

City of Durham

ORDINANCE 275-26

AN ORDINANCE OF THE CITY OF DURHAM, OREGON ADOPTING BUILDING CODE PROVISIONS FOR APPLICATION WITHIN THE CITY OF DURHAM AND REPEALING ORDINANCE 271-25, AND DECLARING AN EMERGENCY

WHEREAS, the City of Durham seeks to consolidate its Building Code to ensure clear standards for construction, safety, and permit administration; and

WHEREAS, the City is authorized under ORS Chapter 455 to administer a building inspection program, appoint a Building Official, and adopt state specialty codes; and

WHEREAS, the City Council finds it efficient to establish administrative procedures for permit lifespans, fees, and enforcement and to exercise local options for specific structures; and

WHEREAS, these updates are necessary to protect the public health, safety, and welfare of the community;

NOW, THEREFORE, THE CITY OF DURHAM, OREGON ORDAINS AS FOLLOWS:

- Section 1.** Ordinance 275-26 is adopted and shall be known as the “Building Code”, and may so be cited and pleaded, and shall be cited herein as “this ordinance.” This ordinance is in addition to the provisions of the City of Durham Development Code. The City Administrator is directed to codify Exhibit “A” and is authorized to make non-substantive edits necessary for organization, formatting, and consistency, and to correct any scrivener’s errors that may be found in Exhibit “A” during codification.
- Section 2.** Ordinances 271-25 and all other ordinances that may be currently in effect that adopt or amend city specialty codes are hereby repealed in their entirety.
- Section 3.** If any provision, section, phrase, or word of this Ordinance or its application to any person, or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.
- Section 4.** With this Ordinance being necessary to protect the public’s health and safety, an emergency is declared, and the Ordinance shall take effect immediately upon being passed and adopted by the City Council.

PASSED AND ADOPTED by the City of Durham, Oregon, this 26th day of May 2026.

First Reading: May 26, 2026

Second Reading: May 26, 2026

CITY OF DURHAM

By: _____

Joshua Drake, Mayor

ATTEST:

Jordan Parente, City Administrator/Recorder

City of Durham

ORDINANCE 275-26
BUILDING CODE – EXHIBIT “A”

1. Title for citation.

The ordinance codified herein shall be known as the “Building Code”, and may so be cited and pleaded, and shall be cited herein as “this ordinance.”

2. Purpose.

The purpose of the Building Code is to establish minimum uniform performance standards providing a reasonable level of safety, public health and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire, explosion and other hazards, and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations.

3. Scope and Application

- A. Except for buildings, structures, or appurtenances that are otherwise exempt or not included in the Building Code, the Building Code shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, and installation of materials and equipment in or part of buildings, structures, or appurtenances connected or attached to such buildings or structures, except those permissibly located in a public way, or work associated with hydraulic flood control structures or public utility poles and towers. Demolition, grading, excavation, and fill are regulated only as expressly provided in this ordinance, the Durham Development Code, adopted resolutions, or other applicable law.
- B. Where, in any specific case, different sections of the Building 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.
- C. Where, in any specific case, there is a conflict between the Building Code and any Oregon Revised Statute, the statute shall govern. The provisions of this Building Code shall not be deemed to nullify any provisions of local, state or federal law.
- D. If, in a specific case, there is a conflict between the administrative procedures of this chapter and a given code, the procedures within the Building Code shall govern. If, in a specific case, there is a conflict between the technical provisions of this chapter and a given code, the provisions within that code shall govern.
- E. Where Oregon law authorizes local adoption, local administration, or local regulation of a matter, the City’s adopted local provisions shall apply. Nothing in this ordinance is intended to create a local amendment to the State Building Code unless such amendment is authorized by Oregon law.

4. Definitions.

For purposes of this Building Code, the following terms are defined as follows:

- A. “Building Official” means the Building Official of the City of Durham, or the Building Official’s duly authorized representative.
- B. “Business Days” means days of the week excluding Saturdays, Sundays, and legal holidays observed by the City.
- C. “Calendar Days” means all days of the week including Saturdays, Sundays, and holidays.
- D. “City Council” means the City of Durham City Council.
- E. “The City” means the City of Durham, Oregon.
- F. “City Administrator” means the City Administrator of the City of Durham, or the City Administrator’s duly authorized representative.
- G. “Construction Documents” means written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a Permit.
- H. “Demolition” means the complete or substantial destruction, removal, or dismantling of a building, structure, regulated appurtenance, or portion thereof, including the removal of more than 50 percent of the perimeter walls of a building. Non-habitable, non-historic accessory structures 200 square feet or less are exempt unless otherwise regulated by the Oregon specialty codes, the Durham Development Code, or another provision of City code.
- I. “Permit” means a building, mechanical, plumbing, grading, demolition, or other associated permit issued by the Building Official, City Administrator, or City Administrator’s duly authorized representative for activities identified in the scope.
- J. “Receipt” means the earliest of the following:
 - 1) If served by personal delivery, the date of the letter, notice, or order
 - 2) If served by certified or registered mail, return receipt requested, three (3) days after the date of the letter, notice, or order;
 - 3) If served by first class mail, three (3) days after the date of the letter, notice, or order; or
 - 4) If served by email, the date of a response email to the letter, notice, or order.

