

ORDINANCE NO. 250

AN ORDINANCE CREATING A NEW CHAPTER 92, ENTITLED “BUILDING PROGRAM” AND A NEW CHAPTER 93, ENTITLED “BUILDING REGULATIONS” TO THE DUNES CITY CODE OF ORDINANCES, REPEALING CHAPTER 151 OF THE DUNES CITY CODE OF ORDINANCES, AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, the City of Dunes City, through its City Council, is responsible for enacting ordinances for the effective and efficient operation of the City of Dunes City for the benefit of its residents; and

WHEREAS, State law authorizes the operation of building programs, including inspection mechanisms, to enforce State Building and Specialty Codes; and

WHEREAS, Dunes City has, historically, maintained the general provisions of its building program in Title XV of the Dunes City Code of Ordinances, entitled “Land Use”; and

WHEREAS, the provisions regarding the policies and procedures for operating its building program, including inspections, are not actually land use provisions affecting planning and zoning but are, in fact, regulatory provisions for the manner in which the building program is conducted; and

WHEREAS, the City Council of Dunes City wants to continue its building program, including inspections, in a manner that complies with State mandates and regulations, while protecting the City’s right to ensure compliance with its own Code provisions, even though the costs for the City to provide such services to City residents may significantly increase;

NOW, THEREFORE, THE CITY OF DUNES CITY ORDAINS AS FOLLOWS:

Section 1. A new Chapter 92, entitled “Building Program” is hereby added to the Dunes City Code of Ordinances, to read as found in Exhibit A attached hereto and incorporated by reference herein.

Section 2. A new Chapter 93, entitled “Building Regulations” is hereby added to the Dunes City Code of Ordinances, to read as found in Exhibit B attached hereto and incorporated by reference herein.

Section 3. REPEAL. The repeal of Chapter 151 shall not affect any action occurring before the repeal takes effect. Chapter 151 is hereby repealed effective the 30th day after adoption of this Ordinance.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect on the 30th day after its adoption.

Section 5. SEVERABILITY. If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, or superseded by State or federal legislation, rules, regulations or decisions, the remainder of this Ordinance shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance, and each remaining section, subsection, sentence, clause,

phrase, term, provision, condition, covenant, and portion of this Ordinance shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or State laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Ordinance, then the provision shall be read to be preempted only to the extent required by law. In the event such federal or State law, rule, or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect and shall thereafter be binding, without the requirement of further action on the part of the City.

Section 6. OTHER REMEDIES. Nothing in this Ordinance shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Ordinance. Non-exclusive remedies for enforcement are all those available under State and County laws including seizure of property, civil and criminal penalties.

Section 7. CAPTIONS. The captions to sections throughout this Ordinance are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this Ordinance.

Section 8. SCRIVENER'S ERRORS. Any scrivener's errors in this Ordinance may be corrected by Resolution of the City Council.

Passed at the first reading in regular meeting of the City Council of Dunes City, Oregon, on the 27th day of May, 2020.

Ayes: 3 Nays 0 Abstain: 0 Absent: 3 Vacant: 0

Passed at the second reading and placed on final passage, and adopted by the City Council of Dunes City, Oregon on this 27th day of May, 2020.

Ayes 3 Nays: 0 Abstain: 0 Absent: 3 Vacant: 0

ADOPTED BY THE DUNES CITY COUNCIL THIS 27th DAY OF MAY, 2020.

[Signed copy available at City Hall]

Robert Forsythe, Mayor

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Recorder

EXHIBIT A.

TITLE IX, CHAPTER 92 – BUILDING PROGRAM

Sections

- § 92.010 Assumption of Building Inspection Program
- § 92.011 Codes Adopted
- § 92.012 Title, Purpose, Scope and Conflicts
- § 92.013 Cooperation with Other Agencies
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- § 92.042 Expiration of Plan Review
- § 92.043 Building Surcharge
- § 92.044 Investigation and Investigation Fee
- § 92.045 Fee Refunds and Waivers
- § 92.046 Inspections in General
- § 92.047 Job Address and Inspection Record Card Posting
- § 92.048 Connection to Utilities
- §§ 92.049 through 92.099 is reserved.

CHAPTER 92 – BUILDING PROGRAM

§ 92.010 Assumption of Building Inspection Program

A. Pursuant to ORS 244.150, the City of Dunes City hereby implements and assumes a Building Inspection Program for the City of Dunes City, which shall be comprised of the administration and enforcement of the State Building Code as defined in Section 92.014 herein.

B. The Building Inspection Program shall be administered and enforced according to the procedures set forth in the State Building Code.

§ 92.011 Codes Adopted. In addition to compliance with this Chapter 92 and other Ordinances of the City, the City of Dunes City adopts the following Building Administrative Code:

A. Except as otherwise provided in this Chapter 92, the following codes, standards and rules are adopted and shall be in force and effect as part of the Dunes City Code of Ordinances. 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. The Oregon Specialty Codes adopted under ORS 446.062, 446.185, 447.020(2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730(1) or 480.545.

2. Appendix Chapter J of the most currently published International Building Code as adopted by the State of Oregon Buildings Codes Division, 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; Excavation and Grading Permits.

3. AN 109.4.2 through AN 109.4.3 of the State of Oregon Structural Specialty Code for alternate fire sprinkler system requirements. Pursuant to the authorization by the Director of the Department of Consumer and Business Services under ORS 455.040(1), Section AN 109.4 through AN 109.4.2.1 of the State Building Code relating to fire sprinkler system requirements are hereby adopted.

4. At least one copy of each of these Specialty Codes shall be kept by the Building Official, and the public may view digital versions of the most current Codes on the Oregon Building Codes Division website. City copies shall be available for inspection upon request at City Hall.

§ 92.012 Title, Purpose, Scope, and Conflicts

A. *Title.* These regulations shall be known as the Building Administrative Code, may be cited as such, and will be referred to herein as “this Code.”

B. *Purpose.* The purpose of this Code is to provide for the administration and enforcement of the Oregon Specialty Codes.

C. *Scope.* The provisions of this Code shall serve as the administrative, organizational and enforcement rules and regulations for the Specialty Codes which regulate site preparation and

construction, alteration, moving, demolition, repair, use, and occupancy of buildings, structures and building service equipment within the jurisdictional limits of Dunes City.

D. *Conflicts.* Where in any specific case there is a conflict between the State Building Code and any provisions of this Chapter 92 adopted pursuant to ORS 455.050(1), the provisions adopted pursuant to ORS 455.040(1) shall govern.

