Chapter 454

1991 EDITION

Sewage Treatment and Disposal Systems

TREATMENT WORKS

454.010 Definitions for ORS 454.010 to 454.040
454.020 Compliance with state and federal standards; enforcement
454.025 Limitation on siting or constructing treatment works or discharge
454.030 Rates and charges to meet costs of treatment works; use of funds; enforcement
454.040 Determination of costs payable by users
454.050 Rules
454.060 Powers in addition to other municipal or commission powers

FINANCING OF DISPOSAL SYSTEMS

454.105 Definitions for ORS 454.105 to 454.175
454.115 Authority over disposal systems
454.125 Bond election
454.135 Bonds issued to finance disposal system
454.145 Bond content
454.155 Refunding bonds
454.165 Joint agreements for construction and financing of disposal systems
454.175 Agreements with industrial establishment

DISPOSAL OF SEWAGE

454.205 "Municipality" defined
454.215 Authority over disposal systems
454.225 Rates and charges; collection
454.235 Election; bonds; when election required; compelling election; when bonds can be ordered sold
454.245 Serial bonds; term and content; interest; amount
454.255 Plans and cost estimates; examination by electors

CONSTRUCTION OF SEWAGE TREATMENT WORKS; PROVISION OF SERVICES

454.275 Definitions for ORS 454.275 to 454.380
454.280 Construction of treatment works by municipality; financing
454.285 Resolution or ordinance
454.290 Study; preliminary plans
454.295 Commission review; hearing; notice
454.300 Conduct of hearing; notice of issuance of findings; petition for argument
454.305 Effect of findings; exclusion of areas; filing of findings
454.310 Construction authorized upon commission approval; when connection may be required; final plans
454.317 Resolution or ordinance authorizing levy and collection of seepage charge
454.320 Hearing on resolution or ordinance; notice of levy
454.330 County to collect seepage charge for municipality
454.340 Use of seepage charge; credit for systems development charge; seepage charge to cease if user fee imposed
454.350 Effect of ORS 454.317 to 454.350 on contracts between municipalities
454.360 Areawide 208 Plan as master plan for provision of sewage services
454.365 Safety net program to provide financial relief
454.370 Citizens sewer advisory committee; membership; duties
454.375 Filing documentation of sewer charges; prohibited charges
454.380 Limitation on spending for nonconstruction items; exception

CONSTRUCTION OF SEWAGE SYSTEMS

454.405 Definitions for ORS 454.425 and 468B.055
454.425 Surety bond required; exception; action on bond

ASSESSMENT DEFERRAL LOAN PROGRAM

454.430 Definitions for ORS 454.430 to 454.445
454.433 Policy
454.436 Assessment Deferral Loan Program Revolving Fund; uses; sources
454.439 Conditions for program; administrative expenses; priority; report
454.442 Application for loan; terms and conditions
454.445 Lien against assessed property; docket; enforcement

STATE AID FOR CONSTRUCTION OF MUNICIPAL SEWAGE TREATMENT WORKS

454.505 Definitions for ORS 454.505 to 454.535
454.515 Grants authorized; criteria considered
454.525 Contracts with municipalities
454.535 Sewage Treatment Works Construction Account

REGULATION OF SUBSURFACE SEWAGE DISPOSAL

454.605 Definitions for ORS 454.605 to 454.745
454.610 Regulation of grey water discharge
454.615 Standards for sewage disposal systems and disposal facilities
454.625 Rules
454.635 Notice of violation; service; request for hearing; conduct of hearing; order
454.640 County enforcement of standards
454.645 Enforcement when health hazard exists
454.655 Permit required for construction; application; time limit; special application procedure for septic tank installation on parcel of 10 acres or more

454.657 Variance; conditions; hearing

454.660 Delegation of variance powers; appeal; qualification of officers; hearing and decision

454.662 Variance fee; low income elderly exemption; refund

454.665 Inspection of completed construction; certificate of satisfactory completion; appeal from denial of certificate

454.675 Exemptions; application to alteration, repairs or extensions

454.685 Order limiting or prohibiting construction; factors to be considered

454.695 License required to perform sewage disposal services; application

454.705 Bond; content; action on bond; limit on surety's liability; notice of bond

454.710 Deposit in lieu of bond

454.715 Suspension or revocation of license

454.725 Contracts with local governments; disbursement of fees to local governments

454.735 Designation of local official to receive applications and fees

454.745 Permit, service and license fees; maximum fees; refund

454.755 Fees for certain reports on sewage disposal

ONSITE DISPOSAL ALTERNATIVES

454.775 Policy

454.780 Recirculating sand filter permitted; commission rules

REQUIRED CONNECTIONS

454.805 Assessment for installation costs

CROSS REFERENCES

District boundary changes, 199.464

Environmental Quality Commission, powers and duties, Ch. 468

Health hazard annexation or district formation, facilities and services, boundaries, 431.705 to 431.760

Operator certification for sewage treatment plants, 448.410 to 448.430

Safe drinking water projects, 285.757

Sewer contractor requirements, 701.138

Sludge, use on agricultural, horticultural or silvicultural land, 468B.095

454.020

General enforcement powers, 468.090 to 468.140

454.205 to 454.255

Municipal bond elections for sewage facilities; issuance of bonds; Environmental Quality Commission, 224.232

Validation of bond issues prior to March 9, 1935, 224.270

TREATMENT WORKS

454.010 Definitions for ORS 454.010 to 454.040. As used in ORS 454.010 to 454.040, unless the context requires otherwise:

(1) "Construction" means any one or more of the following: Preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(2) "Industrial user" means a recipient of treatment works services for any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources.

(3) "Municipality" means any county, city, special service district or other governmental entity having authority to dispose of or treat or collect sewage, industrial wastes or other wastes, or any combination of two or more of the foregoing acting jointly.

(4) "Replacement" means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

(5)(a) "Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes, of a liquid nature, necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of residues resulting from such treatment.

(b) In addition to the definition contained in paragraph (a) of this subsection, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. [1973 c.101 §2]

454.020 Compliance with state and federal standards; enforcement. The Environmental Quality Commission may require each user of the treatment works of a municipality to comply with the toxic and pretreatment effluent standards and inspection, monitoring and entry requirements of the Federal Water Pollution Control Act, as enacted by Congress, October 18, 1972, and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto. The commission may institute actions or proceedings for legal or equitable remedies to enforce such compliance. [1973 c.101 §5; 1979 c.284 §146]

454.025 Limitation on siting or constructing treatment works or discharge. After January 1, 1991, no point source sewage treatment discharge shall be sited or constructed in the area generally defined as the Abernethy Creek Basin in Clackamas County. [1991 c.849 §2]

454.030 Rates and charges to meet costs of treatment works; use of funds; enforcement. (1) A municipality is authorized to adopt a system of charges and rates to assure that each recipient of treatment works services within the municipality's jurisdiction or service area will pay its proportionate share of the costs of operation, maintenance and replacement of any treatment works facilities or services provided by the municipality.

(2) A municipality is authorized to require industrial users of its treatment works to pay to the municipality that portion of the cost of construction of the treatment works which is allocable to the treatment of such industrial user's wastes. The Department of Environmental Quality is authorized to determine whether the payment required of the industrial user for the portion of the cost of the construction of the treatment works is properly allocable to the treatment of the industrial user's wastes.

(3) A municipality is authorized to retain the amounts of the revenues derived from the payment of costs by industrial users of its treatment works services and expend such revenues, together with interest thereon, for:

(a) Repayment to applicable agencies of government of any grants or loans made to the municipality for construction of the treatment works; and

(b) Future expansion and reconstruction of the treatment works; and

(c) Other municipal purposes.

(4) A municipality shall keep records, financial statements and books regarding its rates and charges and amounts collected on account of its treatment works and how such

revenues are allocated. The Department of Environmental Quality may inspect such records, financial statements and books, audit them, or cause them to be audited, at such intervals as deemed necessary.

(5) In the event a municipality fails, neglects or refuses when required by the Environmental Quality Commission to adopt the system of charges and rates authorized by this section, or fails, neglects or refuses to comply with ORS 454.010 to 454.060, the commission may adopt a system of charges and rates as provided for in subsection (1) of this section and collect, administer and apply such revenues for the purposes of subsection (3) of this section.

(6) In lieu of proceeding in the manner set forth in subsection (5) of this section, the commission may institute actions or proceedings for legal or equitable remedies to enforce compliance with, or restrain violations of, ORS 454.010 to 454.060. [1973 c.101 §3; 1979 c.284 §147]

454.040 Determination of costs payable by users. In determining the amount of treatment works costs to be paid by recipients of treatment works services, the municipality or, if applicable, the Environmental Quality Commission shall consider the strength, volume, types and delivery flow rate characteristics of the waste; the nature, location and type of treatment works; the receiving waters; and such other factors as deemed necessary. [1973 c.101 §4]

454.050 Rules. The Environmental Quality Commission may adopt, modify or repeal rules, pursuant to ORS 183.310 to 183.550, for the administration and implementation of ORS 454.010 to 454.060. [1973 c.101 §6]

454.060 Powers in addition to other municipal or commission powers. The powers and authority granted to a municipality or the Environmental Quality Commission by ORS 454.010 to 454.050 are in addition to, and not in lieu of, or derogation of any other powers and authority vested in a municipality or the commission pursuant to law. [1973 c.101 §7]

FINANCING OF DISPOSAL SYSTEMS

454.105 Definitions for ORS 454.105 to 454.175. As used in ORS 454.105 to 454.175, unless the context requires otherwise:

(1) "Disposal system" means that term as defined in ORS 468B.005.

