


COUNCIL ORDINANCE NO. 20692

**AN ORDINANCE CONCERNING ADMINISTRATION AND ADOPTION OF A
TECHNICAL CODE FOR CONSTRUCTION; AMENDING SECTIONS 8.001,
8.002, 8.003, 8.005 AND 8.010 OF THE EUGENE CODE, 1971; REPEALING
SECTIONS 8.265, 8.270, 8.275, 8.280, 8.285, 8.290, 8.295, 8.300, 8.305,
8.310, 8.905 AND 8.915 OF THAT CODE; AND PROVIDING AN EFFECTIVE
DATE.**

ADOPTED: July 10, 2023

SIGNED: July 11, 2023

PASSED: 7:0

REJECTED:

OPPOSED:

ABSENT: Leech

EFFECTIVE: September 1, 2023



ORDINANCE NO. 20692

AN ORDINANCE CONCERNING ADMINISTRATION AND ADOPTION OF A TECHNICAL CODE FOR CONSTRUCTION; AMENDING SECTIONS 8.001, 8.002, 8.003, 8.005 AND 8.010 OF THE EUGENE CODE, 1971; REPEALING SECTIONS 8.265, 8.270, 8.275, 8.280, 8.285, 8.290, 8.295, 8.300, 8.305, 8.310, 8.905 AND 8.915 OF THAT CODE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. A new heading, is added immediately before section 8.001 of the Eugene Code, 1971, and section 8.001 of the Eugene Code, 1971, is amended to provide as follows:

Construction

8.001 Construction -- Definitions.

For the purposes of sections 8.001 through 8.010 of this code, the following words and phrases, except where the context clearly indicates a different meaning, mean:

Building service equipment. The plumbing, mechanical, and electrical equipment that is essential to the occupancy of a building or structure for its designated use, including but not limited to piping, wiring, fixtures, and other accessories which provide sanitation, power, lighting, heating, ventilation, cooling, refrigeration, or fire protection facilities.

City or city manager. The city manager or the manager's designee.

Oregon specialty code. A code prescribing standards for construction which is adopted by the State of Oregon pursuant to OAR chapter 918, division 8. Collectively, the Oregon Specialty Codes are referred to as the State Building Code.

Permit. A building permit, electrical permit, etc., as the context may require. The term shall also include a combination permit, when appropriate.

Person in charge of property. An agent, occupant, lessee, tenant, contract purchaser, owner, or other person having possession or control of property or the supervision of any construction project.

Technical code. The Oregon Specialty Codes, the Fire Code, and other regulations prescribing standards for construction of buildings, structures, building elements, components or equipment that have been adopted by the city pursuant to the authority granted by section 8.010.

Section 2. Section 8.002 of the Eugene Code, 1971, is amended to provide as follows:

8.002 Construction -- Application of Regulations to Public Property.

Pursuant to ORS 227.286, the technical code shall apply to school district, county, state and other publicly owned or occupied property located within the city except property of the United States.

Section 3. Section 8.003 of the Eugene Code, 1971, is amended to provide as follows:

8.003 Construction -- State Standards For Fire Safety.

It is the policy of the city that standards of fire safety in the city be at all times as high as the standards of fire safety prescribed by or under the laws of the State of Oregon. Notwithstanding any lesser standard of fire safety indicated by this code or regulations adopted pursuant to it, any standard of fire safety now or hereafter prescribed by ORS Chapter 476 or by the State Fire Marshal in the Oregon Administrative Rules under ORS 476.030 shall apply in the city, and no person shall engage in any construction or other activity not meeting the state standard.

Section 4. The heading immediately preceding section 8.005 of the Eugene Code, 1971, is deleted and section 8.005 is amended to provide as follows:

8.005 Construction -- Administration.

(1) *Scope and authorization to adopt rules and fees.* The provisions of section 8.005, and the regulations administratively adopted by the city manager as authorized by this section, shall serve as administrative and enforcement rules for construction pursuant to chapter 8 of this code. Consistent with section 2.019, the city manager is authorized to adopt regulations, procedures, forms, interpretations, and written policies to implement the provisions of sections 8.005 through 8.010. Pursuant to section 2.020, the city manager is authorized to adopt fees pertaining to the activities authorized or required by sections 8.005 through 8.010.

(2) *Purpose.* The purpose of sections 8.005 through 8.010 is:

(a) To provide uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security, by regulating and controlling the design, construction, materials, use, occupancy, location and maintenance of structures, buildings, and building service equipment; and

(b) To protect life and property from the hazards of fire, panic and explosion arising from conditions hazardous to life or property in the use or occupancy of buildings, structures or premises, and for the storage, handling and use of hazardous substances, materials and devices.