§ 92.013 Cooperation with Other Agencies

Plans for buildings that the Fire Marshal inspects for occupancy standards under ORS 476.030 are made available during regular Dunes City business hours at City Hall. Copies of all permits of such buildings or structures are available to the Fire Marshal’s office upon review of such plans. The Fire Marshal may provide opinions to City plan review staff. Meetings may be held between the Fire Marshal and plan review staff to allow the Fire Marshal’s office to review plans and provide input. The Fire Marshal’s office may request an approved copy of all plans that include fire suppression or early warning fire detection systems, or other design features that are inspected by their office. Any alternate materials or methods of construction are forwarded to their office upon request. If any alternate method of construction relates to portions that the Fire Marshal is required to inspect, it shall be reviewed and approved by the Fire Marshal, the Building Inspector and the Building Official. Comments received from the Fire Marshal will be evaluated by the Building Official prior to the issuance of the permit. The final authority for interpreting and applying new construction Specialty Codes and regulations is retained by the Building Official until the Certificate of Occupancy has been issued.

Exception: Fire Department Access and Water Supply are regulated by the Fire Marshal.

§ 92.014 Definitions

For purposes of this Chapter 92, certain terms, phrases, words, and their derivatives shall be construed as specified in this Section 92.014. Where terms are not defined, they shall have their ordinarily accepted meanings within context with which they are used. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

Addition means an extension or increase in floor area or height of a building or structure.

Alter or Alteration means a change or modification in construction or building service equipment.

Approved means as to materials, types of construction, equipment and systems, approval by the Building Inspector as the result of investigation and tests conducted by the Building Inspector, or by reason of accepted principles or tests by recognized authorities, technical or scientific organizations.

Approved Agency means an established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when the agency has been approved by the City Council.

Building means a structure used or intended for supporting or sheltering a use or occupancy.

Building Code or State Building Code means those provisions of the State Building Code, and any modifications thereof, adopted by the City pursuant to ORS 255.040(1), that are part of the building inspection program administered and enforced by the City. Such provisions include, but are not limited to, the Oregon Structural Specialty Code, Oregon Reach Code, Oregon Residential Specialty Code, Oregon Mechanical Specialty Code, Oregon Plumbing Specialty Code, Oregon Electrical Specialty Code, and the Oregon Manufactured Home Specialty Code.

Building, Existing means a building erected prior to the adoption of this Code or one for which a legal building permit has been issued.

Building Inspector means the individual or entity under Contract with the City to provide building and structural inspection services as provided under, and in compliance with, Oregon Revised Statutes, City building codes, and the Specialty Codes.

Building Inspection Program means the process and procedures by which all building inspection takes place.

Building Official means the Building Official designated by the City Council, or his or her designee, charged with the administration and enforcement of this Code.

Building Service Equipment refers to the plumbing, mechanical, electrical, and elevator equipment including piping, wiring fixtures and other accessories which provide sanitation lighting, heating, ventilation, cooling, refrigeration, fire-fighting, and transportation facilities essential to the occupancy of the building or structure for its designated use.

Dangerous Buildings Code means the Uniform Code for Abatement of Dangerous Buildings promulgated by the International Conference of Building Officials, as adopted by the City.

Dwelling Code means the Oregon Residential Specialty Code (ORSC).

Electrical Code means the Oregon Electrical Specialty Code (OESC).

Elevator Code means the Safety Code for elevators, dumbwaiters, escalators, and moving walks as adopted by the City in Section 92.011 hereof.

Listed and Listing are terms referring to equipment and materials which are shown in a list published by an approved testing agency, qualified and equipped for experimental testing and maintaining an adequate periodic inspection of current productions and which listing states that the material or equipment complies with accepted national standards which are approved, or standards which have been evaluated for conformity with approved standards.

Manufactured Home Installation Code means the Oregon Manufactured Dwelling Installation Specialty Code.

Manufactured Home Park Code means the Oregon Manufactured Home Park Construction Specialty Code.

Mechanical Code means the Oregon Mechanical Specialty Code.

Occupancy means the purpose for which a building or part thereof is used or intended to be used.

Owner means any person, agent, firm, or corporation having legal or equitable interest in the property.

Permit means an official document or certificate issued by the Building Official authorizing performance of a specified activity.

Person means a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agency of any of the aforesaid.

Plumbing Code means the Oregon Plumbing Specialty Code (OPSC).

Recreational Vehicle Park Code means the Oregon Recreational Vehicle Park Construction Specialty Code.

Repair means the reconstruction or renewal of any part of any existing building, structure or building service equipment for the purpose of its maintenance.

Specialty Codes refer to those Specialty Codes adopted by the State of Oregon which constitute the Oregon Building Code which have been delegated to the City for enforcement containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of buildings and structures and building service equipment as herein defined.

Structural Observation means the visual observation of the structural system, including, but not limited to, the elements and connections at significant construction stages, and the completed structure for general conformance to the approved plans and specifications, performed by the design professional or an approved alternate. Reports of structural observation shall be submitted to the Building Official. Structural observation does not include or waive the responsibility for inspections required by this Chapter 92.

Structure means that which is built or constructed, an edifice or building of any kind, any piece of work artificially built up or composed of parts jointed together in some definite manner.

Reference Standards are those standards published by nationally recognized testing and standards organizations and referenced in the building codes adopted by the City.

Valuation or Value as applied to a building and its building service equipment shall be the estimated cost to construct or replace the building and its building service equipment in kind based on current replacement costs from the Building Safety Journal Building Valuation data table, or if inconclusive, as determined by the Building Official.

§ 92.015 Conflicting Provisions

A. When conflicting provisions or requirements occur between this Code, the Specialty Codes and other codes or law, the most restrictive shall govern.

B. When conflicts occur between the Specialty Codes, those provisions providing the greater safety to life shall govern. In other conflicts where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.

C. Where in a specific case different sections of the Specialty Codes specify different materials, methods or construction or other requirements, the most restrictive shall govern. When there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

§ 92.016 Powers and Duties of Building Official. The Building Official is hereby authorized and directed to enforce all the provisions of this Chapter 92 and the referenced Specialty Codes. For such purposes, the Building Official shall have the powers of a Code Enforcement Officer and may call upon the City Administrator for assistance in ensuring compliance with Building Code.

