

BEFORE THE MALHEUR COUNTY COURT

ORDINANCE NUMBER 224

**An Ordinance Updating the)
Malheur County Building Code)
Title 5, Chapter 3 of the Malheur County Code;))
And Declaring An Emergency**

This matter came before the Malheur County Court for a single hearing on April 1, 2020 pursuant to ORS 203, 045(4),

WHEREAS, notice of adoption of this ordinance was advertised in the Argus Observer on _____, 2020 and on the County website; and

WHEREAS, the Malheur County Building Code codified in Title 5, Chapter 3 of the Malheur County Code requires updating to comply with current provisions of Oregon specialty codes and their administration; and

WHEREAS, a temporary ordinance, Ordinance No. 222, to update the Malheur County Building Code automatically sunsets April 2020.

NOW, THEREFORE, the Malheur County Court ordains as follows:

The Malheur County Building Code shall be updated in its entirety as set out on Exhibit A, which is attached and incorporated herein by reference.

An emergency is hereby declared to exist as it is necessary to adopt Oregon specialty codes and rules necessary to administer a complete building inspection program, and to ensure that proper authority exists for enforcement and implementation of the County building program.

This ordinance shall become effective on April 1, 2020.

Dated this 1st day of April 2020.

Judge Dan P. Joyce

Commissioner Don Hodge

Commissioner Larry Wilson

CHAPTER 3
BUILDING CODE

SECTION:

5-3-1: Title

5-3-2: Purpose of the Malheur County Building Code

5-3-3: Scope of the Malheur County Building Code

A. Definitions

5-3-4: Administration of Code

5-3-5: County Adoption of State Specialty Codes

5-3-6: Alternate Materials and Method

5-3-7: Modifications

5-3-8: Tests

5-3-9: Power and Authority of Building Official

5-3-10: Plans and Permits

5-3-11: Fees

5-3-12: Refund of Fees

5-3-13: Interpretation of Specialty Codes

5-3-14: Specific Provisions of Electrical Inspection Program

5-3-15: Qualifying Agricultural Buildings

5-3-16: Appeal, Local Appeal Board and Alternative Appeal Procedure

5-3-17: Instances of Violations

5-3-1: TITLE: These regulations shall be known as the MALHEUR COUNTY BUILDING CODE, may be cited as such and will be referred herein as "this chapter".

5-3-2: PURPOSE OF THE MALHEUR COUNTY BUILDING CODE: The purpose of this chapter is to establish uniform performance standards providing reasonable safeguards for health, safety, 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 practical maximum energy conservation. This chapter is adopted as a general legislative enactment pursuant to ORS 203.035 and 455.150.

5-3-3: SCOPE OF THE MALHEUR COUNTY BUILDING CODE: 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.

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 and a specific requirement, the specific requirement shall be applicable.

Where, in any specific case, there is a conflict between this chapter and Oregon Revised Statutes, the statute shall govern.

A. Definitions.

“Building Official” shall mean the official designated by the Malheur County Court as the Malheur County Building Official, or the Building Official’s duty authorized representative, and charged by the Codes (Malheur County Building Code and adopted Oregon Specialty Codes) with the administration and enforcement of this chapter.

5-3-4: ADMINISTRATION OF CODE: Malheur County shall provide a program of building code administration ("program") within the limits of Malheur County, including the issuing of permits, plan reviews and inspection for structural, mechanical, plumbing and electrical work. The program shall be administered by the Building Official. The Building Official may delegate the authority to administer or enforce all or part of the program. The program shall operate pursuant to the State of Oregon Building Codes, except as modified by this chapter.

5-3-5: COUNTY ADOPTION OF STATE SPECIALTY CODES: Malheur County hereby adopts, by reference and incorporates herein, that version of the following state specialty codes ("specialty codes") adopted by the State of Oregon, from time to time, relating to building construction, as county ordinances:

- 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 the Malheur County Building Code.