(3) *Conflicting provisions.* Whenever conflicting provisions or requirements occur between an administrative provision in an Oregon Specialty Code adopted by the city manager pursuant to section 8.010 and this section or an administrative rule adopted pursuant to this section, this section or the administrative rule shall govern unless the Oregon Specialty Code explicitly preempts.

(4) *Enforcement generally.* The city manager is hereby authorized to administer and enforce all provisions of sections 8.005 through 8.010, any rules issued thereunder, and the technical codes.

(5) *Modifications, waivers, and interpretations.*

(a) *Modifications and waivers.* Wherever there are practical difficulties involved in carrying out the provisions of the technical codes, the city manager may grant modifications for individual cases, provided he/she shall first find that a special individual reason makes the strict letter of the technical code impractical and that the modification is in conformity with the intent and purpose of this code and the technical code. Where strict compliance would not meet the intent of the technical code, the city manager may grant a waiver of a technical code requirement. This subsection does not create a right to such waiver. A modification or waiver

shall not be granted if doing so would create an unsafe or dangerous condition regarding fire and life safety. The city manager's determination shall be final and not subject to appeal under EC 2.021.

(b) Interpretations. The city manager may render interpretations of the technical code and adopt policies and procedures in order to clarify the application of technical code provisions.

(6) *Liability.* Neither this code nor the technical code relieves or lessens the responsibility of any person owning, operating, constructing or controlling any building, structure or premises for any damages to persons or property caused by defects, nor shall the city or any of its agencies, officers, employees or agents be held as assuming any such liability by reason of the inspections authorized by, or any permits issued under this code or the technical codes.

(7) *When permits required.* Except as otherwise provided by regulation adopted by the city manager, no change of occupancy of a building shall be made, no site may be cleared or graded, and no building, structure or building service equipment regulated by sections 8.005 through 8.010 and the technical codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure, building service equipment, or site has first been approved by the city. The limitations of ORS 455.020 notwithstanding, permits are required to construct, alter, repair, move or demolish any structure as identified in sections 8.005 through 8.010 or the technical code except as exempted by a rule adopted by the city manager pursuant to this section or 8.010. Such permit shall be in addition to any other permit specifically required elsewhere by this code.

(8) *Application for permit.* To obtain a permit, the applicant shall complete and file an application and related materials as required by the city manager in regulations adopted pursuant to sections 8.005 and 8.010.

(9) *Alternate materials and methods.* The provisions of the technical code are not intended to prevent the use of any material or method of construction not specifically prescribed by the technical codes, provided any alternate has been approved and its use authorized by the city manager. The city manager may approve any alternate upon a determination that:

(a) That the proposed design is satisfactory and complies with the provisions of the technical codes, and

(b) That the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

(10) *Permits.*

(a) *Permit Issuance.* If work described in the application and related materials conforms to the requirements of sections 8.005 through 8.010, the technical code, other pertinent laws, and regulations adopted by the city manager, and the required fees have been paid, the city manager shall issue a permit to the applicant. Approved plans and specifications shall not be changed, modified or altered without authorization from the city manager, and all work shall be done in accordance with the approved plans. Notwithstanding any other provision of this code, the city manager may deny or refuse to issue a permit under this section if the applicant has not obtained an erosion prevention permit under section 6.635, where required.

(b) *Partial permit issuance.* The city manager may issue a permit for the construction of part of a building, structure or building service equipment before the entire plans and specifications of the whole building, structure or building service equipment have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of the technical code. The holder of such permit shall proceed at his/her own risk without assurance that the permit for the entire building, structure or building service will be granted.

(c) *Validity of permit.* 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 sections 8.005 through 8.010, the technical code, state statutes, or of any other ordinance or regulation of the city. Permits presuming to give authority to violate or cancel any of those provisions shall not be valid. The issuance of a permit based upon plans, specifications and other data shall not prevent the city manager 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 those provisions or of any other ordinances or regulations of the city.

(d) *Expiration of a permit.* Unless the holder of a permit requests and is granted an extension by the city manager, every permit issued under the provisions of sections 8.050 through 8.010 shall automatically expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within 360 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 360 days, or if the owner or builder fails to call for an inspection at a minimum every 360 days. Before such work can be recommenced, a new permit shall be obtained.

(e) *Suspension or revocation of a permit.* The city manager may suspend or revoke a permit issued under the provisions of this section and the technical code whenever the permit was issued in error or on the basis of incorrect information supplied, or that the issuance violates a city regulation.

