

Chapter 455

Building Codes

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(Municipal Regulation)

455.148 Comprehensive municipal building inspection programs; building officials; rules; program duration, plan, failure, abandonment and resumption. (1)(a) A municipality that assumes the administration and enforcement of a building inspection program shall administer and enforce the program for all of the following:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection.

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

(D) Park and camp programs regulated under ORS 455.680.

(E) Tourist facilities regulated under ORS 446.310 to 446.350.

(F) Manufactured dwelling alterations regulated under ORS 446.155.

(G) Manufactured structure accessory buildings and structures under ORS 446.253.

(H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (4).

(b) A building inspection program of a municipality may not include:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described in rules adopted under ORS 480.525 (4);

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.370;

(D) Prefabricated structure regulation under ORS chapter 455;

(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;

(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; or

(G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if the municipality is not a county, notify the county whether the municipality will continue to administer and enforce the building inspection program after expiration of the four-year period.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer the building inspection program, the county or counties in which the city is located shall administer and enforce the county program within the city in the same manner as the program is administered and enforced outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce a building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce a building inspection program, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying the expenses thereof. A state employee may not be displaced as a result of using contract personnel.

(7)(a) The governing body of a municipality may commence responsibility for the administration and enforcement of a building inspection program beginning July 1 of any year by notifying the director no later than January 1 of the same year and obtaining the director's approval of an assumption plan as described in subsection (11)(c) of this section.

(b) Notwithstanding paragraph (a) of this subsection, a municipality may not assume responsibility for administering and enforcing a building inspection program within the municipality unless:

(A) Prior to the assumption, the municipality is subject to ORS 455.150; or

(B) Responsibility for the program is being assumed from the department.

(8) The department shall adopt rules to require the governing body of each municipality assuming or continuing a building inspection program under this section to submit a written plan with the notice required under subsection (4) or (7) of this section. If the department is the governing body, the department shall have a plan on file. The plan must specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers and enforces a building inspection program pursuant to this section shall recognize and accept the performances of state building code activities by businesses and persons authorized under ORS 455.457 to perform the activities as if the activities were performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs that municipalities assume on or after January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Requiring a municipality assuming a building inspection program to submit with the notice given under subsection (7) of this section an assumption plan that includes, at a minimum:

(A) A description of the intended availability of program services, including proposed service agreements for carrying out the program during at least the first two years;

(B) Demonstration of the ability and intent to provide building inspection program services for at least two years;

(C) An estimate of proposed permit revenue and program operating expenses;

(D) Proposed staffing levels; and

(E) Proposed service levels;

(d) Reviewing procedures and program operations of municipalities;

(e) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(f) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(g) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program throughout a county, if another municipality is allowed to provide a building inspection program within the same county; and

(h) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

(a) During the pendency of activities under ORS 455.770;

(b) If a municipality abandons or is no longer able to administer the building inspection program; and

(c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) A municipality that abandons or otherwise ceases to administer a building inspection program that the municipality assumed under this section may not resume the administration or enforcement of the program for at least two years. The municipality may resume the administration and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to resuming the administration and enforcement of the program, the municipality must follow the notification procedure set forth in subsection (7) of this section. [2001 c.573 §1; 2005

c.22 §328; 2007 c.487 §1; 2007 c.549 §4]

Note 1: The amendments to 455.148 by section 1, chapter 487, Oregon Laws 2007, become operative July 1, 2008. See section 16, chapter 487, Oregon Laws 2007. The text that is operative until July 1, 2008, including amendments by section 4, chapter 549, Oregon Laws 2007, is set forth for the user's convenience.

455.148. (1)(a) A municipality that assumes the administration and enforcement of a building inspection program shall administer and enforce the program for all of the following:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection;

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230;

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446;

(D) Park and camp programs regulated under ORS 455.680;

(E) Tourist facilities regulated under ORS 446.310 to 446.350;

(F) Manufactured dwelling alterations regulated under ORS 446.155; and

(G) Manufactured structure accessory buildings and structures under ORS 446.253.

(b) A building inspection program of a municipality may not include:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670;

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.370;

(D) Prefabricated structure regulation under ORS chapter 455;

(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;

(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; or

(G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if the municipality is not a county, notify the county whether the municipality will continue to administer and enforce the building inspection program after expiration of the four-year period.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer the building inspection program, the county or counties in which the city is located shall administer and enforce the county program within the city in the same manner as the program is administered and enforced outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce a building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce a building inspection program, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying the expenses thereof. A state employee may not be displaced as a result of using contract personnel.

(7)(a) The governing body of a municipality may commence responsibility for the administration and enforcement of a building inspection program beginning July 1 of any year by notifying the director no later than January 1 of the same year and obtaining the director's approval of an assumption plan as described in subsection (11)(c) of this section.

(b) Notwithstanding paragraph (a) of this subsection, a municipality may not assume responsibility for administering and enforcing a building inspection program within the municipality unless:

(A) Prior to the assumption, the municipality is subject to ORS 455.150; or

(B) Responsibility for the program is being assumed from the department.

(8) The department shall adopt rules to require the governing body of each municipality assuming or continuing a building inspection program under this section to submit a written plan with the notice required under subsection (4) or (7) of this section. If the department is the governing body, the department shall have a plan on file. The plan must specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers and enforces a building inspection program pursuant to this section shall recognize and accept the performances of state building code activities by businesses and persons authorized under ORS 455.457 to perform the activities as if the activities were performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs that municipalities assume on or after January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Requiring a municipality assuming a building inspection program to submit with the notice given under subsection (7) of this section an assumption plan that includes, at a minimum:

(A) A description of the intended availability of program services, including proposed service agreements for carrying out the program during at least the first two years;

(B) Demonstration of the ability and intent to provide building inspection program services for at least two years;

(C) An estimate of proposed permit revenue and program operating expenses;

(D) Proposed staffing levels; and

(E) Proposed service levels;

(d) Reviewing procedures and program operations of municipalities;

(e) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(f) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(g) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program throughout a county, if another municipality is allowed to provide a building inspection program within the same county; and

(h) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

(a) During the pendency of activities under ORS 455.770;

(b) If a municipality abandons or is no longer able to administer the building inspection program; and

(c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) A municipality that abandons or otherwise ceases to administer a building inspection program that the municipality assumed under this section may not resume the administration or enforcement of the program for at least two years. The municipality may resume the administration and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to resuming the administration and enforcement of the program, the municipality must follow the notification procedure set forth in subsection (7) of this section.

Note 2: The amendments to 455.148 by section 5, chapter 549, Oregon Laws 2007, apply to the assumption of building inspection programs on or after July 1, 2010. See section 7, chapter 549, Oregon Laws 2007. The text that applies on and after July 1, 2010, is set forth for the user's convenience.

455.148. (1)(a) A municipality that assumes the administration and enforcement of a building inspection program shall administer and enforce the program for all of the following:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection.

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

(D) Park and camp programs regulated under ORS 455.680.

(E) Tourist facilities regulated under ORS 446.310 to 446.350.

(F) Manufactured dwelling alterations regulated under ORS 446.155.

(G) Manufactured structure accessory buildings and structures under ORS 446.253.

(H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (4).

(b) A building inspection program of a municipality may not include:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described in rules adopted under ORS 480.525 (4);

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.370;

(D) Prefabricated structure regulation under ORS chapter 455;

(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;

(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; or

(G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if the municipality is not a county, notify the county whether the municipality will continue to administer and enforce the building inspection program after expiration of the four-year period.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer the building inspection program, the county or counties in which the city is located shall administer and enforce the county program within the city in the same manner as the program is administered and enforced outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce a building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce a building inspection program, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying the expenses thereof. A state employee may not be displaced as a result of using contract personnel.

(7) The governing body of a municipality may commence responsibility for the administration and enforcement of a building inspection program beginning July 1 of any year by notifying the director no later than January 1 of the same year and obtaining the director's approval of an assumption plan as described in subsection (11)(c) of this section.

(8) The department shall adopt rules to require the governing body of each municipality assuming or continuing a building inspection program under this section to submit a written plan with the notice required under subsection (4) or (7) of this section. If the department is the governing body, the department shall have a plan on file. The plan must specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers and enforces a building inspection program pursuant to this section shall recognize and accept the performances of state building code activities by businesses and persons authorized under ORS 455.457 to perform the activities as if the activities were performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs that municipalities assume on or after January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Requiring a municipality assuming a building inspection program to submit with the notice given under subsection (7) of this section an assumption plan that includes, at a minimum:

(A) A description of the intended availability of program services, including proposed service agreements for carrying out the program during at least the first two years;

(B) Demonstration of the ability and intent to provide building inspection program services for at least two years;

(C) An estimate of proposed permit revenue and program operating expenses;

(D) Proposed staffing levels; and

(E) Proposed service levels;

(d) Reviewing procedures and program operations of municipalities;

(e) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(f) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(g) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program throughout a county, if another municipality is allowed to provide a building inspection program within the same county; and

(h) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

- (a) During the pendency of activities under ORS 455.770;
- (b) If a municipality abandons or is no longer able to administer the building inspection program; and
- (c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) A municipality that abandons or otherwise ceases to administer a building inspection program that the municipality assumed under this section may not resume the administration or enforcement of the program for at least two years. The municipality may resume the administration and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to resuming the administration and enforcement of the program, the municipality must follow the notification procedure set forth in subsection (7) of this section.

Note 3: 455.148 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.150 Selective municipal building inspection programs; building officials; rules; program duration, plan, failure and abandonment; limitation on program resumption. (1)

Except as provided in subsection (14) of this section, a municipality that assumes the administration and enforcement of a building inspection program prior to January 1, 2002, may administer and enforce all or part of a building inspection program. A building inspection program:

- (a) Is a program that includes the following:
 - (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection.
 - (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.
 - (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.
 - (D) Park and camp programs regulated under ORS 455.680.
 - (E) Tourist facilities regulated under ORS 446.310 to 446.350.
 - (F) Manufactured dwelling alterations regulated under ORS 446.155.
 - (G) Manufactured structure accessory buildings and structures under ORS 446.253.
 - (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (4).
- (b) Is not a program that includes:
 - (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described in rules adopted under ORS 480.525 (4);
 - (B) Elevator programs under ORS 460.005 to 460.175;
 - (C) Amusement ride regulation under ORS 460.310 to 460.370;
 - (D) Prefabricated structure regulation under ORS chapter 455;
 - (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;
 - (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; and
 - (G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program or parts thereof, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if not a county, notify the county whether the municipality will continue to administer the building inspection program, or parts thereof, after expiration of the four-year period. If parts of a building inspection program are to be administered and enforced by a municipality, the parts shall correspond to a classification designated by the director as reasonable divisions of work.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer certain specialty codes or parts thereof under the building inspection program, the county or counties in which the city is located shall administer and enforce those codes or parts thereof within the city in the same manner as it administers and enforces them outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce certain specialty codes or parts thereof under the building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce those codes or parts thereof, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying such expenses. A state employee may not be displaced as a result of using contract personnel.

(7) If a municipality administering a building inspection program under this section seeks to administer additional parts of a program, the municipality must comply with ORS 455.148, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.

(8) The department shall adopt rules to require the governing body of each municipality to submit a written plan with the notice required under subsection (4) of this section. If the department is the governing body, the department shall have a plan on file. The plan shall specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers a code for which persons or businesses are authorized under ORS 455.457 to perform activities shall recognize and accept those activities as if

performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs of municipalities assumed prior to January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Reviewing procedures and program operations of municipalities;

(d) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(e) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(f) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program or part of the program throughout a county, if another municipality is allowed to provide a building inspection program or part of a program within the same county; and

(g) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

(a) During the pendency of activities under ORS 455.770;

(b) If a municipality abandons any part of the building inspection program or is no longer able to administer the building inspection program; and

(c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) If a municipality abandons or otherwise ceases to administer all or part of a building inspection program described in this section, the municipality may not resume the administration and enforcement of the abandoned program or part of a program for at least two years. The municipality may resume the administration and enforcement of the abandoned program or part of a program only on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned program or part of a program, the municipality must comply with ORS 455.148, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.

(14) A municipality that administers and enforces a building inspection program under this section shall include in the program the inspection of boilers and pressure vessels described in subsection (1)(a)(H) of this section. [Formerly 456.800; 1991 c.308 §1; 1991 c.410 §1; 1993 c.463 §1; 1993 c.744 §89; 1995 c.553 §1; 1999 c.1045 §15; 2001 c.573 §3; 2007 c.487 §2]

Note: The amendments to 455.150 by section 2, chapter 487, Oregon Laws 2007, become operative July 1, 2008. See section 16, chapter 487, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

455.150. (1) A municipality that assumes the administration and enforcement of a building inspection program prior to January 1, 2002, may administer and enforce all or part of a building inspection program. A building inspection program:

(a) Is a program that includes:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection;

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230;

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446;

(D) Park and camp programs regulated under ORS 455.680;

(E) Tourist facilities regulated under ORS 446.310 to 446.350;

(F) Manufactured dwelling alterations regulated under ORS 446.155; and

(G) Manufactured structure accessory buildings and structures under ORS 446.253.

(b) Is not a program that includes:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670;

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.370;

(D) Prefabricated structure regulation under ORS chapter 455;

(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;

(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; and

(G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program or parts thereof, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if not a county, notify the county whether the municipality will continue to administer the building inspection program, or parts thereof, after expiration of the four-year period. If parts of a building inspection program are to be administered and enforced by a municipality, the parts shall correspond to a classification designated by the director as reasonable divisions of work.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer certain specialty codes or parts thereof under the building inspection program, the county or counties in which the city is located shall administer and enforce those codes or parts thereof within the city in the same manner as it administers and enforces them outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce certain specialty codes or parts thereof under the building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce those codes or parts thereof, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying such expenses. A state employee may not be displaced as a result of using contract personnel.

(7) If a municipality administering a building inspection program under this section seeks to administer additional parts of a program, the municipality must comply with ORS 455.148, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.

(8) The department shall adopt rules to require the governing body of each municipality to submit a written plan with the notice required under subsection (4) of this section. If the department is the governing body, the department shall have a plan on file. The plan shall specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers a code for which persons or businesses are authorized under ORS 455.457 to perform activities shall recognize and accept those activities as if performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs of municipalities assumed prior to January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Reviewing procedures and program operations of municipalities;

(d) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(e) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(f) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program or part of the program throughout a county, if another municipality is allowed to provide a building inspection program or part of a program within the same county; and

(g) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

(a) During the pendency of activities under ORS 455.770;

(b) If a municipality abandons any part of the building inspection program or is no longer able to administer the building inspection program; and

(c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) If a municipality abandons or otherwise ceases to administer all or part of a building inspection program described in this section, the municipality may not resume the administration and enforcement of the abandoned program or part of a program for at least two years. The municipality may resume the administration and enforcement of the abandoned program or part of a program only on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned program or part of a program, the municipality must comply with ORS 455.148, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.

455.152 Objections to municipal assumption of building inspection program. (1) A municipality, 10 or more persons or an association with 10 or more members may file objections to a municipality's assumption of a building inspection program. The objections must be filed within 30 days after the Director of the Department of Consumer and Business Services gives notice of the application.

(2) The director, by rule, shall establish a process for reviewing objections filed under subsection (1) of this section. The review process shall include but need not be limited to:

(a) Identification of economic impairment, if any, affecting the municipality;

(b) Demonstration by the municipality that all building inspection program permits and services will be available, including any service agreements for carrying out building program services;

(c) Review of all elements of the assumption plan submitted by the municipality;

(d) Demonstration by the municipality of the ability to provide building inspection program services for at least two years; and

(e) Review of proposed levels of service, including the municipality's ability to maintain or improve upon existing service levels.

(3) Upon completion of a review under subsection (2) of this section, the director shall issue a final agency order approving or disapproving the application. [2001 c.573 §2]

Note: 455.152 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.153 Municipality authority to administer specialty code or building requirements; effect on jurisdiction of agencies. (1) A municipality may administer any specialty code or building requirements as though the code or requirements were ordinances of the municipality if the municipality is authorized to administer:

(a) The specialty code under ORS chapter 447 or 455 or ORS 479.510 to 479.945 and 479.995.

- (b) Mobile or manufactured dwelling parks requirements adopted under ORS 446.062.
- (c) Temporary parks requirements adopted under ORS 446.105.
- (d) Manufactured dwelling installation, support and tiedown requirements adopted under ORS 446.230.

(e) Park or camp requirements adopted under ORS 455.680.

