

# Chapter 447

## 1983 REPLACEMENT PART

### Plumbing Code; Accessibility to Handicapped; Permits

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## REGULATION OF PLUMBING (Generally)

**447.010 Definitions for ORS 447.010 to 447.160.** As used in ORS 447.010 to 447.160, unless the context requires otherwise:

(1) "Board" means the State Plumbing Board established under ORS 693.115.

(2) "Department" means the Department of Commerce.

(3) "Director" means Director of Commerce.

(4) "Journeyman plumber" has the meaning given that term in ORS 693.010.

(5) "Plumbing" is the art of installing, altering or repairing in or adjacent to or serving buildings:

(a) Pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes.

(b) Fixtures and fixture traps.

(c) Soil, waste and vent pipes.

(d) House drain and house sewer to the sewer service lateral at the curb, or in the street, or alley, or other disposal terminal holding human or domestic sewage.

(e) Storm-water drainage, with their devices, appurtenances and connections. [Subsection (3) enacted as 1955 c 548 §2, 1957 c 300 §1, 1961 c 401 §1; 1973 c 734 §1, 1973 c 835 §221, 1981 c 438 §28]

**447.020 Plumbing to conform to requirements; enforcement.** (1) All installations of plumbing and drainage in buildings and structures in this state and all potable water supply, drainage, and waste installations, within or serving buildings or structures, except in temporary construction camps, and except as otherwise provided in ORS 447.010 to 447.160, shall be made in accordance with the requirements of ORS 447.010 to 447.160, 456.730 to 456.885 and 456.915 to 456.950.

(2) The Director of Commerce with the approval of the State Plumbing Board shall make rules pursuant to ORS 183.310 to 183.550 for the purpose of setting standards for plumbing and defining compliance with the provisions of ORS 447.010 to 447.160 particularly pertaining to installation of piping, protection and adequacy of the water supply, workmanship and materials, traps and cleanouts, domestic hot water storage tanks and devices, drinking fountains, approval of devices, equipment and fixtures, hangers and supports, drainage and venting, house drains and house sewers, stormwater drains, special wastes, light and ventilation of

water closets and bathrooms, and excavation and grading.

(3) The director shall appoint an adequate staff experienced and trained to serve as plumbing inspectors to enforce rules adopted under this section. [Amended by 1957 c 300 §2, 1971 c 753 §48, 1973 c 734 §2, 1973 c 835 §222, 1981 c 438 §29]

**447.023 Small restaurant requirements.** Rules adopted under ORS 447.020 shall allow restaurants with an occupancy capacity of no more than 15 persons, including employes and patrons, to have only one toilet fixture and adjacent lavatory on the premises. [1979 c 390 §4, 1981 c 438 §30]

**447.026 Identification on potable water pipe required.** (1) All water pipe used to carry potable water sold in this state shall be clearly marked the entire length of pipe, at intervals of length set by the director with approval of the board, with:

(a) Identification of the manufacturer and the plant of origin; and

(b) The manufacturing standard under which the pipe was made.

(2) A label, shield or coding system may be used to identify the manufacturer and origin, if the manufacturer has on file with the department a notice describing the identification system used. [1979 c 535 §3, 1981 c 438 §31]

**447.030 Registration certificate for plumbing; application; fee; issue; expiration.** (1) Every person, firm and corporation engaged in the business of furnishing labor and material, or labor only, to alter, renovate or install plumbing in this state shall, on or before July 1 of each year, file with the board an application in writing for registration. The board may vary the dates of certificate of registration renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee.

(2) The application shall state:

(a) The name and address of the applicant.

(b) In case of firms, the names and post-office addresses of the individuals composing the firm.

(c) In case of corporations, the names of their managing officials.

(d) The location of the business of the applicant and the name under which the business is to be conducted.

(3) No registration shall be made or entered until the applicant has paid to the board the registration fee provided in ORS 693.135. The

board shall issue to such person, firm or corporation a certificate of registration.

(4) All certificates shall bear the date of issue and date of expiration. [Amended by 1969 c 540 §1, 1973 c 734 §3, 1973 c 835 §223, 1975 c 429 §3, 1981 c 438 §32]

447 033 [1955 c 548 §§3, 4, 1969 c 540 §2, repealed by 1973 c 835 §234]

447 034 [1973 c 427 §2, repealed by 1981 c 438 §46]

447 035 [1955 c 548 §5, repealed by 1973 c 835 §234]

**447.040 Registration mandatory.** No person shall engage in or follow the business or occupation of, or advertise or hold himself out as or act temporarily or otherwise as registered to conduct a plumbing business and no member or employe of a firm, partnership or corporation shall engage in the layout or superintending of plumbing installations without having secured the certificate of registration required by ORS 447.010 to 447.160. [Amended by 1955 c 548 §6, 1973 c 835 §224]

**447.050 Grounds for denial and revocation of certificate; hearing; notice.** (1) The board may revoke or suspend any certificate of registration if it is obtained through error or fraud or if the holder of the certificate has failed to comply with ORS 447.010 to 447.160 or the rules adopted thereunder or with ORS 456.730 to 456.885 and 456.915 to 456.950 or the rules adopted thereunder or with ORS chapter 693.

(2) The board shall not deny any application for a certificate or revoke or suspend a certificate without first giving the applicant or certificate holder an opportunity for a hearing of the denial, suspension or revocation. Notice of a hearing shall be given in writing by receipted certificated mail or by personal service at least 10 days before the date of the hearing and shall state the place, date and hour of the hearing along with the grounds for the denial, suspension or revocation. [Amended by 1973 c 835 §225, 1981 c 438 §33]

**447.060 Engaging in certain plumbing work not affected.** (1) Nothing in ORS 447.010 to 447.160 prevents a person from:

(a) Engaging in plumbing work when not so engaged for hire.