(2) "Municipality" means a city, county, county service district, sanitary authority or sanitary district. [Formerly 449.405]

454.115 Authority over disposal systems. (1) In order to facilitate the abatement, elimination or control of the pollution of waters and streams, any municipality may:

(a) Construct, reconstruct, improve, extend, repair, equip or acquire disposal systems, within or without the municipality.

(b) Accept grants or loans or other aid from the United States or any other source.

(c) Enter into all necessary agreements.

(d) Issue revenue bonds of the municipality without limitation as to amount.

(2) The powers conferred by ORS 454.105 to 454.175 are in addition to and supplemental to the powers conferred by any other law and not in substitution for any right, powers or privileges vested in a municipality. [Formerly 449.410]

454.125 Bond election. Before any bonds may be issued under ORS 454.115, their issuance must first be approved by a majority of the electors voting on the proposition at either a general election or at a special election, to be called, held and conducted in the same manner as special elections on the proposition of issuing general obligation bonds. [Formerly 449.415]

454.135 Bonds issued to finance disposal system. (1) The bonds issued under ORS 454.115 shall be payable from that portion of the earnings of the disposal system of the municipality which is pledged to their payment, and they shall have a lien of such priority on the earnings as is specified in the proceedings providing for their issuance.

(2) The governing body may provide that the bonds, or such ones thereof as may be specified, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to their payment of principal, interest and security, to such other bonds of the municipality as are designated.

(3) The bonds shall bear such date, may be issued in such amounts, may be in such denominations, may mature in such amounts and at such time, shall be payable at such place, may be redeemable, either with or without premium, or nonredeemable, may carry such registration privileges, and may be executed by such officers and in such manner as is prescribed by the governing body.

(4) In case any of the officers whose signatures appear on the bonds or coupons cease to be officers before delivery of the bonds, the signatures, whether manual or facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if such officers had remained in office until delivery.

(5) The bonds so issued shall bear interest at a rate to be fixed by the governing

body payable at times to be fixed by the governing body.

(6) The bonds shall be sold at public sale. However, they may be sold at private sale to the United States or to the State of Oregon or any of their agencies or instrumentalities. [Formerly 449.420; 1981 c.94 §41]

454.145 Bond content. Bonds issued under ORS 454.115 or the proceedings of the governing body authorizing their issuance may contain such covenants as the governing body considers advisable concerning:

(1) Rates or fees to be charged for services rendered by the disposal system, the revenue of which is pledged to the payment of such bonds.

(2) Deposit and use of the revenue of such disposal system.

(3) Issuance of additional bonds payable from the revenue of such disposal system.

(4) Rights of the bondholders in case of default in the payment of the principal of or interest on the bonds, including the appointment of a receiver to operate such disposal system. [Formerly 449.425]

454.155 Refunding bonds. (1) The governing body of every municipality by ordinance or resolution without prior approval of the electors may issue and exchange or sell refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due.

(2) All other relevant provisions in ORS 454.105 to 454.175 pertaining to revenue bonds shall be applicable to the refunding revenue bonds, including their terms and security, the rates and other aspects of the bonds. [Formerly 449.430]

454.165 Joint agreements for construction and financing of disposal systems. (1) Any two, or more, municipalities, counties or other political subdivisions, notwithstanding any limitation or provision of municipal charter to the contrary, may, through their respective governing bodies, enter into and perform such contracts and agreements as they consider proper for or concerning the planning, construction, lease or other acquisition and the financing of the disposal system and the maintenance and operation thereof.

(2) Municipalities, counties or other political subdivisions so contracting with each other may also provide in any contract or agreement for a board, commission or such other body as their governing bodies consider proper for the supervision and general management of the disposal system and for the operation thereof, and may prescribe its powers and duties and fix the compensation of the members thereof. [Formerly 449.435]

454.175 Agreements with industrial establishment. When determined by its governing body to be in the public interest and necessary for the protection of the public health, any municipality may enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of the disposal system to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such governing body, to compensate the municipality for the cost of providing, including payment of principal and interest charges, and of operating and maintaining the disposal system serving such industrial establishment. [Formerly 449.440]

DISPOSAL OF SEWAGE

454.205 "Municipality" defined. As used in ORS 454.205 to 454.255, "municipality" includes an incorporated city, a metropolitan service district, a sanitary district, a sanitary authority, a county service district, or any other special district authorized to treat and dispose of sewage. [1973 c.213 §2]

454.215 Authority over disposal systems. (1) Any municipality may own, acquire, construct, equip, operate and maintain, either within or without its statutory or corporate limits, in whole or in part, disposal systems with all appurtenances necessary, useful or convenient for the collection, treatment and disposal of sewage. The municipality may acquire by gift, grant, purchase or condemnation necessary lands and rights of way therefor, either within or without its statutory or corporate limits. For the purpose of acquiring property for such uses, the municipality may invoke and shall have the rights, powers and privileges granted to public corporations under the provisions of existing or future laws pertaining to this subject.

(2) The authority given by ORS 454.205 to 454.255 shall be in addition to, and not in derogation of any power existing in the municipality under any constitutional, statutory or charter provisions now or hereafter existing. [1973 c.213 §3]

454.225 Rates and charges; collection. The governing body of the municipality may establish just and equitable rates or charges to be paid for the use of the disposal system by each person, firm or corporation whose premises are served thereby, or upon subsequent service thereto. If the service charges

so established are not paid when due, the amounts thereof, together with such penalties, interests and costs as may be provided by the governing body of the municipality may be recovered in an action at law, or if the municipality does not have the ability to collect sewerage disposal charges in connection with or as part of the charge for another service or utility that can be curtailed to secure collection, the change may be certified and presented after July 15 and on or before the following July 15 to the tax assessor of the county in which the municipality is situated and be by the assessor assessed against the premises serviced on the next assessment and tax roll prepared after July 15. Once the service charges are certified and presented to the assessor, the payment for the service charges must be made to the tax collector pursuant to ORS 311.370. Such payment shall be made by the person responsible for the delinquent service charge or by the municipality who has received payment for the delinquent service charge. These charges shall thereupon be collected and paid over in the same manner as other taxes are certified, assessed, collected and paid over. [1973 c.213 §4; 1979 c.350 §19; 1991 c.459 §409]

454.235 Election; bonds; when election required; compelling elections; when bonds can be ordered sold. (1) The governing body of the municipality, by proposed charter amendment or ordinance, may refer the question of acquiring and constructing a disposal or water system, as defined in ORS 448.115, to a vote of its electors, and after approval thereof by a majority of such electors, may authorize the issuance of and cause to be issued bonds of the municipality for such purposes. The bonds may be general obligation, limited obligation or self-liquidating in character in a sum not more than the amount authorized at such election and shall be subject to ORS 454.205 to 454.255. The bonds may provide for payment of principal and interest thereon from service charges to be imposed by the governing body for services to be extended through employment and use of the disposal or water system. If service charges are imposed to be paid as provided in ORS 454.225, such portion thereof as may be deemed sufficient shall be set aside as a sinking fund for payment of interest on the bond and the principal thereof at maturity.

(2)(a) When the Environmental Quality Commission or the Health Division enters an order pursuant to ORS 183.310 to 183.550 that requires the acquisition or construction of a disposal system or a water system in a municipality, respectively, the governing body of the municipality shall refer to its electors the question of a bond issue in an amount sufficient to finance the necessary acquisition or construction of such disposal or water system. The election shall be held within one year of the date the order of the commission or division is entered.

(b) If, within eight months after the order of the commission or division, the governing body of the municipality has not called an election in compliance with paragraph (a) of this subsection, the commission or division, whichever is appropriate, may apply to the circuit court of the county in which the municipality is located, or to the Circuit Court of Marion County for an order compelling the holding of an election.

(c) If the electors do not approve the disposal system bond issue, submitted pursuant to paragraph (a) or (b) of this subsection, the commission may apply to the circuit court of the county in which the municipality is located or to the Circuit Court of Marion County for an order directing that self-liquidating bonds of the municipality be issued and sold pursuant to ORS 454.205 to 454.255, and directing that the proceeds be applied to the acquisition or construction of a disposal system required to comply with the final order of the commission. If the court finds that the disposal system required by the final order of the commission is necessary under the rules or standards of the commission, it shall issue an order directing that such bonds be issued and sold without elector approval in such an amount as the court finds necessary to acquire or construct such disposal system, and that the proceeds be applied for such purposes.

(d) Any court proceeding authorized by paragraphs (b) and (c) of this subsection shall be advanced on the court docket for immediate hearing. [1973 c.213 §5; 1981 c.749 §22]

454.245 Serial bonds; term and content; interest; amount. (1) The governing body of the municipality may determine the maturities and tenor of the bonds issued under ORS 454.235. However, the bonds shall be serial in character in accordance with present or future provisions of law or the charter. They shall be payable in not to exceed 40 years from the date of issuance thereof, and shall be sold at a price to net the municipality not less than the par value thereof with accrued interest. They shall bear interest at not to exceed six percent per annum payable semiannually.