§ 92.017 Deputies. In accordance with prescribed procedures and with the approval of the City Council, the Building Official may appoint such number of technical officers and inspectors and other employees as shall be authorized from time to time. The Building Official may deputize such inspectors or employees as may be necessary.

§ 92.018 Right of Entry. When necessary to make an inspection to enforce any of the provisions of this Code and the Specialty Codes, or when the Building Official and/or the Building Inspector has reasonable cause to believe that there exists in any building or upon a premises a condition which is contrary to or in violation of this Code which makes the building or premises unsafe, dangerous or hazardous, the Building Official and/or the Building Inspector may enter the building or premises at all 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 occupants and entry requested. If such building or premises be unoccupied, the Building Official and/or the Building Inspector 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. Should entry be refused, the Building Official shall have recourse to the remedies provided by State law to secure entry.

§ 92.019 Occupancy Violations. When a building or structure or building service equipment therein regulated by this Code and the Specialty Codes is being used contrary to the provisions of such Codes, the Building Official may order such use discontinued by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Building Official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of such Codes.

§ 92.020 Authority to Disconnect Utilities. The Building Official or his/her designee, shall have the authority to disconnect a utility service or energy supplied to the building, structure or building service equipment therein regulated by this Code or the Specialty Codes 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 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.

§ 92.021 Abatement

A. *Authority to Abate.* A condition caused or permitted to exist in violation of this Code or the Specialty Codes is a public nuisance which may be abated by any of the procedures set forth by City Ordinance or State Statute.

B. *Authority to Condemn Building Service Equipment.*

1. When the Building Official ascertains that building service equipment regulated in the Specialty Codes has become hazardous to life, health or property, or has become unsanitary, the Building Official shall order, in writing, that such building service equipment be disconnected, removed and replaced. The notice itself shall fix a time limit for compliance with such order. Defective building service equipment shall not be repaired and/or maintained after receiving such notice.

2. When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefore shall be given within twenty-four (24) hours to the serving utility, the owner and occupant of such building, structure or premises.

3. When any building service equipment is maintained in violation of the Specialty Codes and in violation of a notice issued pursuant to the provisions of this Section 92.022, the Building Official shall institute appropriate action to prevent, restrain, correct, or abate the violation.

§ 92.022 Connection After Order to Disconnect

Persons shall not make connections from an energy, fuel or power supply nor supply energy or fuel to building service equipment which has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of such equipment.

§ 92.023 Liability

A. The Building Official charged with the enforcement of this Code and the Specialty Codes, acting in good faith and without malice in the discharge of his or her duties, shall not thereby be rendered personally liable for damage that may accrue to persons or property as a result of an act of omission in the discharge of the assigned duties.

B. A suit brought against the Building Official or employee because of such act or omission performed by the Building Official or employee in the enforcement of the provisions of this Code or enforced by the Code Enforcement Agency shall be defended by the City until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the City.

C. Where the Building Official is a contracted service, the contractor will defend, indemnify and hold harmless the City, its officials, employees and agents from any claims, suits, or action arising out of acts by the contractor, his or her employees, agents, and subcontractors that are outside the scope of the Contract Agreement while on duty as a Building Official for the City, or that are as a result of negligence on the part of the contractor, his or her employees, agents, and subcontractors.

D. The Code shall not be construed to relieve from or lessen the responsibility of any persons owning, operating or controlling a building, structure or building service equipment therein for damages to persons or property caused by defects, nor shall the Code Enforcement Agency or the City be held as assuming such liability by reason of the inspections authorized by this Code or permits or certificates issued under this Code.

§ 92.024 Unsafe Buildings, Structures or Building Service Equipment

A. Buildings or structures regulated by this Code and the Specialty Codes which are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this Chapter 92, unsafe buildings.

B. Building service equipment regulated by such Code and Specialty Codes, which constitute a fire, electrical or health hazard, or an unsanitary condition, or is otherwise dangerous to human life is, for the purpose of this Chapter 92, unsafe. Use of buildings, structures or building service equipment 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 Chapter 92, an unsafe use.

C. 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 a deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

D. Unsafe buildings, structures or appendages and building service equipment 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 be adopted by the City. As an alternative, the Building Official or other employee or official of the City, as designated by the City Council, may institute other appropriate action to prevent, restrain, correct, or abate the violation.

§ 92.025 Board of Appeals

In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretations of the Specialty Codes, the City Council shall be considered to be the Board of Appeals. The Building Official shall be an ex-officio member and shall act as secretary to said Board but shall have no vote upon any matter before the Board. The City Council shall, by Resolution, adopt rules of procedures for conducting its business as the Board of Appeals and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

§ 92.026 Limitations of Authority

The City Council, acting in its authority as the Board of Appeals, shall have no authority relative to interpretation of the administrative provisions of the Building Codes or the administrative provisions of the Specialty Codes nor shall the Council be empowered to waive requirements of either the Building Codes or the Specialty Codes.

§ 92.027 Violations and Penalties

A. *Violation.* It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy, or maintain any building, structure or building service equipment or cause or permit the same to be done contrary to or in violation of this Code and/or the Specialty Codes.

B. *Penalties.* Violation of a provision of this Code shall be subject to an administrative civil penalty not to exceed \$5,000 for each offense, or in the case of a continuing offence, not more than \$1,000 for each day of the offense, and shall be processed in accordance with the procedures set forth in this Chapter 92.

C. *Cumulative Remedies.* The penalties and remedies provided in this Chapter 92 are not exclusive and are in addition to other penalties and remedies available under this Code, other applicable City Ordinances, and State law.

§ 92.028 Building Official – Authority to Impose Administrative Civil Penalty

A. *Civil Penalties.* Upon a determination by the Building Official that any person, firm, corporation, or other entity however organized, has violated a provision of this Chapter 92, or any rule thereunder, the Building Official may issue a notice of civil violation and impose upon the violator and/or any other responsible person an administrative civil penalty as provided by this Chapter 92. For purposes of this Chapter 92, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, also includes the owner or owners. This authority in no way precludes the Building Official from attempting to secure voluntary compliance prior to issuance of an order to correct the violation.

B. *Order to Correct.* Prior to issuing a notice of civil violation and imposing an administrative civil penalty under this Chapter 92, the Building Official shall issue an order to correct a violation (Order to Correct) to one (1) or more of the responsible persons. 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 (5) calendar days.

C. *Notice of Civil Violation.* Following the date or time by which the correction must be completed as required by an Order to Correct, 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 and assess an administrative civil penalty to each responsible person to whom an Order to Correct was issued.