(2) Administration of any specialty code or building requirement includes establishing a program intended to verify compliance with state licensing requirements and all other administrative and judicial aspects of enforcement of the code or requirement. Nothing in this section affects the concurrent jurisdiction of the Director of the Department of Consumer and Business Services, the Building Codes Structures Board, the State Plumbing Board, the Manufactured Structures and Parks Advisory Board, the Electrical and Elevator Board, the Residential Structures Board or the Mechanical Board to impose civil penalties for violations committed within municipalities. [1995 c.190 §2; 2001 c.411 §17; 2003 c.675 §§22,23]

Note: 455.153 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.154 Alternative permit and inspection program. (1) Notwithstanding ORS 447.076, 455.627, 479.560 and 479.565, the Department of Consumer and Business Services, in consultation with the appropriate advisory boards, may establish special alternative permit and inspection programs for any installations or equipment regulated under the state building code. The alternative programs may include, but need not be limited to:

(a) Programs for work, other than life-safety work, performed in commercial, manufacturing, industrial and institutional facilities; and

(b) Inspection programs for in-plant construction.

(2) Every municipality that administers and enforces a building program under ORS 455.148 or 455.150 shall administer and enforce within the municipality any special alternative permit and inspection program that the department makes applicable to that municipality.

(3) A municipality may apply to the department for approval of municipal application forms, procedures and criteria for plan review, permits and inspections and methodologies for determining fee amounts, for use by the municipality in carrying out an applicable special alternative permit and inspection program.

(4) If the department determines that an optional special alternative permit and inspection program affects only some of the jurisdictions that are subject to ORS 455.046, the requirements of ORS 455.046 are applicable only to standard permit and inspection programs and not to the optional program. [2003 c.368 §2; 2005 c.288 §1]

Note: 455.154 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.155 Statewide permit and inspection system for minor construction work. Notwithstanding ORS 447.076, 455.627, 479.560 and 479.565, the Department of Consumer and Business Services, in consultation with the appropriate advisory boards, may establish a statewide permitting and inspection system for minor construction work. Every municipality that

administers and enforces a building program under ORS 455.148 or 455.150 must recognize and accept permits issued by the department under this section. [2003 c.368 §1]

Note: 455.155 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.156 Municipal investigation and enforcement of certain violations; notice of civil penalty; department to develop programs; defense for violation of building inspection program.

(1) Notwithstanding any other provision of this chapter, ORS chapter 693 or ORS 447.010 to 447.156, 447.992, 479.510 to 479.945, 479.990 or 479.995, the Department of Consumer and Business Services shall carry out the provisions of this section.

(2)(a) A municipality that establishes a building inspection program under ORS 455.148 or a plumbing inspection program under ORS 455.150 covering installations under the plumbing specialty code or Low-Rise Residential Dwelling Code may act on behalf of the State Plumbing Board to investigate violations of and enforce ORS 447.040, 693.030 and 693.040 and to issue notices of proposed assessment of civil penalties for those violations.

(b) A municipality that establishes a building inspection program under ORS 455.148 or an electrical inspection program under ORS 455.150 covering installations under the electrical specialty code or Low-Rise Residential Dwelling Code may act on behalf of the Electrical and Elevator Board to investigate violations of and enforce ORS 479.550 (1) and 479.620 and to issue notices of proposed assessment of civil penalties for those violations.

(c) A municipality that establishes a building inspection program under ORS 455.148 or 455.150 may investigate violations and enforce any provisions of the program administered by the municipality.

(3) The department shall establish:

(a) Procedures, forms and standards to carry out the provisions of this section, including but not limited to creating preprinted notices of proposed assessment of penalties that can be completed and served by municipal inspectors;

(b) A program to provide that all of the moneys recovered by the department, less collection expenses, be paid to the municipality that initiated the charges when a person charged with a violation as provided in subsection (2) of this section, other than a violation of a licensing requirement, agrees to the entry of an assessment of civil penalty or does not request a hearing, and an order assessing a penalty is entered against the person;

(c) A uniform citation process to be used in all jurisdictions of the state for violation of a licensing requirement. The process may include but need not be limited to all program areas administered by a municipality under ORS 455.148 or 455.150 and may provide a uniform method for checking license status and issuing citations for violation of a licensing requirement, and a consistent basis for enforcement of licensing requirements and treatment of violations, including fine amounts;

(d) A program to provide a division of the moneys recovered by the department with the municipality that initiated the charges, when a person charged with a violation as provided in subsection (2) of this section, other than a violation of a licensing requirement, requests a hearing and is assessed a penalty. One-half of the amounts recovered shall be paid to the municipality. The department shall keep an amount equal to its costs of processing the proceeding and collection expenses out of the remaining one-half and remit the balance, if any, to the municipality; and

(e) A program to require municipalities to investigate violations of the department's permit requirements for plumbing installations and services under the plumbing specialty code and for plumbing and electrical installations and services under the Low-Rise Residential Dwelling Code, and to:

(A) Initiate notices of proposed assessment of civil penalties as agents of the boards designated in subsection (2) of this section; and

(B) Pay the agents of the boards out of net civil penalty recoveries as if the recoveries were under paragraphs (b) and (d) of this subsection.

(4) The assessment of a civil penalty under this section by a municipality is subject to the amount limitations set forth in ORS 455.895.

(5)(a) It shall be a defense for any person charged with a penalty for violation of a building inspection program permit requirement covering plumbing installations under the plumbing specialty code, electrical permit requirements under ORS 479.550 or plumbing or electrical requirements under the Low-Rise Residential Dwelling Code that the person was previously penalized for the same occurrence.

(b) A building inspection program permit requirement is a requirement contained in a specialty code or municipal ordinance or rule requiring a permit before the particular installations covered by the codes are commenced.

(c) A penalty for the same occurrence includes a combination of two or more of the following that are based on the same plumbing or electrical installation:

(A)(i) An investigative or other fee added to an electrical permit fee when a permit was obtained after the electrical installation was started;

(ii) A civil penalty pursuant to ORS 479.995 for violation of ORS 479.550 for failure to obtain an electrical permit;

(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain an electrical permit under the Low-Rise Residential Dwelling Code; or

(iv) A municipal penalty, other than an investigative fee, for making an electrical installation under the electrical specialty code or the Low-Rise Residential Dwelling Code without a permit; or

(B)(i) An investigative or other fee added to a plumbing permit fee when a permit was obtained after the plumbing installation was started;

(ii) A civil penalty pursuant to ORS 447.992 for failure to obtain a plumbing permit as required under the plumbing specialty code;

(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain a plumbing permit under the Low-Rise Residential Dwelling Code; or

(iv) A municipal penalty, other than an investigative fee, for making a plumbing installation under the plumbing specialty code or the Low-Rise Residential Dwelling Code without a permit. [1995 c.553 §12; 2001 c.411 §18; 2001 c.573 §6a; 2003 c.675 §24; 2005 c.758 §20]

Note: 455.156 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.158 Verification of required license prior to issuance of permit. (1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 174.109.

(b) “Work on a structure” means the construction, reconstruction, alteration or repair of a structure.

(2) A public body that administers and enforces a building inspection program shall ensure that a person required to be licensed under a provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670, this chapter or ORS chapter 447, 460 or 693 in order to obtain a permit for work on a structure has a current, valid license of the type required for the permit. [2007 c.549 §3]

Note: 455.158 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.160 Failure to provide timely inspections or plan reviews prohibited; demand; mandamus. (1) The municipality that is responsible for state building code administration and enforcement in a municipality pursuant to ORS 455.148 or 455.150, or the Department of Consumer and Business Services if the department is responsible for state building code administration and enforcement pursuant to ORS 455.148 or 455.150, may not engage in a pattern of conduct of failing to provide timely inspections or plan reviews without reasonable cause.

(2) Any person adversely affected by a pattern of conduct prohibited in subsection (1) of this section may serve the municipality or the department with a written demand to provide timely inspections or plan reviews.

(3) If a municipality, within five days of receipt of the demand, fails to provide timely inspections or plan reviews without reasonable cause, the person who served the demand may seek to compel the inspections or plan reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the court finds that the municipality has engaged in a pattern of conduct of failing to provide timely inspections or plan reviews without reasonable cause, it may direct the municipality to provide timely inspections or plan reviews or to transfer the administration and enforcement of the code in question under procedures outlined in ORS 455.148 (5) and (6) or 455.150 (5) and (6).

(4) If the department, within five days of receipt of the demand, fails to provide timely inspections or plan reviews without reasonable cause, the person who served the demand may seek to compel the inspections or plan reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the court finds that the department has engaged in a pattern of conduct of failing to provide timely inspections or plan reviews without reasonable cause, it may direct the department to provide timely inspections or plan reviews or to transfer the administration and enforcement of the code in question to an appropriate municipality, if the municipality accepts the responsibility. A municipality may accept the transfer of the administration and enforcement of a code under this subsection without becoming subject to ORS 455.148 as a result of accepting the transfer. [Formerly 456.803; 1995 c.553 §7; 2001 c.573 §7]

455.165 Standards for building codes information collected and maintained by municipalities; rules. (1) As used in this section:

(a) “Form and format” has the meaning given that term in ORS 455.097.

(b) “Standards” means the content, processing, form and format of building codes information collected and maintained by municipalities.

(2) The Department of Consumer and Business Services may adopt rules establishing building codes information standards for municipalities administering and enforcing building inspection programs. The department shall design the standards to ensure consistency between municipalities regarding building inspections, permits, plans specifications and other building codes information. The department may not adopt standards that:

(a) Waive any requirement imposed by statute or by rule of another state agency for submitting building permit applications, building plans, specifications or other building program information in physical form.

(b) Require a municipality to assume or expand a building inspection program or to provide additional building inspection program services. [2007 c.69 §3]

Note: 455.165 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.170 Director may delegate certain duties; fees. (1) The Director of the Department of Consumer and Business Services shall delegate to any municipality which requests any of the authority, responsibilities and functions of the director relating to recreational parks, organizational camps and picnic parks as defined in ORS 446.310, including but not limited to plan review and inspections, if the director determines that the municipality is willing and able to carry out the rules of the director relating to such authority, responsibilities and functions. The director shall review and monitor each municipality's performance under this subsection. In accordance with ORS chapter 183, the director may suspend or rescind a delegation under this subsection. If it is determined that a municipality is not carrying out such rules or the delegation is suspended, the unexpended portion of the fees collected under subsection (2) of this section shall be available to the director for carrying out the authority, responsibility and functions under this section.

(2) The director shall determine, by administrative rule, the amount of fee which the municipality may charge and retain for any function undertaken pursuant to subsection (1) of this section. The amount of the fees shall not exceed the costs of administering the delegated functions. The municipality, quarterly, shall remit 15 percent of the collected fees to the director for monitoring municipal programs and for providing informational material necessary to maintain a uniform state program.

(3) In any action, suit or proceeding arising out of municipal administration of functions pursuant to subsection (1) of this section and involving the validity of a rule adopted by the director, the director shall be made a party to the action, suit or proceeding. [1987 c.414 §36a; 1991 c.227 §3]

Note: 455.170 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.180 Duty of city, county to issue building permit; restriction. (1) A city or county shall not refuse to issue or otherwise deny a building permit, development permit, plumbing permit, electrical permit or other similar permit to any person applying for the permit solely because the applicant has contracted for the performance of services by a contractor, subcontractor, supplier or

other person who is subject to the business license tax of the city or county and has failed to pay the tax when due.

(2) As used in this section, “business license tax” has the meaning given that term in ORS 701.015. [1987 c.581 §6]

455.190 [1993 c.429 §2; 1995 c.553 §2a; 1995 c.714 §1; 1999 c.59 §127; 1999 c.508 §1; 2001 c.573 §8; repealed by 2003 c.368 §4]

(Financial Administration)

455.210 Fees; appeal of fees; surcharge; reduced fees; rules. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits issued by the Department of Consumer and Business Services for the construction, reconstruction, alteration and repair of prefabricated structures and of buildings and other structures and the installation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130 percent of the fee schedule printed in the “Uniform Building Code,” 1979 Edition, and in the “Uniform Mechanical Code,” 1979 Edition, both published by the International Conference of Building Officials. Fees are not effective until approved by the Oregon Department of Administrative Services.

(2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Department of Consumer and Business Services may prescribe for a limited plan review for fire and life safety as required under ORS 479.155 shall be 40 percent of the prescribed permit fee.

(3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption of a new or increased fee under this subsection. The municipality shall give the notice to the director at the time the municipality provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources, at the time notice of the last budget meeting is published in a newspaper under ORS 294.401.

(b) Ten or more persons or an association with 10 or more members may appeal the adoption of a fee described in this subsection to the Director of the Department of Consumer and Business Services. The persons or association must file the appeal no later than 60 days after the director receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this subsection. However, if the municipality failed to give notice to the director, an appeal may be filed with the director within one year after adoption of the new or increased fee. Upon receiving a timely appeal, the director shall, after notice to affected parties and hearing, review the municipality’s fee adoption process and the costs of administering and enforcing the specialty code or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the director feels the fee is necessary and reasonable. If the director does not approve the fee upon appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees that have been submitted for a vote and approved by a majority of the electors voting on the question.

(c) Fees collected by a municipality under this subsection shall be used for the administration and enforcement of a building inspection program for which the municipality has assumed responsibility under ORS 455.148 or 455.150.

(d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable

the director shall consider whether:

(A) The fee is the same amount as or closely approximates the amount of the fee charged by other municipalities of a similar size and geographic location for the same level of service;

(B) The fee is calculated with the same or a similar calculation method as the fee charged by other municipalities for the same service;

(C) The fee is the same type as the fee charged by other municipalities for the same level of service; and

(D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401 and this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

(4) Notwithstanding any other provision of this chapter:

(a) For the purpose of partially defraying state administrative costs, there is imposed a surcharge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

(b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, two percent of the total hourly charges collected.

(c) For the purpose of defraying the cost of administering and enforcing the state building code, there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees. The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

(d) For the purpose of defraying the cost of developing and administering the electronic building codes information system described in ORS 455.095 and 455.097, there is imposed a surcharge in the amount of five percent on permit fees, or if the applicant chooses to pay an hourly rate instead of purchasing a permit, five percent of the total hourly charges collected. However, the department may adopt rules to waive a portion of the surcharge imposed under this paragraph if the department determines that the amount collected by the surcharge imposed under this paragraph exceeds the actual cost to the department of developing and administering the electronic building codes information system described in ORS 455.095 and 455.097.

(5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section to the director as provided in ORS 455.220.

(6) The director shall adopt administrative rules to allow reduced fees for review of plans that have been previously reviewed. [Subsections (1) to (5) formerly 456.760; subsection (6) enacted as 1987 c.604 §6; 1997 c.856 §1; 1999 c.432 §1; 1999 c.1045 §24; 1999 c.1082 §9; 2001 c.573 §9; 2001 c.673 §1; 2005 c.193 §1; 2005 c.833 §3; 2007 c.69 §5]

Note: The amendments to 455.210 by section 6, chapter 69, Oregon Laws 2007, become operative January 2, 2018. See section 8, chapter 69, Oregon Laws 2007. The text that is operative on and after January 2, 2018, is set forth for the user's convenience.

455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits issued by the Department of Consumer and Business Services for the construction, reconstruction, alteration and repair of prefabricated structures and of buildings and other structures and the installation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uniform Mechanical Code," 1979 Edition, both published by the International Conference of Building Officials. Fees are not effective until approved by the Oregon Department of

Administrative Services.

(2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Department of Consumer and Business Services may prescribe for a limited plan review for fire and life safety as required under ORS 479.155 shall be 40 percent of the prescribed permit fee.

(3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption of a new or increased fee under this subsection. The municipality shall give the notice to the director at the time the municipality provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources, at the time notice of the last budget meeting is published in a newspaper under ORS 294.401.

(b) Ten or more persons or an association with 10 or more members may appeal the adoption of a fee described in this subsection to the Director of the Department of Consumer and Business Services. The persons or association must file the appeal no later than 60 days after the director receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this subsection. However, if the municipality failed to give notice to the director, an appeal may be filed with the director within one year after adoption of the new or increased fee. Upon receiving a timely appeal, the director shall, after notice to affected parties and hearing, review the municipality's fee adoption process and the costs of administering and enforcing the specialty code or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the director feels the fee is necessary and reasonable. If the director does not approve the fee upon appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees that have been submitted for a vote and approved by a majority of the electors voting on the question.

(c) Fees collected by a municipality under this subsection shall be used for the administration and enforcement of a building inspection program for which the municipality has assumed responsibility under ORS 455.148 or 455.150.

(d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable the director shall consider whether:

(A) The fee is the same amount as or closely approximates the amount of the fee charged by other municipalities of a similar size and geographic location for the same level of service;

(B) The fee is calculated with the same or a similar calculation method as the fee charged by other municipalities for the same service;

(C) The fee is the same type as the fee charged by other municipalities for the same level of service; and

(D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401 and this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

(4) Notwithstanding any other provision of this chapter:

(a) For the purpose of partially defraying state administrative costs, there is imposed a surcharge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

(b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, two percent of the total hourly charges collected.

(c) For the purpose of defraying the cost of administering and enforcing the state building

code, there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees. The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

(5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section to the director as provided in ORS 455.220.

(6) The director shall adopt administrative rules to allow reduced fees for review of plans that have been previously reviewed.