(2) The amount of any bonds issued under ORS 454.205 to 454.255 shall not be within any limitation of indebtedness fixed by law or charter, but shall be in addition thereto. [1973 c.213 §§6, 7]

454.255 Plans and cost estimates; examination by electors. Before calling any

election under ORS 454.235, the governing body of the municipality shall cause to be prepared plans, specifications and estimates of costs of any proposed disposal or water system, as defined in ORS 448.115, to be voted upon, which may be examined by any elector of the municipality. [1973 c.213 §8; 1981 c.749 §23]

CONSTRUCTION OF SEWAGE TREATMENT WORKS; PROVISION OF SERVICES

454.275 Definitions for ORS 454.275 to 454.380. As used in ORS 454.275 to 454.380:

(1) "Affected area" means an area subject to an order of the commission issued under ORS 454.305.

(2) "Commission" means the Environmental Quality Commission.

(3) "Governing body" means a board of commissioners, county court or other managing board of a municipality.

(4) "Municipality" means a city, county, county service district, sanitary district, metropolitan service district or other special district authorized to treat or dispose of sewage in any county with a population exceeding 400,000 according to the latest federal decennial census.

(5) "Subsurface sewage disposal system" has the meaning given that term in ORS 454.605.

(6) "Threat to drinking water" means the existence in any area of any three of the following conditions:

(a) More than 50 percent of the affected area consists of rapidly draining soils;

(b) The ground water underlying the affected area is used or can be used for drinking water;

(c) More than 50 percent of the sewage in the affected area is discharged into cesspools, septic tanks or seepage pits and the sewage contains biological, chemical, physical or radiological agents that can make water unfit for human consumption; or

(d) Analysis of samples of ground water from wells producing water that may be used for human consumption in the affected area contains levels of one or more biological, chemical, physical or radiological contaminants which, if allowed to increase at historical rates, would produce a risk to human health as determined by the local health officer. Such contaminant levels must be in excess of 50 percent of the maximum allowable limits set in accordance with the Federal Safe Drinking Water Act.

(7) "Treatment works" has the meaning given that term in ORS 454.010. [1981 c.358 §1; 1983 c.235 §7; 1987 c.627 §8]

454.280 Construction of treatment works by municipality; financing. Notwithstanding the provisions of ORS chapters 450, 451 and 454, or any city or county charter, treatment works may be constructed by a municipality and financed by the sale of general obligation bonds, revenue bonds or assessments against the benefited property without a vote in the affected area or municipality or without being subject to a remonstration procedure, when the findings and order are filed in accordance with ORS 454.310. The provisions of ORS 223.205 to 223.295, 223.770 and 287.502 to 287.515 shall apply in so far as practicable to any assessment established as a result of proceedings under ORS 454.275 to 454.380. [1981 c.358 §2]

454.285 Resolution or ordinance. (1) The governing body may adopt by resolution or ordinance a proposal to construct sewage treatment works and to finance the construction by revenue bonds, general obligation bonds or by assessment against the benefited property.

(2) The resolution or ordinance shall:

(a) Describe the boundaries of the affected area which must be located within a single drainage basin as identified in regional treatment works plans; and

(b) Contain findings that there is a threat to drinking water.

(3) The proposal must be approved by a majority vote of the governing body and does not require the approval of the residents or landowners in the affected area or municipality.

(4) The governing body shall forward a certified copy of the resolution or ordinance to the commission. Preliminary plans and specifications for the proposed treatment works shall be submitted to the commission with the resolution or ordinance. [1981 c.358 §3; 1983 c.235 §8]

454.290 Study; preliminary plans. (1) The governing body shall order a study and the preparation of preliminary plans and specifications for the treatment works.

(2) The study shall include:

(a) Engineering plans demonstrating the feasibility of the treatment works and conformance of the plan with regional treatment works plans.

(b) Possible methods for financing the treatment works.

(c) The effect of the treatment works on property in the affected area. [1981 c.358 §4]

454.295 Commission review; hearing; notice. (1) After receiving a certified copy of a resolution or ordinance adopted under ORS 454.285, the commission shall review

and investigate conditions in the affected area. If substantial evidence reveals the existence of a threat to drinking water, the commission shall set a time and place for a hearing on the resolution or ordinance. The hearing shall be held within or near the affected area. The hearing shall be held not less than 50 days after the commission completes its investigation.

(2) The commission shall give notice of the time and place of the hearing on the resolution or ordinance by publishing the notice of adoption of the resolution or ordinance in a newspaper of general circulation within the affected area once each week for two successive weeks beginning not less than four weeks before the date of the hearing and by such other means as the commission deems appropriate in order to give actual notice of the hearing. [1981 c.358 §5]

454.300 Conduct of hearing; notice of issuance of findings; petition for argument. (1) At the hearing on the resolution or ordinance, any interested person shall have a reasonable opportunity to be heard or to present written testimony. The hearing shall be for the purpose of determining whether a threat to drinking water exists in the affected area, whether the conditions could be eliminated or alleviated by treatment works and whether the proposed treatment works are the most economical method to alleviate the conditions. The hearing may be conducted by the commission or by a hearings officer designated by the commission. After the hearing the commission shall publish a notice of issuance of its findings and recommendations in the newspaper used for the notice of hearing under ORS 454.295 (2), advising of the opportunity for argument under subsection (2) of this section.

(2) Within 15 days after the publication of notice of issuance of findings any person or municipality that will be affected by the findings may petition the commission to present written or oral arguments on the proposal. If a petition is received, the commission shall set a time and place for argument. [1981 c 358 §6]

454.305 Effect of findings; exclusion of areas; filing of findings. (1) If the commission finds a threat to drinking water does exist but treatment works would not alleviate the conditions, the commission shall terminate the proceedings.

(2) If the commission finds a threat to drinking water exists within the territory and the conditions could be removed or alleviated by the construction of treatment works, the commission shall order the governing body to proceed with construction of the treatment works.

(3) If the commission finds that a threat to drinking water exists in only part of the affected area or that treatment works would remove or alleviate the conditions in only part of the affected area, the commission may reduce the affected area to the size in which the threat to drinking water could be removed or alleviated. The findings shall describe the boundaries of the affected area as reduced by the commission.

(4) In determining whether to exclude any area, the commission must consider whether or not exclusion would unduly interfere with the removal or alleviation of the threat to drinking water and whether the exclusion would result in an illogical boundary for the provision of services.

(5) If the commission determines that a threat to drinking water exists but that the proposed treatment works are not the most economical method of removing or alleviating the conditions, the commission may issue an order terminating the proceedings under ORS 454.275 to 454.380, or referring the resolution or ordinance to the municipality to prepare alternative plans, specifications and financing methods.

(6) At the request of the commission the municipality or a boundary commission shall aid in determining the findings made under subsections (3) and (4) of this section.

(7) The commission shall file its findings and order with the governing body of the municipality. [1981 c.358 §7]

454.310 Construction authorized upon commission approval; when connection may be required; final plans. (1) When a certified copy of the findings and order approving the proposal is filed with the governing body, the governing body shall order construction of the treatment works and proceed with the financing plan as specified in the order. As part of the construction of the treatment works, the governing body may require property owners in the affected area to connect to the treatment works. The governing body shall establish by ordinance the method the governing body will use to enforce a mandatory connection requirement.

(2) Within 12 months after receiving the commission's order the municipality shall prepare final plans and specifications for the treatment works and proceed in accordance with the time schedule to construct the facility. [1981 c.358 §8; 1989 c.559 §1]

454.315 [1973 c.424 §2; repealed by 1975 c.167 §13]

454.317 Resolution or ordinance authorizing levy and collection of seepage charge. (1) When a certified copy of the findings and order approving the proposal is filed with the governing body as provided in ORS 454.305, the governing body may adopt

a resolution or ordinance authorizing the levy and collection of a seepage charge upon all real properties served by onsite subsurface sewage disposal systems, as defined in ORS 454.605, within the boundaries of the affected area.

(2) A resolution or ordinance adopted under this section shall authorize the levy and collection of a seepage charge only in an affected area located entirely within a single drainage basin as identified in regional treatment works plans.

(3) A resolution or ordinance adopted under this section shall:

(a) Describe the boundaries of the affected area; and

(b) Contain an estimate of the commencement and completion dates for the proposed treatment works and a proposed schedule for the extension of sewer service into the affected area. [1983 c.235 §2]

454.320 Hearing on resolution or ordinance; notice of levy. (1) The governing body shall give notice of the time and place of the hearing on the resolution or ordinance by publishing the notice of the intent to adopt the resolution or ordinance in a newspaper of general circulation within the affected area once each week for four successive weeks and by such other means as the governing body deems appropriate in order to give actual notice of the hearing. The hearing shall be held within or near the affected area described in the resolution or ordinance. At the hearing on the resolution or ordinance, any interested person shall have a reasonable opportunity to be heard or to present written testimony. The hearing shall be for the purpose of determining whether a seepage charge should be levied and collected.

(2) After the hearing held under this section, the governing body shall publish a notice of the levy of the seepage charge and thereafter proceed to levy and collect the seepage charge in such amount as in the discretion of the governing body will provide revenues for the payment of the principal and interest, in whole or in part, due on general obligation bonds or on revenue bonds issued by the governing body to construct the treatment works or to provide capital funds for the construction of treatment works. [1983 c.235 §3]

454.325 [1973 c.424 §3; repealed by 1975 c.167 §13]

454.330 County to collect seepage charge for municipality. (1) The county in which a municipality is levying a seepage charge under ORS 454.317 to 454.350 shall collect the seepage charge for the municipality.