5. Building Official Services.

Durham City Council from time to time may provide the services of a person to act as the City Building Official by employment contract managed by the City Administrator or duly authorized representative, by intergovernmental agreement with another local government under authority of ORS Chapter 190, or by professional services contract with a private person or entity.

- A. The Building Official shall perform those duties assigned under the City’s applicable building official services agreement or intergovernmental agreement, including permit review, plan review, inspections, and technical code administration for active permits.
- B. The City Administrator is authorized to administer and enforce this ordinance for matters not covered by such agreement, including unpermitted work, stop work orders, civil infractions, demolition, grading, excavation, fill, work in easements or rights-of-way, and other local administrative or enforcement actions.

6. Building Permit Life.

Every permit issued shall become invalid unless the work authorized by the permit is commenced within 180 days after issuance, or if the work authorized by the permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official, or the City Administrator for permits or approvals administered by the City, is authorized to grant, in writing, one or more extensions of time for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause shall be demonstrated. Permit fees, renewal fees, or other administrative fees may be established by City Council resolution.

7. Standards for Fees by Resolution.

Durham City Council shall, by resolution, provide fees to be charged to persons seeking a permit under the City’s Building Code.

8. Applicable Building Code Standards and Fees.

Durham City Council shall, by resolution, adopt provisions of the Building Code to allow the City the flexibility and timely response to remain current with state and federal requirements and regulations, new technologies, and best practices. All applicable specialty codes, rules and standards adopted via resolution will be enforced by the City.

- A. Structural Specialty Code. The City’s adoption of a Structural Specialty Code shall be by resolution and will be incorporated as part of the Building Code.
- B. Mechanical Specialty Code. The City’s adoption of a Mechanical Specialty Code shall be by resolution and will be incorporated as part of the Building Code.
- C. Residential Specialty Code. The City’s adoption of a Residential Specialty Code shall be by resolution and will be incorporated as part of the Building Code.
- D. Oregon Energy Efficiency Specialty Code (OEESC). The City’s adoption of an Energy Efficiency Specialty Code shall be by resolution and will be incorporated as part of the Building Code.
- E. Plumbing Specialty Code. The City’s adoption of a Plumbing Specialty Code shall be by resolution and will be incorporated as part of the Building Code.
- F. Fire Code. The City’s adoption of the Fire Code will be by resolution and shall be incorporated as part of the Building Code.
- G. Fees. Permit fees will be adopted by resolution.

H. The City does not administer or enforce the Oregon Electrical Specialty Code. Electrical permits, inspections, and electrical code enforcement within the City are administered by Washington County or the otherwise applicable electrical permitting authority. Nothing in this ordinance is intended to assume or transfer electrical permitting or inspection authority to the City.

9. Additional Local Permit Requirements and Locally Adopted Standards.

The City further elects to adopt additional local permit requirements into this ordinance that are optional provisions of the Building Code or matters outside of the statutory authority of the state building code. The City shall adopt additional Building Code standards by resolution.

Optional Oregon Residential Specialty Code (ORSC) provisions.

- A. Retaining Walls: Retaining walls that are over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall and that support a surcharge. Retaining walls that support an ascending slope exceeding 3:1 or that support a non-soil surcharge.
- B. Tanks that are located exterior to and not attached to or supported by a regulated building.
- C. Ground-mounted photovoltaic systems over ten feet in height measured to the highest point of the installation or where public access is permitted beneath the structure.
- D. Freestanding radio, television, and other telecommunication antennae and towers, not attached to or supported by a regulated building.
- E. Cellular phone, radio, television and other telecommunication and broadcast towers that are not attached to or supported by a regulated building.
- F. Flagpoles not attached to or supported by a regulated building, and which are over 25 feet in height.

