CITY OF MILWAUKIE
ORDINANCE NO. 1814

AN ORDINANCE ADOPTING OREGON REVISED STATUTES, ADMINISTRATIVE RULES AND SPECIALTY CODES RELATED TO BUILDING CONSTRUCTION, AND IMPROVEMENTS WITHIN THE JURISDICTION OF THE CITY OF MILWAUKIE, DELEGATING ADMINISTRATION AND ENFORCEMENT TO THE BUILDING OFFICIAL, AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Milwaukie finds that rules and regulations regarding the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, and/or maintenance of all buildings or structures in the City of Milwaukie should be adopted; NOW, THEREFORE;

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

SECTION 1: Sections 15.04.010 and 15.04.020 of the Milwaukie Municipal Code are hereby repealed.

SECTION 2: Chapter 15.04 of the Milwaukie Municipal Code is amended by adding Sections 15.04.040 to 15.04.250 to read as follows:

15.04.040 PURPOSE

The purpose of this Chapter is to establish uniform performance standards providing reasonable safeguards for the health, safety, welfare, comfort and security of the residents of this jurisdiction (who are occupants and users of buildings) and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

15.04.050 SCOPE

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

B. Where, in any specific case, different sections of this Chapter 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 this Chapter and an Oregon Revised Statute, the statute shall govern.

15.04.060 DEFINITIONS

For the purpose of this Chapter, the following definition shall apply:

A. "Building Official" shall mean the officer appointed by the City of Milwaukie to regulate and enforce all provisions of this Chapter pursuant to ORS 455.150 and who shall possess a State Building Official Certification.

B. "I.C.B.O." means International Conference of Building Officials.

C. "O.R.S." means Oregon Revised Statute.

15.04.070 AUTHORITY OF THE BUILDING OFFICIAL

A. The Building Official is authorized to enforce all the provisions of this Chapter. The Building Official shall have the power to render written and oral interpretations of this Chapter and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this Chapter.

B. In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint technical officers, inspectors and other employees to carry out the functions of this Chapter, including enforcement.

15.08.080 RIGHT OF ENTRY

When it may be necessary to inspect a building to enforce the provisions of this Chapter, or the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is in violation of this Chapter or which otherwise makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if the building or premises be occupied, credentials shall be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to any remedies provided by law to secure entry.

15.04.090 STOP WORK ORDERS

Whenever any work is being done contrary to the provisions of this Chapter (or other pertinent laws or Chapters implemented through its enforcement), the Building Official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the Building Official to proceed thereafter.

15.04.090 AUTHORITY TO DISCONNECT UTILITIES IN EMERGENCIES

The Building Official or the Building Official's authorized representative shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this Chapter when necessary to eliminate an immediate hazard to life or property. The Building Official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within a reasonable time thereafter.

15.04.110 AUTHORITY TO ABATE HAZARDOUS EQUIPMENT

A. When the Building Official ascertains that equipment, or any portion thereof, regulated by this Chapter has become hazardous to life, health or property, the building official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The order shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the notice.

B. When equipment or an installation is to be disconnected, written notice of the disconnection (and causes therefor) shall be sent by First Class U.S. Mail within 24 hours to the involved utility, and the owner and/or occupant of the building, structure or premises. When equipment is maintained in violation of this Chapter and in violation of a notice issued pursuant to the provisions of this section, the Building Official may institute such action as necessary to prevent, restrain, correct or abate the violation.

15.04.120 CONNECTION AFTER ORDER TO DISCONNECT

No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this Chapter which has been disconnected or ordered disconnected or discontinued by the Building Official until the Building Official specifically authorizes the reconnection and/or use of such equipment.

15.04.130 MAINTENANCE

All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Chapter shall be maintained in conformance with this Chapter. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the Building Official may cause a structure to be reinspected.

15.04.140 OCCUPANCY VIOLATIONS

Whenever any building, structure or equipment therein regulated by this Chapter is used contrary to the provisions of this Chapter, the Building Official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the Building Official in the notice and make the structure, or portion thereof, comply with the requirements of this Chapter. Use or occupancy of any structure, plumbing, mechanical equipment, or electrical system without approval of the Building Official is a violation of this Chapter.

15.04.150 SUSPENSION/REVOCATION

The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this Chapter whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any Chapter or regulation of any other provisions of the Milwaukie Municipal Code. All fees shall remain property of the City of Milwaukie and shall not be refunded.

15.04.160 INSPECTIONS

A. It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, to provide safe access to the site and inspection area, and to provide all equipment as may be deemed necessary or appropriate by the Building Official. All corrections required by the Building Official shall be made within a reasonable time and before covering. The permit holder shall not proceed with construction activity until authorized to do so by the Building Official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder.

B. Work requiring a permit shall not be commenced until the permit holder has posted or otherwise made available an inspection record card to allow the Building Official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained and kept available by the permit holder until final approval has been granted by the Building Official. No use or occupancy will be allowed without approval of the Building Official.