(2) The county shall establish a separate account for each ordinance or resolution adopted by a municipality and imposing a seepage charge within the county. The seepage charges collected under an ordinance or resolution shall be credited only to the account established for that ordinance or resolution.

(3) Moneys in an account established under this section shall be disbursed only to the municipality for which the account was established.

(4) In order to receive funds under this section, a municipality must notify the county that the commission has ordered the governing body to proceed with construction of treatment works as provided in ORS 454.305 (2). Upon such notification, the county shall release funds from the appropriate account to the municipality. [1983 c.235 §4]

454.335 [1973 c.424 §4; repealed by 1975 c.167 §13]

454.340 Use of seepage charge; credit for systems development charge; seepage charge to cease if user fee imposed. (1) All seepage charges levied and collected by the governing body shall be used for the construction of treatment works.

(2) Systems development charges for the installation or replacement of cesspools or septic tanks shall not be imposed by a municipality in any area in which seepage charges are imposed and collected under ORS 454.317 to 454.350. If an owner of real property against which seepage charges are imposed has already paid a systems development charge for the installation or replacement of cesspools or septic tanks for that real property, the owner shall be allowed a credit against the seepage charge otherwise payable in an amount equal to the systems development charge.

(3) When a user fee for the use of treatment works is imposed upon real property, all seepage charges levied against that real property shall cease.

(4) The governing body shall, by ordinance, allocate all of the seepage charges collected under ORS 454.317 to 454.350 for the purpose of allowing owners of real properties against which the seepage charges are imposed a credit against the future connection charges or systems development charges otherwise due when those real properties are connected to treatment works.

(5) If the municipality levying the seepage charges is not the municipality imposing the connection charges or systems development charges imposed at the time of connection to the treatment works, then the municipality levying the seepage charges shall transfer those seepage charges it has

collected to the municipality imposing the connection charges or systems development charges imposed at the time of connection to the treatment works. [1983 c.235 §6; 1985 c.680 §1]

454.345 [1973 c.424 §5; repealed by 1975 c.167 §13]

454.350 Effect of ORS 454.317 to 454.350 on contracts between municipalities. Nothing in ORS 454.317 to 454.350 prohibits contracts between municipalities under which a municipality may provide treatment facilities or services to another municipality. [1983 c.235 §5]

454.355 [1973 c.424 §6; repealed by 1975 c.167 §13]

454.360 Areawide 208 Plan as master plan for provision of sewage services. The Areawide 208 Plan, adopted pursuant to the Federal Water Pollution Control Act of 1972, P.L. 92-500, as amended, and any sewer implementation plan approved by the commission under ORS 454.275 to 454.380 shall be the governing master plan for the provision of sewage collection, treatment and disposal services by municipalities in an affected area. Any substantial amendment to such plan shall be submitted to and approved by the commission before taking effect. [1987 c.627 §2]

454.365 Safety net program to provide financial relief. (1) Any municipality providing sewage collection, treatment and disposal services within an affected area shall approve and adopt a safety net program designed to provide financial relief to eligible property owners who would experience extreme financial hardship if required to pay costs associated with the construction of and connection to treatment works.

(2) A safety net program adopted under subsection (1) of this section:

(a) May include funds provided pursuant to ORS 468.220 and 468.970 to 468.983.

(b) May include, at the option of a municipality, funds contributed by the municipality. However, a municipality shall not be required to contribute such additional funds. [1987 c.627 §3]

454.370 Citizens sewer advisory committee; membership; duties. (1) Each municipality providing sewage collection, treatment and disposal services within an affected area shall, after consultation with elected officials of the affected area, establish a citizens sewer advisory committee composed of persons directly affected by the order issued under ORS 454.305. The committee shall advise the commission and the governing body of the municipality on matters relating to the implementation of the commission's order.

(2) The members of each citizens sewer advisory committee shall represent a cross section of businesses, homeowners and renters in the affected area and others affected by the order. At least two-thirds of the members shall reside or do business within the affected area. At least one-third of the members shall be persons eligible for financial relief under the safety net plan provided for in ORS 454.365 or persons who are members of or represent organizations that serve or represent individuals with low incomes or who are otherwise eligible for financial relief under the safety net plan.

(3) The citizens sewer advisory committee shall provide the commission and the governing body of the municipality with a copy of its minutes and recommendations. The municipality shall respond to any recommendation made by the advisory committee.

(4) Members of the citizens sewer advisory committees shall serve without compensation.

(5) The citizens sewer advisory committees within the affected area may meet jointly as necessary to carry out their responsibilities. [1987 c.627 §4; 1991 c.174 §1]

454.375 Filing documentation of sewer charges; prohibited charges. (1) Before any property owner is required to pay for construction of or connection to treatment works constructed pursuant to ORS 454.275 to 454.380, the local governing body shall file with the commission documentation that connection charges and user charges levied for sewer service are based upon the cost of providing sewer service, according to reasonable cost-of-service sewer utility ratemaking principles. The existence of a city boundary shall not be used as a basis for imposing a sewer user rate or connection fee differential unless there are documented cost causative factors to justify the differential.

(2) Any assessment imposed by a local improvement district for the construction of treatment works pursuant to an order of the commission under ORS 454.305 shall not include costs incurred before September 27, 1987, that are associated with responding to litigation to amend or reverse the order or with development of the plan for constructing treatment works prepared pursuant to ORS 454.290. [1987 c.627 §§5, 6]

454.380 Limitation on spending for nonconstruction items; exception. (1) Not more than 20 percent of an assessment imposed by a municipality through a local improvement district for the construction of treatment works in an affected area pursuant to an order of the commission under ORS 454.305 shall be used to pay for nonconstruction items.

(2) As used in subsection (1) of this section, "nonconstruction items" includes engi-

neering work, administrative expenses and legal fees.

(3) If a municipality submits the final local improvement district report to the citizens sewer advisory committee before final action of the governing body on the final local improvement district report, the limitation contained in subsection (1) of this section shall not apply. If the committee requests further documentation and explanation regarding the report, the municipality shall provide such information. Any findings of the committee following this review shall be reported to the commission and to the governing body of the municipality, along with any recommendations the committee may offer. [1987 c.627 §7]

CONSTRUCTION OF SEWAGE SYSTEMS

454.405 Definitions for ORS 454.425 and 468B.055. As used in ORS 454.425 and 468B.055:

(1) "Construct" includes a major modification or addition.

(2) "Person" means any person as defined in ORS 174.100 but does not include, unless the context specifies otherwise, any public officer acting in an official capacity or any political subdivision, as defined in ORS 237.410. [Formerly 449.390; 1975 c.248 §1; 1987 c.158 §86]

454.415 [Formerly 449.395; 1975 c.248 §2; renumbered 468.742 and then 468B.055]

454.425 Surety bond required; exception; action on bond. (1) Every person proposing to construct facilities for the collection, treatment or disposal of sewage shall file with the Department of Environmental Quality a surety bond of a sum required by the Environmental Quality Commission, not to exceed the sum of $25,000. The bond shall be executed in favor of the State of Oregon and shall be approved as to form by the Attorney General.

(2) A subsurface sewage disposal system designed for and used in not to exceed a four-family dwelling shall be exempt from the provision of subsection (1) of this section. The commission may adopt rules exempting other facilities from the requirements of subsection (1) of this section.

(3) The department may permit the substitution of other security for the bond, in such form and amount as the commission considers satisfactory, the form of which shall be approved by the Attorney General.

(4) The bond or other security shall be forfeited in whole or in part to the State of Oregon by a failure to follow the plans and specifications approved by the department in the construction of the sewerage system or by a failure to have the system maintained and operated in accordance with the rules and orders of the commission. The bond or other security shall be forfeited only to the extent necessary to secure compliance with the approved plans and specifications or the rules and orders of the commission. The commission shall expend the amount forfeited to secure compliance with the approved plans and specifications or the rules and orders of the commission.

(5) When a failure as described in subsection (4) of this section occurs and part of the bond or other security remains unforfeited, any person, including a public person or body, who has suffered any loss or damage by reason of the failure shall have a right of action upon the bond or other security and may bring a suit or action in the name of the State of Oregon for the use and benefit of the person. This remedy shall be in addition to any other remedies which the person who suffered loss or damage may have against the person who has failed to follow the approved plans and specifications or to comply with the rules and orders of the commission.

(6) When the ownership of the sewerage system is acquired or its operation and maintenance assumed by a city, county, sanitary district, or other public body, the bond or other security shall be considered terminated and void as security for the purposes of this section and shall be returned to the person who filed the security. [Formerly 449.400; 1975 c.248 §3]

ASSESSMENT DEFERRAL LOAN PROGRAM

454.430 Definitions for ORS 454.430 to 454.445. As used in ORS 454.430 to 454.445:

(1) "Assessment" includes all costs, fees or other charges for the construction of or connection to sewage treatment works that are eligible for installment payments under ORS 223.205 to 223.775.

(2) "Commission" means the Environmental Quality Commission.

(3) "Department" means the Department of Environmental Quality.

(4) "Extreme financial hardship" has the meaning given within the assessment deferral programs adopted by public agencies and approved by the Department of Environmental Quality.

(5) "Public agency" means any state agency, incorporated city, county, sanitary authority, county service district, sanitary district, metropolitan service district or other special district authorized to construct water pollution control facilities.