(b) Utilizing the services of regular employes in doing any plumbing work for the benefit of property owned, leased or operated by such employer.

(2) This section applies to any person, including but not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corpora-

tions, political subdivisions, this state and any agencies thereof, and the Federal Government and any agencies thereof. [Amended by 1955 c 548 §7, 1973 c 835 §226, 1981 c 438 §34]

**447.070 Registration prerequisite to maintenance of legal action.** No person carrying on, conducting or transacting a plumbing business may maintain any suit or action in any of the courts of this state without alleging and proving that he was duly registered under ORS 447.030 at the time of performing such work. [Amended by 1955 c 548 §8, 1973 c 835 §227]

**447.080 City and county plumbing regulations.** Nothing in ORS 447.010 to 447.160 prevents any city or county from enacting and enforcing ordinances or building codes for the regulation of the business of master plumbing or which prescribe the manner in which drainage work shall be installed in such city or county, except that such ordinances or codes shall not prescribe a lower standard of installation of drainage work than that prescribed in ORS 447.010 to 447.160. [Amended by 1955 c 548 §9, 1963 c 47 §1, 1973 c 834 §31, 1973 c 835 §228]

447.085 [1973 c 734 §7, 1977 c 748 §1, repealed by 1981 c 438 §46]

447.090 [Repealed by 1971 c 753 §74]

**447.091 Contracts with sanitary districts and authorities and service districts for inspection of building sewers.** The Department of Commerce or local government administering the plumbing specialty code adopted under ORS 447.020 (2) may, upon request of any sanitary district formed pursuant to ORS 450.005 to 450.245, sanitary authority established under ORS 450.675 to 450.989, or county service district established under ORS 451.410 to 451.600, contract for the inspection of building sewers constructed to connect a district sewage system if inspectors employed by such district are certified for sewer inspections under ORS 456.805 to 456.835. [1977 c 828 §4]

**447.095 Fee schedule; inspection fees; inspections by agreement with governmental units.** (1) Rules adopted under ORS 447.020 shall provide a plumbing inspection fee schedule. The schedule shall establish inspection fees for inspections made by the department under ORS 447.010 to 447.160 based on the cost of making inspections as measured by the time required of the inspector.

(2) Plumbing inspections may be made for other governmental units, upon request, pursuant to agreements entered into under ORS 190.003 to 190.620. [1973 c 734 §8, 1981 c 438 §35]

**447.097 Disposition of moneys received under ORS 447.010 to 447.160.** All moneys received by the department under ORS 447.010 to 447.160 shall be disposed of in accordance with ORS 693.165. [1981 c 438 §42]

**(Fixture Installation  
Regulations)**

**447.100 Restriction on tank-type water closets in certain buildings.** (1) No new hotel, motel, apartment house, dwelling, office building or other structure shall be constructed which employs a tank-type water closet that:

(a) Uses more than three and one-half gallons of water per flush; and

(b) Is not approved by the director with the approval of the board as meeting adequate standards of safety and sanitation.

(2) The director with the approval of the board shall cause to have adopted and published, pursuant to ORS 183.310 to 183.550, a list of approved types of tank-type water closets meeting the requirements of this section. [1977 c 171 §2, 1981 c 438 §36]

**447.105 Suspension of water closet restriction; conditions.** The director with the approval of the board may suspend the requirements of ORS 447.100:

(1) For a particular building upon determining that the configuration of the building drainage system requires a greater quantity of water to flush the system adequately; or

(2) For a specified period upon finding that there is an inadequate supply, including a choice of styles or colors for the consumer, of approved tank-type water closets to meet the needs of new construction or that such water closets are not available at reasonable prices as compared to water closets not meeting the requirements. [1977 c 171 §3, 1981 c 438 §37]

**447.110** [Amended by 1963 c 194 §1, 1969 c 443 §1, 1973 c 835 §229, repealed by 1973 c 834 §46]

**447.115 "Compost toilet" defined.** As used in ORS 447.118 and 447.124, "compost toilet" means a permanent, sealed, water-impervious toilet receptacle screened from insects, used to receive and store only human wastes, urine and feces, toilet paper and biodegradable garbage, and ventilated to utilize aerobic composting for waste treatment. [1977 c 523 §2]

**447.118 Standards for compost toilets; surety bond required of certain installers.** (1) Nothing in ORS 447.010 to

447.160 shall prohibit the installation of a compost toilet for a dwelling by the occupant of the dwelling if the compost toilet complies with the minimum requirements established under this section.

(2) Rules adopted under ORS 447.020 shall provide minimum requirements for the design, construction, installation and maintenance of compost toilets.

(3) The Department of Commerce with approval of the State Plumbing Board may require by rule that, in addition to any other requirements provided by law, any manufacturer or distributor of a compost toilet and any person other than the owner of the dwelling in which the compost toilet is to be installed who proposes to install a compost toilet file with the department a satisfactory bond or other security in an amount to be fixed by the department with approval of the board but not to exceed \$5,000, conditioned that such bond or security shall be forfeited in whole or in part to the department for the purpose of carrying out the provisions of ORS 447.124 by failure of such manufacturer, distributor or person to comply with the rules adopted under this section. [1977 c 523 §3; 1981 c 438 §38]

**447.120** [Amended by 1963 c 194 §2, 1969 c 443 §2, 1973 c 835 §230, repealed by 1973 c 834 §46]

**447.124 Inspection of compost toilets; orders to remedy violations; action against security bond; review of orders; costs as lien against dwelling.** For the purpose of enforcing ORS 447.118 and the rules adopted thereunder, the Department of Commerce, with the assistance of the Health Division:

(1) May conduct periodic inspections of any compost toilet;