15.04.170 VARIOUS SPECIALTY CODES AND STANDARDS ADOPTED

The following specialty codes, rules, and standards are adopted and incorporated herein by this reference as included in this Chapter.

A. STRUCTURAL CODE

The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015, except as modified in this Chapter, is enforced as part of this Chapter.

B. MECHANICAL CODE

The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, except as modified in this Chapter, is enforced as part of this Chapter.

C. PROCESS PIPING CODE

Appendix Chapter 14 of the Uniform Mechanical Code, 1994 Edition, published by the ICBO, is adopted as part of this Chapter. Furthermore, this chapter shall govern the installation of hazardous process piping in or in conjunction with a building or structure or located upon the premises.

D. PLUMBING CODE

The Oregon Plumbing Specialty Code, as adopted by OAR 918-750-0010, except as modified in this Chapter, is enforced as part of this Chapter.

E. ELECTRICAL CODE

The Oregon Electrical Specialty Code, as adopted by OAR 918-290-0010, except as modified in this Chapter, is enforced as part of this Chapter.

F. ONE AND TWO FAMILY DWELLING CODE

The Oregon One and Two Family Dwelling Specialty Code, as adopted by OAR 918-480-000 through 918-480-0010, except as modified in this Chapter is enforced as part of this Chapter.

G. MANUFACTURED DWELLING PARKS RULES

The Manufactured Dwelling Park and Mobile Home Park Rules adopted by OAR 918-600-0005 through 918-600-0110, except as modified in this Chapter, are enforced as part of this Chapter.

H. MANUFACTURED HOME INSTALLATION RULES

The Manufactured Dwelling Rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, except as modified in this Chapter, are enforced as part of this Chapter.

I. RECREATIONAL PARK AND ORGANIZATIONAL CAMP RULES

The recreational park and organizational camp rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this Chapter, are enforced as part of this Chapter.

J. FIRE-FLOW REQUIREMENTS

Appendix Chapter 9 Division II of the current edition of the Oregon Structural Specialty Code is adopted as part of this Chapter with the following modifications:

1. Decreases. Fire-flow requirements may be modified downward by joint approval of the Building Official and the Fire Marshall for isolated buildings or a group of buildings where the development of full fire-flow requirements is impractical.

2. Increases. Fire-flow requirements may be modified upward by joint approval of the Building Official and the Fire Marshall where conditions indicate an unusual susceptibility to group fires or conflagrations. An upward modification shall not be more than twice that required for the building under construction.

3. Required Fire-Flow: No building shall be constructed, altered, enlarged, or repaired in a manner that by reason of size, type of construction, number of stories, occupancy, or any combination thereof creates a need for a fire flow in excess of 3000 gallons per minute (1.14m³/min) at 20 pounds per square inch residual pressure, or exceeds the available fire flow at the site of the structure, whichever is less.

4. Fire-flow requirements in excess of section for buildings protected with automatic sprinkler systems may be allowed by the Building Official and the Fire Marshall when:

   i. The greater flow is made available at the building site through the existing municipal water distribution system; and,

   ii. Vehicle access as specified in Section 902.2.2 of the Uniform Fire Code is provided to all sides of the building.

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

6. National Fire Protection Association (NFPA) standard 24, Private Fire Service Mains and Their Appurtenances (1995 Edition), is adopted as part of this Chapter.

7. Appendix Chapter 33 of the Uniform Building Code, 1994 Edition, published by the ICBO, except Tables 33-A and 33-B, is adopted as part of this Chapter.

K. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

The current edition of ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by this jurisdiction.

15.05.180 DANGEROUS OR UNSAFE BUILDINGS

A. All buildings or structures regulated by this Chapter which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part

of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the appropriate Oregon Specialty Code or appendages are unsafe.

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

15.04.190 ALTERNATE MATERIALS AND METHODS

A. The provisions of this Chapter are not intended to prevent the use of any alternate materials, designs or methods of construction not specifically proscribed by this Chapter, provided such alternates have been approved and their use authorized by the Building Official.

B. The Building Official may approve any such alternate materials, designs or methods, provided the Building Official finds that the proposed material, design or method complies with the provisions of this Chapter and that it is, for the purpose intended, at least the equivalent of that prescribed in this Chapter in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation, and is in conformance with all applicable City standards.

C. The Building Official may require that evidence or proof be submitted to substantiate any claims that may be made regarding an alternate use. The details of any approval of any alternate material, design or method may be recorded and entered in the files of the jurisdiction.

1. MODIFICATIONS

When there are practical difficulties in carrying out the provisions of this Chapter, the Building Official may grant modifications provided the Building Official finds that the modification is in conformance with the intent and purpose of this Chapter and that said modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification may be recorded in the files of this jurisdiction.