In addition to activities and structures requiring permits under the Oregon Structural Specialty Code, permits are required for the following activities and structures, pursuant to ORS 455.020(4) and this chapter:

1. As required pursuant to the regulation of dangerous buildings, seismic rehabilitation plans.
 2. For abatement of nuisances and dangerous buildings.
 3. Fire/ life safety during construction.
 4. Demolition.
 5. Fences exceeding 7 feet in height.
 6. Retaining walls supporting a surcharge, or impounding Class I, II, IIIA liquids.
 7. Tanks that are located exterior to and not attached to or supported by a regulated building.
 8. Cellular phone, radio, television and other telecommunication and broadcast towers that are not attached to or supported by a regulated building.
 9. Flagpoles and light poles exceeding 25 feet in height.
 10. Signs not attached to or supported by a regulated building.
- B. Sign Regulations: Appendix H of the Oregon Structural Specialty Code is adopted as part of this chapter.
- C. Adoption of Additional National Fire Protection Association (NFPA) Standards:
1. NFPA standard 20, Centrifugal Fire Pumps, is adopted as part of this chapter.
 2. NFPA standard 22, Water Tanks for Private Fire Protection, is adopted as part of this chapter.
 3. NFPA standard 24, Private Fire Service Mains and Their Appurtenances, is adopted as part of this chapter.
- D. 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 the Malheur County Building Code.
- E. Plumbing Code: The Oregon Plumbing Specialty Code, as adopted by OAR 918-750-0110, except as modified in this chapter, is enforced as part of the Malheur County Building Code.
- F. Electrical Code: The Oregon Electrical Specialty Code, as adopted by OAR 918-305-0100 through 918-305-320, except as modified in this chapter, is enforced as part of the Malheur County Building Code
- G. Residential Code: The Oregon Residential Specialty Code, as adopted by OAR 918-480-0002 through 918-480-0010, except as modified in this chapter, is enforced as part of the Malheur County Building Code.

In addition to activities and structures requiring permits under the Oregon Residential Specialty Code, permits are required for the following activities and structures, pursuant to ORS 455.020(4) and this chapter:

1. Abatement of nuisances and dangerous buildings.
2. Demolition.
3. Fences, other than required swimming pool barriers, exceeding 7 feet in height.
4. Retaining walls supporting a surcharge, or impounding Class I, II, IIIA liquids.
5. Tanks that are located exterior to and not attached to or supported by a regulated building.
6. Free Standing radio, television and other telecommunication and broadcast towers that are not attached to or supported by a regulated building.

H. Manufactured Dwelling Code:

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 the Malheur County Building Code.

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 the Malheur County Building Code.

- I. Unsafe buildings designated nuisances: All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage, or abandonment, as specified in the Malheur County Building Code or any other effective ordinance, are for the purpose of this section, unsafe buildings. All such unsafe buildings are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Chapters 4 through 9 of the Uniform Code for the Abatement of Dangerous Buildings published by the International Conference of Building Officials, and available and on file with, the office of the County Building Official, or by any other procedures provided by law and shall apply to structures in all unincorporated areas of Malheur County.
- J. Recreational Park and Organizational Camps: The recreational park and organizational camp rules adopted by OAR 918-650-000 through 918-650-0085, except as modified in this chapter, are enforced as part of the Malheur County Building Code.

- K. The Oregon Energy Efficiency Specialty Code adopted by OAR 918-460-0500 through 918-460-0510, except as modified in this chapter, is enforced as part of the Malheur County Building Code.

5-3-6: ALTERNATE MATERIALS AND METHOD: The provisions of this chapter are not intended to prevent the use of any alternate material, design, or method of construction not specifically proscribed by this chapter; provided such alternate has been approved and is authorized by the Building Official.

The Building Official may approve any such alternate material, design or method, provided the Building Official finds that the proposed material, design or method complies with the provisions of this chapter and that 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.

The Building Official may require that evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of an alternate material, design or method shall be recorded and entered in the files of the agency. ORS 455.060 provides for state rulings on acceptable materials, designs and methods of construction. When a ruling has been issued, ORS 455.060(4) applies.

5-3-7: 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 shall be recorded in the files of the Malheur County building department.

5-3-8: TESTS: Whenever there is insufficient evidence of compliance with the provisions of this chapter or that 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 this chapter or by other 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 approved by the testing agency. Reports of such tests shall be retained by the Building Official for the period required for the retention of public records.