(2) Upon making a finding that a compost toilet is in violation of the rules adopted pursuant to ORS 447.118 (2), may issue an order requiring the owner of the dwelling served by the compost toilet to take action necessary to correct the violation; and

(3) Upon making a finding that a compost toilet presents or threatens to present a public health hazard creating an emergency requiring immediate action to protect the public health, safety or welfare, may issue an order requiring the owner of the dwelling served by the compost toilet to take any action necessary to remove such hazard or threat thereof. If such owner fails to take the actions required by such order, the department shall take such action, itself or by contract with outside parties, as necessary to

remove the hazard or threat thereof. The department shall keep a record of all necessary expenses incurred by the department in carrying out such action, including a reasonable charge for costs incurred and equipment and materials utilized by the state. Any owner who fails to take action required by an order issued under this subsection shall be responsible for such necessary expenses incurred by the state. Based on the record compiled by the department, an owner responsible for expenses due to the failure of a manufacturer, distributor or person to comply with the rules adopted under ORS 447.118 (2) shall have a setoff against the bond or other security forfeited under ORS 447.118 (3) to the extent that such expenses are due to such failure of the manufacturer, distributor or person. The department shall make a finding and enter an order against the owner for the necessary expenses. Orders issued under this section may be appealed pursuant to ORS 183.310 to 183.550 but not as a contested case. Any amount due the department under this subsection and not paid in full within 30 days after the order is entered, or, if the order is appealed, within 30 days after there is no further right to appeal, shall become a lien upon the dwelling of the owner. The department shall file a notice of the lien with the recording officer of the county in which the dwelling is located and the recording officer shall record the notice in a manner designed to appear in the mortgage records of the county.

(4) The department may contract with any state or local agency for the purpose of carrying out the provisions of this section [1977 c 523 §4, 1983 c 740 §167]

447.130 [Repealed by 1973 c 834 §46]

447.135 [1967 c 308 §§2, 3, 4, 1983 c 676 §29, renumbered 480 557]

**447.140 Waste and sewage; requirements; prohibitions.** (1) All waste water and sewage from plumbing fixtures shall be discharged into a sewer system or alternate sewage disposal system approved by the Environmental Quality Commission or Department of Environmental Quality under ORS chapter 468.

(2) No plumbing fixture, device or equipment shall be installed, maintained or offered for sale which will provide a cross-connection between the distributing system of water for drinking and domestic purposes and any other water supply, or a drainage system, soil or waste pipe so as to permit or make possible the backflow of contaminated water, sewage or waste into the water supply system

(3) No flush valve, vacuum breaker or syphon preventer shall be offered for sale or in-

stalled that has not been approved by the department with the approval of the board.

(4) The use or installation of water-operated sump pumps or sewage ejectors, if connected to the potable water supply, is prohibited

(5) No pan, plunger, offset washout, washout, long hopper, frost proof or other water closets having invisible seals or unventilated spaces, or walls not thoroughly washed at each flushing, shall be installed or sold for use in any building.

(6) No plumbing fixture, appurtenance or device, the installation of which would be in violation of the state plumbing specialty code and the rules of the department approved by the board shall be sold, offered for sale or installed.

[Amended by 1955 c 548 §10, 1961 c 545 §1, 1973 c 835 §231, 1981 c 438 §39]

447.150 [1969 c 452 §1, repealed by 1979 c 57 §3]

### (Civil Penalties)

**447.160 Civil Penalties.** The board, after hearing and any review under ORS 183.310 to 183.550, may impose a civil penalty against any person who violates any provision of ORS 447.010 to 447.160 or any rule adopted thereunder. A civil penalty imposed under this section shall be in an amount determined by the board of not more than \$1,000 for each offense. All amounts recovered under this section are subject to ORS 693.165. The Attorney General shall bring an action in the name of the State of Oregon in a court of appropriate jurisdiction to enforce any civil penalty imposed under this section. [1981 c 438 §44]

## STANDARDS AND SPECIFICATIONS FOR ACCESSIBILITY TO PHYSICALLY HANDICAPPED

**447.210 Definitions for ORS 447.210 to 447.280.** As used in ORS 447.210 to 447.280, unless the context requires otherwise:

(1) "Architectural barriers" are physical design features that restrict the full use of government buildings, public buildings and their related facilities by physically handicapped persons.

(2) "Advisory committee" means the architectural barriers advisory committee appointed under ORS 447.230.

(3) "Department" means the Department of Commerce

(4) "Director" means the Director of Commerce.

(5) "Facilities" include but are not limited to sidewalks, curbing and entrances giving access to government buildings and public buildings and accommodations in such buildings available for use by the public or employees generally such as bathrooms, restrooms including toilet stalls, dining areas or dining rooms, drinking fountains, phone booths and lodging rooms or quarters.

(6) "Government buildings" include all buildings and structures used by the public that are constructed, purchased, leased or rented in whole or in part by the use of state, county or municipal funds or the funds of any political subdivision of the state; and, to the extent not required otherwise by federal law or regulations or not beyond the power of the state to regulate, all buildings and structures used by the public which are constructed, purchased, leased or rented in whole or in part by the use of federal funds.

(7) "Municipality" means a city, county or other unit of local government otherwise authorized by law to enact building codes.

(8) "Public" includes customers and nonhousehold guests but shall not include employees or tenants.

(9) "Public buildings" include all buildings and structures used by the public that are constructed, purchased, leased or rented in whole or in part by the use of private funds where the building or structure has a ground area of more than 4,000 feet or is more than 20 feet in height from the top surface of lowest flooring to the highest interior overhead finish of the building or structure. "Public buildings" does not include private buildings rented by election officers solely for use as an election polling place.

