



ORDINANCE NO. 5969

AN ORDINANCE AMENDING ORDINANCE 5877, WHICH AMENDED ALBANY MUNICIPAL CODE (AMC) TITLE 18 BUILDING CODE ADMINISTRATION AND PROPERTY MAINTENANCE; RELATING TO THE BUILDING BOARD OF APPEALS AND THE APPEALS PROCESS FOR TITLE 18 MATTERS.

WHEREAS, Title 18 of the Albany Municipal Code (AMC) contains the administrative provision governing the local building inspection program delegated by the state; and

WHEREAS, the regulatory requirements have been updated since the adoption of Title 18; and

WHEREAS, from time to time it is appropriate to amend the AMC based on changing conditions; and

WHEREAS, the decisions of the Building Official are subject to appeal; and

WHEREAS, those decisions should be appealed to the appropriate body that can render a decision in the most effective and prudent manner.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:


Section 1: The findings included in the staff memo are hereby adopted in support of this decision.

Section 2: The text of Title 18 of the AMC is hereby amended as shown in Exhibit A of this ordinance.

Passed by the Council: Jan. 26, 2022

Approved by the Mayor: Jan. 26, 2022

Effective Date: Feb. 25, 2022

  
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Mayor

ATTEST:



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City Clerk



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## Chapter 18.14 APPEALS

### Sections:

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### **18.14.005 Purpose.**

A decision of the Building Official related to the State Building Code or the enforcement of the provisions of this Title shall be subject to Appeal as specified in this chapter. For the purpose of this chapter, a decision of the Building Official shall include but not limited to: alternate method and material determinations; modification determinations; interpretations; notices; orders; declarations; and review letters.

- 1) In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official related to the application, enforcement, and interpretation of technical or scientific provisions of this title, which are not governed by the State Building Code, and to review appeals of the technical and scientific merits of an alternate methods and materials and modification determination regarding technical provisions of the State Building Code regulated by the municipality, there shall be and hereby is created a Building Board of Appeals (“Board”).
  - a. The Board shall consist of five members who are qualified by a minimum of five (5) years of professional experience on matters pertaining to building design and/or construction and who are not employees of the jurisdiction. Membership shall include a minimum of one registered design professional, one residential contractor, one commercial contractor, and two at large members. The Building Official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the Board.
    - i. Due to potential conflicts of interests, alternative members shall be appointed that shall assume a role on the Board when a member(s) needs to be recused.
  - b. The Board shall be appointed by the City Council of the City of Albany and shall hold office at the Council’s pleasure.
  - c. The Board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.
- (2) The Board makes determinations on a case-by-case basis and shall have no authority relative to interpretation of the administrative provisions of this title or the State Building Code; nor shall the board be empowered to waive requirements of this title or the State Building Code. For example, the Board may review the

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Building Official's determination that a structure is dangerous, but not the ensuing remedy.

#### **18.14.010 Appeal of Matters of the State Building Code.**

(1) A person aggrieved by an interpretation or application of a particular technical or scientific code provision made by the Building Official shall appeal to the appropriate state specialty code chief inspector of the Oregon Department of Consumer and Business Services, and utilize the process specified in ORS 455.475.

(a) Citations or penalties issued under the authority of the State Building Codes Division and enacted under this Title are entitled to judicial review in accordance with ORS 183.482. A person aggrieved by such a citation or penalty may request a judicial review by filing a petition with the Court of Appeals specified in AMC 18.10.200. Such citations and penalties are not appealable through this section.

(2) A person aggrieved by a decision of the Building Official of the technical or scientific merits of an alternate materials or methods determination or a request for a modification may utilize the appeals process specified in item (1) of this section or may appeal to the Board.

(3) A person aggrieved by a decision of the Building Official of an alternate method of materials request related to the conversion of single-dwelling homes to not more than four units shall use the administrative and discretionary appeals process specified in AMC 18.14.030 utilizing the timelines and process specified in ORS 455.610 (10).

#### **18.14.020 Appeal to Building Board of Appeals ("Board").**

A person aggrieved by a decision made by the Building Official relating to procedural, technical, or scientific provisions of this Title, not related to matters of the State Building Code, may appeal to the Board as set forth in this chapter.

#### **18.14.030 Appeal of Administrative and Discretionary Determinations.**

(1) A person aggrieved by a decision of the Building Official on administrative matters of this Title, not related to the State Building Code, shall be appealed to the Community Development Director, or their designee.

(2) A person aggrieved by a decision of the Building Official on administrative matters of the State Building Code shall appeal to the Director of the Department of Consumer and Business Services, or their designee, as specified in ORS 455.475.

(3) A person aggrieved by a decision of the Building Official on a discretionary determination of this Title or the State Building Code, shall be appealed to the Community Development Director, or their designee.

(4) Notwithstanding item (3) and for the purpose of OAR 918-020-250, where the Building Official is provided as a contract for service as specified in OAR 918-020-0230, the discretionary decisions of the contract Building Official shall be heard by the Board. As required in OAR 918-020-052, the Building Official from the county for which the project is located shall become a member of the Board for these matters.

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**18.14.040 Appeal Procedure.**

(1) An appeal to the Board shall be in writing, shall describe the basis for the appeal and provide supporting documentation, and shall first be filed with the Building Official. No appeal shall be timely unless it is actually received at the office of the Building Official within 30 days of the Building Official's determination which is the subject of the appeal.

(2) Following receipt of such an appeal, the Board shall convene and an opportunity for hearing shall be granted both to the appellant and to the Building Official or designee. The Board shall notify all parties of the hearing date and time at least 5 days prior thereto. The Board shall operate under such rules of procedure as it may, from time to time, promulgate.

(3) The decision of the Board shall be rendered within 45 days of the Building Official's receipt of the appeal, unless both parties stipulate to an extension of time. The Board's decision shall be in writing and shall be final upon receipt. All notices given by the Board shall be given to the appellant by first-class mail at the address indicated by the appellant on the notice of appeal and shall be deemed received three days after mailing.

(4) An appeal of the Board's decision relative to the application, enforcement, and interpretation of provisions of this title which are not governed by the State Building Code, shall be made in writing to the Albany City Council within 30 days of the Board's notice of said decision.

(5) An appeal of the Board's decision relating to technical and scientific determinations regarding any provision of the state specialty codes regulated by the municipality shall be appealed to the appropriate advisory board within 30 days of the Board's decision per OAR 918-080-0120(6).

(6) All work which is the subject of a permit, interpretation, or other matter under appeal shall be suspended pending resolution of the appeal.

**18.14.050 Staying of Order Under Appeal.**

Except for vacation orders made pursuant to AMC 18.28.040 or utility disconnections pursuant to AMC 18.10.080, enforcement of any notice and order of the Building Official issued under this title shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

(Ord. XXXX § 1 (Exh. A), 2022).