(11) *Inspections.*

(a) All construction or work for which a permit is required shall be subject to city inspection and all such construction or work shall remain accessible and exposed for inspection purposes until approved. The city manager shall specify, by administrative rule, the types and timing of inspections.

(b) Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of sections 8.005 through 8.010, the technical code, or other regulations of the city. Inspections presuming to give authority to violate or cancel such provisions shall not be valid.

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

(d) A survey of the lot may be required by the city manager to verify that the structure is located in accordance with the approved plans and ordinances and regulations of the city.

(e) Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the city manager.

(f) All building service equipment for which a permit is required by this code shall be subject to inspection by the city manager. No portion of any building service equipment shall be concealed until inspected and approved. Building service equipment regulated by the technical code shall not be connected to the water, fuel or power supply or sewer system until authorized by the city manager.

(g) *Existing structures.*

1. In addition to inspections authorized elsewhere in this section, the city manager may enter a building or premises whenever the city manager has reasonable cause to believe that there exists in such building or upon such premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous.

2. The city manager also may enter all buildings and upon all premises, except private residences, for the purpose of conducting routine or periodic inspections to ascertain if fire hazards exist therein or thereon. For purposes of this paragraph, a private residence means a single family dwelling, a duplex, triplex, town house, or individual dwelling units within an apartment or condominium building; private residence does not include common areas in apartment or condominium buildings, or in other multi-family dwellings. The city manager also may enter any building or premises wherein fire has occurred, and other buildings or premises adjoining or near the same. The city manager may enter any building or premises where there is probable cause to believe that a condition of nonconformity with a fire safety standard or order exists.

3. The city manager may enter such buildings or premises at all reasonable times to inspect the same.

4. If a building or premises is occupied, the city manager shall first present proper credentials and request entry; and if such building or premises is unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. No person shall deny a request for, or interfere with or prevent, any inspection authorized by this section. Should entry be refused, the city manager shall have recourse to every remedy provided by law to secure entry, including the issuance of search warrants.

(12) *Special inspections.*

(a) In addition to the inspection requirements contained in subsection (11) above, the city manager may prescribe by rule special inspections for which the owner of a construction project or the engineer or architect of record acting as the owner's agent shall be responsible for obtaining from one or more special inspectors.

(b) The city manager may prescribe by rule the specific qualifications, duties, and responsibilities of special inspectors.

(13) *Tests.* Whenever there is (a) insufficient evidence of compliance with any of the provisions of this section or the technical code, or (b) evidence that any material or construction does not conform to the requirements of this section or the technical code, the city manager may require tests as proof of compliance to be made at the expense of the owner, occupant or permit holder.

(14) *Connection to utilities.* Until approved by the city manager, no person shall make connections from a source of energy, fuel or power to any building or building service equipment regulated by the technical code (a) for which a permit is required by this code, (b) which has been disconnected or ordered disconnected by the city manager, or (c) the use of which has been order discontinued by the city manager.

(15) *Certificate of Occupancy.*

(a) No person in charge of property shall use or occupy, or shall cause to be used or occupied, any building or structure, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made by any person in charge of property, until the city manager has inspected the building or structure or portion thereof as part of the final inspection and has issued a certificate of occupancy.

(b) If the city manager finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, he/she may issue a temporary certificate of occupancy for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.

(c) The certificate of occupancy shall be posted in a conspicuous place on the premises. No person shall remove, deface, or tamper with any notice or order posted upon a building pursuant to this code, unless first authorized by the city manager.

(d) The city manager may deny a certificate of occupancy if permits necessary for the building's intended use, such as hazardous materials or fire safety permits, have not been obtained. The city manager may suspend or revoke a certificate of occupancy issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof, or the use of a building or structure or portion thereof is in violation of any ordinance or regulation or any provision of this code or the technical code. Such denial, suspension or revocation may be appealed to a hearing officer pursuant to this section.

(e) *Transfer of ownership.* Prior to selling, transferring or granting a building or premises for which the city manager has issued any permit, notice, or order pursuant to this code, the owner or person in charge of the building or premises shall comply with the provisions of the permit, notice, or order or furnish to the purchaser, transferee, or grantee, prior to such sale, transfer, or grant, a true copy of the permit, notice, or order, and at the same time give adequate notice to the city manager of the intent to sell, transfer, or grant, and supply the city manager with the name and address of the person to whom the sale, transfer, or grant is proposed. A purchaser, transferee, or grantee who has been informed of the existence of such a permit, notice, or order shall be bound thereby and shall secure a certificate of occupancy as provided by this section.