(10) "Structural code" means the specialty code defined in ORS 456.750 (9). [1971 c 230 §2, 1973 c 539 §1, 1975 c 675 §35, 1979 c 133 §1]

**447.220 Purpose.** It is the purpose of ORS 447.210 to 447.280 to make government buildings, public buildings and their related facilities in the state accessible to, and usable by, the physically handicapped. In requiring that buildings and facilities be usable by the physically handicapped, it is not the intention of the Legislative Assembly to require that items of personal convenience such as rest rooms, telephones and drinking fountains be provided for members of the public who are physically handicapped if they are not otherwise provided for members of the public who are not physically

handicapped. [1971 c 320 §1, 1973 c 539 §2, 1979 c 133 §2]

**447.230 Standards and specifications to eliminate architectural barriers; advisory committee; application of ORS 447.210 to 447.280.** (1) The Director of Commerce or the director's designated representative shall, pursuant to ORS 183.310 to 183.550 and 456.785 establish standards and specifications in the structural code necessary to eliminate architectural barriers to entry to and use of government buildings, public buildings and their related facilities by disabled, physically handicapped or aged persons.

(2) The Director of Commerce or the director's designated representative shall, to assist in the identification of architectural barriers and in the development of the standards and specifications referred to in subsection (1) of this section, be assisted by an architectural barriers advisory committee. The advisory committee shall be appointed by and serve at the pleasure of the director. The Director of Commerce or the director's designated representative shall be the chairman of the advisory committee but shall vote only in the case of a tie vote. The membership of the committee shall include an architect licensed as provided by ORS 671.010 to 671.220 who is particularly knowledgeable in the field of architectural barriers, the chairman of the Governor's Committee on Employment of the Handicapped, the state architect employed by the Department of General Services, the Assistant Director for Vocational Rehabilitation and four members of the public. At least two of the four public members shall be handicapped citizens who use wheelchairs to ambulate.

(3) In the development of standards and specifications, the advisory committee and the Director of Commerce or the director's designated representative shall be familiar with and give full consideration to the standards and specifications developed by the American National Standards Institute and nationally recognized model codes for making buildings and facilities accessible to and usable by the physically handicapped.

(4) ORS 447.210 to 447.280 applies to government buildings and their related facilities and to public buildings and their related facilities unless the cost of eliminating the architectural barriers exceeds 25 percent of the total cost of the construction, renovation, alteration or modification. [1971 c 320 §3, 1973 c 539 §3, 1979 c 133 §3, 1983 c 740 §169]

**447.233 Disabled parking space requirements.** (1) The Director of Commerce shall include in the state building code, as defined in ORS 456 750, requirements that reasonable numbers of disabled parking spaces, as that term is defined in ORS 487 915, are provided for government buildings and public buildings subject to the state building code

(2) Requirements adopted under this section for government buildings and publicly maintained or operated parking facilities:

(a) Shall not require more than one disabled parking space for each 50 parking spaces or fraction thereof that are provided

(b) Shall require that a sign is posted near each disabled parking space stating the following.

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Parking with D M V Disabled Permit only. Violators subject to towing under ORS 487.935 and fine up to \$250 under ORS 487.930.

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(3) Requirements adopted under this section shall not apply to parking facilities at the Portland International Airport. [1979 c 809 §2, 1981 c 275 §1]

**447.235 Renovation of government and public buildings required to meet standards.** Except as provided in ORS 447.230 (4), this state, any political subdivision thereof, a county, city or person that owns a government or public building and its related facilities shall renovate that building and its related facilities so that they meet the standards and specifications of the Director of Commerce relating to making government and public buildings and their related facilities accessible to, and usable by, the physically handicapped [1973 c 539 §11]

**447.240 Construction of government building with one primary entrance accessible to handicapped required; identification; renovation to meet standards.** (1) After January 1, 1973, no person shall construct or permit the construction of a government building unless there is at least one primary entrance into the government building that is accessible by an appropriate ramp or entrance that meets the requirements of ORS 447 210 to 447.280. The location of the primary entrance into the government building shall be as close to adjacent parking spaces as possible, identified by signs showing a uniform, nationally recognized physically handicapped symbol and the government building and its related facilities shall meet the standards and specifications of the Director of Commerce or his designated representative

relating to making government buildings and their related facilities accessible to, and usable by, the physically handicapped.

(2) After January 1, 1973, no person shall renovate or permit the renovation of a government building unless the portions or areas being renovated will meet, after renovation, the standards and specifications of the Director of Commerce or his designated representative relating to making government buildings and their related facilities accessible to, and usable by, the physically handicapped. [1971 c 320 §4, 1973 c 539 §4, 1973 c 540 §1, 1974 s s c 36 §14]

**447.243 Construction of public building with one primary entry accessible to handicapped required; identification; renovation to meet standards.** (1) No person shall construct or permit the construction of a public building unless there is at least one primary entrance into the public building that is accessible by an appropriate ramp or entrance that meets the requirements of ORS 447.210 to 447.280. The location of the primary entrance to the public building shall be as close to adjacent parking spaces as possible, shall be posted clearly as the main entrance to the public building and the public building and its related facilities shall meet the standards and specifications of the Director of Commerce or his designated representative relating to making public buildings and their related facilities accessible to, and usable by, the physically handicapped.

