforcement of State Rules.** The manufactured dwelling rules adopted by OAR 918-500-000 through 918-500-500 and OAR 918-520-010 through 918-520-020, except as modified in this code, are enforced as part of this code. [Ord. 97-0123]

### **11.260 Recreational Park and Organizational Camp Regulations**

**11.265 Enforcement of State Rules.** The recreational park and organizational camp rules adopted by OAR 918-650-000 through 918-650-085, except as modified in this code, are enforced as part of this code. [Ord. 97-0123]

## **11.270 Dangerous Buildings Code**

### **11.275 Unsafe Buildings**

(1) All buildings or structures regulated by this code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in this code, are hereby designated as unsafe building appendages.

(2) All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Buildings Code, or such alternate procedures as may have been or as may be adopted by this jurisdiction. As an alternative, the building official, or another employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation. [Ord. 97-0123]

### **11.280 Adoption of Uniform Code for the Abatement of Dangerous Buildings.**

The 1994 ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by this jurisdiction in 11.295. [Ord. 97-0123]

### **11.285 Supplementary Definitions**

(1) Board of Appeals - Board of Appeals established by the Boards and Commissioners Chapter 11, Section 11.090 and 11.095. [Ord. 97-0123]

**11.290 Deleted Provisions.** The following Sections and Chapters of the Dangerous Building Code as adopted by subsection 11.280 above are hereby deleted; Sections 205, 802, 906, 908, 909, 910, 911, and 912, and Chapters 5 and 6. [Ord. 97-0123]

**11.295 Time Period for Appeal.** Notwithstanding Section 401.2.5 of the Dangerous Building Code as adopted by subsection 11.270 and 11.275 above, the time period for appeals from notices, orders, or actions of the building official shall be 10 days. [Ord. 97-0123]

**11.300 Lien.** Any assessment imposed pursuant to Chapter 9 of the Dangerous Building Code as adopted by subsection 11.280 above shall be deemed to be complete immediately upon its being placed on the assessment roll, and the several amounts assessed shall be

payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 10 percent per annum from and after said date. The lien shall be enforced in the manner provided in ORS Chapter 223 and shall have priority over all such other liens and encumbrances of any character. Pursuant to Chapter 9 of the Dangerous Buildings Code as adopted by subsection 11.280 of this Section, the Board of Commissioners as the legislative body of the County, elects to treat costs associated with the abatement of dangerous buildings as a routine obligation of property owners. Therefore, any municipal costs incurred in the abatement of any dangerous building shall be an assessment against the property where the building is located. [Ord. 97-0123]

**11.305 Rules.** The Building Official is authorized to promulgate additional administrative rules and regulations related to the efficient administration and enforcement of the Uniform Code for Building Conservation. [Ord. 97-0123]

**11.310 Fees.**

- (1) Fees charged under this code shall be as provided in Chapter One, Benton County Code.
- (2) The building official may authorize the refunding of fees paid in accordance with the refund policy in effect in the jurisdiction.
- (3) The determination of value or valuation under any provisions of this code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. [Ord. 97-0123]

**11.315 Severability.** If any section, paragraph, subdivision, clause, sentence, or provisions of this code 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 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 code notwithstanding the parts to be declared unconstitutional and invalid. [Ord. 97-0123]

**11.320 Penalties.** The Building Official may enforce any provision of this Chapter pursuant to Chapter 26 of the Benton County Code. Any person violating any of the provisions herein for which a special penalty has not been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed \$1000 per violation. Each day that a violation exists is a separate offense. [Ord. 97-0123; Ord. 99-0147]