(16) *Numbering of Structures and Premises.* All numbering of structures and premises shall be done after assignment of a number by the city manager according to the following system:

(a) The numbering of dwellings and business buildings shall be done by providing 100 numbers in each block. On streets running east and west, the odd numbers shall be on the north side of the street, and the even numbers on the south side of the street. On streets running north and south, the odd numbers shall be on the east side of the street, and the even numbers on the west side of the street.

(b) All numbers used on dwellings and business buildings shall comply with standards adopted by the city manager.

(c) Owners of all apartment units, mobile home parks, and other multiple-unit dwellings shall submit or cause to be submitted to the city manager a legible map indicating the locations and numbers of apartments/spaces.

(d) No owner, agent or other person having control of a dwelling or business building shall refuse or neglect to permanently number the same prior to the request for a final building inspection required by this section.

(e) Dwellings and business buildings in annexed areas shall be numbered in accordance with this section and to conform to the city's block numbering system.

(17) *Notification of violations.* Upon finding a violation of any provision of this section, the technical code, or any regulation adopted by the city manager pursuant to sections 8.005 or 8.010, the city manager shall notify the occupant or owner of the building or premises or his or her agent, of the violation. As part of the notice, or separately, enforcement action authorized by this code, or elsewhere in this code, may be taken.

(18) *Reinspection.* In addition to other enforcement actions taken, the city manager may set a time and date for a reinspection to determine whether the violations identified have been corrected.

(19) *Stop work orders.* Whenever the city manager determines that work is being done in violation of provisions of this section, the technical code, or regulations administratively adopted pursuant to sections 8.005 through 8.010, or whenever the city manager has probable cause to believe that any other provision of this code, is being violated in connection with a project for which the city manager has issued a permit pursuant to those code provisions or regulations, the city manager may order the work stopped by issuing a written stop work order that is posted on the project site or served on any person engaged in doing the work or causing the work to be done. Any such person shall immediately stop the work until authorized by the city manager to proceed.

(20) *Stop use order.* Whenever the city manager determines that any building, structure, or premises is being used in violation of the provisions of this section, the technical code, or other regulations administratively adopted pursuant to section 8.005 or 8.010, the city manager may order, by written notice, that such use be discontinued, and may further order that the structure, premises or portion thereof be vacated. The notice shall be served on any person causing such use to be continued. Whenever the city manager determines that any equipment or system, or portion thereof, regulated by the technical code has become hazardous to life, health or property, the city manager may order that such equipment either be removed or restored to a safe or sanitary condition, as appropriate. The notices described in this subsection shall fix a time limit for compliance with such order. No person shall use a building, structure, premises, equipment or system after receiving such notice until authorized by the city manager.

(21) *Abatement of Dangerous Buildings.*

(a) No person in charge of property upon which a dangerous building exists shall knowingly suffer or permit such building or unsafe appendage to be or remain dangerous for more than ten (10) days after receipt of notice of the dangerous condition.

(b) The city manager shall specify, by rule, conditions under which a building shall be considered dangerous for purposes of this section. Such conditions shall include any structure, building or portion thereof, or any building service equipment which:

1. Is deficient in terms of life safety, including but not limited to, inadequate exit way facilities,
2. Is structurally unsound and could lead to its partial or entire collapse so as to endanger other properties or human life, or
3. Is especially liable to cause fire, electrical shock, asphyxiation, or spread of contagious or infectious disease.

(c) Whenever the city manager concludes that a dangerous building exists, he/she shall post upon each exit of the building a notice which declares the building unsafe; prohibits entry; describes the property by address; and informs the owner, occupant or other responsible person that the unsafe conditions must be remedied within a set period of time, or that the city may proceed to make the building safe or demolish the building and charge the cost to the owner. The notice also must state that it can be appealed within ten days from the date of posting.

(d) In addition to posting the dangerous building, the city manager shall send a copy of the posting to all persons identified by the records of the county Department of Assessment and Taxation as the owners of the property and notify them of the emergency and the conditions which necessitated the determination and posting. The notice shall be personally served or sent by certified mail no later than two working days following the date of posting.

(e) No person shall remain in or enter any building which has been posted as dangerous, except that entry may be made to repair, demolish, or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and a certificate of occupancy issued by the city manager.

(f) Either an owner or tenant of the property may appeal to a hearing official as provided in subsection (7)(b) of this section. In addition to the other authority delegated to the hearing official, the hearing official may order it removed and abated if in his/her judgment such removal or abatement is necessary to remove the dangerous condition. The hearing official also shall have the power to order the building made safe or to prescribe what acts must be done to render the same safe.