D. *Knowing, Intentional or Repeat Violations.* Notwithstanding Section 92.028(B), the Building Official may issue a notice of civil violation and assess an administrative civil penalty without having issued an Order to Correct where the Building Official determines that the violation was knowing, intentional, or a repeat of a similar violation.

E. *Penalty Consideration.* In assessing an administrative civil penalty authorized by this Section 92.028, the Building Official shall consider:

1. The person's cooperativeness and past history in taking steps to correct the violation;
2. Any prior violations of this Code, of the Specialty Codes, or other City Ordinances;
3. The gravity and magnitude of the violation;
4. Whether the violation was repeated or continuous; and
5. Whether the violation was caused by an unavoidable accident, negligence, or an international act.

F. *Notice Requirements.* A notice of civil violation issued under this Section 92.028 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 (3) days after the date mailed if to an address within this State, and seven (7) days after the date mailed if to an address outside this State. Every notice shall:

1. Describe the alleged violation, including any relevant code provision numbers, ordinance numbers, or other identifying references;
2. State that the City intends to assess a civil penalty for the violation and state the amount of the civil penalty and other penalties imposed;
3. State the date on which the Order to Correct was issued and the time by which correction was required, or, if the penalty is imposed pursuant to Section 92.028(D) of this Code, a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated.
4. State that the party may challenge the assessment of civil penalty to the City Council in its capacity as the Board of Appeals; and
5. Describe the process and the deadline for informing the City that the party is challenging the assessment of the civil penalty.

G. *Appeal.* Any person, firm, corporation, or other entity however organized, who is issued a notice of civil penalty may appeal the penalty to the City Council in its capacity as the Board of Appeals. The provisions of Sections 92.028 and 92.029 of this Code shall govern any requested appeal.

H. *Penalty Final.* If no appeal is timely filed with the City Council in its capacity as the Board of Appeals, a civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal.

I. *Continuing Violations.* Each day the violator fails to remedy the Code violation shall constitute a separate violation.

J. *Additional Penalties.* The civil administrative penalty authorized by this Section 92.028 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, provided that the City shall not issue a Notice of Violation pursuant to Chapter 36 of the Dunes City Code for a violation of any of the provisions of this Chapter 92.

§ 92.029 Appeal Procedures

A. *Appeal Contents.* Any recipient aggrieved by a notice of civil penalty may, within fourteen (14) days after receipt of the notice, appeal in writing to the City Council in its capacity as the Board of Appeals. The written appeal shall be accompanied by an appeal fee in an amount set by Council Resolution and shall include:

1. The name and address of the appellant;
2. The nature of the matter being appealed;
3. The reason appellant claims the Building Official's determination is incorrect; and
4. The appellant's desired determination of the appeal.

If appealed, the civil penalty shall become final, upon issuance of the City Council's decision affirming the Building Official's assessment in its capacity as the Board of Appeals.

B. *Hearing Date and Notice.* Unless the appellant and the City agree to a longer period, an appeal shall be heard by the City Council, acting in its capacity as the Board of Appeals, within thirty (30) days of the receipt of appellant's notice of intent to appeal. At least ten (10) days prior to the hearing, the City shall mail notice of the time and location thereof to the appellant.

C. *Hearing Procedure.* The City Council, in its capacity as the Board of Appeals, shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the Board of Appeals deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The burden of proof shall be on the Building Official. The rules of evidence as used by courts of law do not apply.

D. *Decision.* The City Council, in its capacity as the Board of Appeals, shall issue a written decision within ten (10) days of the hearing date.

E. *Fee Refundability.* Other than as provided in this Section 92.030, the appeal fee is non-refundable. If the Building Official's assessment is not affirmed, the City Council, acting in its capacity as the Board of Appeals, may refund all or a part of the appeal fee upon appellant's motion at the time of hearing.

F. *Appeal to the Department of Consumer and Business Services Advisory Board.* In accordance with ORS 455.690, any person aggrieved by the final decision of the City Council, acting in its capacity as the Board of Appeals, or a subordinate officer of the Department of Consumer and Business Services as to the application of any provision of a Specialty Code may, within thirty (30) business days after the date of the decision, appeal to the appropriate Department of Consumer and Business Services Advisory Board. The appellant shall submit all requisite fees with the request for appeal. The final decision of the involved City or State officer shall be subject to review and final determination by the appropriate Department of Consumer and Business Services Advisory Board as to technical and scientific determinations related to the application of the Specialty Code involved.

§ 92.030 Unpaid Penalties

A. *Penalty Collection.* Failure to pay an administrative penalty imposed pursuant to this Code within ten (10) days after the penalty becomes final shall constitute a separate violation. The Building Official is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by Section 92.031(B) below, other provisions of this Code, or by State Statute.

B. *Assessment Lien.* If an administrative civil penalty is imposed on a responsible person because of a violation of any provisions of this Code resulting from a prohibited use or activity on real property and the penalty remains unpaid thirty (30) days after such penalty becomes 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 City's lien docket. 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 City's lien docket. The lien shall be enforced in the same manner as all City liens. Interest shall commence from the date of entry of the lien in the lien docket.

C. *Additional Penalties.* In addition to enforcement mechanisms authorized elsewhere in this Code, failure to pay an administrative civil penalty imposed pursuant to this Chapter 92 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.

§ 92.031 Permits Required. Except as specified in Chapter 93 of the Dunes City Code of Ordinances, no building, structure or building service equipment regulated by this Code and the Specialty Codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the Building Official.

§ 92.032 Excavation and Grading Permits

A. Excavation and Grading associated with site preparation for construction of new buildings or structures shall be regulated by the Building Official with inspections to be done by the Building Inspector. Any such grading and excavation permits issued associated with the site preparation for construction of new buildings or structures will be issued as building permits and processed accordingly, and are regulated by the Oregon Building Codes. All Excavation and Grading done in Dunes City must comply with the Dunes City Erosion and Sediment Control Codes contained in Title XIV of the Dunes City Code, violations of which are administered by the Dunes City Code Enforcement Officer.

B. Excavation and Grading permits associated with all other activities including, but not limited to, septic system installation or repair, and driveways, will not be issued as building permits but will be issued as a City Public Works permit and all associated fees will not be part of the dedicated fund permit revenues regulated by the Oregon Building Codes Division. Fees for such permits shall be set by Resolution of the City Council. Inspections will be done by the City Public Works Maintenance Supervisor, or his or her designee. If, in the opinion of the Building Official, it is necessary, the Building Official may request the City Engineer to review a proposed project and make recommendation. Fees and costs associated with the City Engineer’s review shall be paid by the applicant.

