

Chapter 455

1991 EDITION

Building Code

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BUILDING CODE ADMINISTRATION**(Generally)**

455.010 Definitions for ORS 455.010 to 455.740. As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the State Building Code Administrator.

(2) "Agency" means the Building Codes Agency.

(3) "Advisory board" means the advisory board with responsibility for assisting in the adoption, amendment or administration of a specialty code.

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

(5) "One and Two Family Dwelling Code" means the adopted specialty code prescribing standards for the construction of one and two family dwellings.

(6) "Prefabricated structure" means a building or subassembly which has been in whole or substantial part manufactured or assembled using closed construction at an offsite location to be wholly or partially assembled on site; but does not include a manufactured dwelling, trailer or recreational vehicle.

(7) "Specialty code" means a code of regulations adopted under ORS 446.185, 447.020 (2), 455.020 (2), 460.085, 460.360, 479.730 (1) or 480.535; but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.010 to 479.200 and 479.210 to 479.220.

(8) "State building code" means the combined specialty codes.

(9) "Structural code" means the specialty code prescribing structural standards for building construction.

(10) "Unsafe condition" means a condition caused by earthquake which is determined by the agency or any representative of the agency to be dangerous to life and property. "Unsafe condition" includes but is not limited to:

(a) Any portion, member or appurtenance of a building that has become detached or dislodged or appears likely to fail or collapse and thereby injure persons or damage property; or

(b) Any portion, of a building or structure that has been damaged by earthquake, or by fire or explosion resulting from an earthquake, to the extent that the structural strength or stability of the building is substantially less than it was prior to the earthquake. [Formerly 456.750; 1991 c.227 §1; 1991 c.310 §1]

455.020 Purpose; scope of application.

(1) This chapter is enacted to enable the administrator to promulgate a state building code to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installation of mechanical devices and equipment therein, and to require the correction of unsafe conditions caused by earthquakes in existing buildings. The state building code shall establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of this state who are occupants and users of buildings, and will provide for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

(2) The regulations adopted pursuant to this chapter shall include structural standards; standards for the installation and use of mechanical, heating and ventilating devices and equipment; and standards for prefabricated structures; and shall, subject to ORS 455.210 (1) to (5), prescribe reasonable fees for the issuance of building permits and similar documents, inspections and plan review services by the agency.

(3) This chapter does not affect the statutory jurisdiction and authority of the Workers' Compensation Board, under ORS chapter 654, to promulgate occupational safety and health standards relating to places of employment, and to administer and enforce all state laws, regulations, rules, standards and lawful orders requiring places of employment to be safe and healthful.

(4) This chapter and any specialty code does not limit the authority of a municipality to enact regulations providing for local administration of the state building code; local appeal boards; fees and other charges; abatement of nuisances; enforcement through penalties, stop-work orders or other means; or minimum health, sanitation and safety standards for governing the use of structures for housing, except where the power of municipalities to enact any such regulations is expressly withheld by statute.

(5) No person shall rent, lease, sell, exchange or offer for rent, lease, sale or exchange within this state a prefabricated structure constructed on or after July 1, 1991, unless it bears an insignia of compliance or certification stamp indicating compliance with the state's building regulations and standards for prefabricated structures. A prefabricated structure assembled or installed on or after July 1, 1991, shall bear one data plate describing the characteristics of the structure as required by the agency. A prefabricated structure with an insignia of compliance or certification stamp shall be

acceptable to municipalities as meeting the state building code regulations. Prefabricated structures constructed prior to July 1, 1991, are subject to the building code regulations in effect at the time of original construction. [Formerly 456.755; 1991 c.227 §2; 1991 c.310 §2]

455.030 Administrative Procedures Act application; publication of codes; amendments to code. (1) Except as otherwise provided by this section, the administrator shall be subject to ORS 183.310 to 183.550 in the adoption, amendment or repeal of regulations authorized by, and in the issuance of orders in contested cases arising under, this chapter.

(2)(a) In addition to the notice requirements of ORS 183.335, notice of a public hearing on adoption, amendment or repeal of a specialty code shall be given to the governing bodies of all municipalities and the notice shall state that copies of the proposed action may be obtained from the agency.

(b) The notice of proposed rule change shall include a finding by the advisory board that the added cost, if any, is necessary to the health and safety of the occupants or the public or necessary to conserve scarce resources.

(c) The administrator shall maintain a roster of individuals who wish to be notified of any changes to or interpretations of the One and Two Family Dwelling Code. Subscribers to the list may be charged a reasonable amount necessary to defray the cost of maintaining the list and advising the subscribers of changes in the code.

(3) The administrator shall not be required to publish or distribute those parts of a specialty code of regulations adopted by reference. However, the administrator shall publish with a specialty code and annually thereafter a list of places where copies of those parts of the specialty code adopted by reference may be obtained together with the approximate cost thereof. The administrator shall file one copy of the rule with the Secretary of State. All standards referred to in any specialty code or any of the modifications thereto need not be so filed. All standards and specialty codes referred to in the specialty code shall be kept on file and available for inspection in the office of the administrator.