455.220 Surcharge on building permit fees; collection; deposit; use. (1) There is hereby imposed a surcharge in the amount of one percent of the total building permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected in connection with the construction of, or addition or alteration to, buildings and equipment or appurtenances. Up to one-half of the surcharge collected under this subsection may be used to fund the activities described in ORS 455.042 and 455.046. The remainder of the surcharge collected under this subsection shall be used for the purpose of defraying the costs of training and other educational programs administered by the Department of Consumer and Business Services under this chapter.

(2) Permit surcharges shall be collected by each municipality and remitted to the Director of the Department of Consumer and Business Services. Each municipality having a population greater than 40,000 shall, on a monthly basis, prepare and submit to the director a report of permits and certificates issued in each class or category and fees and surcharges thereon collected during the month, together with other statistical information as required by the director concerning construction activity regulated by the parts of the state building code administered by the municipality. All other municipalities shall submit a report described in this subsection on a quarterly basis. The report shall be in a form prescribed by the director and shall be submitted, together with a remittance covering the surcharges collected, by no later than the 15th day following the month or quarter in which the surcharges are collected.

(3)(a) All surcharges and other fees prescribed by ORS 455.010 to 455.240 and 455.410 to 455.740 and payable to the department, except fees received under ORS 455.148 (6) or 455.150 (6), shall be deposited by the director in the Consumer and Business Services Fund created by ORS 705.145.

(b) Notwithstanding subsection (1) of this section, the surcharge imposed under subsection (1) of this section for permits established under ORS 446.062 (3), 446.176, 446.405 (2), 446.430 (2) and 455.170 (2) shall be deposited in the Consumer and Business Services Fund established under ORS 705.145 and is continuously appropriated to the department for use as provided in ORS 446.423.

(4) The director shall administer training and other education programs under this chapter through contracts with local educational institutions, professional associations or other training providers. [Formerly 456.860; 1993 c.744 §90; 1995 c.553 §5; 1999 c.1045 §25; 1999 c.1082 §§10,10a; 2001 c.573 §10; 2001 c.710 §9; 2003 c.675 §25; 2005 c.833 §4]

455.230 Use of Consumer and Business Services Fund moneys. (1) Except as otherwise provided by law, all moneys appropriated or credited to the Consumer and Business Services Fund and received under this chapter, ORS 447.010 to 447.156, 447.992, 460.005 to 460.175, 460.310 to 460.370, 479.510 to 479.945, 479.995, 480.510 to 480.670 and ORS chapter 693 hereby are

appropriated continuously for and shall be used by the director for the purpose of carrying out the duties and responsibilities imposed upon the department under this chapter, ORS 446.566 to 446.646, 446.666 to 446.756, 447.010 to 447.156, 447.992, 460.005 to 460.175, 460.310 to 460.370, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and ORS chapter 693.

(2) Except as otherwise provided by law, all moneys appropriated or credited to the Consumer and Business Services Fund and received under ORS 446.003 to 446.200, 446.210, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.756 and 455.220 (1) hereby are appropriated continuously for and shall be used by the director for the purpose of carrying out the duties and responsibilities imposed upon the department under ORS 446.003 to 446.200, 446.210, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646 and 446.666 to 446.756, and education and training programs pertaining thereto. [Formerly 456.890; 1989 c.683 §9; 1993 c.744 §91; 2001 c.710 §10; 2003 c.655 §75a]

Note: 455.230 and 455.240 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.240 Revenues from sales of building codes publications; use. (1) All revenues derived from the sale of publications of the Department of Consumer and Business Services relating to building codes shall be deposited in the Consumer and Business Services Fund.

(2) Moneys credited to the Consumer and Business Services Fund under subsection (1) of this section are continuously appropriated to the department for use as provided in ORS 455.022. [Formerly 456.910; 1993 c.744 §92; 2001 c.710 §11]

Note: See note under 455.230.

(Exemptions Generally)

455.310 Single-family residence repair and maintenance exempt from codes; exemption itemized. (1) It is not the purpose of this chapter to require that permits be obtained or fees be paid for repairs and maintenance that do not violate the intent of the structural and fire and life safety specialty provisions of the State of Oregon Structural Specialty Code and the Low-Rise Residential Dwelling Code, adopted pursuant to ORS 455.020 and 455.610, ORS chapter 476, ORS 479.015 to 479.200 and 479.210 to 479.220, when such repair or maintenance is done on a single-family residence, or a private garage, carport or storage shed that is accessory to a single-family residence.

(2) Items designated by the Director of the Department of Consumer and Business Services, with the advice of the Residential Structures Board, shall be exempt from permits and fees required under this chapter. The director shall, pursuant to ORS chapter 183, develop and maintain an applicable list of such exempt items, which shall include, but not be limited to, concrete slabs, driveways, sidewalks, masonry repair, porches, patio covers, painting, interior wall, floor or ceiling covering, nonbearing partitions, shelving, cabinet work, gutters, downspouts, small accessory buildings, door and window replacements, replacement or repair of siding and replacement or repair of roofing. In making the list of exempt items, the director shall further define the items on the list contained in this subsection so that no item which adversely affects the structural integrity of the dwelling shall be on the list. [Formerly 456.753 and then 456.915; 1993

c.744 §93; 2003 c.675 §26]

455.312 Exemption from code of residential prefabricated structures for out-of-state delivery. (1) For a residential prefabricated structure manufactured in this state and intended for delivery in another state, the Director of the Department of Consumer and Business Services may not require that:

- (a) The prefabricated structure conform to the state building code.
- (b) An inspector provide plan approvals and inspections pursuant to ORS 455.715 to 455.740.
- (c) A person licensed under ORS 479.630, 693.060 or 693.103 perform electrical or plumbing installations in the prefabricated structure.

(2) Nothing in subsection (1) of this section exempts a person that is renting, leasing, selling, exchanging, installing or offering for rent, lease, sale, exchange or installation a residential prefabricated structure from meeting the insignia of compliance or certification stamp requirements prescribed under ORS 455.705 if the prefabricated structure is delivered in or relocated to this state. [2005 c.310 §2; 2005 c.758 §42b]

Note: 455.312 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

Note: Sections 6 and 8, chapter 310, Oregon Laws 2005, provide:

Sec. 6. (1) The Department of Consumer and Business Services shall collect the information, if any, supplied by industry sources in this state regarding the manufacture of prefabricated structures intended for delivery in other states. The types of information to be collected by the department shall include:

- (a) The applied and potential capacity of manufacturers to produce residential prefabricated structures in this state;
- (b) The number of persons the manufacturer employs in this state to produce residential prefabricated structures intended for delivery in other states;
- (c) The number of residential prefabricated structures produced in this state intended for delivery in other states; and
- (d) Any information the department determines to be useful for assessing the effect or potential effect of section 2 of this 2005 Act [455.312] on employment levels in this state.

(2) The department shall biennially report any information collected by the department under this section to the Legislative Assembly. The department shall submit the report to the Legislative Assembly as provided in ORS 192.245 no later than October 1 of each even-numbered year. [2005 c.310 §6]

Sec. 8. Section 6 of this 2005 Act is repealed January 2, 2012. [2005 c.310 §8]

455.315 Exemption of agricultural buildings, agricultural grading and equine facilities.

(1) Nothing in this chapter is intended to authorize the application of a state structural specialty code to any agricultural building, agricultural grading or equine facility.

(2) As used in this section:

(a) "Agricultural building" means a structure located on a farm and used in the operation of the farm for:

- (A) Storage, maintenance or repair of farm machinery and equipment;

- (B) The raising, harvesting and selling of crops;
- (C) The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees;
- (D) Dairying and the sale of dairy products; or
- (E) Any other agricultural or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use and disposal by marketing or otherwise.

(b) "Agricultural building" does not mean:

- (A) A dwelling;
- (B) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;
- (C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;
- (D) A structure used by the public; or
- (E) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

(c) "Agricultural grading" means grading related to a farming practice as defined in ORS 30.930.

(d) "Equine facility" means a building located on a farm and used by the farm owner or the public for:

- (A) Stabling or training equines; or
- (B) Riding lessons and training clinics.

(e) "Equine facility" does not mean:

- (A) A dwelling;
- (B) A structure in which more than 10 persons are present at any one time;
- (C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476; or
- (D) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

(3) Notwithstanding the provisions of subsection (1) of this section, incorporated cities may regulate agricultural buildings and equine facilities within their boundaries pursuant to this chapter. [Formerly 456.758 and then 456.917; 1995 c.783 §1; 2003 c.74 §1; 2005 c.288 §3]

455.320 Owner-built dwellings exempt from certain structural code provisions; recording of exemption. (1) As used in this section, unless the context requires otherwise:

(a) "Owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll which person has not taken advantage of the exemptions under subsection (2) of this section during the five years prior to applying for an exemption under this section.

(b) "Owner-built dwelling and outbuildings" means a single-family residence and adjacent auxiliary structures the structural components of which are constructed entirely by the owner who intends to occupy the structures or by that owner and friends and relatives of the owner assisting on an unpaid basis.

(2) Owner-built dwellings and outbuildings shall be exempt from any requirements of the structural code for ceiling heights, room sizes and the maintenance of specific temperature levels in those structures. The exemption shall apply to the new construction, renovation, remodeling or alteration of an owner-built dwelling or outbuilding.

(3) A building permit issued for an owner-built dwelling or outbuilding shall note whether the

owner-built dwelling or outbuilding complies with the requirements it is exempted from under subsection (2) of this section. If the dwelling or other structure does not comply with these requirements, the owner-builder shall file a copy of the building permit with the county clerk, who shall make the permit a part of the permanent deed record of the property. The owner shall provide the county clerk with a description of the property sufficient if it were contained in a mortgage of the property to give constructive notice of the mortgage under the law of this state.

(4) Noncompliance with subsection (3) of this section shall not affect, in any manner, any conveyance of interest in property subject to this section. [Formerly 456.920]

(Exemptions in Rural Areas)

455.325 Definitions for ORS 455.325 to 455.350. As used in ORS 455.325 to 455.350, unless the context requires otherwise:

(1) “Owner” means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll.

(2) “Owner-built dwelling and outbuildings” means a single-family residence and adjacent auxiliary structures the components of which, that are exempted from the structural code under ORS 455.330, are constructed entirely by the owner who intends to occupy the structures or by that owner and friends and relatives of the owner assisting on an unpaid basis.

(3) “Rural area” means any land in a county which is located outside city limits and any recognized urban growth boundaries under that county’s comprehensive plan and which are described by the ordinance allowed under ORS 455.330. [Formerly 456.925]

455.330 Counties authorized to exempt owner-built dwellings in rural areas from structural code. Notwithstanding ORS 455.040, a county may by ordinance:

(1) Exempt owner-built dwellings and outbuildings in any rural area within that county from compliance with the structural code, except as provided in ORS 455.340; and

(2) Establish maximum value or size limitations for structures exempted from the structural code under subsection (1) of this section. [Formerly 456.930]

455.335 Rural areas to be mapped; building permit issuance for exempt dwellings limited.

(1) A county exempting owner-built dwellings and outbuildings in rural areas from the structural code under ORS 455.330 shall designate those rural areas upon publicly available maps of readable scale showing individual property lines.

(2) A county ordinance under ORS 455.330 shall provide that no person shall receive a building permit in that county for an exempt owner-built dwelling and outbuildings more than once every five years. [Formerly 456.935]

455.340 Code requirements to which exemption may not apply. No county shall exempt any building from requirements of the structural code relating to:

(1) Fire egress, fire retardant, smoke alarms and smoke detectors;

(2) Maximum bending stress allowed by the structural code for structural members; or

(3) Insulation and energy conservation. [Formerly 456.940; 1999 c.307 §22]

455.345 Permit, fee, plan check and inspection provisions apply; notice of noncompliance to owner-builder; recording of notice; notice to purchasers. (1) Permit, fee, plan check and

inspection requirements required by ORS 455.210 shall apply to owner-built dwellings and outbuildings exempted from the structural code under ORS 455.330.

(2) Building officials or specialty code inspectors licensed under ORS 455.457 inspecting structures exempted from the structural code under ORS 455.325 to 455.350, shall:

(a) Require the owner-builder to comply with those structural code requirements listed under ORS 455.340; and

(b) Inform the owner-builder in writing of those items which fail to comply with code standards and are exempt from code standards and make that information part of the permanent inspection record on the structures.

(3) An owner-builder of a structure exempted from the structural code under ORS 455.325 to 455.350 shall file a notice with the county clerk who shall make the notice a part of the permanent deed record of the property. That notice shall contain the information provided to the owner-builder under subsection (2)(b) of this section and a description of the property sufficient if it were contained in a mortgage of the property to give constructive notice of the mortgage under the law of this state.

(4) Any person, or that person's agent, selling an owner-built dwelling or outbuilding exempted from the structural code under ORS 455.325 to 455.350 shall notify each potential buyer of the existence, location and contents of the notice filed under subsection (3) of this section prior to any commitment to purchase the property. [Formerly 456.945; 1999 c.1045 §16; 1999 c.1082 §12]

455.350 Purchaser's remedies. (1) An individual who purchases an owner-built dwelling or outbuilding exempted from the structural code under ORS 455.325 to 455.350 from an owner who has not complied with ORS 455.345 (3) or (4) shall have a cause of action against the seller, within two years of the date of making the sale contract, for actual damages, if any.

(2) Noncompliance with ORS 455.345 (3) or (4) shall not affect, in any manner, any conveyance of interest in property exempted from the structural code under ORS 455.330. [Formerly 456.950]

(Mercury Thermostats)

455.355 Rules governing mercury thermostats. (1) The Director of the Department of Consumer and Business Services shall, by rule:

(a) Prohibit the installation of thermostats that contain mercury in commercial and residential buildings. The director may not, under rules developed pursuant to this paragraph, prohibit the installation of thermostats that contain mercury on industrial equipment used for safety controls.

(b) Establish a uniform notification and process for disposal and delivery of mercury thermostats by persons installing heating, ventilation or air conditioning systems. Persons installing heating, ventilation or air conditioning systems shall dispose of mercury thermostats according to the process established pursuant to this paragraph.

(2) As used in this section, "thermostat" means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature. [2001 c.924 §3]

Note: 455.355 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further

explanation.

(Farmworker Housing)

455.380 Department as final authority on farmworker housing; rules; fees. (1)

Notwithstanding the provisions of ORS 455.148 and 455.150, the Department of Consumer and Business Services is the final authority in interpretation, execution and enforcement of state and municipal administration of building codes and rules with respect to construction of farmworker housing as defined in ORS 315.163.

(2) The department shall provide for a statewide uniform application and method of calculating permit fees for farmworker housing as defined in ORS 315.163.

(3) The department shall adopt rules to carry out the provisions of subsections (1) and (2) of this section. [1989 c.964 §§16,17; 2001 c.573 §11; 2001 c.613 §16; 2003 c.588 §17]

(Seismic Rehabilitation)

455.390 Definitions for ORS 455.020, 455.390, 455.395 and 455.400. As used in ORS 455.020, 455.390, 455.395 and 455.400:

(1) “Seismic rehabilitation” means construction of structural improvements to a building that result in the increased capability of the building to resist earthquake forces and that are based on standards adopted by the State of Oregon or by local governments.

(2) “Seismic rehabilitation agreement” means an agreement between a local government entity and a building owner pursuant to a seismic rehabilitation program for the phased completion of structural improvements to the owner’s building.

(3) “Seismic rehabilitation data” means data contained in any documents, reports, studies, test results, papers, files or other records that result from a seismic rehabilitation survey or are contained in a seismic rehabilitation agreement. “Seismic rehabilitation data” does not include data or reports required by ORS 455.447 or rules adopted pursuant thereto.

(4) “Seismic rehabilitation program” means any program enacted under an ordinance of a local government entity that provides for the seismic rehabilitation of buildings within the jurisdiction of the entity and authorizes the rehabilitation to be phased over a period of time not to exceed 10 years.

(5) “Seismic rehabilitation survey” means any investigation, survey, audit or other process for generating data from which the local government entity and the building owner may determine and agree upon the deficiencies that need to be addressed in a plan for the seismic rehabilitation of the owner’s building. [1995 c.400 §1]

Note: 455.390 to 455.400 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.395 Admissibility of data or agreements as evidence; immunity from certain causes of action. (1) No seismic rehabilitation data or seismic rehabilitation agreement is admissible in evidence to prove negligence or culpable acts or omissions in connection with injury, death or loss that occurs in an owner’s building as a result of the failure of the building to adequately withstand a seismic event. Such data or agreements are considered privileged and are excluded from

evidence admitted in any legal action for the recovery of damages arising from the building's failure due to seismic activity.

(2) A person may not maintain a cause of action against a building owner for injury, death or loss that occurs in the owner's building as a result of a failure of the building to adequately withstand a seismic event, provided the owner was in substantial compliance with the terms and conditions of a seismic rehabilitation agreement on the date of the seismic event.

(3) The provisions of subsection (2) of this section shall apply only for the period during which the seismic rehabilitation agreement is in effect. [1995 c.400 §2]

Note: See note under 455.390.