C. Design standards and methods of grading and excavation must conform with this Code, the Specialty Codes, and any other provisions of the Dunes City Code of Ordinances.

§ 92.033 Application for Permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the City for that purpose. Applications shall provide the minimum information required by the Oregon Specialty Codes.

§ 92.034 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. This requirement shall be at the discretion of the Building Official. Upon receipt of the occupancy restriction, the Building Official shall record it in the deed records of Lane County, Oregon. 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 only upon payment of all fees due to the City.

§ 92.035 Retention of Plans

One (1) set of approved plans, specifications and computations shall be retained by the Building Official for a period of not less than seven (7) years from the date of completion of the work covered therein and as prescribed by rule or law, and one (1) set of approved plans and specifications shall be returned to the applicant and shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

§ 92.036 Validity of Permit

A. 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 the Specialty Codes, or of any other Ordinance of the City.

B. 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 such plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this Code or the Specialty Codes, or of any other Ordinance of the City.

§ 92.037 Expiration

Every permit issued by the Building Official under the provisions of the Specialty Codes shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within one hundred and eighty (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 one hundred and eighty (180) days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half (1/2) the amount required for a new permit for such work, provided no changes have been made, or will be made, in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one (1) year. In order to renew action on a permit after expiration, the permittee shall pay a full permit fee.

§ 92.038 Transfer of Building Permit

A building permit shall only be transferable when authorized by the owner of the property, in writing.

§ 92.039 Fees

Fees shall be assessed in accordance with the provisions of this Chapter 92 or as set forth in the fee schedule adopted by the City Council by Resolution.

§ 92.040 Permit Fees

A. The fee for each permit shall be in accordance with uniform fee methodology prescribed by the State of Oregon and the fee schedule adopted by the City Council by Resolution.

B. The determination of value or valuation under any of the provisions of this Code or the Specialty Codes shall be made by the Building Official. The value to be used in computing the building permit and building 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, stormwater runoff retention and drainage facilities, and other permanent equipment.

§ 92.041 Plan Review Fees

- A. When submittal documents are required by § 93.008 of the Dunes City Code, a plan review fee shall be paid at the time of permit issuance. Said plan review fee shall be sixty-five percent (65%) of the permit fee.
- B. The plan review fees specified in this section are separate fees from the permit fees and are in addition to the permit fee.
- C. When submittal documents are incomplete or changed so as to require additional plan review, or when the project involves deferred submittal items, an additional plan review fee shall be charged.
- D. Plans requiring a fire-life safety review as required by ORS 479.155(2) and OSSC 106.3 shall be assessed an additional fee of forty percent (40%) of the permit fee.

§ 92.042 Expiration of Plan Review

- A. Applications for which no permit is issued within one hundred and eighty (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.
- B. The Building Official may extend the time for action by the applicant for a period not exceeding one hundred and eighty (180) days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. An application shall not be extended more than once.
- C. An application shall not be extended if this Code or any other pertinent laws or Ordinances have been amended subsequent to the date of application. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

§ 92.043 Building Surcharge

In addition to all other fees associated with each permit, a Building Surcharge shall be assessed in the amount of seven percent (7%) of the permit fee or the sum of Thirty Dollars (\$30.00), whichever is greater.

§ 92.044 Investigation and Investigation Fee

- A. *Investigation.* Whenever work for which a permit is required by this Code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.
- B. *Investigation Fee.* An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then subsequently issued. The investigation fee shall be the actual or average cost of investigation to ensure the unpermitted work complies with the State Building Code. The payment of such investigation fee shall not exempt an applicant from compliance with all other provisions of either

this Code or the Specialty Codes nor from the penalty prescribed by law. Permits for emergency repairs obtained within five (5) business days after commencement of the repair are not subject to the investigation fee.

§ 92.045 Fee Refunds and Waivers

The Building Official may authorize refunding of a fee paid hereunder which was erroneously paid or collected.

A. The Building Official may authorize refunding of not more than eighty percent (80%) of the permit fee paid when an application for a permit for which fees have been paid is withdrawn or cancelled before any work has been done or any inspections made.

B. The Building Official may authorize refunding of not more than eighty percent (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 cancelled before any examination time has been expended.

C. The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment.

§ 92.046 Inspections in General

A. Construction or work for which a permit is required shall be subject to inspection by the Building Official and the construction work shall remain accessible and exposed for inspection purposes until approved by the Building Official.

1. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow the inspection.

B. The Building Official may implement additional or alternate inspection procedures or requirements by written administrative rules.

C. Approval as a result of an inspection shall not be construed to be an approval of any violation of the provisions of this Code or of other Ordinances of the City.

D. A survey of the lot may be required by the Building Official to verify the structure is located in accordance with the approved plans. All costs associated with the survey shall be paid by the applicant or property owner. The Building Official may verify Building Code required minimum setbacks for the fire safety requirements of the Building Code. It shall be the responsibility of the owner and permit applicant to verify the correct property lines by survey prior to construction of or addition to any regulated building or structure.

E. The issuance or granting of a permit or the approval of any inspections by the Building Official shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the

Oregon Specialty Codes or of any other Ordinance of the City or other laws. Permits or inspections presuming to give authority to violate or cancel the provisions of the Oregon Specialty Codes, code, or other Ordinances of the City or other laws shall not be valid.

§ 92.047 Job Address and Inspection Record Card Posting

A. Work requiring a permit shall not be commenced until the permit holder or agent of the permit holder shall have posted the job site address in a readily visible location to identify the construction site for inspectors and public safety officials to easily locate the job address. Failure to post the job address in a readily visible location may result in a re-inspection fee equal to the minimum hourly rate on the fee scheduled adopted by the City Council.

B. Work requiring a permit shall not be commenced until the permit holder or agent of the permit holder shall have posted or otherwise made available an inspection record card such as to allow the Building Official or Building Inspector conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained and made available by the permit holder until final approval has been granted by the Building Official.

§ 92.048 Connection to Utilities

A. *Energy Connections.* Persons shall not make connections from a source of energy, fuel or power to the building service equipment which is regulated by the Specialty Codes and for which a permit is required by this Code until approved by the Building Inspector.

B. *Temporary Connections.* The Building Inspector may authorize the temporary connection of the building service equipment to the source of energy, fuel or power for the purpose of testing building service equipment, or for use under a temporary certificate of occupancy.