(2) No person shall renovate or permit the renovation of a public building unless the portions or areas being renovated will meet, after renovation, the standards and specifications of the Director of Commerce or his designated representative relating to making public buildings and their related facilities accessible to, and usable by, the physically handicapped [1973 c 539 §6]

**447.245 Identification of certain government building entrances.** Entrances to government buildings constructed before January 1, 1973, accessible by a ramp or entrance which meets the standards of ORS 447.210 to 447.280 shall be identified as provided in ORS 447.240. [1973 c 539 §17, 1973 c 540 §3]

**447.250 Waivers or modifications of standards and specifications; municipal appeals board; procedures; fees.** (1) When a person or governmental entity undertaking the construction, renovation, alteration or modification of a government building, public building or their related facilities determines that full compliance with a particular standard or specifica-

tion is impractical in that it would defeat the purpose of the project proposed or in process, it may apply to the appeals board established under ORS 456.755 (4) by the municipality having jurisdiction over the project for a waiver or modification of such standard or specification, setting forth the reasons for its determination and a proposal for the work complying with the particular standard or specification to the maximum extent that it considers practical.

(2) The municipal appeals board shall thereupon investigate the application. The board in its investigation shall seek the advice of an organization or group representing the physically handicapped in dealing with architectural barrier waivers. If the appeals board finds that the proposal submitted with the application would constitute a substantial compliance with, or an acceptable alternative to, the particular standard or specification in view of the objectives of ORS 447.210 to 447.280, the waiver shall be granted. If the board finds otherwise, the application shall be promptly denied with notice to the requesting person or governmental entity of the denial.

(3) The findings of the municipal appeals board shall include the estimated building costs and the additional cost of construction to conform to the requirements of ORS 447.210 to 447.280 over the cost of a nonconforming feature or any other special reason or circumstance that, in the judgment of the board justify the decision.

(4) Any person aggrieved by the final decision of a municipal appeals board may within 30 days of the decision appeal to the director. In the case where no municipal appeals board has been created the director shall have original jurisdiction of an application for a waiver. The applicant for a waiver or an appeal shall submit a fee of \$20 payable to the director with the request for waiver or appeal. In determining an appeal or an original application, the procedures and standards of subsections (1) to (3) of this section shall apply to the director. [1971 c 320 §5, 1973 c 539 §7, 1979 c 133 §4]

**447.260 Rule adoption.** The Director of Commerce or the director's designated representative may promulgate rules reasonably necessary to implement and enforce ORS 447.210 to 447.280 as part of the structural code including, but not limited to, rules authorizing the director to waive or modify any standards and specifications with respect to work on government buildings and their related facilities and work on public buildings and their related facilities where the director determines, with respect to emergency or temporary construction, that compli-

ance with such standards or specifications would not be necessary to fulfill the objectives of ORS 447.210 to 447.280 or would be impractical. [1971 c 320 §6, 1973 c 539 §8, 1979 c 133 §5]

**447.270 Cooperation with public officials and agencies required.** The Director of Commerce or his designated representative shall cooperate with and receive the assistance of all persons, all appropriate elective or appointive public officials and all state or governmental agencies in carrying out his responsibilities under ORS 447.210 to 447.280. [1971 c 320 §7, 1973 c 539 §9]

**447.275 Nonliability for emergency exit deficiencies.** Architects, engineers or other persons designing buildings; contractors and other persons erecting buildings; building officials, plans examiners, inspectors, the director, the State Fire Marshal, State Fire Marshal deputies, municipal fire marshals or municipal deputies inspecting buildings; the architectural barriers advisory committee, or a municipal appeals board shall be relieved of any personal or financial liability from persons suffering injury or death or those persons' heirs as the result of exiting deficiencies during emergencies resulting from handicap access required by ORS 447.210 to 447.280 or standards adopted under them. [1979 c 133 §8]

**447.280 Enforcement powers.** The provisions of ORS 447.210 to 447.280 and rules adopted under them shall be considered part of the state building code and violations shall be subject to the provisions of ORS 456.885. [1971 c 320 §8, 1973 c 539 §10, 1979 c 133 §6]

**447.310 Standards for curbing.** (1) The standard for construction of curbs on each side of any city street, county road or state highway, or any connecting street, road or highway for which curbs and sidewalks have been prescribed by the governing body of the city or county or Department of Transportation having jurisdiction thereover, shall require not less than two curb cuts or ramps per lineal block to be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least 48 inches wide, where possible, and a minimum of 36 inches wide where a 48-inch width will not fit, at a slope not to exceed one-inch rise per 12-inch run. If a 12:1 slope will not fit, an 8:1 slope is acceptable if so constructed as to allow reasonable access to the crosswalk for physically handicapped persons.

(2) Standards set for curb cuts and ramps under subsection (1) of this section shall apply whenever a curb or sidewalk is constructed or

replaced at any point in a block which gives reasonable access to a crosswalk. [1973 c 176 §1, 1975 c 468 §1]

447.610 [1957 c 278 §1, repealed by 1979 c 57 §3]

447.620 [1957 c 278 §§2, 13, 22, repealed by 1979 c 57 §3]

447.630 [1957 c 278 §3, repealed by 1979 c 57 §3]

447.640 [1957 c 278 §4, repealed by 1979 c 57 §3]

447.650 [1957 c 278 §6, repealed by 1979 c 57 §3]

447.660 [1957 c 278 §§5, 7, 9, 10, repealed by 1979 c 57 §3]

447.670 [1957 c 278 §8, repealed by 1979 c 57 §3]

447.680 [1957 c 278 §§11, 12, repealed by 1979 c 57 §3]

447.690 [1957 c 278 §§14, 15, 16, repealed by 1979 c 57 §3]

447.700 [1957 c 278 §§17, 18, repealed by 1979 c 57 §3]

447.710 [1957 c 278 §19, repealed by 1979 c 57 §3]

447.720 [1957 c 278 §17, repealed by 1979 c 57 §3]

447.730 [1957 c 278 §20, repealed by 1979 c 57 §3]

## PERMITS

**447.800 Definitions for ORS 447.800 to 447.865.** As used in ORS 447.800 to 447.865, unless the context requires otherwise:

(1) "Affected agency" means a state agency requiring a permit for which a public informational hearing or a contested case hearing is permitted or required

(2) "Agency" or "state agency" means an "agency" as that term is defined in ORS 183.310.