(6) "Treatment works" means a sewage collection system. [Formerly 468.970]

Note: 454.430 to 454.445 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 454 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

454.433 Policy. It is declared to be the policy of this state:

(1) To provide assistance to property owners who will experience extreme financial hardship resulting from payment of assessed costs for the construction of treatment works required by a federal grant agreement or an order issued by a state commission or agency.

(2) To provide assistance through an interest loan program to defer all or part of property assessments.

(3) To capitalize an assessment deferral loan program with moneys available in the Pollution Control Fund, available federal funds or available local funds. [Formerly 468.973]

Note: See note under 454.430.

454.436 Assessment Deferral Loan Program Revolving Fund; uses; sources. (1) There is established the Assessment Deferral Loan Program Revolving Fund separate and distinct from the General Fund in the State Treasury. The moneys in the Assessment Deferral Loan Program Revolving Fund are appropriated continuously to the Department of Environmental Quality to be used for the purposes described in ORS 454.439.

(2) The Assessment Deferral Loan Program Revolving Fund may be capitalized from any one or a combination of the following sources of funds in an amount sufficient to fund assessment deferral loan programs provided for in ORS 454.439:

(a) From the Water Pollution Control Revolving Fund.

(b) From capitalization grants or loans from the Pollution Control Fund.

(3) In addition to those funds used to capitalize the Assessment Deferral Loan Program Revolving Fund, the fund shall consist of:

(a) Any other revenues derived from gifts, grants or bequests pledged to the state for the purpose of providing financial assistance to water pollution control projects;

(b) All repayments of money borrowed from the fund;

(c) All interest payments made by borrowers from the fund;

(d) Any other fee or charge levied in conjunction with administration of the fund; and

(e) Any available local funds.

(4) The State Treasurer may invest and reinvest moneys in the Assessment Deferral Loan Program Revolving Fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the Assessment Deferral Loan Program Revolving Fund. [Formerly 468.975]

Note: See note under 454.430.

454.439 Conditions for program; administrative expenses; priority; report. (1) The Department of Environmental Quality shall use the moneys in the Assessment Deferral Loan Program Revolving Fund to provide funds for assessment deferral loan programs administered by public agencies that meet all of the following conditions:

(a) The program demonstrates that assessments or charges in lieu of assessments levied against benefited properties for construction of treatment works required by a federal grant agreement or by an order issued by a state commission or agency will subject property owners to extreme financial hardship.

(b) The governing body has adopted a program and the department has approved the program.

(c) The treatment works meets the requirements of section 2, Article XI-H of the Oregon Constitution concerning eligibility of pollution control bond funds.

(2) The department also may use the moneys in the Assessment Deferral Loan Program Revolving Fund to pay the expenses of the department in administering the Assessment Deferral Loan Program Revolving Fund and to repay capitalization loans.

(3) In administering the Assessment Deferral Loan Program Revolving Fund, the department shall:

(a) Allocate funds to public agencies for assessment deferral loan programs in accordance with a priority list adopted by the Environmental Quality Commission.

(b) Use accounting, audit and fiscal procedures that conform to generally accepted government accounting standards.

(c) Prepare any reports required by the Federal Government as a condition to the award of federal capitalization grants.

(4) The Department of Environmental Quality shall submit an informational report to the Joint Committee on Ways and Means or, if during the interim between sessions of the Legislative Assembly, to the Emergency Board before awarding the first loan from the Assessment Deferral Loan Program Revolving Fund. The report shall describe the assessment deferral loan program and set

forth in detail the operating procedures of the program. [Formerly 468.977]

Note: See note under 454.430.

454.442 Application for loan; terms and conditions. Any public agency desiring funding of its assessment deferral loan program from the Assessment Deferral Loan Program Revolving Fund may borrow from the Assessment Deferral Loan Program Revolving Fund in accordance with the procedures contained in ORS 454.430 to 454.445 and 468.220. The public agency shall submit an application to the department on a form provided by the department. After final approval of the application, the department shall offer the public agency funds from the Assessment Deferral Loan Program Revolving Fund through a loan agreement with terms and conditions that:

(1) Require the public agency to repay the loan with interest according to a repayment schedule corresponding to provisions governing repayment of deferred assessments by property owners as defined in the public agency's adopted assessment deferral loan program;

(2) Require the public agency to secure the loan with an assessment deferral loan program financing lien as described in ORS 454.445; and

(3) Limit the funds of the public agency that are obligated to repay the loan to proceeds from repayment of deferred assessments by property owners participating in the assessment deferral loan program adopted by the public agency. [Formerly 468.980]

Note: See note under 454.430.

454.445 Lien against assessed property; docket; enforcement. (1) Any public agency that pays all or part of a property owner's assessment pursuant to the public agency's adopted assessment deferral loan program shall have a lien against the assessed property for the amount of the public agency's payment and interest thereon as specified in the public agency's assessment deferral loan program.

(2) The public agency's auditor, clerk or other officer shall maintain a docket describing all payments of assessments made by the public agency pursuant to its adopted assessment deferral loan program. The liens created by such payments shall attach to each property for which payment is made at the time the payment is entered in this docket. The liens recorded on this docket shall have the same priority as a lien on the bond lien docket maintained pursuant to ORS 223.230. A lien shall be discharged upon repayment to the public agency of all outstanding principal and interest in accordance with the requirements of the public agency's adopted assessment deferral loan program.

(3) The lien may be enforced by the public agency as provided by ORS 223.505 to 223.650. The lien shall be delinquent if not paid according to the requirements of the public agency's adopted assessment deferral loan program. [Formerly 468.983]

Note: See note under 454.430.

STATE AID FOR CONSTRUCTION OF MUNICIPAL SEWAGE TREATMENT WORKS

454.505 Definitions for ORS 454.505 to 454.535. As used in ORS 454.505 to 454.535, unless the context requires otherwise:

(1) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of sewage treatment works, preliminary planning to determine the economic and engineering feasibility of sewage treatment works, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of sewage treatment works, and the inspection and supervision of the construction of sewage treatment works.

(2) "Eligible project" means a project for construction of sewage treatment works:

(a) For which the approval of the Department of Environmental Quality is required under ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and ORS chapters 468, 468A and 468B;

(b) Which is, in the judgment of the Environmental Quality Commission eligible for federal pollution abatement assistance, whether or not federal funds are then available therefor;

(c) Which conforms with applicable rules of the commission; and

(d) Which is, in the judgment of the commission, necessary for the accomplishment of the state's policy of water purity as stated in ORS 468B.015.

(3) "Federal pollution abatement assistance" means funds available to a municipality, either directly or through allocation by the state, from the Federal Government as grants for construction of sewage treatment works pursuant to the Federal Water Pollution Control Act of 1956 (P.L. 84-660) as amended, or pursuant to any other federal act or program.

(4) "Municipality" means any county, city, special service district or other govern-

mental entity having authority to dispose of sewage, industrial wastes or other wastes, any Indian tribe or authorized Indian tribal organization, or any combination of two or more of the foregoing acting jointly, in connection with an eligible project.

(5) "Sewage treatment works" means any facility for the purpose of treating, neutralizing or stabilizing sewage or industrial wastes of a liquid nature, including treatment or disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishings thereof and their appurtenances. [Formerly 449.455; 1983 c.740 §176]

454.515 Grants authorized; criteria considered. (1) The State of Oregon may make grants, as funds are available, to any municipality to assist the municipality in the construction of sewage treatment works.

(2) The Environmental Quality Commission shall be the agency for administration of funds granted by this state pursuant to subsection (1) of this section.

(3) In allocating state grants under ORS 454.505 to 454.535, the commission shall give consideration to the following criteria:

(a) Public benefits to be derived from the construction;

(b) Ultimate cost of constructing and maintaining the sewage treatment works;

(c) Public interest in and public necessity for the sewage treatment works;

(d) Adequacy of the provisions made or proposed by the municipality for assuring proper and efficient operation and maintenance of the sewage treatment works after the completion of construction thereof;

(e) The municipality's readiness to start construction, including financing and planning; and

(f) The municipality's financial need.

(4) The commission shall establish a list of priority projects based upon the criteria established in subsection (3) of this section and the list shall be used as the basis for allocation of funds granted under ORS 454.505 to 454.535. However, a project shall not be placed on the list of priority projects if the total cost to the Sewage Treatment Works Construction Account established by ORS 454.535 of all such projects on the list of priority projects would exceed the funds available in the Sewage Treatment Works Construction Account. [Formerly 449.465]

454.525 Contracts with municipalities. (1) The Environmental Quality Commission and any municipality may enter into contracts with each other concerning eligible projects. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include the following provisions:

(a) An estimate of the reasonable cost of the eligible project as determined by the commission.

(b) An agreement by the municipality:

(A) To proceed expeditiously with, and complete, the project in accordance with plans approved by the department;

(B) To commence operation of the sewage treatment works on completion of the project, and not to discontinue operation or dispose of the sewage treatment works without the approval of the commission;

(C) To operate and maintain the sewage treatment works in accordance with applicable provisions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and ORS chapters 468, 468A and 468B and with the rules of the commission;

(D) To secure approval of the commission before applying for federal assistance for pollution abatement, in order to maximize the amounts of such assistance received or to be received for all projects in Oregon; and

(E) To provide for the payment of the municipality's share of the cost of the project.