§§ 92.049 through 92.099 are reserved.

EXHIBIT B.

TITLE IX CHAPTER 93 – BUILDING REGULATIONS

§ 93.001 Permits Required. No building, structure or building service equipment regulated by this Code and the Specialty Codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the City.

§ 93.002 Work Exempt from Permits. A permit shall not be required for the types of work in each of the separate classes of permit as listed in Sections 93.003 through 93.006 below. Exemption from the permit requirements of this Code shall not be deemed to grant authorization for any work to be done in violation of the provisions of the Specialty Codes or any other laws or Ordinances of the City.

§ 93.003 Work Exempt from Building Permits. Exemption from permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other laws or Ordinances of the City. Permits shall not be required for the following:

Building:

- A. A non-habitable one-story detached accessory structure, provided the floor area does not exceed two hundred (200) square feet or a height of ten (10) feet measured to the eave.
- B. Except for barriers around swimming pools as required in Appendix G of the Residential Specialty Code, fences not over six (6) feet in height.
- C. Retaining walls that are not over four (4) feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
- D. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.
- E. Concrete sidewalks, slabs and driveways not more than thirty (30) inches above adjacent grade and not over any basement or story below.
- F. Painting, papering, tiling, carpeting, cabinets, counter tops, interior wall, floor or ceiling covering, and similar finish work.
- G. Prefabricated swimming pools that are less than twenty-four (24) inches deep.
- H. Swings and other playground equipment accessory to a one- or two-family dwelling.
- I. Window awnings and patio covers supported by an exterior wall not over one hundred and twenty (120) square feet in area.

- J. Nonbearing partitions, except when such partitions create habitable rooms.
- K. Replacement or repair of siding not required to be fire resistant.
- L. Retrofitted insulation.
- M. Masonry repair.
- N. Porches and decks, where the floor or deck is not more than thirty (30) inches above grade, and where the edge of the porch, deck or floor does not come closer than three (3) feet to property lines.
- O. Gutters and downspouts.
- P. Door and window replacements where no structural member is changed.
- Q. Re-roofing, except in wildfire hazard zones or where replacement or repair of roofing does not exceed thirty percent (30%) of the required live load design capacity and is not required to be fire resistant.
- R. Plastic glazed storm windows.
- S. Fabric-covered accessory buildings not more than five hundred (500) square feet in area, one story in height or closer than ten (10) feet to the property line, where the structure is composed of a rigid framework to support tensioned fabric membrane that provides a weather barrier.

§ 93.004 Plumbing Permit Exemptions. The stopping of leaks in drains, water, soil, waste, or vent pipe does not require a permit, however, if any concealed trap, drainpipe, water, soil, water or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspected as provided in this Code.

The clearing of stoppages or repairing of leaks in pipes, valves or fixtures, and the removal or reinstallation of water closets, provided such repairs do not involve or require replacement or rearrangement of valves, pipes or fixtures, does not require a permit.

§ 93.005 Electrical Permit Exemptions. A permit shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved, permanently installed receptacles. All other electrical work shall require a permit.

§ 93.006 Mechanical Permits Exemptions. A mechanical permit shall not be required for the following:

- A. Portable cooking or clothes drying appliances.

- B. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
- C. Portable heating appliances.
- D. Portable ventilation appliances.
- E. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this Code.
- F. Portable evaporative cooler.
- G. Self-contained refrigeration systems containing ten (10) pounds or less of refrigerant or that are actuated by motors of one (1) horsepower or less.
- H. Other portable appliances such as freezers, washing machines, refrigerators, portable barbeques, grills, etc.

§ 93.007 Application for Permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the City for that purpose. Every application shall:

- A. Identify and describe the work to be covered by the permit for which application is made.
- B. Describe the land on which the proposed work is to be done by Map and Tax Lot Number, street address, or geographic description that will readily identify and definitely locate the proposed building or work.
- C. Indicate the use or occupancy for which the proposed work is intended.
- D. Be accompanied by plans, diagrams, computations, and specifications, and other data as required in the Dunes City Code of Ordinances and the Building Code, including erosion and sediment control plans, if required.
- E. State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building.
- F. Be signed by the applicant, or the applicant's authorized agent.
- G. Give such other data and information as may be required by the Building Official or the City.

§ 93.008 Submittal Documents

- A. Plans, specifications, engineering calculations, topography, setbacks, total parcel coverage percentages, diagrams, soil investigation reports, erosion and sediment control plans, stormwater

runoff control and retention plans, identification and location of source of drinking water, location of all utility lines and pipes, septic system placement and replacement areas, special inspection and structural observation programs, and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for a permit.

B. The Building Official or the City Administrator may require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the State to practice as such even if not required by State law.

C. Exception: the Building Official or the City Administrator may waive the submission of plans, calculations, construction inspection requirements, and other data if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with Dunes City Code, the Specialty Codes, and State law.

§ 93.009 Information on Plans and Specifications

Plans and specifications shall be drawn to scale on substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this Code and all relevant laws, ordinances, rules, and regulations.

§ 93.010 Architect or Engineer of Record

When it is required that documents be prepared by an architect or engineer:

A. The Building Official or the City Administrator may require the owner to engage and designate on the building permit application, an architect or engineer who shall act as the architect or engineer of record.

B. If the circumstances require, the owner may designate a substitute architect or engineer of record who shall perform all the duties required of the original architect or engineer of record.

C. The Building Official or the City Administrator shall be notified in writing by the owner if the architect or engineer of record is changed or is unable to continue to perform the duties.

§ 93.011 Permits Issuance

A. 1. The application, plans, specifications, computations, and other data filed by an applicant for permit shall be reviewed by the City Permit Technician or the City Administrator. Such plans may be reviewed by other departments of the City to verify compliance with any applicable Code and laws established by the City. A mandatory pre-construction meeting with the contractor and/or owner, the City Permit Technician, the Public Works Maintenance Supervisor, and any other individuals identified by the City Administrator will be held to discuss the concepts and plans for the proposed construction.

2. If the Permit Technician and the City Administrator find that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of the Code and the Specialty Codes and other pertinent laws and ordinances, and that the fees specified in this Code have been paid, the City shall issue a permit to the applicant.

B. 1. When a permit is issued when plans are required, the Building Official shall endorse in writing or stamp the plans and specifications “Approved” or “Reviewed.”