(3) "Contested case hearing" means a proceeding in a "contested case" as that term is defined in ORS 183.310 and for which procedures are established in ORS 183.310 to 183.550.

(4) "Department" means the Economic Development Department.

(5) "Director" means the Director of the Economic Development Department.

(6) "Permit" means any approval required from a state agency prior to construction or operation of a project.

(7) "Project" means any new public or private activity or expansion or addition to an existing public or private activity requiring two or more permits, excluding activities subject to siting under ORS 469.300 to 469.570, 469.590 to 469.621 and 469.930.

(8) "Public informational hearing" means a noncontested hearing held prior to an agency's

decision on a permit primarily for the purpose of soliciting information and views from the public concerning the proposed project.

(9) "Specific application form" means an application prepared by a state agency for the purpose of gathering information to assist in deciding whether to approve a project. [1975 c 677 §1, 1977 c 58 §1, 1981 s s c 10 §1, 1983 c 42 §1]

**447.805 Purpose.** (1) The Legislative Assembly finds that:

(a) Many individuals are unaware and unable to obtain information about state agency permit requirements and processes

(b) State agency processes in making decisions regarding issuance of permits for projects may impose unnecessary costs on project developers and deny citizens the opportunity for effective participation in the decision-making process.

(c) It is necessary to provide some method for reporting information concerning regulatory processes of this state to the Legislative Assembly.

(d) It is necessary to provide a method to identify regulatory problems and a mechanism for directing interagency coordination in regulatory processes

(2) The purposes of ORS 447.800 to 447.865 are to:

(a) Simplify the permit issuance procedure,

(b) Accelerate decision-making;

(c) Make available permit application information for state government at one place,

(d) Encourage federal and local government agency participation in a coordinated procedure of permit issuance;

(e) Provide more effective notice to affected or concerned citizens; and

(f) Provide methods to simplify, consolidate and coordinate and, where unnecessary, eliminate government regulatory activities to reduce the nonproductive time and expense government and the public must spend dealing with regulatory activities

(3) In carrying out the purpose of ORS 447.800 to 447.865, the department and the director shall attempt to be of particular assistance to small businesses especially those who employ 200 or fewer people in manufacturing or 50 or fewer people in any other small business.

[1975 c 677 §2, 1981 c 754 §1]

**447.810 Department employment of staff; rules.** (1) The department shall provide such staff as it determines necessary to accom-

plish the purposes of ORS 447 800 to 447 865. In addition to his salary, subject to the limitations otherwise provided by law, any employe of the department shall be reimbursed for all expenses actually and necessarily incurred in the performance of official duties.

(2) Subject to the applicable provisions of the State Personnel Relations Law, the director shall appoint all subordinate officers, including hearings officers, and prescribe their duties and fix their compensation.

(3) The director shall adopt rules necessary for the administration of ORS 447.800 to 447.865 pursuant to ORS 183.310 to 183.550.

[1975 c 677 §2a]

**447.815 Agency catalogue of regulations; reports to legislative committee; content.** (1) Except as otherwise provided in this section, each state agency shall:

(a) Maintain, at a central location, a current catalogue of all types of projects, license requirements, permits and other regulatory requirements administered by the state agency. Specific application forms, any applicable agency rules and the time period necessary for permit application consideration based upon experience and statutory requirement shall be included in the catalogue of each agency.

(b) Provide to any person, upon request, information from the catalogue required under this section or any application forms used by the state agency.

(c) Provide the department, upon request, with any information from the catalogue required under this section, including copies of the catalogue as the department determines necessary.

(d) Promptly notify the department of any changes in information in the catalogue required under this section if the department has previously requested information concerning the catalogue.

(e) If the agency performs any regulatory function, report annually to the Legislative Committee on Trade and Economic Development to make recommendations for methods to improve the efficiency of the agency's regulatory program, to suggest outdated or otherwise unnecessary regulatory authority that may be eliminated and to provide the committee with statistics on the regulatory activities of the agency. The statistics shall include information necessary for the committee to determine the number of permits, licenses, approvals or certifications the agency issues or denies and to determine the average time range for the agency to

take action on such issuances or denials and to determine the number of instances that exceeded the average time range for issuance or denial. For those instances in which the average time range for issuance or denial is exceeded, an agency shall include in the report reasons for exceeding the average time range. This paragraph does not apply to regulatory activities involving the licensing of or issuance of permits for motor vehicles or motor vehicle operators or the operation of motor vehicles or involving the issuance of hunting or fishing licenses.

(f) Cooperate with the department in the exercise of its duties under this section and take administrative action necessary to implement the programs the department develops to carry out the purposes of ORS 447.800 to 447.865.

(2) Except as otherwise provided in this section, the department:

(a) Shall encourage federal and local government agencies to participate in the permit coordination processes of the department and in the submission of permit authority and application forms applicable to projects in Oregon coordinated by the department under ORS 447.800 to 447.865.

(b) Shall provide information, upon request, on state agency permit requirements for projects and shall make the information available to the public at the offices of the department and through distribution to appropriate local government offices.

(c) May provide a toll-free telephone information and referral service for the entire state to aid project permit applicants and members of the public.

(d) Annually shall prepare a report summarizing work the department has performed in carrying out the purposes of ORS 447.800 to 447.865 and submit the report to the Legislative Committee on Trade and Economic Development. The report may include any suggestions for legislation to clarify state agency permit programs for projects and shall include recommendations for any changes necessary to enable government agencies to simplify, consolidate and combine the regulatory activities of this state.