455.400 Effect of seismic rehabilitation provisions on exclusive remedy. Nothing in ORS 455.020, 455.390 and 455.395 and this section shall be construed as expanding or limiting the exclusive means by which subject workers and their beneficiaries are compensated for injury, death or disease arising out of and in the course of employment as provided in ORS chapter 656. [1995 c.400 §6]

Note: See note under 455.390.

(Educational Building Seismic Safety)

Note: Sections 1, 2, 3 and 5, chapter 797, Oregon Laws 2001, provide:

Sec. 1. (1) Subject to the provision of funding by the State Department of Geology and Mineral Industries from gifts, grants and donations made available for carrying out this section, the State Board of Higher Education shall provide for seismic safety surveys of buildings that have a capacity of 250 or more persons and are routinely used for student activities by public institutions or departments under the control of the board. For purposes of this section, the Oregon Health and Science University is not under the control of the board.

(2) Subject to the provision of funding by the department from gifts, grants and donations made available for carrying out this section, the State Board of Education shall provide for seismic safety surveys of buildings that have a capacity of 250 or more persons and are routinely used for student activities by kindergarten through grade 12 public schools, community colleges and education service districts.

(3) The boards shall ensure that the seismic safety surveys under subsection (1) or (2) of this section are conducted in accordance with the Federal Emergency Management Agency publication, "Rapid Visual Screening of Buildings for Potential Seismic Hazards: A Handbook," FEMA-154, 2002 Edition, or with a later edition of that handbook allowed for seismic safety survey use under a rule adopted by the department.

(4) A seismic safety survey under subsection (1) or (2) of this section is not required for any building that has previously undergone a seismic safety survey or that has been constructed to the state building code standards in effect for the seismic zone classification at the site on July 19, 2001.

(5) The boards may, by rule, establish standards to identify which buildings are routinely used for student activities. The standards must provide for the inclusion of buildings not used as classrooms, including but not limited to libraries, auditoriums and dining facilities. The boards shall adopt rules for determining building capacity.

(6) To the extent practicable, the boards shall ensure that the seismic safety surveys required under subsections (1) and (2) of this section are completed by January 1, 2007. [2001 c.797 §1; 2005 c.248 §1]

Sec. 2. (1) The State Board of Higher Education and the State Board of Education shall send surveys conducted pursuant to section 1 (1) and (2), chapter 797, Oregon Laws 2001, to the State Department of Geology and Mineral Industries. Notwithstanding section 1 (6), chapter 797, Oregon Laws 2001, if the department determines that a survey is not fully and properly completed, the department may refuse to accept the survey and may return the survey to the appropriate board for correction or completion.

(2) The department may accept seismic safety surveys for buildings that are exempt under section 1 (4), chapter 797, Oregon Laws 2001, if the department determines that the surveys are fully and properly completed and are sufficiently similar to other surveys to be useful. The surveys accepted by the department under this subsection do not need to be surveys conducted by the boards.

(3) The department shall use seismic safety surveys accepted under subsections (1) and (2) of this section to make an initial evaluation of the seismic safety of each surveyed building.

(4) Subject to available funding and after consultation with the department, the State Board of Higher Education, local school district board, community college board or education service district board shall conduct such additional seismic safety evaluations of buildings as each of those boards considers necessary. The boards shall conduct the evaluations for life safety as set forth in the American Society of Civil Engineers Standard for Seismic Evaluation of Existing Buildings (SEI/ASCE 31-03), 2003 Edition, or in any later edition of that standard allowed for seismic safety evaluation use under a rule adopted by the State Department of Geology and Mineral Industries or using a stricter standard selected by the board that conducts the survey. [2001 c.797 §2; 2005 c.248 §2]

Sec. 3. Subject to available funding, if a building evaluated under section 2 (4) of this 2001 Act is found by a board to pose an undue risk to life safety during a seismic event, the State Board of Higher Education, local school district board, community college board or education service district board, as appropriate, shall develop a plan for seismic rehabilitation of the building or for other actions to reduce the risk. For a board that is subject to ORS 291.224, the board's plan to rehabilitate or take other action to reduce the seismic risk of a building must be included in the capital construction program of the board. A board that is subject to ORS 291.224 shall rank the relative benefit of projects to reduce seismic risk in comparison with other life safety and code requirement projects. Subject to availability of funding, all seismic rehabilitations or other actions to reduce seismic risk must be completed before January 1, 2032. If the building is listed on a national or state register of historic places or properties or is designated as a landmark by local ordinance, the plan for seismic rehabilitation or other action shall be developed in a manner that gives consideration to preserving the character of the building. [2001 c.797 §3]

Sec. 5. For purposes of sections 2 (4) and 3 of this 2001 Act, funding is available only if the Legislative Assembly provides the funding pursuant to a grant of bonding authority approved by the people at the first general election held throughout the state on or after January 1, 2002. [2001 c.797 §5]

(Acute Inpatient Care Facility, Fire Station and Police Station Seismic Safety)

Note: Sections 2, 3 and 7, chapter 798, Oregon Laws 2001, provide:

Sec. 2. (1) The Department of Human Services shall send the seismic safety surveys conducted pursuant to section 1 (1), chapter 798, Oregon Laws 2001, to the State Department of Geology and Mineral Industries. Notwithstanding section 1 (6), chapter 798, Oregon Laws 2001, if the State Department of Geology and Mineral Industries determines that a survey is not fully and properly completed, the State Department of Geology and Mineral Industries may refuse to accept the survey and may return the survey to the Department of Human Services for correction or completion.

(2) The State Department of Geology and Mineral Industries may accept seismic safety surveys for buildings that are exempt under section 1 (5), chapter 798, Oregon Laws 2001, if the State Department of Geology and Mineral Industries determines that the surveys are fully and properly completed and are sufficiently similar to other surveys to be useful. The surveys accepted by the State Department of Geology and Mineral Industries under this subsection do not need to be surveys conducted by the Department of Human Services or the State Department of Geology and Mineral Industries.

(3) The State Department of Geology and Mineral Industries shall use seismic safety surveys accepted under subsections (1) and (2) of this section or conducted pursuant to section 1 (2) or (3), chapter 798, Oregon Laws 2001, to make an initial evaluation of the seismic safety of each surveyed building.

(4) Subject to available funding and after consultation with the State Department of Geology and Mineral Industries, the acute inpatient care facility, fire department or fire district or law enforcement agency shall conduct such additional seismic safety evaluations of buildings as the facility, fire department or fire district or law enforcement agency considers to be necessary. The facility, fire department or fire district or law enforcement agency shall conduct the evaluations for life safety as set forth in the American Society of Civil Engineers Standard for Seismic Evaluation of Existing Buildings (SEI/ASCE 31-03), 2003 Edition, or in any later edition of that standard allowed for seismic safety evaluation use under a rule adopted by the State Department of Geology and Mineral Industries or using a stricter standard selected by the acute inpatient care facility, fire department or fire district or law enforcement agency that conducts the survey. [2001 c.798 §2; 2003 c.14 §281; 2005 c.248 §4]

Sec. 3. Subject to available funding, if a building evaluated under section 2 (4) of this 2001 Act is found to pose an undue risk to life safety during a seismic event, the acute inpatient care facility, fire department, fire district or law enforcement agency using the building shall develop a plan for seismic rehabilitation of the building or for other actions to reduce the risk. Subject to available funding, all seismic rehabilitations or other actions to reduce the risk must be completed before January 1, 2022. If the building is listed on a national or state register of historic places or properties or is designated as a landmark by local ordinance, the plan for seismic rehabilitation or other actions shall be developed in a manner that gives consideration to preserving the character of the building. [2001 c.798 §3]

Sec. 7. For purposes of sections 2 (4) and 3 of this 2001 Act, funding is available only if the Legislative Assembly provides the funding pursuant to a grant of bonding authority approved by the people at the first general election held throughout the state on or after January 1, 2002. [2001 c.798 §7]

(Miscellaneous Provisions)

455.410 Relocated buildings; substantial compliance required; permits. (1) Existing buildings or structures which are removed from their foundation and relocated to another site

within this state shall be in substantial compliance as defined in subsections (2) and (3) of this section.

(2) “Substantial compliance” means compliance with local construction codes in effect as of the original permit date of the building or structure, or where there was no permitting required at the time of original construction, with basic health and safety standards, as described in the closest dated Uniform Housing Code, as published by the International Conference of Building Officials as of the date of construction. Only the insulation, overhead and underneath the structure, shall be upgraded to the current insulation requirements of the state building code, or to the maximum extent possible subject to the design of the structure. Nothing in this statute shall be construed to mean that all heating, plumbing and electrical systems shall be replaced with systems meeting current standards for new construction, except that any life-threatening deficiencies in those systems shall be repaired, notwithstanding that the cost of rehabilitation may exceed 50 percent of the value of the structure before rehabilitation.

(3) All foundation and basement construction on the structure and any remodeling at the new location shall be constructed subject to all applicable local current building and safety codes, or where none exist, with the applicable standards as described in the Uniform Housing Code described in subsection (2) of this section.

(4) All moved houses shall be provided with either battery-operated or hard-wired smoke detection devices located in accordance with the provisions of the state building code.

(5) Nothing in this section is intended to permit any person to move a structure unless the person first consults the appropriate building inspection authority and obtains all required permits. [Formerly 456.756; 1989 c.1068 §1]

455.412 Review of state building code provisions regarding certain smoke alarms and smoke detectors; rules. (1) The Department of Consumer and Business Services shall amend the state building code as necessary for the purpose of reducing the frequency of false alarms from smoke alarms and smoke detectors. Rules adopted under this section shall be designed to address smoke alarms and smoke detectors in single family and multifamily dwellings, hotels and lodging houses and shall not apply to recreational vehicles, commercial vehicles, railroad equipment, aircraft, marine vessels and manufactured dwellings.

(2) As used in this section, “smoke alarm” and “smoke detector” shall have the meanings provided in ORS 479.250. [1999 c.307 §18]

455.415 Identification badges. (1) A person who is licensed by the State Plumbing Board or the Department of Consumer and Business Services pursuant to ORS 460.057, 460.059, 479.630, 479.910, 480.630, 693.060, 693.103 or 693.111 must wear and visibly display an identification badge indicating the person’s current license status while performing work for which the license is required. The authority that licenses the person shall specify the size and content of the identification badge and may establish such other specifications as the authority deems appropriate.

(2) Subsection (1) of this section does not apply if wearing or displaying the identification badge may create a danger to the public health or to the safety of the person or the public.

(3) This section does not require the display of a contractor or business license. [2003 c.675 §62; 2005 c.758 §21]

Note: 455.415 was added to and made a part of ORS chapter 455 by legislative action but was

not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.420 Individual electric meters required in multifamily residential buildings; exceptions; standards. (1) Each individual dwelling unit in a multifamily residential building constructed after October 4, 1977, shall have installed a separate, individual electrical meter for each such dwelling unit except where a building inspector certified under ORS 455.715 to 455.740 determines that pursuant to standards adopted by the Director of the Department of Consumer and Business Services the installation of a single, central electrical meter for all the dwelling units in such building would facilitate an overall reduction in electrical consumption by such units.

(2) For the purpose of carrying out the provisions of subsection (1) of this section, the director, based on recommendations of the Residential Structures Board, shall adopt by rule standards for determining whether the installation of a single electrical meter for all dwelling units in a multifamily residential building facilitates an overall reduction in electrical consumption by such units. [Formerly 456.763; 1993 c.744 §94; 2003 c.675 §27]

455.422 New construction; recycling containers. (1) Each multifamily residential dwelling with more than 10 individual residential units that is constructed after October 4, 1997, should include adequate space and access for collection of containers for solid waste and recyclable materials.

(2) Each commercial building and each industrial and institutional building that is constructed after October 4, 1997, should include adequate space and access for collection of containers for solid waste and recyclable materials.

(3) As used in this section, “commercial,” “recyclable material” and “solid waste” have the meanings given in ORS 459.005. [Formerly 215.620]

Note: 455.422 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.425 Low-income elderly housing multiservice rooms required; standards; exceptions. (1) Any low-income housing for the elderly on which construction begins after January 1, 1978, and which is financed in whole or in part by federal or state funds shall contain a multiservice room adequate in size to seat all of the tenants.

(2) The Director of the Department of Consumer and Business Services shall adopt rules, in accordance with the applicable provisions of ORS chapter 183, establishing standards and specifications for low-income elderly housing multiservice rooms required under subsection (1) of this section. In development of standards and specifications, the director may take into account any standards or specifications established pursuant to any federal program under which the construction of such housing is funded.

(3) No housing described in subsection (1) of this section that contains 20 or fewer units is required to provide a multiservice room. [Formerly 456.772; 1991 c.67 §127]

455.430 Reciprocity for prefabricated structures. If the Director of the Department of Consumer and Business Services determines that the standards for prefabricated structures

prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under this chapter, and that such standards are actually enforced by such other state, the director may provide by regulation that prefabricated structures approved by such other state shall be deemed to have been approved by the director. [Formerly 456.880]

455.440 When site soil analysis required; filing of report and notice; duty of transferor of property; effect of failure to comply. (1) If a city, county or government agency requires a site soil analysis and site recommendation report as a condition of approval for issuance of a building permit for a residence for human habitation, and the analysis and report identify the presence of highly expansive soils, then prior to issuance of the building permit the city, county or government agency shall:

(a) Include a copy of that report with the construction plans filed with the building permit issuing agency; and

(b) Record, in the County Clerk Lien Record in the county in which the property is located, a notice containing:

(A) The legal description of the property; and

(B) An informational notice in substantially the following form:

This property has been identified as having highly expansive soils. This condition may create special maintenance requirements. Before signing or accepting any instrument transferring title, persons acquiring title should check with the appropriate planning or building department.

(2) No action may be maintained against a city, county or government agency for failing to meet the requirements of subsections (1) and (2) of this section.

(3) If a report described in subsections (1) and (2) of this section identifies the presence of highly expansive soils, the first transferor shall supply to the first transferee written suggestions for care and maintenance of the residence to address problems associated with highly expansive soils.

(4) If the first transferor violates the provisions of subsection (3) of this section, the first transferee shall have a cause of action to recover damages of \$750 from the first transferor. The court may award reasonable attorney fees to the prevailing party in an action under this section. [1989 c.1026 §§1,2,3; 1995 c.618 §71]

Note: 455.440 and 455.445 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.445 Indoor air quality standards for public areas and office workplaces. (1) After considering the recommendations of the Indoor Air Pollution Task Force, and as expeditiously as possible, the Director of the Department of Consumer and Business Services shall adopt ventilation standards for public areas and office workplaces that are at least equivalent to the most recent, nationally recognized ventilation standards generally accepted and in use throughout the United States.

(2) The director shall adopt building codes and building product standards to protect the indoor

air quality of private residences but only as necessary to address serious or unique indoor air quality problems in Oregon when federal statutes, regulations and national codes fail to address building product and building code related indoor air quality problems.

(3) As expeditiously as possible, the director shall consider for adoption the ventilation standards recommended by the Indoor Air Pollution Task Force. [1989 c.1070 §10]

Note: See note under 455.440.

455.446 Construction of certain facilities and structures in tsunami inundation zone prohibited; establishment of zone; rules; exceptions. (1)(a) New essential facilities described in ORS 455.447 (1)(a)(A), (B) and (G) and new special occupancy structures described in ORS 455.447 (1)(e)(B), (C) and (E) may not be constructed in the tsunami inundation zone established under paragraph (c) of this subsection. The provisions of this paragraph apply to buildings with a capacity greater than 50 individuals for every public, private or parochial school through secondary level and child care centers.

(b) The State Department of Geology and Mineral Industries shall establish the parameters of the area of expected tsunami inundation based on scientific evidence that may include geologic field data and tsunami modeling.

(c) The governing board of the State Department of Geology and Mineral Industries, by rule, shall determine the tsunami inundation zone based on the parameters established by the department. The board shall adopt the zone as determined by the department under paragraph (b) of this subsection except as modified by the board under paragraph (d) of this subsection.

(d) The board may grant exceptions to restrictions in the tsunami inundation zone established under paragraph (c) of this subsection after public hearing and a determination by the board that the applicant has demonstrated that the safety of building occupants will be ensured to the maximum reasonable extent:

(A) By addressing the relative risks within the zone.

(B) By balancing competing interests and other considerations.

(C) By considering mitigative construction strategies.

(D) By considering mitigative terrain modification.

(e) The provisions of paragraph (a) of this subsection do not apply:

(A) To fire or police stations where there is a need for strategic location; and

(B) To public schools if there is a need for the school to be within the boundaries of a school district and fulfilling that need cannot otherwise be accomplished.

(f) All materials supporting an application for an exception to the tsunami inundation zone are public records under ORS 192.005 to 192.170 and must be retained in the library of the department for periods of time determined by its governing board.

(g) The applicant for an exception to the tsunami inundation zone established under paragraph (c) of this subsection shall pay any costs for department review of the application and the costs, if any, of the approval process.

(2) The definitions in ORS 455.447 apply to this section.