2. Such approved plans and specifications shall not be changed, modified or altered without authorizations from the Building Official, and all work regulated by this Code shall be done in accordance with the approved plans.

§ 93.012 Inspection and Observation Program

A. When special inspection is required by this Code, the architect or engineer of record shall prepare an inspection program which shall be submitted to the Building Official for approval prior to issuance of the building permit. The inspection program shall designate the portions of the work to have special inspection, the name or names of the individuals or firms who are to perform the special inspections and indicate the duties of the special inspectors.

B. The special inspector shall be employed by the owner, the engineer or architect of record, or an agent of the owner, but not the contractor of any other person responsible for the work.

C. 1. When structural observation is required by this Code, the inspection program shall name the individuals or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

2. The inspection program shall include samples of inspection reports and provide time limits for submission of reports.

§ 93.013 Application to Existing Buildings and Building Service Equipment

Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of the Specialty Codes for new facilities, except as specifically provided in Section 93.016.

§ 93.014 Additions, Alterations or Repairs

A. Additions, alterations or repairs may be made to a building or its building service equipment without requiring the existing building or its building service equipment to comply with all the requirements of the Specialty Codes, provided the addition, alteration or repair conforms to that required for a new building or building service equipment.

B. Additions or alterations shall not be made to an existing building or building service equipment which will cause the existing building or building service equipment to be in violation of the provisions of the Specialty Codes nor shall such additions or alterations cause the existing

building or building service equipment to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration shall cause the existing building or building service equipment to become structurally unsafe or overloaded; will not provide adequate egress in compliance with the provisions of the Building Code or will obstruct existing exits; will create a fire hazard; will reduce required fire resistance; will cause building service equipment to become overloaded or exceed their rated capacities; will create a health hazard or will otherwise create conditions dangerous to human life. A building so altered, which involves a change in use or occupancy, shall not exceed the height, number of stories and area permitted by the Building Code for new buildings. A building plus new additions shall not exceed the height, number of stories and areas specified by City Code for new buildings, nor shall it result in a violation of erosion and sediment control provisions of City Code.

1. *Exception.* Alterations of existing structural elements, or additions of new structural elements which are not required to have permits by Section 92.003 and which are initiated for the purpose of increasing the lateral-force-resisting structure need not be designed for forces conforming to these regulations provided that an engineering analysis is submitted to show that:

- a. The capacity of existing structural elements required to resist forces is not reduced, and
- b. The lateral loading to required existing structural elements is not increased beyond their capacity, and
- c. New structural elements are detailed and connected to the existing structural elements as required by these regulations, and
- d. New or relocated nonstructural elements are detailed and connected to existing or new structural elements as required by these regulations, and
- e. An unsafe condition as defined above is not created.

C. Alterations or repairs to an existing building or structure which are nonstructural and do not adversely affect a structural member or a part of the building or structure having required fire resistance may be made with the same materials of which the building structure is constructed, subject to approval by the Building Official. Installation or replacement of glass shall be as required for new installations.

D. Minor additions, alterations, and repairs to existing building service equipment installations may be made in accordance with the Specialty Codes in effect at the time the original installation was made, subject to approval of the Building Official, and provided such additions, alterations and repairs will not cause the existing building service equipment to become unsafe, unsanitary or overloaded.

§ 93.015 Existing Installations. Building service equipment lawfully in existence at the time of the adoption of the Specialty Codes may have their use, maintenance or repair continued

if the use, maintenance or repair is in accordance with the original design and a hazard to life, health, or property has not been created by such building service equipment.

§ 93.016 Existing Occupancy. Buildings in existence at the time of the adoption of the Building Code may have their existing use or occupancy continued if the use or occupancy was legal at the time of the adoption of the Building Code, and provided continued use is not dangerous to life, health, and safety.

§ 93.017 Maintenance. Buildings, structures and building service equipment, existing and new, and parts thereof shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by the Specialty Codes shall be maintained in conformance with the Specialty Codes under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and their building service equipment. To determine compliance with this subsection, the Building Official or the City Administrator may cause a structure to be re-inspected.

§ 93.018 Moved Buildings. Buildings or structure and building service equipment moved into or within the jurisdiction of the City shall comply with the provisions of the Specialty Codes for new buildings or structures and their building service equipment.

§ 93.019 Temporary Structures. Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the City for a limited period of time. Buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

§ 93.020 Historic Buildings. Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, or continued use of a building, structure, or its building service equipment may be made without conforming to the requirements of the Specialty Codes when authorized by the Building Official, provided:

- A. The building or structure has been designated by official action of the City Council as having special historical or architectural significance.
- B. Unsafe conditions as described in the Building Code are corrected.
- C. The restored building or structure and its building service equipment will be no more hazardous based on life safety, fire safety and sanitation than the existing building.

§ 93.021 Alternate Materials, Methods of Design and Methods of Construction

- A. The provisions of the Specialty Codes are not intended to prevent the use of any material, method or design of method of construction not specifically prescribed by the Specialty Codes,

provided an alternate has been approved by the Building Inspector and its use authorized by the Building Official.

B. The Building Official may approve an alternate material, method of design or method of construction, provided the Building Inspector finds that the proposed design is satisfactory and complies with the provisions of the Specialty Codes and that the material, method of work offered is, for the purpose intended, at least the equivalent of that prescribed in the Specialty Codes in suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation.

C. The Building Inspector or the Building Official shall require that sufficient evidence or proof be submitted to substantiate claims that may be made regarding the use of an alternate material, method of design or method of construction. The details of an action granting approval of an alternate material, method of design or method of use shall be recorded and entered into the files of the City.

§ 93.022 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of the Specialty Codes, the Building Official, in consultation with the City Administrator, may grant modifications for individual cases.

A. The Building Official shall first find that a special individual reason makes the strict letter of the Specialty Codes impractical and the modification is in conformity with the intent and purpose of the Specialty Codes.

B. The Building Official shall also find that such modification does not lessen health, life safety, fire safety requirements or any degree of structural integrity.

C. The details of granting modification shall be recorded and entered in the individual property files of the City.

§ 93.023 Tests

A. Whenever there is insufficient evidence of compliance with the provisions of the Specialty Codes or evidence that materials or construction do not conform to the requirements of the Specialty Codes, the Building Official or the City Administrator may require tests as evidence of compliance to be made at no expense to the City.

B. Test methods shall be as specified by the Specialty Codes or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall determine test procedures.

C. Tests shall be made by an approved agency. Reports of such tests shall be recorded and entered in the individual property files of the City.

