

ORDINANCE NO. 943

AN ORDINANCE ADDING SECTIONS 93.18 – 93.22 TO CHAPTER 93 OF TITLE IX: GENERAL REGULATIONS OF THE OAKRIDGE MUNICIPAL CODE AND ADOPTING A SEVERABILITY CLAUSE

WHEREAS, Oakridge Municipal Code section 93.17 provides the City Administrator or designee to obtain compliance with certain city ordinances through inspection, notification, and where appropriate, citation for civil infractions, or abatement, with the intent of protecting the health, safety, and welfare of the citizenry;

WHEREAS, City Code enforcement officials regularly enter onto private property with consent to inspect for compliance with city ordinances; and,

WHEREAS, the City Administrator occasionally has reasonable cause to believe violations of certain city ordinances are occurring on private property that jeopardize public health and safety, but the owner or occupant of said property is unable or unwilling to give consent to an administrative inspection; and,

WHEREAS, officials of the City of Oakridge cannot constitutionally enter onto private property to conduct administrative inspection or abatement without consent unless in an emergency, under exigent circumstances, or pursuant to a judicially-authorized administrative inspection/abatement warrant supported by reasonable cause; and,

WHEREAS, it is in the public interest of the City of Oakridge to authorize the City Administrator or designee to obtain an administrative inspection/abatement warrants to enter onto private property to inspect or abate without consent of the property owner to protect the health, safety and welfare of the citizenry; and,

NOW, THEREFORE, the City of Oakridge ordains as follows:

Section I. Chapter 93 of the Oakridge Municipal Code is hereby amended to add Section 93.18 through 93.22 establishing the City Administrator's authority to obtain administrative inspection/abatement warrants and providing a procedure and establishing standards for issuing and executing such warrants when consent to conduct a search or to abate is denied or cannot be obtained, as more particularly described and set forth in Exhibit 1 attached hereto and incorporated herein by reference.

Section II. Except as provided herein Chapter 93 shall continue in full force and effect.

Section III. Severability Clause. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

Section IV. Effective date of Ordinance. This Ordinance shall take effect 30 days after its adoption by the Council and approval by the Mayor.

READ, PASSED AND ADOPTED by a vote of the Oakridge City Council this 2 day of November, 2023.

APPROVED AND SIGNED BY THE MAYOR of the City of Oakridge this 2 day of November, 2023.

Attest:



Mayor



City Recorder

Ayes: 6

Nays: 0

Abstain: 0

93.18 Access to Property for Inspections and Abatements—Administrative Warrants.

(1) The enforcing officer may enter any property, including interior of structures, at all reasonable times with permission of the property owner or person in possession of property, whenever an inspection is necessary to effectuate the purposes and public benefits of this code or the Oakridge Development Code; whenever the enforcing officer has reasonable cause to believe that there exists in any structure or upon any property any condition which constitutes a violation of a statute, ordinance, regulation, rule, standard or order; or to effectuate an administrative abatement as provided in section 93.17 of this code.

(2) When permission is not given by the property owner or person in possession of the property under subsection (1) of this section, the enforcing officer is authorized to obtain an administrative inspection warrant and/or an administrative abatement warrant in accordance with sections 93.18 through 93.22 of this code.

(3) An “administrative inspection warrant” is an order authorizing the enforcing officer to conduct an inspection or investigation at a designated building or property.

(4) An “administrative abatement warrant” is an order authorizing the enforcing officer to abate a public nuisance at a designated building or property, in accordance with section 93.17 of this code. [Section 93.18 added by Ordinance No. 943, enacted November 2, 2023.]

93.19 Grounds for Issuing an Administrative Warrant.

(1) Affidavit. An administrative inspection or abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing:

- (a) The applicant’s status in applying for the warrant;
- (b) The ordinance or regulation requiring or authorizing the inspection or investigation, or authorizing the removal and abatement of a nuisance;
- (c) The building or property to be inspected, investigated, or abated;

(d) In the case of an administrative inspection warrant, the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect;

(e) In the case of an abatement warrant, a statement of the conditions to be abated and the general types and estimated quantity of the items to be removed and sold, recycled, or discarded; and

(f) A statement that entry has been sought and refused, or in the case of an administrative inspection warrant only, facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

(2) Cause for an Administrative Inspection Warrant. Cause to inspect or investigate shall be deemed to exist if the enforcing officer has complied with the applicable reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection of the particular building or property; or if there is probable cause to believe that a condition of nonconformity with a health or safety statute, ordinance, regulation, rule, standard or order exists with respect to the particular building or property.

(3) Cause for an Abatement Warrant. Cause shall be deemed to exist if there is probable cause to believe that a nuisance violation exists with respect to the designated property, that the person responsible for the property has been given notice and an opportunity to abate the violation in accordance with sections 93.16 through 93.17 of this code, and the nuisance has not been abated. [Section 93.19 added by Ordinance No. 943, enacted November 2, 2023.]

93.20 Procedure for Issuing an Administrative Warrant.

(1) Examination. Before issuing an administrative inspection or abatement warrant, the judge shall review the affidavit and any attached material, and may examine the applicant, affiant, and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

(2) Issuance. If the judge is satisfied that cause for the inspection, investigation, or abatement exists and that the requirements for granting the application are satisfied, the judge shall issue the warrant. The warrant shall particularly describe the person or persons authorized to execute the warrant and the

building or property to be entered. In the case of an administrative inspection warrant, the warrant shall describe the purpose of the inspection or investigation. In the case of an abatement warrant, the warrant shall describe the conditions to be abated and the general types and estimated quantity of items to be removed and sold, recycled, or discarded. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night. [Section 93.20 added by Ordinance No. 943, enacted November 2, 2023.]

93.21 Execution of an Administrative Warrant.

(1) Except as provided in subsection (2) of this section, in executing an administrative inspection or abatement warrant, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present the person's credentials, authority, and purpose to an occupant or person in possession of the building or property designated in the warrant and present the warrant or a copy thereof.

(2) In executing an administrative inspection or abatement warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection (1) of this section, but may promptly enter the designated building or property if it is at the time unoccupied or not in the possession of any person, or at the time reasonably believed to be in such condition. In such case, a copy of the warrant shall be conspicuously posted on the property.

(3) A peace officer, as defined in ORS 161.015(4), may be requested to assist in the execution of the warrant.

(4) An administrative inspection or abatement warrant must be executed within 14 days of its issue and returned to the judge by whom it was issued within 14 days from its date of execution, unless before the expiration of such time, the judge by order extends the time for up to five days. After the expiration of the time prescribed by this subsection, the warrant is void unless executed. [Section 93.21 added by Ordinance No. 943, enacted November 2, 2023.]

93.22 Emergency Inspection or Abatement without Warrant.

Nothing in Oakridge Municipal Code sections 93.18 through 93.21 prohibits the city from conducting an inspection or abatement without a warrant, when an emergency or exigent circumstances exist that make the inspection or abatement immediately necessary to protect public health, safety, or welfare.

[Section 93.22 added by Ordinance No. 943, enacted November 2, 2023.]