(3) The provisions of this section do not apply to water-dependent and water-related facilities, including but not limited to docks, wharves, piers and marinas.

(4) Decisions made under this section are not land use decisions under ORS 197.015 (10). [1995 c.617 §2; 2005 c.22 §329; 2007 c.354 §31]

Note: 455.446 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.447 Regulation of certain structures vulnerable to earthquakes and tsunamis; rules.

(1) As used in this section, unless the context requires otherwise:

(a) “Essential facility” means:

(A) Hospitals and other medical facilities having surgery and emergency treatment areas;

(B) Fire and police stations;

(C) Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;

(D) Emergency vehicle shelters and garages;

(E) Structures and equipment in emergency-preparedness centers;

(F) Standby power generating equipment for essential facilities; and

(G) Structures and equipment in government communication centers and other facilities required for emergency response.

(b) “Hazardous facility” means structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released.

(c) “Major structure” means a building over six stories in height with an aggregate floor area of 60,000 square feet or more, every building over 10 stories in height and parking structures as determined by Department of Consumer and Business Services rule.

(d) “Seismic hazard” means a geologic condition that is a potential danger to life and property that includes but is not limited to earthquake, landslide, liquefaction, tsunami inundation, fault displacement, and subsidence.

(e) “Special occupancy structure” means:

(A) Covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons;

(B) Buildings with a capacity greater than 250 individuals for every public, private or parochial school through secondary level or child care centers;

(C) Buildings for colleges or adult education schools with a capacity greater than 500 persons;

(D) Medical facilities with 50 or more resident, incapacitated patients not included in subparagraphs (A) to (C) of this paragraph;

(E) Jails and detention facilities; and

(F) All structures and occupancies with a capacity greater than 5,000 persons.

(2) The Department of Consumer and Business Services shall consult with the Seismic Safety Policy Advisory Commission and the State Department of Geology and Mineral Industries prior to adopting rules. Thereafter, the Department of Consumer and Business Services may adopt rules as set forth in ORS 183.325 to 183.410 to amend the state building code to:

(a) Require new building sites for essential facilities, hazardous facilities, major structures and special occupancy structures to be evaluated on a site specific basis for vulnerability to seismic geologic hazards.

(b) Require a program for the installation of strong motions accelerographs in or near selected major buildings.

(c) Provide for the review of geologic and engineering reports for seismic design of new buildings of large size, high occupancy or critical use.

(d) Provide for filing of noninterpretive seismic data from site evaluation in a manner accessible to the public.

(3) For the purpose of defraying the cost of applying the regulations in subsection (2) of this section, there is hereby imposed a surcharge in the amount of one percent of the total fees collected under the structural and mechanical specialty codes for essential facilities, hazardous facilities, major structures and special occupancy structures, which fees shall be retained by the jurisdiction enforcing the particular specialty code as provided in ORS 455.150 or enforcing a building inspection program under ORS 455.148.

(4) Developers of new essential facilities, hazardous facilities and major structures described in subsection (1)(a)(E), (b) and (c) of this section and new special occupancy structures described in subsection (1)(e)(A), (D) and (F) of this section that are located in an identified tsunami inundation zone shall consult with the State Department of Geology and Mineral Industries for assistance in determining the impact of possible tsunamis on the proposed development and for assistance in preparing methods to mitigate risk at the site of a potential tsunami. Consultation shall take place prior to submittal of design plans to the building official for final approval. [1991 c.956 §12; 1995 c.79 §229; 1995 c.617 §1; 2001 c.573 §12]

Note: 455.447 was added to and made a part of 455.010 to 455.740 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.448 Entry and inspection of earthquake-damaged structures; warrant enforcement.

(1) For the purposes of enforcement of this chapter the building inspector or any person appointed by the Department of Consumer and Business Services, after showing official identification and, if necessary, a warrant issued to the building owner or agent of the owner under subsection (2) of this section, may:

(a) Enter, at reasonable times, any property that is known to be damaged, or for which there are reasonable grounds to believe that the structure has been damaged, as a result of an earthquake.

(b) Inspect, at reasonable times, within reasonable limits and in a reasonable manner property that is known to be damaged, or for which there are reasonable grounds to believe that the structure has been damaged, as a result of an earthquake.

(2) If entry is refused, the building inspector or any duly appointed representative of the Department of Consumer and Business Services may appear before any magistrate empowered to issue warrants and request such magistrate to issue an inspection warrant, directing it to any peace officer, as defined in ORS 161.015 to enter the described property to remove any person or obstacle and assist the building inspector or representative of the department inspecting the property in any way necessary to complete the inspection. [Formerly 401.537]

Note: 455.448 and 455.449 were added to and made a part of 455.010 to 455.740 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.449 Unsafe condition resulting from earthquake damage; abatement of nuisance; rules. (1) All buildings or portions thereof which are determined after inspection by a building inspector or a representative of the Department of Consumer and Business Services to be in unsafe condition as a result of earthquake damage may be declared to be a public nuisance and shall be

abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified by rules adopted by the agency.

(2) Any building declared to be in unsafe condition under subsection (1) of this section shall be made to comply with one of the following:

(a) The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair;

(b) The building shall be demolished if the owner of the building consents; or

(c) The building may be vacated, secured and maintained against entry if the building does not constitute an immediate danger to the life, limb, property or safety of the public.

(3) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, the Department of Consumer and Business Services or representative of the department shall order it to be vacated.

(4) If the structure, in whole or in part, is listed on or is eligible for listing on the National Register of Historic Places, established and maintained under the National Historic Preservation Act of 1966 (P.L. 89-665), or if the National Register of Historic Places ceases accepting nominations, is approved for listing on an Oregon register of historic places, or is a locally designated landmark protected by ordinance against demolition without due process, alternative compliance with the provisions of subsection (2)(a) and (c) of this section shall be allowed if the repaired or rehabilitated building is no more hazardous than it would be if repaired or rehabilitated in accordance with (2)(a) of this section. [Formerly 401.539]

Note: See note under 455.448.

(Prohibited Acts)

455.450 Prohibited acts. A person may not:

(1) Violate, or procure or assist in the violation of, any final order of the Director of the Department of Consumer and Business Services, an advisory board, a state administrative officer or any local appeals board, building official or inspector, concerning the application of the state building code in a particular case or concerning a license, certificate, registration or other authorization.

(2) Engage in, or procure or assist any other person to engage in, any conduct or activity for which a permit, label, license, certificate, registration or other formal authorization is required by any specialty code, any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670, this chapter or ORS chapter 447, 460 or 693, or any rule adopted or order issued for the administration and enforcement of those provisions, without first having obtained such permit, label, license, certificate, registration or other formal authorization.

(3) Violate, or procure or assist in the violation of, any standard, specification, requirement, prohibition or other technical provision set forth in the state building code or an applicable local building code or in any rule or order of the Department of Consumer and Business Services, an advisory board, a local governing body or local building official. [Formerly 456.885 (1); 2007 c.306 §3]

(Specialty Code Inspection and Building Plan Review)

455.455 Building inspection and plan review; license required; exception. (1)(a) A person may not employ an individual to perform specialty code inspections in any specialty area unless the individual has a license issued in that specialty area under ORS 455.457.

(b) A person may not engage in specialty code inspections without having a license issued under ORS 455.457 in the specialty area for which the inspection is provided.

(c) A person may not employ an individual to perform plan reviews unless the individual has a license issued under ORS 455.457.

(d) A person may not engage in reviewing plans without having a license issued under ORS 455.457.

(2) The requirements in subsection (1) of this section do not apply to a person who is an employee of the state or of a municipality. [1999 c.1045 §2]

Note: 455.455 to 455.465, 455.467 and 455.469 to 455.477 were added to and made a part of ORS chapter 455 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.457 Licensing specialty code inspectors and plan reviewers; rules; contents. In accordance with the applicable provisions of ORS chapter 183, the Director of the Department of Consumer and Business Services by rule shall establish a licensing system for persons that perform specialty code inspections or plan reviews and for businesses that employ persons that perform specialty code inspections or plan reviews. Such a system shall include but not be limited to the following provisions:

(1) Prescribing the form and content of and the times and procedures for submitting an application for the issuance or renewal of a license.

(2) Prescribing the terms of the licenses and the fees for the original issue and renewal in amounts that do not exceed the cost to the Department of Consumer and Business Services of administering the licensing system.

(3) Prescribing the requirements for and the manner of testing the competency of applicants for the protection of the public health and safety.

(4) Prescribing the amounts and conditions of bonds and liability insurance.

(5) Setting forth those actions or circumstances that constitute failure to achieve or maintain licensing competency or that otherwise constitute a danger to the public health or safety and for which the director may refuse to issue or renew or may suspend or revoke a license or impose a civil penalty. [1999 c.1045 §3]

Note: See note under 455.455.

455.459 Specialty code inspection and plan review; conflict of interest. (1) A person shall not inspect or review any project or installation in which the person, employer of the person or relative of the person has any financial interest or business affiliation. A person designated under ORS 455.465 (1)(a) may not perform both the inspection and plan review for the same project or installation. A municipality or the state shall perform either the inspection, the plan review, or both.

(2) For purposes of this section, “relative” has the meaning given that term in ORS 95.200. [1999 c.1045 §4]

Note: See note under 455.455.

455.461 Specialty code inspectors and plan reviewers; quality control; rules. (1) The Director of the Department of Consumer and Business Services, by rule, shall develop quality control procedures for the activities of specialty code inspectors, plan reviewers and businesses that employ specialty code inspectors and plan reviewers licensed under ORS 455.457. These procedures shall include but are not limited to random sampling of the work of such persons and businesses.

(2) The Director of the Department of Consumer and Business Services shall appoint by rule a chief inspector for each specialty code under this chapter. [1999 c.1045 §7]

Note: See note under 455.455.

455.463 Specialty code inspection and plan review; department enforcement authority; investigation. (1) In addition to any other authority and power granted to the Director of the Department of Consumer and Business Services under this chapter and ORS chapters 447 and 479, with respect to specialty code inspectors, plan reviewers and businesses that employ specialty code inspectors and plan reviewers licensed under ORS 455.457, if the director has reason to believe that there is a failure to enforce or there is a violation of any provision of this chapter or ORS chapters 447 and 479 or any rule adopted thereunder, the director may:

(a) Examine building code activities of specialty code inspectors, plan reviewers and businesses that employ specialty code inspectors and plan reviewers;

(b) Take sworn testimony; and

(c) With the authorization of the office of the Attorney General, subpoena persons and records to obtain testimony on official actions that were taken or omitted or to obtain documents otherwise subject to public inspection under ORS 192.410 to 192.505.

(2) The investigative authority authorized by subsection (1) of this section covers violations or omissions by specialty code inspectors, plan reviewers and businesses that employ specialty code inspectors and plan reviewers licensed under ORS 455.457 related to enforcement of codes or administrative rules, licensing of inspectors or financial transactions. [1999 c.1045 §8]

Note: See note under 455.455.

455.465 Department and municipalities to designate persons licensed to conduct specialty code inspection and plan review; fees; exception. (1) In administering a building inspection program, the Department of Consumer and Business Services or a municipality shall:

(a) Designate at least three persons licensed under ORS 455.457 from whom the department or municipality will accept plan reviews; or

(b) Contract with a person licensed under ORS 455.457 and may include as a term of the contract a process for collection of plan review fees.

(2) For plan reviews conducted under subsection (1) of this section, the department or a municipality may:

(a) Establish the process for collecting fees from a person licensed under ORS 455.457; and

(b) Collect an administrative fee as provided in ORS 455.210.

(3) The provisions of ORS 279C.100 to 279C.125 and 279C.300 to 279C.470 and ORS chapters 279A and 279B, except ORS 279B.235, do not apply to a personal services contract between the department or a municipality and a person licensed under ORS 455.457. [1999 c.1045 §20; 2003 c.794 §284]

Note: See note under 455.455.

455.466 Rapid approval assessment for essential projects. (1) As used in this section, “essential project” means a:

- (a) State owned or operated development;
- (b) Development of industries in the traded sector as defined in ORS 285A.010 for structures more than 100,000 square feet in size;
- (c) Project in an industrial site listed by the Economic and Community Development Department as ready for development and for which the project construction totals more than 100,000 square feet in size; or
- (d) Development designated by the Director of the Economic and Community Development Department as essential to the economic well-being of the state.

(2) Notwithstanding any municipal building inspection program under ORS 455.148 or 455.150, an applicant for a building permit for an essential project or the municipality having jurisdiction over an essential project may request in writing that the Department of Consumer and Business Services administer and enforce the state building code for the project.

(3) Upon receipt by the Department of Consumer and Business Services of a written request under this section, the Director of the Department of Consumer and Business Services shall assemble a rapid approval assessment team consisting of such department employees and other persons as the director considers appropriate. The purpose of the rapid approval assessment team shall be to provide assistance and advice to the director.

(4) The Director of the Department of Consumer and Business Services, in consultation with the rapid approval assessment team, shall determine whether adequate resources are available to ensure that an essential project may proceed in a timely, consistent and flexible manner. In determining the availability of resources under this subsection, the director and the rapid approval assessment team shall give first consideration to the availability of municipal resources. If the director determines that municipal resources may be inadequate for the essential project, the director may consider whether state resources or a combination of municipal and state resources is available to ensure that the essential project may proceed in a timely, consistent and flexible manner. A determination by the director under this subsection is not appealable.

(5) The Director of the Department of Consumer and Business Services may take all actions that the director considers reasonable and necessary to ensure that an essential project may proceed in a timely, consistent and flexible manner, including but not limited to:

- (a) Establishing policies, procedures and rules as necessary;
- (b) Working directly with local municipalities and other state agencies to resolve conflicts and disputes related to the state building code;
- (c) Encouraging cooperation between state and municipal building officials and inspectors;
- (d) Developing agreements;
- (e) Developing site-specific dispute resolution and appeals related to state building code requirements;
- (f) Expediting, coordinating or providing building inspection program plan review, permitting

and inspection services;

- (g) Assisting a municipality or seeking assistance from a municipality; and
- (h) Establishing fees to cover the cost of provided services. [2003 c.369 §2]

Note: 455.466 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.467 Timelines for approval or disapproval of certain specialty code building plans; exceptions; phased permit systems; failure to adhere to timelines. (1) Except as provided in subsection (2) of this section, for specialty code plan reviews of simple low-rise residential dwellings, the Department of Consumer and Business Services or a municipality that administers a building inspection program under ORS 455.148 or 455.150 shall approve or disapprove the specialty code building plan:

(a) For a jurisdiction with a population that is less than 300,000, within 10 business days of receiving a complete application, or shall implement the process described in ORS 455.465.

(b) For a jurisdiction with a population that is 300,000 or more, within 15 business days of receiving a complete application, or shall implement the process described in ORS 455.465.

(2) The 10-day and 15-day requirements in subsection (1) of this section do not apply if:

(a) The plan requires approval by federal, state or local agencies outside the jurisdiction of the issuing agency;

(b) The plan is for a complex structure that requires additional review as determined by the department or municipality; or

(c) Based on conditions that exist in the affected municipality, the Director of the Department of Consumer and Business Services authorizes a different plan review schedule as described in a building inspection program submitted under ORS 455.148 or 455.150.

(3) For specialty code plan reviews of commercial structures, a municipality shall include in its building inspection program submitted under ORS 455.148 or 455.150 a process for plan review services. The municipality shall include in its program detailed reasons supporting the proposed plan review process. The plan review services provided by the municipality shall:

(a) Allow an applicant to defer the submittal of plans for one or more construction phases for a commercial construction project in accordance with the state building code; and

(b) Allow an applicant to receive permits for each of the phases of a commercial construction project as described in the state building code when the plan review for that phase is approved.

(4) For a phased commercial construction project as described in subsection (3) of this section, the municipality shall inform the applicant of the detailed plans necessary for each phase of the project and the estimated time for initial and phased review of the building plans for conformance with the state building code.

(5) An applicant submitting plans under subsection (3) of this section is responsible for ensuring that the project meets all specialty code requirements and that the project does not proceed beyond the level of approval authorized by the building official.

(6) A municipality that repeatedly fails to meet the plan review period described in this section or otherwise authorized in its building inspection program submitted under ORS 455.148 or 455.150 shall be considered to be engaging in a pattern of conduct of failing to provide timely plan reviews under ORS 455.160. [1999 c.1045 §21; 2001 c.384 §1; 2001 c.573 §13; 2003 c.675 §28]

Note: See note under 455.455.

455.468 Electronic submission of application materials. A transaction conducted through a state or local system or network that provides electronic access to building codes information and services is exempt from any requirement under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945 and 480.510 to 480.670 and ORS chapters 447, 455, 460 and 693, or rules adopted thereunder, requiring a signature or the submission of handwritten materials. [2003 c.336 §3]

Note: 455.468 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.469 Municipal building inspection program to include certain policies and ordinances. A municipality shall add to and make a part of its building inspection program under ORS 455.148 or 455.150 the policies and ordinances adopted by the municipality to implement ORS 455.465 and 455.467. [1999 c.1045 §22; 2001 c.573 §14]

Note: See note under 455.455.