(e) Shall identify ways in which state rules, mandated paperwork, permits, inspections, certification and license issuance may be simplified, consolidated and coordinated and, if unnecessary, eliminated and direct state agencies to take necessary administrative measures to implement the ways identified. To the extent possible, the department shall encourage and participate in efforts to also carry out the purposes of

this paragraph between state agencies and federal and local agencies.

(f) Upon request, shall mediate regulatory conflicts between state agencies and small businesses in an attempt to resolve the conflicts. The department may require a state agency to cooperate in any attempt to mediate under this section.

(3) The department and state agencies are not required to comply with this section for regulatory activities concerning the licensing of fiduciary, depositing or lending activities. [1975 c 677 §2b, 1981 c 754 §2]

**447.820 Application for all necessary permits; notice to state agencies; preapplication conference.** (1) After January 1, 1976, any person proposing a project may submit an application to the department requesting issuance of all permits necessary prior to construction and operation of the project in this state. The application shall be on a form furnished by the department and shall contain specific and accurate information on the location of the project, the nature of the project, and any other information on the project required by rule of the department.

(2) The application shall contain a detailed description of the proposed site of the project.

(3) After receipt of a properly completed application, the department shall immediately notify in writing each state agency having a possible interest in the application. The notification shall be accompanied by a copy of the application together with the date by which the agency shall respond.

(4) Each notified state agency shall respond in writing to the department within the specified date in subsection (3) of this section, not exceeding 30 days from receipt of the notice. The notified state agency shall advise the department:

(a) Whether the state agency has an interest in the application; and

(b) The permit programs under the state agency's jurisdiction to which the project described in the application is pertinent.

(5) Each notified state agency which responds within the specified date that it does not have an interest in the application, or does not respond by the date specified in subsection (3) of this section shall not require a permit of the applicant for the project described in the application.

(6) The restrictions provided in subsection (5) of this section shall not apply if the application provided the notified state agency contained

false, misleading or deceptive information, or failed to include pertinent information, the lack of which would reasonably lead a state agency to misjudge its interest in the application.

(7) The department shall submit specific application forms to applicants for permits required, with a direction to the applicant to complete and return the application to the designated state agency

(8) When the department submits specific application forms to the applicant, the department shall also inform the applicant that the applicant may make a request to the department for a preapplication conference before submitting the specific application forms to the designated state agencies. If the applicant requests a preapplication conference and the department determines a preapplication conference should be held, the department shall notify all state agencies that indicated an interest in the application under subsection (4) of this section, the governing body, or its designate, of the city or county where the proposed project will be located and the applicant of the date, time and location of the preapplication conference. Representatives of each notified agency shall attend the conference.

(9) At the preapplication conference, the parties may discuss, among other matters, the application procedures the applicant must follow, the probability of project approval by the city or county and state agencies, and the time needed by each state agency to process and approve or deny each permit application. At the conference, the department may set time periods within which each state agency shall approve or deny each permit application. The time limits set by the department shall be consistent with other applicable time limitations set by statute or rule. If the proposed project is designed to proceed in stages, the permit review process established under this section shall be structured to allow the project to proceed in stages.

(10) Upon receipt of the completed specific application forms each agency shall forward one copy to the department. [1975 c 677 §3, 1983 c 573 §1]

**447.825 Consolidated hearing; contents of notice.** (1) Upon request of the applicant or any affected agency for a consolidation of either public informational hearings or contested case hearings concerning a particular project for which application has been made to the department pursuant to ORS 447.820, the department may require the consolidation of any or all hearings otherwise permitted or required by law for each of the affected state agencies. Public infor-

mational hearings shall not be consolidated with contested case hearings.

(2) If the department determines to hold a consolidated public informational hearing, it shall cause a notice to be published once each week for three consecutive weeks in a newspaper of general circulation in the county in which the project is proposed to be constructed or operated, the third publication being no more than 20 days prior to the date of the hearing for which the notice is given, unless otherwise provided by law. Notice shall also be sent by registered mail to the applicant and all affected agencies, and by regular mail to persons who have requested that their names be placed on mailing lists maintained by the department and any affected agency for such purposes. The department may broadcast notice of a consolidated public informational hearing as provided in ORS 193.310 to 193.360. Both the published and mailed notice shall describe the project proposed, the project's location, the state agencies having jurisdiction over the project, all state permits applied for, the state permits which will be considered at the hearing, and the time, place and purpose of the hearing. The notice shall also state that relevant public testimony will be taken in oral or written form at the hearing, that a copy of the application is available for public inspection at the department and that copies of all specific applications are available for public inspection at the department and the affected state agencies.

(3) If the department determines to hold a consolidated contested case hearing, it shall cause notice of the hearing to be given in accordance with ORS 183.415 (1) and (2). [1975 c 677 §4, 1977 c 58 §2]

**447.830** [1975 c 677 §5, repealed by 1977 c 58 §3, (447 831 and 447 834 enacted in lieu of 447 830)]

**447.831 Consolidation of informational hearings; record of hearing.** If the applicant or an affected agency requests a consolidation of public informational hearings, the director may consolidate any or all such hearings into one or more consolidated hearings, at least one of which must be held in the county in which the project is proposed to be constructed or operated. The director or his designee shall be the presiding officer at a consolidated public informational hearing and shall determine its time, place, agenda and procedures. A verbatim oral or written record of the hearing shall be kept and made available to affected agencies by the department. However, the record need not be transcribed. [1977 c 58 §4 (enacted in lieu of 447 830)]

**447.834 Consolidation of contested case hearings; procedure; prehearing conference; notice.** (1) If the applicant or an affected agency requests a consolidation of contested case hearings, the director may consolidate any or all such hearings into one or more consolidated contested case hearings. The director or his designee shall be the presiding officer at a consolidated contested case hearing. The notice, parties, procedures, record and appeal of a consolidated contested case hearing shall be consistent with the provisions of ORS 183.310 to 183.550 relating to contested cases. At his discretion, the director may allow intervention in all or a part of the consolidated proceedings of the hearing and shall have the authority to adopt rules of procedure for the conduct of the consolidated contested case hearing.