Locally Adopted Demolition, Grading, Excavation and Fill Standards

To the extent demolition, grading, excavation, or fill activities are not otherwise regulated under the statutory authority of the State Building Code, the City locally adopts standards pursuant to its home rule and other applicable local authority. These provisions are adopted to establish local permit, safety, site protection, drainage, erosion control, and enforcement standards and shall be administered in coordination with the Building Official, City Administrator, Clean Water Services, and other applicable agencies.

10. Demolition Permits

A demolition permit shall be required to demolish any structure that is required to obtain a building permit under the Oregon specialty codes or that is required to obtain a permit under this ordinance, except fences unless otherwise required by another provision of City code. A demolition permit may be conditioned on compliance with applicable state and federal requirements, including asbestos, lead-based paint, erosion control, utility disconnection, right-of-way protection, and site restoration requirements.

11. Work without a Permit; Investigation Fees.

- A. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish, grade, excavate, fill, change the character or use of the occupancy, or change the occupancy of a building, structure, site, or regulated appurtenance regulated by this Building Code, or to cause any such work to be performed, shall first make application to the City and obtain the required permit.
- B. Whenever any work for which a Permit is required by the Building Code has been commenced without first obtaining the Permit, a special investigation shall be made before a Permit may be issued for such work.
- C. An investigation 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 the Building Code nor from any penalty prescribed by law.
- D. Any person, firm or corporation performing, or found to have performed work, prior to obtaining a Permit where a Permit is required for such work, shall be subject to the penalties of this Building Code.
- E. Exception to this Section. The person, firm or corporation is working under a pre-approved process as defined by a specific administrative policy of the Building Official may be excepted from this Section.

12. Right of Entry.

Where necessary to inspect or investigate work, activity, or conditions regulated by this ordinance, the Building Official, City Administrator or their duly authorized representative may request entry onto property or into a structure at reasonable times. If the property or structure is occupied, credentials shall be presented and entry shall be requested. If the property or structure is unoccupied, reasonable effort shall first be made to locate the owner, owner's authorized agent, or other person having charge or control of the property and request entry. If entry is refused or cannot be obtained, the City shall have recourse to all remedies provided by law to secure entry. Nothing in this section authorizes entry in violation of state or federal law.

13. Stop Work Order.

A. Authority

Where the City finds any work regulated by this Code being performed in a manner either contrary to the provisions of this Code, in a dangerous or unsafe manner, or in a manner that interferes with the City's real property rights, as determined in the City Administrator's sole discretion, the Building Official or the City Administrator are authorized to issue a stop work order.

B. Issuance

The stop work order shall be in writing and shall be given to the owner of the property involved, the owner's authorized agent, or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

C. Unlawful Continuance

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, commits a civil infraction punishable as described in the Penalty section of this ordinance.

14. Suspension or Revocation

The Building Official, or the City Administrator for permits or approvals administered by the City, may, in writing, suspend or revoke a Permit issued under the provisions of the Building Code whenever the Permit is issued in error on the basis of incorrect, inaccurate, or incomplete information supplied, or if its issuance or activity thereunder is in violation of this ordinance, any adopted resolution, permit condition, approved construction document, or other applicable City ordinance or regulation.

15. Appeals.

- A. A person may appeal a decision of the Building Official to the State Specialty Code Chief, as provided by OAR 918-008-0120. The appeal must be filed within thirty (30) calendar days of the Building Official's decision.
- B. Appeals of land use decisions are processed in accordance with the Durham Development Code.
- C. Appeals of administrative decisions of the Building Official are made to the City Administrator.
- D. Appeals of civil penalties issued by the Building Official, or the City Administrator, are made to City Council.
- E. Any person aggrieved by the final decision of the City Council that pertains to a State of Oregon Building Code adopted by the City may appeal to the appropriate state advisory board as provided by Oregon law.

16. Appeals Procedure.

- A. A person aggrieved by an appealable action taken under this Building Code may, within ten (10) Business Days after the Receipt of notice of the action, appeal in writing to the City Administrator, unless this ordinance or state law provides for appeal to another body or official. The appeal shall state:
 - a. The name and address of the appellant;
 - b. The nature of the determination being appealed;
 - c. The reason the determination is incorrect; and
 - d. What the correct determination of the appeal should be.
- B. Dismissal.
 - a. An appellant who fails to file such a statement within the time permitted waives the objections, and the appeal shall be summarily dismissed by the City Administrator not later than five (5) Business Days after receipt of the appeal.