§ 93.024 Stop Work Orders. When work is being done contrary to the provisions of this Code, the Specialty Codes, or other pertinent laws or Ordinances implemented through the enforcement of this Code, the Building Official or the City Administrator may order the work

stopped by notice in writing served on persons engaged in the doing or causing such work to be done, or be posted on the property where the work is taking place, and such persons shall forthwith stop the work until authorized by the Building Official and/or the City Administrator to proceed with the work.

§ 93.025 Suspension or Revocation

The City Administrator and the Building Official may, in writing, suspend or revoke a permit issued under the provisions of this Code or the Specialty Code when the permit is issued in error or on the basis of incorrect information supplied, or in violation of an Ordinance or regulation or the provisions of this Code or the Specialty Codes.

§ 93.026 Inspection Requests

A. It shall be the duty of the person doing the work authorized by a permit to notify the Building Official that such work is ready for inspection. A request for inspection must be filed by five o'clock p.m. the day before such inspection is desired. Such request may be in writing or by telephone at the option of the Building Official.

B. There must be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use. See also Section 93.031.

§ 93.027 Required Building Inspections

A. Reinforcing steel or structural framework of a part of a building or structure shall not be covered or concealed without first obtaining the approval of the Building Inspector.

B. The Building Inspector, upon notification, shall make the following inspections:

1. *Foundation Inspection* is to be made after excavations for footings are complete and required reinforcing steel is in place. For concrete foundations, required forms shall be in place prior to inspection. All materials for the foundation shall be on the job, except when concrete is ready-mixed in accordance with U.B.C. Standard 19-3, the concrete need not be on the job. When the foundation is being constructed of approved treated wood, additional inspections may be required by the Building Inspector.

2. *Concrete Slab or Under-floor Inspection* is to be made after in-slab or under-floor building service equipment, conduit, piping accessories, and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

3. *Frame Inspection* is to be made after the roof, framing, fire blocking, and bracing are in place, and all pipes, chimneys and vents are complete, and the rough electrical, plumbing, and heating wires, pipes and ducts are approved.

4. *Lath and/or Wallboard Inspection* is to be made after lathing and wallboard, interior and exterior, is in place but before plaster is applied or before wallboard joints and fasteners are taped and finished.

5. *Final Inspection* is to be made after finish grading around the building is completed and ready for occupancy.

§ 93.028 Required Building Service Equipment Inspections

A. Building service equipment for which a permit is required by this Code shall be inspected by the Building Inspector. Building service equipment intended to be concealed by a permanent portion of the building shall not be concealed until inspected and approved. When the installation of building service equipment is complete, an additional and final inspection shall be made.

B. Building service equipment regulated by the Specialty Codes shall not be connected to the water, fuel, power supply, or sewer system until authorized by the Building Inspector.

C. The requirements of Section 93.028(B) shall not be considered to prohibit the operation of building service equipment installed to replace existing building service equipment serving an occupied portion of the building in the event a request for inspection of such building service equipment has been filed with the Building Official not more than forty-eight (48) hours after the replacement work is completed, and before any portion of such building service equipment is concealed by permanent portions of the building.

§ 93.029 Other inspections

In addition to all other inspections specified above, the Building Inspector or the City Administrator may make or require other inspections of construction work to ascertain compliance with the provisions of this Code or Specialty Codes and other laws which are enforced by the Building Official or the City Code Enforcement Officer.

§ 93.030 Re-inspections

A. 1. A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

2. Re-inspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is required, or for deviating from plans requiring the approval of the Building Official.

B. This Section 93.030 is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of the Specialty Codes, but as controlling the practice of calling for inspections before the job is ready for such inspection or re-inspection.

C. To obtain a re-inspection, the applicant shall file an application in writing upon a form furnished for that purpose, and pay the re-inspection fee in accordance with the Specialty Code or as set forth in the fee schedule adopted by the City Council by Resolution.

D. In instances where re-inspection fees have been assessed, additional inspection of the work will not be performed until the required fees have been paid.

§ 93.031 Certificate of Occupancy

A. *Use of Occupancy.* Buildings or structures shall not be used or occupied, nor shall a change in the existing occupancy classification of a building or structure or portion thereof be made, until the Building Official has issued a Certificate of Occupancy as provided herein. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other Ordinances of the City.

B. *Change in Use.* Changes in the character or use of a building shall not be made except as specified in the Building Code.

§ 93.032 Certificate Issued

A. After the Building Official inspects the buildings or structure and finds no violations of the provisions of the Specialty Codes and the City Administrator or the Permit Technician finds no violations of the provisions of Dunes City Code or other laws which are endorsed by the City Code, the Permit Technician or City Administrator shall issue a Certificate of Occupancy which shall contain the following:

1. The building permit number.
2. The address of the building and the map and tax lot number of the property upon which the building is located.
3. The name and mailing address of the owner.
4. A description of that portion of the building for which the certificate is issued.
5. A statement that the described portion of the building has been inspected for compliance with the requirements of Code for the group and division of occupancy and the use for which the proposed occupancy is classified.
6. The names of the Building Inspector, the Building Official, the City Administrator and the Permit Technician.

§ 93.033 Revocation. The City Code Enforcement Officer may, in writing, suspend or revoke a Certificate of Occupancy issued under the provisions of this Code when the Certificate is issued in error, or on the basis of incorrect information, or when it is determine that the building

or structure or portion thereof is in violation of an Ordinance, regulations or the provisions of City Code.

§ 93.034 Permits and Plan Reviews Issued by the City Without Building Official Involvement

A. The City issues the following permits and plan reviews without Building Official involvement:

1. Erosion and Sediment Control Plan Review and Acceptance;
2. Excavation and Grading Permits;
3. Vegetation removal in the Shoreland Zone Permits;
4. Vegetation removal on City Rights-of-Way Permits;
5. Driveway and Road Access Permits;
6. Temporary Right-of-Way Use Permits; and
7. Public Street Blockage Permits.

B. Applications for such permits shall meet all of the requirements set forth in this Chapter 93, including all information required and the submission of necessary supporting documents.

C. Fees for such City permits are as set by Resolution of the City Council from time to time.

D. The City Administrator may authorize waiving a permit fee for those permits issued for purposes of removing vegetation from the rights-of-way of the City.

§ 93.035 Violations and Penalties. The provisions of this Chapter 93 shall be enforceable pursuant to the provisions of Chapter 36 of the Dunes City Code of Ordinances.