455.471 Specialty code inspection and plan review fee authority; disposition of certain fee amounts. (1) Fee amounts shall not be established by the Director of the Department of Consumer and Business Services or any municipality for fees charged by persons licensed under ORS 455.457.

(2) Fees charged by a person licensed under ORS 455.457 shall include a surcharge equal to the percentage amounts established for municipalities under ORS 455.210 (4)(a) and (b) and 455.220 (1). The surcharges shall be remitted quarterly to the department to partially defray the department's administration, inspection and training costs incurred pursuant to ORS 455.455, 455.457, 455.461 and 455.463. Funds received by the department under this section shall be deposited in the Consumer and Business Services Fund created by ORS 705.145. [1999 c.1045 §6; 2007 c.69 §7]

Note: See note under 455.455.

455.473 Disposition of certain fees received by department. All moneys received by the Department of Consumer and Business Services pursuant to ORS 455.457 and 455.471 shall be paid into the State Treasury and credited to the appropriate specialty code account under this chapter or ORS 479.510 to 479.945. All moneys deposited in the accounts under this section are continuously appropriated to the department to carry out the provisions of ORS 455.455 to 455.463, 455.471, 455.473, 455.477 and 455.897 and section 10, chapter 1045, Oregon Laws 1999. [1999 c.1045 §5; 2003 c.14 §283]

Note: See note under 455.455.

455.475 Appeal of decision of building official. A person aggrieved by a decision made by a

building official under authority established pursuant to ORS 455.148, 455.150 or 455.467 may appeal the decision. The following apply to an appeal under this section:

(1) An appeal under this section shall be made first to the appropriate specialty code chief inspector of the Department of Consumer and Business Services. The decision of the department chief inspector may be appealed to the appropriate advisory board. The decision of the advisory board may only be appealed to the Director of the Department of Consumer and Business Services if codes in addition to the applicable specialty code are at issue.

(2) If the appropriate advisory board determines that a decision by the department chief inspector is a major code interpretation, then the inspector shall distribute the decision in writing to all applicable specialty code public and private inspection authorities in the state. The decision shall be distributed within 60 days after the board's determination, and there shall be no charge for the distribution of the decision. As used in this subsection, a "major code interpretation" means a code interpretation decision that affects or may affect more than one job site or more than one inspection jurisdiction.

(3) If an appeal is made under this section, an inspection authority shall extend the plan review deadline by the number of days it takes for a final decision to be issued for the appeal. [1999 c.1045 §23; 2001 c.573 §15]

Note: See note under 455.455.

455.477 Requirement for suit filed by licensed specialty code inspector or plan reviewer.

A person carrying on, conducting or transacting specialty code inspections or plan reviews or a business employing specialty code inspectors or plan reviewers may not maintain any suit or action relating to specialty code inspections or plan reviews in any of the courts of this state without alleging and proving that the person or business was licensed under ORS 455.457 at the time of performing such work. [1999 c.1045 §11]

Note: See note under 455.455.

455.479 Application to specialty inspections identified by department. Nothing in ORS 455.455 to 455.477 and 455.897 and section 10, chapter 1045, Oregon Laws 1999, applies to special inspections as described in each specialty code as adopted by the Director of the Department of Consumer and Business Services. [1999 c.1045 §27]

Note: 455.479 and 455.481 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.481 Application to inspection and plan review for prefabricated structures. Nothing in ORS 455.455, 455.457, 455.459, 455.461, 455.467, 455.475 or 455.477 is intended to limit, supersede or otherwise affect the rights, obligations or professional activities of an inspector engaged in the business of providing prefabricated structure plan approvals and inspections, as defined in ORS 455.715, pursuant to ORS 455.715 to 455.740. [1999 c.1045 §28]

Note: See note under 455.479.

455.483 Electrical and plumbing code plan review; rules. (1) The Department of Consumer and Business Services, with the approval of the Electrical and Elevator Board, shall adopt rules to make electrical code plan review mandatory only for complex structures located in jurisdictions that offer electrical code plan review services.

(2) The department shall adopt rules to make plumbing code plan review mandatory only for complex structures located in jurisdictions that offer plumbing code plan review services.

(3) Notwithstanding any rules adopted pursuant to subsections (1) and (2) of this section, an owner of a complex structure or the owner's agent may request and receive plan review and inspections for any electrical and plumbing materials and installations that are subject to the state building code. [2003 c.367 §5; 2005 c.661 §1]

Note: 455.483 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.510 [Formerly 456.730; repealed by 1993 c.744 §41]

455.520 [Formerly 456.735; repealed by 1993 c.744 §41]

ENERGY CONSERVATION

(Generally)

455.525 Rules for energy conservation and passive solar energy in structures; inclusion in building code; application of testing requirements to fenestration products; review of regulations. (1) In the manner provided in ORS chapter 183 for the adoption of rules and after consideration of available technology and costs, the Building Codes Structures Board and the Residential Structures Board shall establish basic and uniform performance standards to provide maximum energy conservation and use of passive solar energy in the design, construction, reconstruction, alteration and repair of buildings and other structures. Such standards shall be submitted to the Director of the Department of Consumer and Business Services for proposed inclusion in the state building code as provided by ORS 455.030 (4).

(2) Any testing requirements adopted under subsection (1) of this section do not apply to fenestration products that are for use within residential structures if the fenestration products are:

(a) Used in the creation of sunrooms and solariums and constructed with a minimum of a one-half inch space between the panes; or

(b) Fenestration products used as skylights that constitute no more than 10 percent of the total glazing used in any dwelling unit.

(3) The Residential Structures Board and the director shall jointly adopt by rule default thermal performance values for residential fenestration products that are produced in low volume. Any testing requirements adopted under subsection (1) of this section or ORS 455.020 or 455.030 do not apply to residential fenestration products that are produced in low volume.

(4) Fenestration products manufactured for use as skylights that are subject to the provisions of subsection (1) of this section and have frames that are wood, thermal break aluminum or aluminum with vinyl shall be deemed to meet any performance standards included in the state building code when the following glazing configurations are used:

- (a) A minimum one-half inch space between the panes and low-e (emissivity) glass; or
- (b) Triple-layered acrylic.

(5) Regulations relating to the use and conservation of energy adopted pursuant to ORS 455.020 (2) shall be reviewed by the Building Codes Structures Board and the Residential Structures Board. [Formerly 456.740; 1993 c.744 §95; 1993 c.782 §1; 1999 c.59 §128; 2003 c.675 §29]

455.530 Authority to receive money and to contract. The Building Codes Structures Board and the Residential Structures Board may:

(1) Apply for and receive moneys from any person, from the federal government, from this state or from any state agency or department.

(2) Contract with any public agency for the performance of services or the exchange of employees or services by one to the other necessary in carrying out the purposes of ORS 455.525 and 455.530. [Formerly 456.745 and then 456.742; 2003 c.675 §30]

(Energy Conservation Standards for Public Buildings)

455.560 Definitions for ORS 455.560 to 455.580. As used in ORS 455.560 to 455.580, unless the context requires otherwise:

(1) “Department” means the Department of Consumer and Business Services.

(2) “Director” means the Director of the Department of Consumer and Business Services.

(3) “Person” means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, people’s utility district, or any other entity, public or private, however organized.

(4) “Public buildings” means any building, including outdoor area adjacent thereto, which is open to the public during normal business hours, except exempted buildings. Each of the following is a public building within the meaning of ORS 455.560 to 455.580, unless it or any portion thereof is exempted by rule or order pursuant to ORS 455.570 (2), (3) and (4):

(a) Any building which provides facilities or shelter for public assembly, or which is used for educational, office or institutional purposes;

(b) Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment which provides services or retails merchandise;

(c) Any portion of an industrial plant building used primarily as office space; or

(d) Any building owned by the state or political subdivision thereof, including libraries, museums, schools, hospitals, auditoriums, sports arenas and university buildings. [Formerly 456.746; 1993 c.744 §96]

455.565 Purpose of ORS 455.560 to 455.580. It is the purpose of ORS 455.560 to 455.580 to promote, encourage and require measures to conserve energy in public buildings. [Formerly 456.744]

455.570 Maximum lighting standards for new public buildings; exemptions. (1) After consultation with the Building Codes Structures Board and the State Department of Energy, the Director of the Department of Consumer and Business Services, as provided in this chapter, shall establish maximum lighting standards for public buildings constructed on or after July 1, 1978.

Such standards may distinguish between type of design, the uses to which buildings are put, location, age or any other applicable classification.

(2) Such standards shall allow for:

(a) Differences in lighting levels within public buildings for special areas and uses, including but not limited to hospital, drafting room, and advertising display, and for other areas and activities requiring special illumination.

(b) The interaction between lighting and heating systems.

(c) Occupational safety and health standards.

(3) The director may by rule or order exempt from the maximum lighting standards, new public buildings or portions thereof that:

(a) Are of insufficient size to warrant maximum lighting standard regulations;

(b) Should be allowed a specific period of time before compliance with maximum lighting standards is required;

(c) Are difficult or impractical to regulate based upon location;

(d) Are not open to the public during normal business hours;

(e) Are impractical to regulate, based upon unique design; or

(f) Would not be benefited by regulation, based upon the insignificant amount of energy possible to conserve.

(4) Any person subject to ORS 455.560 to 455.580 may apply to the director for an exemption under this section. [Formerly 456.747]

455.575 Advisory lighting standards for public buildings constructed before July 1, 1978.

After consultation with the Building Codes Structures Board and the State Department of Energy, the Director of the Department of Consumer and Business Services, as provided in ORS chapter 183, shall establish advisory maximum lighting standards for public buildings constructed before July 1, 1978, based on the factors set forth in ORS 455.570. [Formerly 456.748]

455.580 Status of powers of director. The powers and duties given the Director of the Department of Consumer and Business Services by ORS 455.560 to 455.580 shall be in addition to, and not in derogation of, all other powers, duties and responsibilities vested in the director. [Formerly 456.749]

455.595 Energy Efficient Construction Account. The State Treasurer is authorized to establish an Energy Efficient Construction Account for the purpose of providing energy engineering and technical assistance studies to state and other public buildings. Moneys credited to this account from payments for energy engineering or technical assistance studies and other revenues as authorized by the appropriate legislative review agency are continuously appropriated for the payment of these expenses. [1987 c.206 §6]

Note: 455.595 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

LOW-RISE RESIDENTIAL DWELLING CODE

455.610 Low-Rise Residential Dwelling Code; adoption; changes; compatibility of other

codes; alternative methods of construction; rules. (1) The Director of the Department of Consumer and Business Services shall adopt, and amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including structural design provisions, related to the construction of residential dwellings three stories or less above grade. The code provisions for plumbing and electrical requirements must be compatible with other specialty codes adopted by the director. The Electrical and Elevator Board, the Mechanical Board and the State Plumbing Board shall review, respectively, amendments to the electrical, mechanical or plumbing provisions of the code.

(2) Changes or amendments to the code adopted under subsection (1) of this section may be made when:

- (a) Required by geographic or climatic conditions unique to Oregon;
- (b) Necessary to be compatible with other statutory provisions;
- (c) Changes to the national codes are adopted in Oregon; or
- (d) Necessary to authorize the use of building materials and techniques that are consistent with nationally recognized standards and building practices.

(3) Notwithstanding ORS 455.030, 455.035, 455.110 and 455.112, the director may, at any time following appropriate consultation with the Mechanical Board or Building Codes Structures Board, amend the mechanical specialty code or structural specialty code to ensure compatibility with the Low-Rise Residential Dwelling Code.

(4) The water conservation provisions for toilets, urinals, shower heads and interior faucets adopted in the Low-Rise Residential Dwelling Code shall be the same as those adopted under ORS 447.020 to meet the requirements of ORS 447.145.

(5) The Low-Rise Residential Dwelling Code shall be adopted and amended as provided by ORS 455.030 and 455.110.

(6) The director, by rule, shall establish uniform standards for a municipality to allow an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code in areas where the local jurisdiction determines that the fire apparatus means of approach to a property or water supply serving a property does not meet applicable fire code or state building code requirements. The alternate method of construction, which may include but is not limited to the installation of automatic fire sprinkler systems, must be approved in conjunction with the approval of an application under ORS 197.522.

(7) For lots of record existing before July 2, 2001, or property that receives any approval for partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality allowing an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code may apply the uniform standards established by the director pursuant to subsection (6) of this section. For property that receives all approvals for partition, subdivision or construction under ORS 197.522 on or after July 2, 2001, a municipality allowing an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code must apply the uniform standards established by the director pursuant to subsection (6) of this section. [1987 c.604 §2; 1991 c.366 §1; 1991 c.558 §1; 1991 c.945 §6; 1993 c.419 §1; 1993 c.744 §97; 2001 c.702 §1; 2003 c.675 §§31,32; 2005 c.435 §1]

455.620 [1987 c.604 §3; repealed by 1991 c.366 §2]

455.622 Certification of inspectors; rules. Notwithstanding ORS 447.020, 455.715 to

455.740, 479.810 (3) or 479.855, the Department of Consumer and Business Services shall adopt education, training and examination requirements that allow certification of inspectors to perform inspections on one and two family dwellings under one or more aspects of the Low-Rise Residential Dwelling Code adopted under ORS 455.610 to 455.630. [1995 c.553 §10; 2003 c.675 §33]

Note: 455.622 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.625 Rules for permits; schedule of inspections. The Director of the Department of Consumer and Business Services shall, by rule, adopt:

- (1) A list of information required for low-rise residential dwelling building permits; and
- (2) A priority schedule for low-rise residential dwelling inspections and plan review requirements. [1987 c.604 §5; 1997 c.658 §3; 2003 c.675 §34]

455.626 Rules for accommodating technology. The Director of the Department of Consumer and Business Services shall adopt, amend or repeal the state building code as necessary to establish viable standards for providing advanced telecommunications and cable service technology to newly constructed low-rise residential dwellings. [1999 c.329 §2; 2003 c.675 §48]

Note: 455.626 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.627 Minor electrical installation inspection program; rules. The Department of Consumer and Business Services, in consultation with the Residential Structures Board, shall adopt rules to create a mandatory random inspection program for minor electrical installations made by electrical contractors in low-rise residential dwellings. [1995 c.53 §13; 2003 c.675 §35]

Note: 455.627 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.628 Plan review exemption. (1) The Department of Consumer and Business Services or a municipality administering and enforcing a building inspection program under ORS 455.148 or 455.150 may not require a plan review for one and two family dwellings that are of conventional light frame construction, as defined by the department by rule, if:

(a) The plans for the dwelling are designed and stamped by a professional engineer registered under ORS 672.102 or an architect registered under ORS 671.060; and

(b) The engineer or architect is certified by the Director of the Department of Consumer and Business Services under ORS 455.720 as being qualified to examine one and two family dwelling plans.

(2) The department or municipality is exempt from liability for any damages arising from the nonperformance of a plan review pursuant to this section. [2003 c.367 §4; 2005 c.758 §21a]

Note: 455.628 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.630 Enforcement. (1) The Low-Rise Residential Dwelling Code shall be enforced by inspectors and building officials qualified pursuant to ORS 455.715 to 455.740.

(2) Notwithstanding subsection (1) of this section, enforcement of electrical specialty code, permit and licensing provisions shall be under the sole authority of the Electrical and Elevator Board in the Department of Consumer and Business Services. [1987 c.604 §7; 1999 c.714 §1; 2003 c.675 §36]

455.635 [Formerly 456.787; renumbered 455.085 in 1991]

PUBLIC ASSEMBLY STRUCTURES

455.640 Definitions for ORS 455.640 to 455.645. (1) As used in ORS 455.640 to 455.645, unless the context otherwise requires, the words, terms and phrases defined in subsections (2) to (5) of this section shall have the meaning given them in those subsections.

(2) “Architect” means an architect as defined in ORS 671.010 in accordance with the rules and regulations of the State Board of Architect Examiners.

(3) “Certified structure” means a structure designed by a professional engineer or architect as defined in this section.

(4) “Professional engineer” means an engineer as defined in ORS 672.002 in accordance with the rules and regulations of the State Board of Examiners for Engineering and Land Surveying.

(5) “Structures of public assembly” means structures which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement or awaiting transportation. [Formerly 456.965]

Note: 455.640, 455.642 and 455.645 were added to and made a part of ORS chapter 455 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

455.642 Application. The provisions of ORS 455.640 to 455.645 shall not be construed to apply to any building having a ground area of 4,000 square feet or less and which is not more than 20 feet in height from the top surface of lowest flooring to the highest interior overhead finish of the structure. [Formerly 456.970]

Note: See note under 455.640.

455.645 Certain plans for structures of public assembly to be certified. In order to safeguard life, health and property, all drawings and plans defining the framing systems, shoring systems and foundations for structures of public assembly shall be certified by a qualified professional engineer or qualified architect. The design of the certified structure of public assembly shall provide for resistance to lateral forces, including wind and earthquakes, as well as gravity loads, in accordance with accepted engineering practice and governing building codes. The design shall be accompanied by supporting lateral force calculations. [Formerly 456.975]

Note: See note under 455.640.