(2) The commission may adopt rules necessary for making and enforcing contracts hereunder and establishing procedures to be followed in applying for state grants authorized by ORS 454.515 as shall be necessary for the effective administration of ORS 454.505 to 454.535.

(3) All contracts entered into pursuant to this section shall be subject to approval by the Attorney General as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant on vouchers approved by the commission. [Formerly 449.475]

454.535 Sewage Treatment Works Construction Account. There is established in the General Fund of the State Treasury a Sewage Treatment Works Construction Account. All moneys in the Sewage Treatment Works Construction Account are appropriated continuously for and shall be used by the Environmental Quality Commission in carrying out the purposes of ORS 454.505 to 454.535. [Formerly 449.485]

REGULATION OF SUBSURFACE SEWAGE DISPOSAL

454.605 Definitions for ORS 454.605 to 454.745. As used in ORS 454.605 to 454.745, unless the context requires otherwise:

(1) "Absorption facility" means a system of open-jointed or perforated piping, alternate distribution units or other seepage systems for receiving the flow from septic tanks or other treatment units and designed to distribute effluent for oxidation and absorption by the soil within the zone of aeration.

(2) "Alternative sewage disposal system" means a system incorporating all of the following:

(a) Septic tank or other sewage treatment or storage unit; and

(b) Disposal facility or method consisting of other than an absorption facility but not including discharge to public waters of the State of Oregon.

(3) "Building sewer" means that part of the system of drainage piping which conveys sewage into a septic tank, cesspool or other treatment unit that begins five feet outside the building or structure within which the sewage originates.

(4) "Cesspool" means a receptacle which receives the discharge of sewage from a sanitary drainage system and which is so designed and constructed as to separate solids from liquids, digest organic matter during a period of detention and allow the liquids to flow into the soil within the zone of aeration through perforations in the side wall of the receptacle.

(5) "Construction" includes installation, alteration, repair or extension.

(6) "Effluent sewer" means that part of the system of drainage piping that conveys treated sewage from a septic tank or other treatment facility into an absorption facility.

(7) "Governmental unit" means the state or any county, municipality or other political subdivision, or any agency thereof.

(8) "Nonwater-carried sewage disposal facility" includes, but is not limited to, pit privies, vault privies and chemical toilets.

(9) "Public health hazard" means a condition whereby there are sufficient types and amounts of biological, chemical or physical, including radiological, agents relating to water or sewage which are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses, bacteria, parasites, toxic chemicals and radioactive isotopes.

(10) "Seepage pit" is a type of absorption facility which is a covered pit with open-jointed lining through which septic tank effluent may seep or leach into surrounding ground.

(11) "Septic tank" means a watertight receptacle which receives the discharge of sewage from a sanitary drainage system and which is so designed and constructed as to separate solids from liquids, digest organic matter during a period of detention and allow the liquids to discharge into the soil outside of the tank through an absorption facility.

(12) "Sewage" means water-carried human and animal wastes, including kitchen, bath and laundry wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration, surface waters or industrial waste as may be present.

(13) "Sewage disposal service" means:

(a) The construction of subsurface sewage disposal systems, alternative sewage disposal systems or any part thereof.

(b) The pumping out or cleaning of subsurface sewage disposal systems, alternative sewage disposal systems or nonwater-carried sewage disposal facilities.

(c) The disposal of materials derived from the pumping out or cleaning of subsurface sewage disposal systems, alternative sewage disposal systems or nonwater-carried sewage disposal facilities.

(d) Grading, excavating and earth-moving work connected with the operations described in paragraph (a) of this subsection, except streets, highways, dams, airports or other heavy construction projects and except earth-moving work performed under the supervision of a builder or contractor in connection with and at the time of the construction of a building or structure.

(14) "Subsurface sewage disposal system" means a cesspool or the combination of a septic tank or other treatment unit and effluent sewer and absorption facility.

(15) "Zone of aeration" means the unsaturated zone that occurs below the ground surface and the point at which the upper limit of the water table exists. [1973 c.835 §208; 1975 c.167 §1; 1977 c.828 §1; 1991 c.598 §3]

454.610 Regulation of grey water discharge. (1) As used in this section "grey water" means any household sewage other than toilet and garbage wastes, including shower and bath waste water, kitchen waste water and laundry wastes.

(2) Nothing in ORS 454.605 to 454.745 except ORS 454.645 shall prohibit the discharge of grey water if:

(a) Soil and site conditions for such grey water conform to the rules of the Department of Environmental Quality regarding standard subsurface sewage disposal systems except that such system may use two-thirds the normal size surface area for a drainfield and shall be preceded by a pretreatment fa-

cility such as, but not limited to, a septic tank; or

(b) Such grey water is discharged into an existing subsurface sewage system which is functioning satisfactorily or a public sewage system which serves the dwelling from which such grey water is derived. [1977 c.523 §6]

454.615 Standards for sewage disposal systems and disposal facilities. The Environmental Quality Commission shall by September 1, 1975, adopt by rule standards which:

(1) Prescribe minimum requirements for the design and construction of subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts thereof including grading, excavating and earth-moving work connected therewith, and allow for use of alternative systems and component materials consistent with the minimum requirements. Requirements prescribed under this section may vary in different areas or regions of the state.

(2) Prescribe minimum requirements for the operation and maintenance of subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts thereof.

(3) Prescribe requirements for the pumping out or cleaning of subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts thereof, for the disposal of material derived from such pumping out or cleaning, for sewage pumping equipment, for sewage tank trucks and for the identification of sewage tank trucks and workers.

(4) Prescribe requirements for handling kitchen, bath and laundry wastes as opposed to human and animal wastes which recognize the possibility for separate treatment of different types of waste. [1973 c.835 §209; 1975 c.167 §2]

454.625 Rules. In accordance with the applicable provisions of ORS 183.310 to 183.550, the Environmental Quality Commission shall adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745. [1973 c.835 §210]

454.635 Notice of violation; service; request for hearing; conduct of hearing; order. (1) Whenever the Department of Environmental Quality has reasonable grounds for believing that any subsurface sewage disposal system, alternative sewage disposal system or nonwater-carried sewage disposal facility or part thereof is being operated or maintained in violation of any rule adopted pursuant to ORS 454.625, it shall give written notice to the person or persons in control of such system or facility.

(2) The notice required under subsection (1) of this section shall include the following:

(a) Citation of the rule allegedly violated;

(b) The manner and extent of the alleged violation; and

(c) A statement of the party's right to request a hearing.

(3) The notice shall be served personally or by registered or certified mail and shall be accompanied by an order of the department requiring remedial action which, if taken within the time specified in the order, will effect compliance with the rule allegedly violated. The order shall become final unless a request for hearing is made by the party receiving the notice within 10 days from the date of personal service or the date of mailing of the notice.

(4) The form of petition for hearing and the procedures employed in the hearing shall be consistent with the requirements of ORS 183.310 to 183.550 and shall be in accordance with rules adopted by the Environmental Quality Commission.

(5) The order shall be affirmed or reversed by the commission after hearing. A copy of the commission's decision setting forth findings of fact and conclusions shall be sent by registered or certified mail to the petitioner or served personally upon the petitioner. An appeal from such decision may be made as provided in ORS 183.480 relating to a contested case. [1973 c.835 §211; 1975 c.167 §3]

454.640 County enforcement of standards. (1) In order to protect the health, safety and welfare of its citizens, a county may enforce, consistent with state enforcement, standards for subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities established in ORS 454.605 to 454.745 or in rules of the Environmental Quality Commission.

(2) Nothing in this section is intended to prohibit contractual arrangements between a county and the Department of Environmental Quality under ORS 454.725. [1981 c.147 §2]

454.645 Enforcement when health hazard exists. (1) Whenever a subsurface sewage disposal system, alternative sewage disposal system or a nonwater-carried sewage disposal facility or part thereof presents or threatens to present a public health hazard creating an emergency requiring immediate action to protect the public health, safety and welfare, the Department of Environmental Quality may institute an action. The action may be commenced without the necessity of prior administrative procedures, or

at any time during such administrative proceedings, if such proceedings have been commenced. The action shall be in the name of the State of Oregon and may petition for a mandatory injunction compelling the person or governmental unit in control of the system or facility to cease and desist operation or to make such improvements or corrections as are necessary to remove the public health hazard or threat thereof.

(2) Cases filed under provisions of this section or any appeal therefrom shall be given preference on the docket over all other civil cases except those given an equal preference by statute.

(3) Nothing in this section is intended to prevent the maintenance of actions for legal or equitable remedies relating to private or public nuisances or for recovery of damages brought by private persons or by the state on relation of any person. [1973 c.835 §212; 1975 c.167 §4; 1979 c.284 §148]

454.655 Permit required for construction; application; time limit; special application procedure for septic tank installation on parcel of 10 acres or more. (1) Except as otherwise provided in ORS 454.675, without first obtaining a permit from the Department of Environmental Quality, no person shall construct or install a subsurface sewage disposal system, alternative sewage disposal system or part thereof. However, a person may undertake emergency repairs of a subsurface or alternative sewage disposal system without first obtaining a permit if the person obtains a permit within three days after the emergency repairs are begun.