(g) Every building or part thereof which is found to be a dangerous building is hereby declared to be a public nuisance, and the same may be abated either summarily under section 6.110 or through the procedures specified in this section, or by a suit for abatement thereof brought in a court of competent jurisdiction.

(22) *Utility disconnect.* The city manager may disconnect any utility service or energy supplied to any building, structure or building service equipment therein where necessary to eliminate an immediate hazard to life or property, where work has been performed without a required permit, where work is being done in violation of sections 8.005 through 8.010 or the technical code, and where the building is being occupied in violation of sections 8.005 through 8.010 or the technical code. Whenever possible, the city manager shall notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify

such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter. The city manager shall thereupon place a notice on the premises in a manner to reasonably apprise those coming on the property of the disconnection. It shall be unlawful for any person to remove the notice of disconnection. The city manager shall authorize reconnection of utility service when he/she is satisfied the condition which led to the disconnection will be expeditiously corrected or is corrected.

(23) *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 city manager that a person has violated any provision of sections 8.005 through 8.010 or any provision of a rule adopted under section 8.005 or 8.010, the city manager may impose upon the violator and any other responsible person, an administrative civil penalty as provided by section 2.018. For purposes of this section, a responsible person includes:

1. The owner of the building, and
2. Where the violator works for a contractor, either as an employee, subcontractor, or independent contractor, the contractor and/or other employer.

(b) In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative penalty imposed pursuant to subsection (a) shall be grounds for:

1. Withholding issuance of any requested permits or inspections for the property at which the violation occurred, and
2. Issuance of a stop work order or stop use order.

(24) *Enforcement mechanisms non-exclusive.* No enforcement mechanism is exclusive. The city manager may employ one or more of the enforcement mechanisms authorized above or elsewhere in this code.

(25) *Appeals.*

(a) An appeal of an order, decision, or determination concerning the application of an Oregon Specialty Code adopted by the city manager pursuant to the authority in section 8.010 shall be filed with the state specialty code chief pursuant to ORS 455.475 and any state administrative rules adopted to implement that law.

(b) A person aggrieved by a city manager order, decision, or determination concerning the application of a portion of the technical code that is not described in subsection (a), and that is not otherwise appealable pursuant to ORS 455.475, may file an appeal pursuant to section 2.021, except that the hearing officer shall issue a written decision within 20 days of the hearing date notwithstanding subsection 2.021(6).

Section 5. Section 8.010 of the Eugene Code, 1971, is amended to provide as follows:

8.010 Construction -- Technical Code.

(1) Following the procedures set forth in section 2.019 of this code, the city manager is authorized to adopt a technical code to regulate the construction of buildings, structures, building elements, components and equipment. The technical code shall include but is not limited to, a structural code, residential code, mechanical code, plumbing code, electrical code, standards for work within the right of way, standards for site work, and a fire code. The city manager is also authorized to adopt fees related to the technical code pursuant to section 2.020 of this code.

(2) Conflicting provisions. Whenever conflicting provisions or requirements occur between this section or an administrative rule adopted pursuant to this section, and a provision in an Oregon Specialty Code, this section or the administrative rule shall govern unless the Oregon Specialty Code explicitly preempts.

(3) In making rules and regulations establishing minimum standards for the protection of life and property against fire, the city manager shall consider the fire code adopted by the state fire marshal, and national standards adopted by the National Fire Protection Association. The city manager shall adopt rules which provide the same or greater degree of safety as the state fire code. The new fire code adopted by the city manager may include requirements for fire safety permits and hazardous materials permits, as well as provisions for payment of fees for such permits. In the new rules, the city manager also shall address issues related to wild/and/urban interface hazards.

(4) Violation of any provision of the technical code or administrative rule adopted in accordance with this section shall constitute a violation of this code, subjecting the violator to the penalties set forth in section 8.990 of this code. Those penalties are not the exclusive. The city manager may employ one or more of the enforcement mechanisms authorized in EC 8.005 or elsewhere in the Eugene Code, 1971.

Section 6. The heading immediately preceding section 8.265 of the Eugene Code, 1971, is deleted and sections 8.265, 8.270, 8.275, 8.280, 8.285, 8.290, 8.295, 8.300, 8.305, and 8.310 are repealed.

Section 7. The heading immediately preceding section 8.905 of the Eugene Code, 1971, is deleted and sections 8.905 and 8.915 are repealed.

Section 8. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 9. Notwithstanding Section 32 of the Eugene Charter 2002, this ordinance will become effective on September 1, 2023.

Passed by the City Council this

10th day of July, 2023



City Recorder

Approved by the Mayor this

11 day of July, 2023



Mayor