MUNICIPAL REVIEW AND INSPECTION

(Generally)

455.675 Authorized substitutions in codes adopted by reference. For the purposes of the codes of regulations adopted under this chapter, unless the context clearly indicates otherwise, the following substitutions shall be made in any code adopted by reference as part of the state building code:

- (1) "Building official" for "administrative authority."
- (2) "Governing body" for "mayor" and "city council."
- (3) "Municipality" for "city," "county" or other unit of local government. [Formerly 456.875; 1999 c.1045 §17]

455.680 Plan approval and permits for recreation or picnic park or camp; license; rules.

(1) Plan approval and permits shall be obtained from the Department of Consumer and Business Services prior to construction, enlargement or alteration of any recreation park, picnic park or organizational camp as defined in ORS 446.310.

(2) If the department determines that the work conforms to the approved plans and specifications, it shall issue a final approval which shall, if all other conditions of ORS 455.010 to 455.240, 455.410 to 455.450 and 455.595 to 455.740 are met, authorize the issuance of a license by the Department of Human Services to operate the park or, in the case of then currently licensed parks, shall authorize continued operation for the remaining part of the licensing year.

(3) In accordance with ORS 455.010 to 455.240, 455.410 to 455.450 and 455.595 to 455.740 and in consultation and agreement with the Department of Human Services, the Department of Consumer and Business Services shall adopt rules to carry out this section. The rules adopted pursuant to this section shall be a specialty code as defined in ORS 455.010. [Formerly 446.337 and then 456.837; 1997 c.259 §2]

455.685 Review of plans and specifications to determine compliance; effect of approval; fees. The Director of the Department of Consumer and Business Services may, upon an application setting forth a set of plans and specifications that will be utilized in one or more municipalities to acquire building permits, review and approve the application for the construction or erection of any building or structure if such set of plans meets the requirements of the state building code. All costs incurred by the director by virtue of the examination of such a set of plans and specifications shall be paid by the applicant. The plans and specifications or any plans and specifications required to be submitted to a state agency shall be submitted to the director who shall examine the instruments and if necessary distribute them to the appropriate state agencies for scrutiny regarding adequacy as to fire safety, life safety and all other appropriate features. The state agencies shall examine and promptly return the plans and specifications together with their certified statement as to the adequacy of the instruments regarding that agency's area of concern. The applicant shall submit the plans and specifications to a local building official prior to application for a building permit. The local building official shall review the plan for those features required by local ordinance or by any site-specific, geographic, geologic or climatic code

requirements. A local building official shall issue a building permit upon application and presentation to the local building official of such a set of plans and specifications bearing the approval of the director if the requirements of all other local ordinances are satisfied. The director or local building official may assess such fees as necessary to recover the reasonable costs incurred to ensure the compliance of the plans and specifications with the state building code. [Formerly 456.840; 1997 c.856 §3]

455.690 Appeal to advisory boards. Any person aggrieved by the final decision of a municipal appeals board 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 30 days after the date of the decision, appeal to the appropriate advisory board. The appellant shall submit a fee of \$20, payable to the department, with the request for appeal. The final decision of the involved municipality or state officer shall be subject to review and final determination by the appropriate advisory board as to technical and scientific determinations related to the application of the specialty code involved. [Formerly 456.850; 1993 c.744 §98]

455.700 Validity of certain building permits. Building permits or certificates of occupancy validly issued before July 1, 1974, regarding buildings or structures being constructed or altered pursuant thereto, shall be valid thereafter and the construction may be completed pursuant to the building permit, unless the building official determines that life or property is in jeopardy. [Formerly 456.855]

455.705 Prefabricated structures plan approval and inspections; approval of business or persons performing inspections; rules; fees; manufacturer compliance program; insignia of compliance or certification stamp required for certain transactions. (1) A manufacturer of prefabricated structures or manufacturer of prefabricated structure components may not contract with a municipality or a person to perform prefabricated structure plan approvals or inspections unless the person providing the plan approvals or inspections is certified or approved under subsection (2) of this section or is providing plan approvals or inspections for a residential prefabricated structure that is intended for delivery in another state.

(2)(a) A person may not engage in prefabricated structure plan approvals or inspections without being certified under ORS 455.715 to 455.740 or 479.810 unless the person is providing plan approvals or inspections for a residential prefabricated structure that is intended for delivery in another state.

(b) A person may not engage in the business of providing prefabricated structure plan approvals or inspections without an approval issued by the Department of Consumer and Business Services.

(3) In accordance with any applicable provisions of ORS chapter 183, the Director of the Department of Consumer and Business Services shall establish by rule a system for approval and regulation of businesses and persons who perform prefabricated structure plan approvals or inspections. The system shall include but not be limited to the following provisions:

(a) Prescribing the form and content of and the times and procedures for submitting an application for the issuance or renewal of an approval.

(b) Prescribing the term of the approval and the fee for the original issue and renewal in an amount that does not exceed the cost of administering the approval system. The charge for review and approval of a third party inspection service shall not exceed, for the original issue, \$400 and

for the renewal, \$200.

(c) Prescribing the conditions for initial issuance, renewal and maintenance of the approval for a person certified under ORS 455.715 to 455.740 or 479.810, including but not limited to the following provisions:

(A) Procedures and reports for plan approvals and inspections;

(B) Ethical practices and prohibitions of conflicts of interests with manufacturers of prefabricated structures and manufacturers and suppliers of parts and services;

(C) Insurance compliance requirements;

(D) Procedures for use and application of insignia of compliance; and

(E) Fees for and procedures for use and application of certification stamps.

(d) Prescribing other actions or circumstances that constitute failure to achieve or maintain approval competency or that otherwise constitute a danger to the public health or safety and for which the director may refuse to issue or renew or may suspend or revoke a certification, permit or certificate.

(e) Prescribing the authority of the department to perform oversight monitoring including but not limited to:

(A) Right of entry and access to third party records and information;

(B) Frequency, type and extent of the oversight monitoring and inspection of third party agencies and manufacturing facilities; and

(C) Frequency and description of information to be submitted as part of the monitoring process.

(f) Prescribing fees for monitoring conducted by the department at the manufacturing plant site or at third party inspection service locations, which fees shall not exceed \$60 per hour.

(4)(a) The department shall establish by rule a manufacturer compliance program to allow for plan approvals or inspections of prefabricated structures or prefabricated structure components at the facility at which the prefabrication takes place, including but not limited to the following provisions:

(A) Quality assurance programs;

(B) Procedures for use and application of insignia of compliance; and

(C) Fees for and procedures for use and application of certification stamps.

(b) A manufacturer of prefabricated structures shall provide the department with written notice at least 60 days before a manufacturer may provide for plan approval or inspection service as allowed under subsection (2) of this section.

(c) The department is not required to provide plan approval for or inspection of any prefabricated structure or prefabricated structure components unless the department has been notified in writing by the manufacturer of the prefabricated structure 180 days in advance of the proposed assumption of department inspections.

(5) A person may not rent, lease, sell, exchange, install or offer for rent, lease, sale, exchange or installation within this state a prefabricated structure constructed on or after July 1, 1991, unless it bears an insignia of compliance or certification stamp issued by the department or a third party indicating compliance with this state's building regulations and standards for prefabricated structures. The prohibition in this subsection does not apply to a residential prefabricated structure intended for delivery in another state unless the residential prefabricated structure is installed or offered for installation in this state. A prefabricated structure with an insignia of compliance or certification stamp shall be acceptable to municipalities as meeting the state building code regulations. Prefabricated structures constructed prior to July 1, 1991, are subject to the building

code regulations in effect at the time of original construction.

(6) The provisions of this section do not apply to employees of the Department of Consumer and Business Services and testing laboratories approved under ORS chapters 447 and 479.

(7) For purposes of this section, “insignia of compliance” means the plate affixed to a structure by the Department of Consumer and Business Services or a third party to signify compliance with all state building code requirements for which the structure was inspected.

(8) Prefabricated structures or components found by the department or a third party to represent a danger to public health or safety shall be brought into compliance with building code regulations or removed from the state.

(9) All plan approvals and inspections of prefabricated structures and prefabricated components constructed at manufacturing plants outside of Oregon but intended for delivery into Oregon shall be performed by the department or conducted under ORS 455.430. [1995 c.304 §3; 2005 c.310 §3]

Note: 455.705 was added to and made a part of 455.010 to 455.740 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Inspectors)

455.715 Definitions for ORS 455.715 to 455.740. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

(1) “Building official” means a person charged by a municipality with responsibility for administration and enforcement of the state building code in the municipality.

(2) “Business of providing prefabricated structure plan approvals and inspections” means an independent contractor providing prefabricated structure plan approval or inspection services, or both, under the following specialty codes, as provided in ORS 455.020, 455.705 and 455.715:

- (a) Structural;
- (b) Mechanical;
- (c) Plumbing;
- (d) Electrical; and
- (e) Low-rise residential dwelling.

(3) “Inspector” means:

(a) A person, including a plans examiner, acting under the authority and direction of a building official and charged with the responsibility of routine enforcement of any specialty code; or

(b) A person, including a plans examiner, who provides enforcement of any specialty code, who is personally in the business of providing prefabricated structure plan approvals or inspections or is employed by such a business. [Formerly 456.805; 1991 c.361 §1; 1995 c.304 §5; 2003 c.675 §37]

455.720 Standards and qualifications for personnel; rules. (1) In accordance with applicable provisions of ORS chapter 183, to promote effective and uniform enforcement of the state building code by improving the competence of building officials and inspectors, the Director of the Department of Consumer and Business Services, with the advice of the advisory boards, shall:

- (a) Establish for building officials and inspectors reasonable minimum training and experience

standards, including but not limited to courses or subjects for instruction, facilities for instruction, qualification of instructors and methods of instruction. The standards shall include provisions for determining a practical experience equivalent.

(b) Establish a procedure to be used by municipalities to determine whether a person meets minimum standards or has minimum training to be appointed or employed as a building official or inspector. The procedure shall allow for a field examination of a person to determine if the person meets the practical experience equivalent of a minimum standard.

(c) Subject to such terms, conditions and classifications as the director may impose, certify building officials as being qualified, and revoke such certifications in the manner provided in ORS 455.740.

(d) Require an applicant for a certificate as a building official or inspector to demonstrate knowledge of the laws governing accessibility to buildings by persons with disabilities by passing an examination prescribed by the director.

(2) The director shall maintain and, upon request of municipalities, furnish information on applicants for appointment or employment as building officials or inspectors.

(3) Pursuant to ORS chapter 183, the director shall adopt rules necessary to carry out the certification programs provided by subsection (1) of this section.

(4) The director, by rule, may require evidence of completion of continuing education covering any certification created under this section as a condition of maintaining the certification. Nothing in this subsection shall prohibit the director from delegating any of this power to a municipality.

(5) The director, with the advice of the appropriate advisory boards, may adopt rules for certifying inspectors as being qualified to enforce one or more particular specialty codes, subject to any terms, conditions and classifications the director may impose, and for revoking those certifications in the manner provided in ORS 455.740. [Formerly 456.810; 1989 c.224 §119; subsection (4) enacted as 1991 c.361 §5; 1999 c.527 §1; 2001 c.104 §197; 2005 c.758 §21b; 2007 c.70 §257]

455.725 Certification of personnel training programs. (1) Upon application, the Director of the Department of Consumer and Business Services or an authorized representative shall examine and evaluate any program or facility established by a municipality or educational institution for the training of building officials, inspectors and specialty code inspectors and plan reviewers licensed under ORS 455.457.

(2) If the director finds that a training program is qualified under the minimum requirements established pursuant to ORS 455.720, the director shall, in writing, certify the training program as being qualified for such a period of time and upon such conditions as the director may prescribe. An individual complies with any minimum requirement for building officials or inspectors established pursuant to ORS 455.720 when the individual satisfactorily completes a training program certified under this section. [Formerly 456.815; 1999 c.1045 §18]

455.730 Certification of personnel required. No person shall be appointed or employed as a building official or inspector by any municipality unless the person has been certified as being qualified under ORS 455.715 to 455.740, and the certification has not lapsed or been revoked. [Formerly 456.820]

455.735 Application for certification; fee; issuance of certificate. (1) Any person desiring to be certified as a building official or inspector pursuant to ORS 455.715 to 455.740 shall make

application to the Director of the Department of Consumer and Business Services upon such forms as the director may prescribe for such purpose.

(2)(a) Each person applying for certification pursuant to this section shall pay a fee of \$22.

(b) In the event the director requires, by rule, an applicant for a particular certification to pass an examination prepared by a national organization, the applicant shall pay in addition to the fee required in paragraph (a) of this subsection, the cost of the examination.

(3) Upon determining that the applicant is qualified under ORS 455.715 to 455.740, the director shall issue a certificate or cause a certificate to be issued to the applicant. [Formerly 456.825; 1991 c.201 §1; 1991 c.361 §2; 2005 c.758 §21c]

455.737 Experience and training outside Oregon; examination; rulemaking. (1)

Notwithstanding ORS 455.720 (1), the Director of the Department of Consumer and Business Services, by rule, shall adopt criteria for review of the experience and training in building inspection and building plan review acquired by a person outside the State of Oregon. The criteria shall be adopted in a manner that facilitates review of a person's qualifications by a local building official.

(2)(a) A local building official who wishes to employ a person who is not certified under ORS 455.735 as an inspector shall submit the person's qualifications to the director. The director shall review the stated qualifications against the criteria adopted under subsection (1) of this section, including verification of experience and training. The director shall respond to the local building official in writing within 10 working days of receiving the applicant's qualifications, stating whether the person meets the applicable criteria.

(b) Upon application and payment of the required fee, the director shall allow a person whose qualifications meet the criteria adopted under subsection (1) of this section to sit for any examination necessary for the required certification. [1997 c.677 §2; 2005 c.758 §21d]

Note: Section 4, chapter 677, Oregon Laws 1997, provides:

Sec. 4. The provisions of ORS 455.035 are waived with respect to any rules adopted under section 2 of this Act [455.737] or ORS 479.810 as amended by section 3 of this Act. [1997 c.677 §4]

455.740 Revocation of certification. (1) The Director of the Department of Consumer and Business Services may, upon notice and hearing, suspend or revoke the certification of any building official or inspector when it appears to the director by competent evidence that the building official or inspector:

(a) Has consistently failed to act in the public interest in the performance of duties;

(b) Failed to complete the continuing education requirements as required under ORS 455.720

(4); or

(c) Provided false information to the department.

(2) In any revocation proceeding under this section, the municipality that employs the building official or inspector shall be entitled to appear as a party in interest, either for or against the revocation.

(3) When a certification is suspended or revoked under this section, the director may also suspend, deny or place conditions on that person's right to reapply for certification under ORS 455.735 for a period not to exceed 12 months.

(4) Nothing in this section shall be construed to limit or otherwise affect the authority of a

municipality to dismiss or suspend a building official or inspector at its discretion.

(5) Notwithstanding the requirements of subsections (1) to (4) of this section, the director may adopt rules which:

(a) Allow certifications to be placed on inactive status; and

(b) Extend continuing education compliance requirements in case of illness or hardship.

[Formerly 456.835; 1991 c.361 §3]

(Remedial Authority of Director)

455.770 Investigative authority of director over municipalities; corrective action; limitation. (1) In addition to any other authority and power granted to the Director of the Department of Consumer and Business Services under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693, with respect to municipalities, building officials and inspectors, if the director has reason to believe that there is a failure to enforce or a violation of any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this chapter or ORS chapter 447, 460 or 693 or any rule adopted thereunder, the director may:

(a) Examine building code activities of the municipality;

(b) Take sworn testimony; and

(c) With the authorization of the Office of the Attorney General, subpoena persons and records to obtain testimony on official actions that were taken or omitted or to obtain documents otherwise subject to public inspection under ORS 192.410 to 192.505.

(2) The investigative authority authorized in subsection (1) of this section covers the violation or omission by a municipality related to enforcement of codes or administrative rules, certification of inspectors or financial transactions dealing with permit fees and surcharges under any of the following circumstances when:

(a) The duties are clearly established by law, rule or agreement;

(b) The duty involves procedures for which the means and methods are clearly established by law, rule or agreement; or

(c) The duty is described by clear performance standards.

(3) Prior to starting an investigation under subsection (1) of this section, the director shall notify the municipality in writing setting forth the allegation and the rules or statutes pertaining to the allegation and give the municipality 30 days to respond to the allegation. If the municipality does not satisfy the director's concerns, the director may then commence an investigation.

(4) If the Department of Consumer and Business Services directs corrective action the following shall be done:

(a) The corrective action shall be in writing and served on the building official and the chief executive officers of all municipalities affected;

(b) The corrective action shall identify the facts and law relied upon for the required action; and

(c) A reasonable time shall be provided to the municipality for compliance.