(2) Prior to a consolidated contested case hearing, the director may, in his discretion, require that all parties to all hearings subject to the consolidation appear at a prehearings conference to consider:

- (a) The type, time, place, parties and issues of the hearing or hearings which will be held;
- (b) The necessity of special procedures;
- (c) The simplification of the issues;
- (d) The possibility of obtaining admissions of fact and of documents, and the limitation of repetitious or immaterial testimony, and
- (e) Any other matters which may aid in the disposition of the issues.

(3) Notice shall be given to parties to the conference which is consistent with the provisions of ORS 183.415 (1) and (2) and which also describes the purpose and procedures of the conference. The director or his designee shall be the presiding officer at the conference and at its conclusion shall issue an order which recites the agreements made and actions taken at the conference. [1977 c 58 §5 (enacted in lieu of 447 830)]

**447.835 Copy of transcript and proposed order to be sent to agencies after hearing.** (1) Within 30 days of the final adjournment of a consolidated contested case hearing held pursuant to ORS 447.800 to 447.865, the director or his designee shall prepare and serve upon all parties to the hearing a proposed order, including proposed findings of fact and conclusions of law. The parties to the hearing, excluding affected agencies, shall be given the opportunity to file exceptions to the proposed order with the appropriate affected agency or agencies issuing the final orders.

(2) An extension of time for forwarding of the proposed order may be granted by the de-

partment, up to an additional 30 days. [1975 c 677 §6, 1977 c 58 §6]

**447.840 Issuance of final orders.** Each affected agency participating in a consolidated contested case hearing shall issue a final order within the time otherwise provided by law for agency action. The final order shall:

(1) Be issued in accordance with the requirements of ORS 183.470;

(2) Set forth the basis for any conclusion including findings of fact and conclusions of law; and

(3) Include any conditions that the state agency, within its statutory authority, wishes to impose upon the permit. [1975 c 677 §7, 1977 c 58 §7]

**447.845 Conflicting permit terms and conditions.** (1) If state agencies propose terms and conditions for permits that are conflicting the state agencies shall refer the permits to the director or the director's designee for reconciliation of the conflict.

(2) In accordance with the authority of the department under ORS 447.815 a state agency:

(a) May use the department to mediate conflicts between the state agency and small businesses; and

(b) Shall cooperate with the department when the department requests the agency to participate in mediation to resolve conflicts between the agency and small businesses. [1975 c 677 §8, 1981 c 754 §3]

**447.850 Judicial review.** Any party to a consolidated contested case hearing conducted under ORS 447.834, 447.840 and this section aggrieved by a final decision of any affected agency may obtain review of that decision by appeal to the Court of Appeals pursuant to ORS 183.310 to 183.550 Appeals from final orders arising from any one consolidated contested case hearing shall be consolidated and shall be based upon the record and agency findings. [1975 c 677 §9, 1977 c 58 §8]

**447.855 Informal conference.** The department may call an informal conference of parties to resolve questions arising from permit application procedures on any proposed project. [1975 c 677 §9a]

**447.860 Permit procedure under ORS 447.800 to 447.865 optional.** (1) No person shall be required to obtain permit approval through the method provided by ORS 447.800 to 447.865.

(2) An applicant may, in lieu of procedures established by ORS 447.800 to 447.865, proceed with permit approval procedures established by individual state agencies.

(3) Any applicant may withdraw his application at any time without forfeiture of any permit approval he may have obtained for the project as submitted pursuant to the procedures set forth in ORS 447.800 to 447.865. [1975 c 677 §10]

**447.865 Collection of hearing costs.**

(1) The department shall, within 60 days after the conclusion of a consolidated public informational hearing or a consolidated contested case hearing, collect from each affected agency participating in the hearing that agency's proportionate share of the costs associated with the hearing and incurred by the department, including the costs of:

(a) Preparing, sending and publishing notice;

(b) Arranging and conducting a prehearings conference;

(c) Arranging and conducting the hearing;

(d) Preparing a record;

(e) Preparing a transcript if necessary;

(f) Preparing a proposed order; and

(g) Performing any other functions necessary or appropriate to the type of hearing held.

(2) Such moneys are continuously appropriated for purposes of administering ORS 447.800 to 447.865. [1975 c 677 §11, 1977 c.58 §9]

**447.875 Definitions for ORS 447.875 and 447.880.** As used in ORS 447.880 and this section:

(1) "Permit" means any approval required from an agency of a city or county prior to construction or operation of a project.

(2) "Project" means any new public or private activity or expansion or addition to an existing public or private activity for which any permit is required.

(3) "Development charge" means an assessment, charge or fee imposed upon any property for the purpose of increasing the capacity of existing public facilities to provide public services to the property necessitated by improvements made on the property. [1977 c 319 §1]

**Note:** 447.875 and 447.880 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 447 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

**447.880 Public access to list of development charges and permits required by cities and counties; list of state permits; file to be maintained at central location.** Not later than January 1, 1978, the governing body of each city and county shall make available to the public a list of all development charges and permits issued by the city or county. The list shall include a brief description of the permit, its basic unit cost or fee, if available, and the agency from which the permit may be obtained. The Executive Department shall make available to all city and county governments the

information on state agency permit requirements compiled under ORS 447.815. These lists shall be maintained at a central location. [1977 c 319 §2]

**Note:** See note under 447 875

**447.990** [Subsection (2) enacted as 1957 c 278 §21, 1973 c 734 §4, 1973 c 835 §232, 1979 c 57 §2, repealed by 1981 c 438 §46]