5-3-9: POWER AND DUTIES OF BUILDING OFFICIAL:

- A. General: There is established a code enforcement section which shall be under the administrative operational control of the Building Official. The Building Official is authorized to enforce all the provisions of this chapter and the Malheur County Building Code. 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 and the Malheur County Building Code.
- B. Deputies: With the approval of the Malheur County Court, the Building Official may appoint technical officers and inspectors and other employees or agents to carry out the functions of the code enforcement section of this chapter and the Malheur County Building Code.
- C. Right of Entry: When it may be necessary to inspect to enforce the provisions of this chapter and the Malheur County Building Code or the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter or the Malheur County Building Code, or otherwise makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this chapter and the Malheur County Building Code, provided that, if such building or premises be occupied, credentials 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 the remedies provided by the Oregon Revised Statutes to secure entry.

- D. **Corrections And Stop Orders:** When any work is being done contrary to the provisions of the specialty codes, this chapter, the Malheur County Building Code or other pertinent laws or ordinances, the Building Official may order the work corrected or stopped by notice in writing served on any persons engaged in the doing or causing such work to be done. Such persons shall specifically make the necessary corrections or stop work until authorized by the Building Official to proceed with work.
- E. **Authority To Disconnect Utilities:** 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 immediately thereafter.
- F. **Authority To Abate Hazardous Equipment:** When the Building Official ascertains that any equipment, or portion thereof, regulated by this chapter has become hazardous to life, health or property, the Building Official shall order that the equipment either be removed from its location, and/or restored to a safe or sanitary condition, as appropriate. The notice shall be in writing and contain a fixed time limit for compliance. Persons shall not use or maintain defective equipment after receiving a notice.

When equipment or installation is to be disconnected, written notice of the disconnection (and causes thereof) shall be given within twenty four (24) hours to the involved utility, 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 is deemed necessary to prevent, restrain, correct or abate the violation.

- G. **Connection After Order To Disconnect:** Persons shall not make connections from any electrical service or fuel-gas utility service nor supply electrical power to any equipment regulated by this Section which has been disconnected or ordered to be disconnected by the Building Official until the proper permits have been obtained, inspections approved, and the Building Official authorizes the reconnection and use of such equipment.

- H. Maintenance: All buildings, 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 the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of building and structures. To determine compliance with this section, the Building Official may cause a structure to be re-inspected.
- I. Occupancy Violations: Whenever any building, structure or equipment 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 his notice and make the structure, or portion thereof, comply with the requirements of this chapter.
- J. The authority of the Building Official above is in addition to any authority given the Building Official by the State Building Codes Divisions, State boards, specialty codes, Oregon Revised Statutes or Oregon Administrative Rules.

5-3-10: 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 under their jurisdiction. 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 the Malheur County Building Code and other pertinent laws and ordinances, 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 mark 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 this chapter and the Malheur County Building Code 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 and the Malheur County Building Code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

- B. Retention Of Plans: One set of approved plans, specifications and computations shall be retained by the Building Official in accordance with state archive requirements; and one set of approved plans and specifications shall be returned to the applicant, which shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.
- C. Validity Of Permits: 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 chapter, federal, state or local law, statute, rule, regulation or other ordinance of this jurisdiction.

The issuance of a permit based upon plans, specifications, computations 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 other Malheur County ordinances.

- D. Revocation of Permits: The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this chapter or specialty codes whenever the permit is issued in error, on the basis of incorrect information supplied or in violation of the ordinances of Malheur County, Oregon Revised Statutes or Oregon administrative rules.
- E. Expiration Of Plans: Applications for which no permit is issued within one hundred eighty (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 one hundred eighty (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 one hundred eighty (180) days from the date of such permit, or if the building or work authorized by such permits is suspended or abandoned at any time

after the work is commenced for a period of one hundred eighty (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.

- G. **Permit Extension.** 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 the work within the time required by this section for any satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding one hundred eighty (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 work authorized by the original permit can be recommenced, provided that the following are met:

1. The building code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit.
2. No changes have been made or will be made in the original plans and specifications for such work.
3. The original permit expired less than one year from the request to reinstate.
4. The fee for a reinstated permit shall be one-half (1/2) 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.

H. **Work Without A Permit And Investigation Fees:**

1. **Investigation:** Whenever any work for which a permit is required by this chapter has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.
2. **Fee:** An investigation fee, in addition to the permit fee, shall 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 any provision of the specialty codes or this chapter.

- I. **Not Transferable:** 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.

- J. Inspections: 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, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the Building Official. 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 inspection shall be the responsibility of the permit holder or agent of the permit holder.

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

5-3-11: FEES: Fees for permits and activities related to Malheur County's building program shall be printed in a resolution adopted by the Malheur County Court.