(2) A permit required by subsection (1) of this section shall be issued only to a person licensed under ORS 454.695, or to an owner or contract purchaser in possession of the land. However, a permit issued to an owner or contract purchaser carries the condition that the owner or purchaser or regular employees or a person licensed under ORS 454.695 perform all labor in connection with the construction of the subsurface or alternative sewage disposal system.

(3) The applications for a permit required by this section must be accompanied by the nonrefundable permit fee prescribed in ORS 454.745.

(4) After receipt of an application and permit fee, subject to ORS 454.685, the department shall issue a permit if it finds that the proposed construction will be in accordance with the rules of the Environmental Quality Commission. No permit shall be issued if a community or area-wide sewerage system is available which will satisfactorily accommodate the proposed sewage discharge.

(5)(a) Unless weather conditions or distance and unavailability of transportation prevent the issuance of a permit within 20 days of the receipt of the application and permit fee by the department, the department shall issue or deny the permit within 20 days after such date. If such conditions prevent issuance or denial within 20 days, the department shall notify the applicant in writing of the reason for the delay and shall issue or deny the permit within 60 days after such notification.

(b) If within 20 days of the date of the application the department fails to issue or deny the permit or to give notice of conditions preventing such issuance or denial, the permit shall be considered to have been issued.

(c) If within 60 days of the date of the notification referred to in paragraph (a) of this subsection, the department fails to issue or deny the permit, the permit shall be considered to have been issued.

(6) Upon request of any person, the department may issue a report, described in ORS 454.755 (1), of evaluation of site suitability for installation of a subsurface or alternative sewage disposal system. The application for such report must be accompanied by the nonrefundable fee prescribed in ORS 454.755.

(7) With respect to an application for a permit for the construction and installation of a septic tank and necessary effluent sewer and absorption facility for a single family residence or for a farm related activity on a parcel of 10 acres or more described in the application by the owner or contract purchaser of the parcel, the Department of Environmental Quality:

(a) Within the period allowed by paragraph (a) of subsection (5) of this section after receipt by it of the application, shall issue the permit or deliver to the applicant a notice of intent to deny the issuance of the permit;

(b) In any notice of intent to deny an application, shall specify the reasons for the intended denial based upon the rules of the Environmental Quality Commission for the construction and installation of a septic tank and necessary effluent sewer and absorption facility or based upon the factors included in ORS 454.685 (2)(a) to (j);

(c) Upon request of the applicant, shall conduct a hearing in the manner provided in ORS 454.635 (4) and (5) on the reasons specified in a notice of intent to deny the application with the burden of proof upon the department to justify the reasons specified; and

(d) In the case of issuance of a permit, may include as a condition of the permit that no other permit for a subsurface sewage disposal system or alternative sewage disposal system shall be issued for use on the described parcel while the approved septic tank, effluent sewer and absorption facility are in use on the described parcel. [1973 c.835 §213; 1974 s.s. c.30 §2; 1975 c.167 §5; 1975 c.794 §1]

454.657 Variance; conditions; hearing. (1) After hearing the Environmental Quality Commission may grant to applicants for permits required under ORS 454.655 specific variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems for such period of time and upon such conditions as it may consider necessary to protect the public health and welfare and to protect the waters of the state, as defined in ORS 468B.005. The commission shall grant such specific variance only where after hearing it finds that strict compliance with the rule or standard is inappropriate for cause or because special physical conditions render strict compliance unreasonable, burdensome or impractical.

(2) The commission shall adopt rules for granting variances from rules or standards pertaining to subsurface sewage disposal systems in cases of extreme and unusual hardship. The rules shall provide for consideration of the following factors in reviewing applications for variances due to hardship:

(a) Advanced age or bad health of applicants;

(b) Relative insignificance of the environmental impact of granting a variance; and

(c) The need of applicants to care for aged, incapacitated or disabled relatives.

(3) The department shall strive to aid and accommodate the needs of applicants for variances due to hardship.

(4) Variances granted due to hardship may contain conditions such as permits for the life of the applicant, limiting the number of permanent residents using a subsurface sewage disposal system and use of experimental systems for specified periods of time. [1975 c.309 §2; 1979 c.591 §4]

454.660 Delegation of variance powers; appeal; qualification of officers; hearing and decision. (1) The Environmental Quality Commission shall delegate on such general conditions as it may find appropriate the power to grant variances to special variance officers appointed by the Director of the Department of Environmental Quality. Decisions of the variance officers to grant variances may be appealed to the Environmental Quality Commission.

(2) Variance officers appointed under this section shall be persons qualified in soil sciences and possessing knowledge of and experience in subsurface sewage disposal methods.

(3) Each request for a variance under ORS 454.657 shall be heard by the appropriate variance officer in the county within which the parcel of real property described in the variance request is located.

(4) Each request for a variance shall be heard by the appropriate variance officer within 30 days after the date on which a completed application for a variance has been received by the Department of Environmental Quality. A decision shall be made by the variance officer within 45 days after completion of the hearing on the variance request. [1975 c.309 §3]

454.662 Variance fee; low income elderly exemption; refund. (1) Except as provided in subsection (2) of this section, each application for a variance submitted pursuant to ORS 454.657 must be accompanied by a nonrefundable fee, the amount of which shall be determined by a fee structure adopted by rule of the Environmental Quality Commission but not to exceed $225 per application. The moneys received are continuously appropriated to meet administrative expenses of the hearings.

(2) Notwithstanding subsection (1) of this section, an applicant for a variance under this section is not required to pay the nonrefundable fee specified in subsection (1) of this section if, at the time of filing the application, the applicant:

(a) Is 65 years of age or older;

(b) Is a resident of this state; and

(c) Has an annual household income, as defined in ORS 310.630, of $15,000 or less.

(3) Notwithstanding subsection (1) of this section, the department or its contract agent may refund a fee collected under subsection (1) of this section if the applicant withdraws the application before the department or its contract agent has commenced field work or any other substantial work associated with the application. [1975 c.309 §4; 1979 c.591 §1]

454.665 Inspection of completed construction; certificate of satisfactory completion; appeal from denial of certificate. (1) Upon completing the construction for which a permit has been issued under ORS 454.655, the permit holder shall notify the Department of Environmental Quality. The department may at its own election inspect the construction to determine if it complies with the rules of the Environmental Quality Commission. For that construction inspected by the department, the department shall is-

sue a certificate of satisfactory completion to the permit holder unless the construction does not comply with such rules. If the construction does not comply with such rules, the department shall notify the permit holder and shall require satisfactory completion before issuing the certificate. Failure to meet the requirements for satisfactory completion within a reasonable time constitutes a violation of ORS 454.605 to 454.745.

(2) If the inspection authorized under subsection (1) of this section is not made within seven days after notification by the permit holder, a certificate of satisfactory completion shall be considered to have been issued. When feasible the department shall notify the party whose work is to be inspected, whether the department will be able to make such inspection within the seven-day requirement of this subsection.

(3) No person shall operate or use any subsurface sewage disposal system, alternative sewage disposal system or part thereof unless a certificate of satisfactory completion has been issued for the construction for which a permit was issued under ORS 454.655.

(4) Whenever the department refuses to issue a certificate of satisfactory completion pursuant to this section, the permit holder may appeal the decision in accordance with the provisions of ORS 183.310 to 183.550. [1973 c.835 §214; 1975 c.167 §6; 1979 c.169 §1]

454.675 Exemptions; application to alteration, repairs or extensions. Subsurface sewage disposal systems, alternative sewage disposal systems or nonwater-carried sewage disposal facilities or parts thereof which were constructed prior to January 1, 1974, but which are not creating a public health hazard or causing water pollution shall not be required to conform to the rules adopted subsequent to their initial construction. However, all alterations, repairs or extensions of such systems or facilities or parts thereof shall be made in accordance with the rules of the Environmental Quality Commission. [1973 c.835 §215; 1975 c.167 §7]

454.685 Order limiting or prohibiting construction; factors to be considered. (1) Whenever the Environmental Quality Commission finds that the construction of subsurface sewage disposal systems, alternative sewage disposal systems or nonwater-carried sewage disposal facilities should be limited or prohibited in an area, it shall issue an order limiting or prohibiting such construction. The order shall be issued only after public hearing for which more than 30 days' notice is given. Notice must be in form reasonably calculated to notify interested persons in the affected area.

(2) In issuing an order authorized by subsection (1) of this section, the commission shall consider the following factors for the proposed affected area:

(a) Present and projected density of population.

(b) Size of building lots.

(c) Topography.

(d) Porosity and absorbency of soil.

(e) Any geological formations which may adversely affect the disposal of sewage effluent by subsurface means.

(f) Ground and surface water conditions and variations therein from time to time.

(g) Climatic conditions.

(h) Present and projected availability of water from unpolluted sources.

(i) Type of and proximity to existing domestic water supply sources.

(j) Type of and proximity to existing surface waters.

(k) Capacity of existing subsurface sewage disposal systems. [1973 c.835 §216; 1975 c.167 §8]

454.695 License required to perform sewage disposal services; application. (1) No person shall perform sewage disposal services or advertise or purport to be in the business of performing such services without first obtaining a license from the Department of Environmental Quality.

(2) Application for a license required by subsection (1) of this section shall be made in writing in a form prescribed by the department and shall include the following information:

(a) The name and address of the applicant and of the person responsible for supervising the services;

(b) The location of the business of the applicant and the name under which the business is conducted; and

(c) Such other information as the department considers necessary to determine the eligibility of the applicant for the license.