(5) The director may revoke any authority of the municipality to administer any part of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this chapter or ORS chapter 447, 460 or 693 or any rule adopted thereunder if the director determines after a hearing conducted under ORS 183.413 to 183.497

that:

- (a) All of the requirements of this section and ORS 455.775 and 455.895 were met; and
- (b) The municipality did not comply with the corrective action required.
- (6) Nothing in ORS 455.775 shall be construed to grant any authority over a municipality or inspector employed by a municipality. [1991 c.792 §§2,6; 1995 c.79 §230; 2001 c.411 §19]

455.775 Investigative authority of director; corrective action. In addition to any other authority and power granted to the Director of the Department of Consumer and Business Services under this chapter and ORS chapters 446, 447, 460, 479, 480 and 693:

(1) Except where inconsistent with other provisions of law, the director may enforce the provisions of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950, 479.995 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693 against any person regardless of whether a permit, certificate, license or other indicia of authority has been issued. The director may:

- (a) Make an investigation;
- (b) Take sworn testimony;
- (c) With the authorization of the Office of the Attorney General, subpoena persons and records;
- (d) Order corrective action; and
- (e) If an immediate hazard to health and safety is imminent, issue an order to stop all or any part of the work under the applicable specialty code.

(2) If the director has reason to believe that any person has been engaged, or is engaging, or is about to engage in any violation of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693 and any rule adopted thereunder, the director may issue an order, subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or threatened violation.

(3) If the director has reason to believe that any person has been engaged, or is engaging, or is about to engage in any violation of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693 and any rule adopted thereunder, the director may, without bond, bring suit in the name and on behalf of the State of Oregon in the circuit court of any county of this state to enjoin the acts or practices and to enforce compliance with ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693 and any rule adopted thereunder. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted. [1991 c.792 §§3,5; 1999 c.597 §1; 2001 c.411 §20; 2003 c.14 §285]

MASTER BUILDER PROGRAMS

455.800 Definitions for ORS 455.800 to 455.820. As used in ORS 455.800 to 455.820:

(1) "Building official" means a person who is a building official as defined in ORS 455.715 or a Department of Consumer and Business Services employee charged with enforcement or administration of the state building code.

(2) "Building trade committee" means a group composed of experienced and knowledgeable local general contractors or other persons having substantial expertise in various aspects of one

and two family dwelling construction under the Low-Rise Residential Dwelling Code.

(3) “General contractor” has the meaning given that term in ORS 701.005.

(4) “Master builder” means a person certified under ORS 455.810.

(5) “Qualified construction company” means a company that has been:

(a) Continuously licensed by the Construction Contractors Board during the preceding 60 months as a general contractor; or

(b) Continuously licensed by the Construction Contractors Board during at least the preceding 24 months as a general contractor and by one or more other states during the balance of the preceding 60 months in an occupation equivalent to that of a general contractor.

(6) “Regular employee” means a person who:

(a) Is continuously employed by, and on the regular payroll of, a qualified construction company;

(b) Has filed a withholding exemption certificate pursuant to ORS 316.182 for work performed for the qualified construction company; and

(c) Is available during working hours to supervise on-site dwelling construction, including but not limited to supervising the installation of:

(A) Drywall;

(B) Electrical systems;

(C) Footings;

(D) Foundations;

(E) Framing;

(F) Insulation;

(G) Mechanical systems;

(H) Plumbing systems; and

(I) Stairs.

(7) “Whole dwelling remodel” means a project that includes the installation in an existing dwelling of all of the following:

(a) Drywall;

(b) Electrical systems;

(c) Footings;

(d) Foundations;

(e) Framing;

(f) Insulation;

(g) Mechanical systems; and

(h) Plumbing systems. [2001 c.406 §1; 2003 c.675 §38]

Note: 455.800 to 455.820 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.805 Criteria for granting of master builder status. An individual may apply to the Department of Consumer and Business Services to be tested and certified as a master builder. The department shall establish uniform criteria for use in determining whether to grant an application. The criteria must, at a minimum, provide that:

(1) The individual must be an owner or regular employee of a qualified construction company and be authorized by the company to provide assurance to the department that all state and local

code requirements are met.

(2) In each of the five preceding calendar years, the individual must either have performed or supervised a dwelling construction or whole dwelling remodel. In at least two of the years, the construction or remodel must have occurred in a geographic area that had a master builder program.

(3) The individual must have completed a program sponsored by a local building trade committee or other program approved by the department, providing training relating to the construction of one and two family dwellings under the Low-Rise Residential Dwelling Code. A program must include but need not be limited to instruction in:

- (a) Administration;
- (b) Chimneys and fireplaces;
- (c) Decay and termite protections;
- (d) Energy conservation;
- (e) Footings and foundations;
- (f) Roof-ceiling construction;
- (g) Roof coverings;
- (h) Site inspections;
- (i) Wall construction, assemblies and coverings; and
- (j) Wood and metal framing.

(4) The individual must have scored at least 75 percent on a written examination, approved and administered by the department, covering the appropriate aspects of the Low-Rise Residential Dwelling Code.

(5)(a) The individual must not be the subject of an adverse final order issued by the Construction Contractors Board or Department of Consumer and Business Services based upon acts committed within 36 months preceding the application date that:

- (A) Violated a specialty code, licensing or permit requirement; or
- (B) Resulted in a claim being filed with the board or department against the individual.

(b) For purposes of this subsection, if the individual is an owner of a qualified construction company, an adverse final order issued against the company is an adverse final order issued against that individual. [2001 c.406 §2; 2003 c.675 §39]

Note: See note under 455.800.

455.810 Certificates; fees; discipline; rules. (1) An individual seeking certification as a master builder must apply to the Department of Consumer and Business Services on the form prescribed by the department. Upon determining that the applicant meets the criteria for certification set forth in ORS 455.805, the department shall issue the certificate.

(2) Certification as a master builder is valid for three years unless suspended or revoked. An individual may renew a certificate that is in good standing by:

- (a) Providing evidence of continuing education as required by department rule; and
- (b) Paying a renewal fee established by the department by rule.

(3) The department may deny, refuse to renew, suspend or revoke certification as a master builder if the individual fails or ceases to meet the criteria for certification set forth in ORS 455.805 or engages in actions resulting in a waiver revocation under ORS 455.820 (3). The department must afford an individual an opportunity for a hearing pursuant to ORS chapter 183 upon a denial or refusal to renew or prior to a suspension or revocation of certification.

(4) The department may adopt all rules necessary and proper for administering ORS 455.800 to 455.820, including but not limited to rules establishing application, examination, certification and renewal fees. [2001 c.406 §3]

Note: See note under 455.800.

455.815 Establishment of master builder programs; waiver of inspections; builder verification of performance. (1) Local government establishment of a master builder program is voluntary. A local government electing to establish or terminate a program shall notify the Department of Consumer and Business Services. If terminating a program, the local government must give the notice six months before the program terminates.

(2) The Department of Consumer and Business Services may implement a master builder program in one or more geographic areas for which the department provides plan review or inspection services. A department decision to include an area as a participant in the program affects only those areas, and those reviews or inspections, for which the department provides services instead of a local government. The department shall notify a county prior to implementing a master builder program in areas of the county that are served by the department.

(3) A local government may not allow an individual to perform the duties of a master builder unless the local government has a master builder program. The department may allow an individual to perform the duties of a master builder in any geographic area administered by the department.

(4) A building official of a government having a master builder program may waive plan review elements by that government and may waive government performance of one or more of the required inspections identified by department rule, including but not limited to inspections described in subsection (6) of this section, if:

(a) An individual certified as a master builder submits construction plans for a one or two family dwelling regulated by the Low-Rise Residential Dwelling Code; and

(b) The building official determines that:

(A) The work is not of a highly technical nature; and

(B) There is no unreasonable potential risk to safety of the structure.

(5) A building official may not waive government performance of plan review or required inspections for:

(a) Special design applications that are complex and highly technical engineered systems; or

(b) Unique building sites, including but not limited to sites containing geologic hazards such as landslide hazard areas, floodplains and wetlands.

(6) Subject to subsections (3) to (5) of this section, a building official may allow a master builder to verify that the master builder has properly performed an installation on a project and, to the extent that inspection would duplicate the verification conducted by the master builder, may waive government performance of the following required inspections:

(a) Drywall;

(b) Footings and setbacks;

(c) Foundation walls, Ufer grounding rods and rebar;

(d) Insulation;

(e) Masonry fireplace pre-cover;

(f) Masonry rebar;

- (g) Gutters, downspouts and foundation drains;
- (h) Roof sheathing nailing;
- (i) Suspended ceilings;
- (j) Underfloor structural; and
- (k) Wall sheathing nailing. [2001 c.406 §4; 2003 c.675 §40]

Note: See note under 455.800.

455.820 Plan review and verification; documentation; duties of building official; effect of waiver revocation. (1) A master builder must perform all plan review and required verifications for which government review or inspection has been waived by a building official. The master builder shall maintain copies of all documents and reports required by the government granting the waiver and provide those copies to the building official.

(2) When waiving government performance of plan review or required inspections, a building official shall require the master builder to sign a form that specifically identifies each waiver and states that the master builder accepts the duty of performing the review and verifications. A master builder who accepts the duty of performing a review or verification remains responsible for that duty unless released by written and signed permission of the building official. A building official may release a master builder from a review or verification duty by a written and signed assumption of the review or inspection duty by the building official or written and signed assumption of the review and verification duty by another master builder.

(3) A building official for a government that has a master builder program:

(a) Must conduct inspections of at least 10 percent of projects that are built under a master builder program;

(b) May revoke a waiver for a plan review or required inspection if the master builder fails to properly perform, or document performance of, review or verification duties; and

(c) Must notify the Department of Consumer and Business Services when the official revokes a waiver pursuant to paragraph (b) of this subsection.

(4) When revoking a waiver, a building official shall provide the master builder with a release under subsection (2) of this section from future performance of review or verification duties. A release does not relieve a master builder from liability for the failure to perform, or document performance of, review or verification duties prior to the revocation of the waiver.

(5) A government having a master builder program has no legal duty with regard to plan review or required inspections properly waived under ORS 455.815 and accepted by a master builder in a signed form described under subsection (2) of this section. This subsection does not release a government from a duty arising due to a waiver revocation under subsection (3) of this section or an assumption under subsection (2) of this section.

(6) A local government may refuse to grant recognition to a certified master builder if a waiver granted to the master builder under that government's master builder program has been revoked pursuant to subsection (3)(b) of this section. If a waiver is revoked pursuant to subsection (3)(b) of this section, a local government or building official may send a recommendation to the department for action against the master builder who was granted the waiver. The local government or building official may also send the department any information supporting the recommendation. [2001 c.406 §5]

Note: See note under 455.800.

455.840 [Formerly 705.700; repealed by 2003 c.675 §49]

455.842 [Formerly 705.705; 2003 c.675 §41; 2005 c.833 §5; renumbered 455.044 in 2005]

455.844 [Formerly 705.710; 2003 c.675 §42; 2005 c.833 §§6,10; renumbered 455.046 in 2005]

455.846 [Formerly 705.715; 2003 c.675 §43; renumbered 455.048 in 2005]

455.848 [Formerly 705.720; repealed by 2003 c.675 §49]

PENALTIES

455.895 Civil penalties. (1)(a) The State Plumbing Board may impose a civil penalty against a person as provided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS 693.165.

(b) The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

(c) The Board of Boiler Rules may impose a civil penalty against a person as provided under ORS 480.670. Amounts recovered under this paragraph are subject to ORS 480.670.

(2) The Director of the Department of Consumer and Business Services, in consultation with the appropriate board, if any, may impose a civil penalty against any person who violates any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693, or any rule adopted or order issued for the administration and enforcement of those provisions. Except as provided in subsections (3), (4) and (9) of this section or ORS 446.995, a civil penalty imposed under this section must be in an amount determined by the appropriate board or the director of not more than \$5,000 for each offense or, in the case of a continuing offense, not more than \$1,000 for each day of the offense.

(3) Each violation of ORS 446.003 to 446.200 or 446.225 to 446.285, or any rule or order issued thereunder, constitutes a separate violation with respect to each manufactured structure or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed \$1 million for any related series of violations occurring within one year from the date of the first violation.

(4) The director may impose a civil penalty of not more than \$25,000 against a public body responsible for administering and enforcing a building inspection program. As used in this subsection, "public body" has the meaning given that term in ORS 174.109.

(5) The maximum penalty established by this section for a violation may be imposed only upon a finding that the person has engaged in a pattern of violations. The Department of Consumer and Business Services, by rule, shall define what constitutes a pattern of violations. Except as provided in subsections (1) and (10) of this section, moneys received from any civil penalty under this section are appropriated continuously for and shall be used by the director for enforcement and administration of provisions and rules described in subsection (2) of this section.

(6) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(7) A civil penalty imposed under this section may be remitted or reduced upon such terms and

conditions as the director or the appropriate board considers proper and consistent with the public health and safety. In any judicial review of a civil penalty imposed under this section, the court may, in its discretion, reduce the penalty.

(8) Any officer, director, shareholder or agent of a corporation, or member or agent of a partnership or association, who personally participates in or is an accessory to any violation by the partnership, association or corporation of a provision or rule described in subsection (2) of this section is subject to the penalties prescribed in this section.

(9) In addition to the civil penalty set forth in subsection (1) or (2) of this section, any person who violates a provision or rule described in subsection (2) of this section may be required by the director or the appropriate board to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the director or board that shall not exceed five times the amount by which such person profited in any transaction that violates a provision or rule described in subsection (2) of this section.

(10) If a civil penalty is imposed for a violation of a provision of ORS 446.566 to 446.646 and the violation relates to a filing or failure to file with a county assessor functioning as agent of the department, the department, after deducting an amount equal to the department's procedural, collection and other related costs and expenses, shall forward one-half of the remaining civil penalty amount to the county in which the manufactured structure is located at the time of the violation. [1991 c.792 §4; 1991 c.734 §111; 1999 c.1045 §19; 2001 c.411 §21; 2003 c.14 §286; 2003 c.655 §76; 2007 c.549 §6; 2007 c.898 §1]

Note: The amendments to 455.895 by section 1, chapter 898, Oregon Laws 2007, become operative July 1, 2008, and apply to civil penalty moneys received on or after July 1, 2008. See sections 3 and 4, chapter 898, Oregon Laws 2007. The text that is operative until July 1, 2008, including amendments by section 6, chapter 549, Oregon Laws 2007, is set forth for the user's convenience.

455.895. (1)(a) The State Plumbing Board may impose a civil penalty against a person as provided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS 693.165.

(b) The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

(c) The Board of Boiler Rules may impose a civil penalty against a person as provided under ORS 480.670. Amounts recovered under this paragraph shall be deposited to the General Fund.

(2) The Director of the Department of Consumer and Business Services, in consultation with the appropriate board, if any, may impose a civil penalty against any person who violates any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693, or any rule adopted or order issued for the administration and enforcement of those provisions. Except as provided in subsections (3), (4) and (9) of this section or ORS 446.995, a civil penalty imposed under this section must be in an amount determined by the appropriate board or the director of not more than \$5,000 for each offense or, in the case of a continuing offense, not more than \$1,000 for each day of the offense.

(3) Each violation of ORS 446.003 to 446.200 or 446.225 to 446.285, or any rule or order issued thereunder, constitutes a separate violation with respect to each manufactured structure or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed \$1 million for any related series of violations occurring

within one year from the date of the first violation.

(4) The director may impose a civil penalty of not more than \$25,000 against a public body responsible for administering and enforcing a building inspection program. As used in this subsection, "public body" has the meaning given that term in ORS 174.109.

(5) The maximum penalty established by this section for a violation may be imposed only upon a finding that the person has engaged in a pattern of violations. The Department of Consumer and Business Services, by rule, shall define what constitutes a pattern of violations. Except as provided in subsections (1) and (10) of this section, moneys received from any civil penalty under this section are appropriated continuously for and shall be used by the director for enforcement and administration of provisions and rules described in subsection (2) of this section.

(6) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(7) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the director or the appropriate board considers proper and consistent with the public health and safety. In any judicial review of a civil penalty imposed under this section, the court may, in its discretion, reduce the penalty.

(8) Any officer, director, shareholder or agent of a corporation, or member or agent of a partnership or association, who personally participates in or is an accessory to any violation by the partnership, association or corporation of a provision or rule described in subsection (2) of this section is subject to the penalties prescribed in this section.

(9) In addition to the civil penalty set forth in subsection (1) or (2) of this section, any person who violates a provision or rule described in subsection (2) of this section may be required by the director or the appropriate board to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the director or board that shall not exceed five times the amount by which such person profited in any transaction that violates a provision or rule described in subsection (2) of this section.

(10) If a civil penalty is imposed for a violation of a provision of ORS 446.566 to 446.646 and the violation relates to a filing or failure to file with a county assessor functioning as agent of the department, the department, after deducting an amount equal to the department's procedural, collection and other related costs and expenses, shall forward one-half of the remaining civil penalty amount to the county in which the manufactured structure is located at the time of the violation.