The value to be used in computing the building permit fee for new commercial construction shall be the value of all construction work including finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and other permanent equipment.

The value to be utilized in computing the building permit fee for new residential construction shall be based on the square footage of the residence.

5-3-12: REFUND OF FEES:

- A. The Building Official may authorize the refunding of any fee paid for permits or activities related to all specialty codes which were erroneously paid or collected.
- B. The Building Official may authorize refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this chapter.
- C. 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 canceled before any plan review effort has been expended.
- D. The Building Official shall not authorize 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.

5-3-13: INTERPRETATION OF SPECIALTY CODES: Any questions or conflicts in technical, scientific or alternative material code interpretations of the State of Oregon Structural Specialty Code, State of Oregon Plumbing Specialty Code, State of Oregon Mechanical Specialty Code, Oregon Residential Specialty Code, Oregon State Manufactured Dwelling installation standards and the Uniform Code for Abatement of Dangerous Buildings between inspectors shall be resolved by the Building Official. When necessary, an inquiry to the Oregon State Building Codes Division may be made. Conflicts between inspectors and the public regarding technical, scientific and alternative material code interpretations will be resolved between the customer, inspector directly involved and the Building Official. The Building Official shall make a final ruling in writing sent to the customer. If differences occur, the customer may appeal to the local appeal board or State of Oregon within thirty (30) days.

5-3-14: SPECIFIC PROVISIONS OF ELECTRICAL INSPECTION PROGRAM: Coordination Of Permits; Providing Electrical Services Without Permits Prohibited: No person shall provide any electrical service to any newly constructed or altered building or newly placed or altered manufactured dwelling or prefabricated building inside the limits of Malheur County until all required permits have been issued for such building, manufactured dwelling or prefabricated building. Nothing in this chapter shall prevent reconnection of existing electrical services which have been temporarily disrupted.

5-3-15: APPEAL, LOCAL APPEAL BOARD AND ALTERNATIVE APPEAL PROCEDURE:

- A. Manner Of Taking: Any person aggrieved by a code interpretation or decision of the Building Official may file an appeal with the Malheur County Court who will, within a reasonable time, convene the local appeal board for hearing of the appeal. A decision of the local appeal board can be appealed to the appropriate state advisory board pursuant to ORS 455.690.
- B. Alternative Appeal Process: In lieu of subsection A of this section, the aggrieved person may appeal directly to the state specialty code chief under OAR 918-001-0130 and ORS 455.475. If the appeal relates to an inspection pursuant to the electrical specialty code, the appeal process set forth in OAR 918-251-0040 shall be followed.
- C. Form Of Appeal To Local Appeal Board: No particular form or format for an appeal to the local board is required. However, the appeal shall specify the nature of decision appealed, the date of the decision and shall specifically set out each and every allegation of error. The appeal shall be signed by the grievant. A copy of the appeal shall be sent U.S. mail or delivered personally to the Building Official. An appeal fee is established by the Malheur County Court.
- D. Form Of Appeal To State: An appeal application to the State of Oregon may be obtained from Oregon Department of Consumer and Business Services/State of Oregon Building Codes Division. An appeal fee is established by State.

- E. Local Appeal Board: A local appeal board is hereby created consisting of five (5) members. The members shall be selected by and serve at the pleasure of the Malheur County Court. The board will consist of the following: 1) engineer or architect; 2) plumbing contractor; 3) electrical contractor; 4) building contractor; and 5) representative from any fire protection agency.

5-3-17: INSTANCES OF VIOLATIONS:

Instances of permit, specialty code or ordinance violations shall be enforced by the Building Official as follows:

- A. Imposition Of Local Civil Penalties: A violation of any provision of this chapter is a class B infraction under the Malheur County Code. Every day's continuance of the violation may be considered a separate offense. An offense is subject to a fine of two hundred fifty dollars (\$250.00). The Building Official or other county enforcement officer can issue an infraction complaint for violations under this chapter.
- B. Additional Penalties: The penalties and remedies herein are in addition to the remedies provided for trade licensing under Oregon law.
- C. Enforcement: No more than one recovery shall be had against a person for the same offense. Revocation of permit, corrections, stop work order, disconnection of utilities and other authority of the Building Official shall not be considered a recovery or penalty so as to bar any other penalty being enforced.