(3) Application for a license required under subsection (1) of this section must be accompanied by the nonrefundable license fee prescribed in ORS 454.745 and by the bond described in ORS 454.705.

(4) Unless suspended or revoked at an earlier date, all licenses issued under this section expire on July 1 next following the date of issuance. [1973 c.835 §217; 1977 c.828 §2; 1983 c.616 §3; 1991 c.598 §4]

454.705 Bond; content; action on bond; limit on surety's liability; notice of bond. (1) An applicant for a license required by

ORS 454.695 shall execute a bond in the penal sum of $2,500 in favor of the State of Oregon. The bond shall be executed by the applicant as principal and by a surety company authorized to transact a surety business within the State of Oregon as surety.

(2) The bond shall be filed with the Department of Environmental Quality and shall provide that:

(a) In performing sewage disposal services, the applicant shall comply with the provisions of ORS 454.605 to 454.745 and with the rules of the Environmental Quality Commission regarding sewage disposal services; and

(b) Any person injured by a failure of the applicant to comply with ORS 454.605 to 454.745 and with the rules of the commission regarding sewage disposal services shall have a right of action on the bond in the name of the person, provided that written claim of such right of action shall be made to the principal or the surety company within two years after the services have been performed; and

(c) The maximum aggregate liability of the surety on the bond shall be $2,500.

(3) Every person licensed pursuant to ORS 454.695 shall deliver to each person for whom services requiring such license are performed, prior to the completion of such services, a written notice of the name and address of the surety company which has executed the bond required by this section and of the rights of the recipient of such services as provided by subsection (2) of this section. [1973 c.835 §218; 1975 c.171 §1]

454.710 Deposit in lieu of bond. In lieu of the surety bond required by ORS 454.705, an applicant for a license required by ORS 454.695 may deposit, under the same terms and conditions as when a bond is filed, the equivalent value in cash or negotiable securities of a character approved by the State Treasurer. The deposit is to be made in a bank or trust company for the benefit of the department. Interest on deposited funds or securities shall accrue to the depositor. [1981 c.148 §2]

454.715 Suspension or revocation of license. Subject to ORS 183.310 to 183.550, the Department of Environmental Quality at any time may suspend or revoke any license issued pursuant to ORS 454.695 if it finds:

(1) A material misrepresentation or false statement in the application for the license.

(2) Failure to comply with the applicable provisions of this chapter.

(3) Violation of any rule of the Environmental Quality Commission regarding sewage disposal services. [1973 c.835 §219]

454.725 Contracts with local governments; disbursement of fees to local governments. (1) The Department of Environmental Quality may enter into agreements with local units of government for the local units to perform the duties of the department under ORS 454.635, 454.655, 454.665 and 454.695.

(2) If a fee is collected by a local unit of government performing duties under subsection (1) of this section, the department may disburse all or part thereof to the local unit.

(3) The Department of Environmental Quality may enter into agreements with local units of government when the local units so request for the local units to perform the variance duties of the department under ORS 454.657 and 454.660 subject to variance criteria specified in the agreement by the department. Each county performing variance duties under an agreement may set and collect a nonrefundable variance application fee as provided in ORS 454.662. A fee collected by a county under this subsection shall not exceed the county's cost of performing the variance duties of the department. [1973 c.835 §219a; 1975 c.167 §9; 1975 c.309 §5; 1979 c.591 §3]

454.735 Designation of local official to receive applications and fees. The Department of Environmental Quality shall designate an appropriate official in each county who shall be authorized to receive applications and fees required by ORS 454.605 to 454.745. Such receipt shall be considered the official receipt of the application by the department. [1973 c.835 §219b]

454.745 Permit, service and license fees; maximum fees; refund. (1) Fees, not exceeding the following amounts, are established for services rendered and for permits and licenses issued under ORS 454.655 and 454.695 in accordance with the following schedule:

Subsurface or Alternative Sewage Disposal System	Maximum Fee
New Site Evaluation; first lot	$120
Each additional lot evaluated while on site	$100
Construction Installation Permit (with favorable evaluation report)	$40
Alteration Permit	$25
Repair Permit	$25
Extension Permit	$25
Sewage Disposal Service Business License	$100
Pumper Truck Inspection	$25
Evaluation of Existing System Adequacy	$40
Annual Evaluation of Alternative System (where required)	$40
Annual Evaluation of Temporary Manufactured Dwelling	$25

(2) No fee shall be charged for an evaluation report requested on any proposed repair, alteration or extension of an existing subsurface sewage disposal system, alternative sewage disposal system or part thereof.

(3) Notwithstanding any other provision of this section, no contract provided for under ORS 454.725 shall be entered into or continued when the total amount of fees collected by the local unit of government exceeds the total cost of the program for providing the services rendered and permits and licenses issued under this section.

(4) Notwithstanding the maximum fees established in subsection (1) of this section, the Environmental Quality Commission, upon request of the director or of any county which pursuant to ORS 454.725 has entered into an agreement with the Department of Environmental Quality, may by rule increase maximum fees effective July 1, 1980, above the maximum levels established in subsection (1) of this section. Fee increases permitted by the commission shall be based upon actual costs for efficiently conducted minimum services as developed by the director or contract county. In addition to the fees listed in subsection (1) of this section, with approval of the Environmental Quality Commission, any agreement county may adopt fee schedules for services related to this program which are not specifically listed in subsection (1) of this section.

(5) Notwithstanding the requirements of ORS 454.655 (3), the department or its contract agent may refund a fee accompanying an application for a permit pursuant to ORS 454.655 or for a report pursuant to ORS 454.755 if the applicant withdraws the application before the department or its contract agent has done any field work or other substantial review of the application. [1973 c.835 §220; 1974 s.s. c.30 §3; 1975 c.167 §10; 1975 c.607 §33; 1979 c.591 §2]

454.755 Fees for certain reports on sewage disposal. (1) Any person, upon application for any of the following actions by the Department of Environmental Quality, shall pay to the department a nonrefundable fee in the amount required for each lot or parcel:

(a) A report of evaluation of site suitability for a subsurface sewage disposal system, alternative sewage disposal system or a part thereof, pursuant to ORS 454.655; or

(b) A report of evaluation of adequacy of a sewage disposal method required prior to the approval of a plat of a subdivision, pursuant to ORS 92.090 (5)(c).

(2) Any person may request an evaluation report on any proposed repair, alteration or extension of an existing subsurface sewage disposal system, alternative sewage disposal system or part thereof, including but not limited to any repair, alteration or extension described in ORS 454.675. The department shall conduct such evaluation and issue a report of its findings without charge to the person requesting such evaluation.

(3) The fee paid for a report of evaluation of site suitability pursuant to paragraph (a) of subsection (1) of this section shall entitle the applicant to as many site inspections as is necessary within 90 days from the date of the first site inspection to determine site suitability for a single home site. The department may require separate fees if it determines that the site inspections are for the purpose of determining site suitability for more than one home site. [1974 s.s. c.30 §2; 1974 s.s. c.74 §4; 1975 c.167 §11; 1975 c.607 §34]

ONSITE DISPOSAL ALTERNATIVES

454.775 Policy. It is the public policy of the State of Oregon to encourage development and application of alternatives to the septic tank and drainfield system for onsite disposal of sewage consistent with protection of the public health and safety and waters of the state. [1979 c.189 §1]

454.780 Recirculating sand filter permitted; commission rules. Notwithstanding ORS 454.615, the Environmental Quality Commission shall adopt rules permitting the installation of the recirculating sand filter, or variations thereof, as a standard alternative to the septic tank and drainfield, not later than January 1, 1980. Such rules shall provide standards for construction, installation, maintenance and periodic inspection of such systems, consistent with the public health and safety and protection of the waters of the state. [1979 c.189 §2]

454.785 [1974 s.s. c.30 §4; repealed by 1975 c.309 §6]

REQUIRED CONNECTIONS

454.805 Assessment for installation costs. (1) When a municipality requires property owners to connect their homes and multifamily dwellings to the sewer system of the municipality, the municipality may assess the installation costs for which the municipality provides financing against the affected properties in the same manner that costs of local improvements are assessed against benefited properties. Such assessments shall have the same lien status and be foreclosable in the same manner as other assessments levied under ORS 223.005 to 223.105 and 223.205 to 223.990 or the charter of the municipality. If installation costs are so assessed:

(a) The municipality shall make financing for the installation costs available to affected property owners;

(b) Affected property owners may apply to pay the assessments in installments as provided in ORS 223.205 to 223.295, but the municipality may impose a reasonable penalty for prepayment of assessment installments;

(c) The municipality may issue special assessment bonds to finance the installation costs pursuant to ORS 223.235, but may sell such bonds at public or private sale in the same manner as port district revenue bonds may be sold pursuant to ORS 777.575 (4); and

(d) The municipality may issue Bancroft bonds pursuant to ORS 223.205 to 223.295, but only for installation costs for property within an area affected by an order of the Environmental Quality Commission or any court.

(2) As used in this section:

(a) "Municipality" means a city, county, county service district, sanitary authority or sanitary district.

(b) "Installation costs" means the costs of placing, installing and connecting sewer lines and mains between a home or multifamily dwelling and the adjacent street sewer lines, drains or other storm or sanitary sewer facilities of the municipality, and costs of providing financing for such placement, installation and connection. [1985 c.417 §1; 1991 c.902 §114]

Note: 454.805 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 454 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.