- b. If an appellant timely files an appeal, but fails to meet requirements (a) through (d) of subsection (1), the City Administrator will notify the appellant in writing the defect(s) of the appeal and allow the appellant five (5) Business Days from Receipt of the notification of defect(s) to correct the defect(s) and resubmit the appeal. If appellant fails to correct the defect(s) and resubmit the appeal within the five (5) Business Days, the appeal shall be summarily dismissed by the City Administrator not later than five (5) Business Days after the date by which the appeal was resubmitted or had to be resubmitted, whichever is earlier.
- c. Upon Receipt of a timely appeal that meets the requirements of subsection (1), the official who issued the determination may prepare a written response brief to the City Administrator and the appellant no less than seven (7) calendar days prior to the hearing date.
- d. 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.
- e. Unless the appellant and the City Administrator agree to a longer period, an appeal shall be heard by the City Administrator within thirty (30) calendar days of the Receipt of the appeal. No later than seven (7) calendar days prior to the hearing, the City Administrator shall mail notice of the time and location thereof to the appellant.
- f. The City Administrator shall hear and determine the appeal based on the appellant's written statement, the official who issued the determination's response brief, if any, and any additional evidence the City Administrator deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The official who issued the determination may also present testimony and oral argument and may have the City represented by the City Attorney's Office if the appellant is represented by counsel. The rules of evidence as used by courts of law do not apply.
- g. The City Administrator will issue a written decision within ten (10) Business Days of the hearing date. The decision of the City Administrator after the hearing is final.
- h. Any legal action contesting the City Administrator's decision on the appeal must be filed within sixty (60) calendar days of the City Administrator's decision. Review of the City Administrator's decision shall be by writ of review pursuant to ORS 34.010 to 34.100.

17. Filing Parties.

Appeals may only be filed by the following parties affected by a decision:

- a. The permit applicant, owner or the owner's authorized representative; or
- b. The violator or a responsible person who has received notice of violation or civil penalty.

18. Lien

- A. There shall be a lien created and it shall be done in accordance with this ordinance.
- B. Any fine, assessment, or civil penalty imposed pursuant to the Building Code that

remains unpaid thirty (30) calendar days after the penalty is imposed (or after the fine, assessment, or civil penalty has been affirmed on appeal), may be filed as a lien against the lot, lots, or parcels of land involved in the municipal lien docket. Any costs incurred by the City in the abatement of any dangerous building and/or any other fine, assessment or administrative civil penalty not paid within thirty (30) days may be an assessment and lien against the property where the building is located.

- C. Notice. At the time of filing in the municipal lien docket, notice shall be provided to the responsible person. If the responsible person is not the owner of the property shown in the electronic records of the applicable county assessor on that date, then notice shall also be sent to the owner of the property. Failure to provide notice shall not in any way affect the validity of the lien. The notice shall state that the amounts imposed as penalties shall be payable and due, and that the penalties shall be liens against the lots or parcels of land involved, respectively.
- D. Interest. All such liens remaining unpaid after thirty (30) calendar days from the date of recording on the municipal lien docket shall become delinquent and shall bear interest at the rate of ten (10) percent per annum from and after that date.
- E. Enforcement. The liens shall be enforced in the manner provided in Oregon Revised Statutes Chapter 223 and shall have priority over all such other liens and encumbrances of any character.

19. Responsibility for Compliance.

It shall be the duty of every person who performs work for the installation, construction, alteration, repair, demolition, grading, excavation, fill, or maintenance of a building, structure, mechanical system, regulated appurtenance, or other activity regulated by this ordinance to comply with this ordinance, the applicable specialty codes, adopted resolutions, permit conditions, approved construction documents, and other applicable laws.

20. Building in Easements.

No person may construct, place, enlarge, alter, repair, move, or maintain a building, structure, wall, fence, retaining wall, footing, foundation, tank, photovoltaic support structure, tower, utility structure, or similar improvement within, over, or upon a public utility easement, drainage easement, access easement, public walkway, public trail easement, or public right-of-way without written authorization from the City Administrator and all required permits.

21. Penalty.

Violation by any person of the provisions of this ordinance shall be deemed a civil infraction and is punishable by a fine not to exceed \$1,000. Each calendar day of violation shall constitute a separate violation for the purposes of imposing a penalty. Violations shall be processed in accordance with Ordinance 270-25, or successor Municipal Court Ordinance, and Durham Municipal Code.

22. Severability

The provisions of the Building Code are severable, and it is the intention of the City Council to confer the whole or any part of the powers herein provided for. If any clause, section, or provision of the Building Code are declared unconstitutional or invalid for any reason, the remaining portion of the Building Code shall remain in full force and effect and be valid as if such invalid portion had not been incorporated. It is hereby declared that the City Council intends that the Building Code would have been adopted had such an unconstitutional provision not been included.