2. TESTS

Whenever there is insufficient evidence of compliance with the provisions of this Chapter, or any material, method or design does not conform to the requirements of this Chapter, the Building Official may require tests as proof of compliance to be made at no expense to this jurisdiction.

Test methods shall be as specified by the Building Official in accordance with the recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the Building Official shall determine test procedures.

All tests shall be made by an approved testing agency. Reports of such tests may be retained by the Building Official.

15.04.200 PLANS AND PERMITS

A. ISSUANCE

The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the Building Official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws or Chapters. If the Building Official finds that the work described in application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this Chapter and other pertinent laws and Chapters, and that the fees have been paid, the Building Official shall issue a permit therefor to the applicant.

When the Building Official issues the permit where plans are required, the Building Official shall endorse in writing or stamp the plans and specifications APPROVED. Such approved plans and specifications shall not be changed, modified and altered without authorizations from the Building Official, and all work regulated by the Building Official and this Chapter shall be done in accordance with the approved plans.

The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this Chapter. The issuance of a partial permit shall not constitute or be construed as an assurance that the permit for the entire building or structure will be granted. The holder of a partial permit proceeds with such work at the holder's own risk.

B. RETENTION OF PLANS

One set of approved plans, specifications and computations shall be retained by the Building Official for a period of not less than 90 days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and shall be kept on the site of the building or work at all times during which the authorized work is in progress.

C. VALIDITY OF PERMIT

The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Chapter or of any other Chapter of the jurisdiction or any other federal, state, or local law, statute, rule, regulation, or Oregon Specialty Code.

The issuance of a permit based on plans, specifications and other data shall not prevent the Building Official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this Chapter or of any other Chapters of this jurisdiction.

The issuance of a permit based on plans, specifications, and other data shall not be a guarantee by the City or the Building Official of the soundness of such plans or specifications, and shall not be a basis for imposing liability upon the City or any of its agents or employees, specifically including the Building Official.

D. NOT TRANSFERABLE

Absent express approval of the Building Official, a permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

E. EXPIRATION OF PLAN REVIEWS

Applications for which no permit is issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding an additional 180 days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew

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

F. PERMIT EXPIRATION, EXTENSION AND REINSTATEMENT

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

Every permit issued by the Building Official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date such permit is issued, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the Building Official to indicate the intent to start and complete the project. The Building Official may require the permittee to document these activities.

Every permit issued by the Building Official shall expire by limitation and become null and void 24 months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

1. EXCEPTION. At the time of permit issuance the Building Official may approve a period exceeding 24 months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within 24 months unreasonable.

Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once.

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

2. The Specialty Code under which the original permit was issued and other Chapters which are enforced by the Building Official have not been amended in any manner which affects the work authorized by the original permit.

3. No changes have been made or will be made in the original plans and specifications for such work.

4. If the original permit expired less than one year from the request to reinstate the fee for a reinstated permit shall be one-half the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required.

15.04.210 FEES

A. Fees charged under this Chapter shall be established by resolution of the City Council.

B. The Building Official may authorize the refunding of fees paid.

C. The determination of value or valuation under any provisions of this Chapter shall be made by the Building Official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

15.04.220 APPEAL PROCEDURE

A. Any person aggrieved by a decision of the Building Official made pursuant to the following specialty codes may appeal that decision to the following:

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

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

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

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

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

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

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

8. All other appeals may be made to the appropriate board or agency.

B. An appeal shall be in writing, shall describe the basis for the appeal and shall first be filed with the Building Official.

15.04.230 VALIDITY

If any section, paragraph, subdivision, clause, sentence, or provisions of this Chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Chapter, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this Chapter notwithstanding the parts to be declared unconstitutional and invalid.

15.04.240 PENALTIES

Any person violating any of the provisions herein for which a special penalty has not been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed $1000 per violation. Each day that a violation exists is a separate offense.

15.04.250 WORK WITHOUT A PERMIT/INVESTIGATION FEES/PENALTIES

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

B. An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Chapter nor from any penalty prescribed by law.

SECTION 3: EMERGENCY

The City Council finds that the provisions of this ordinance are immediately necessary for the preservation of the public health, peace and safety of the City of Milwaukie, Oregon and the inhabitants thereof and that the results of the enactment of the Chapter will be to protect the health and welfare of the citizens of Milwaukie, Oregon. Therefore, an emergency is declared to exist, and this Chapter shall take effect immediately upon passage by the City Council and signature by the Mayor.

READ for the first time at the regular meeting of the City Council, City of Milwaukie, Oregon, on the 18th day of February, 1997.

READ for the second time and passed by the City Council, City of Milwaukie, Oregon at the regular meeting on the 18th day of February, 1997.

Mayor

ATTEST:

Pat DuVal

City Recorder

pjb/acm/65021/building.or1(2/10/97)