(4) Any interested person may propose amendments to the state building code, which proposed amendments may be either applicable to all municipalities or, where it is alleged and established that conditions exist within a municipality or some municipalities that are not generally found within other municipalities, amendments may be restricted in application to such municipalities.

Amendments proposed to the state building code under this subsection shall be at least as restrictive as the regulations contained in the code and shall be in conformity with the policy and purpose prescribed by ORS 455.020. The justification and the particular circumstances requiring the proposed amendments shall be fully stated in the proposal. The administrator shall submit all proposed amendments to the appropriate advisory board. The board shall review and report its recommendations to the administrator on the amendments within 180 days after the date of submission by the administrator.

(5) The administrator, with the approval of the advisory board, may adopt or modify and adopt any amendments proposed to the administrator under subsection (4) of this section. The administrator shall, within 30 days after the date of receipt of the recommendations of the advisory board, notify the person proposing the amendments of the adoption, modification and adoption or denial of the proposed amendments. Upon adoption, a copy of each amendment shall be distributed to the governing bodies of all municipalities affected thereby.

(6) The administrator shall from time to time make or cause to be made investigations, or may accept authenticated reports from authoritative sources, concerning new materials or modes of construction intended for use in the construction of buildings or structures, or intended for use in other activity regulated by the state building code, and shall, where necessary, propose amendments to the code setting forth the conditions under which the materials or modes may be used, in accordance with the standards and procedures of this chapter. [Formerly 456.785; 1991 c.94 §2]

455.040 State building code preempts local ordinances and rules; exemptions; criteria. (1) The state building code shall be applicable and uniform throughout this state and in all municipalities, and no municipality shall enact or enforce any ordinance, rule or regulation relating to the same matters encompassed by the state building code but which provides different requirements unless authorized by the administrator. The administrator's authorization shall not be considered an amendment to the state building code under ORS 455.030. The administrator shall encourage experimentation, innovation and cost effectiveness by municipalities in the adoption of ordinances, rules or regulations which conflict with the state building code.

(2) Subsection (1) of this section is operative:

(a) With regard to the state structural code, July 1, 1974.

(b) With regard to the state mechanical, heating and ventilating code, on the effective date of such code as determined under ORS 183.355.

(c) With regard to each specialty code not named by paragraphs (a) and (b) of this subsection, on the effective date, as determined under ORS 183.355, of the first amendments to such code adopted pursuant to this chapter. [Formerly 456.775]

455.050 Building permits; content. All building permits issued in this state shall contain the following information:

(1) The name and address of the owner of the building or structure to be constructed or altered under the permit;

(2) The name and address of the builder or contractor, if known, who will perform the construction or alteration; and

(3) The street address and legal description or tax lot number of the property on which construction or alteration will occur. [Formerly 456.887]

Note: 455.050 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.060 Rulings on acceptability of material, design or method of construction; effect of approval. (1) Any person who desires to use or furnish any material, design or method of construction or installation in the state, or any building official, may request the administrator to issue a ruling with respect to the acceptability of any material, design or method of construction about which there is a question under any provision of the state building code. Requests shall be in writing and, if made by anyone other than a building official, shall be made and the ruling issued prior to the use or attempted use of such questioned material, design or method.

(2) In making rulings, the administrator shall obtain the approval of the appropriate advisory board as to technical and scientific facts and shall consider the standards and interpretations published by the body that promulgated any nationally recognized model code adopted as a specialty code of this state.

(3) A copy of the ruling issued by the administrator shall be certified to the person making the request. Additional copies shall be transmitted to all building officials in the state. The administrator shall keep a permanent record of all such rulings, and shall furnish copies thereof to any interested person upon payment of such fees as the administrator may prescribe.

(4) A building official or inspector shall approve the use of any material, design or method of construction approved by the administrator pursuant to this section if the requirements of all other local ordinances are satisfied. [Formerly 456.845]

455.070 Report of suspected code violation; form; appeal. Any person may report a suspected violation of the state building code, which poses an imminent threat to public health or safety, to the local building official or, where the code is state-administered, to the agency. The complaint shall be in writing and submitted under rules adopted by the agency. The rules of the department shall provide for the disposition of frivolous or harassing complaints by requiring detailed descriptions of the alleged violation and reference to the code sections allegedly violated. A copy of the complaint shall be given by the municipality or agency to the contractor, building owner and subcontractor, if any, involved in the project alleged to be in violation. The municipality or agency may charge the complainant for the necessary costs of supplying, copying and distributing the complaint form. If, after five working days, no remedial action has taken place, the complainant has standing to appeal the matter to the appeals board of the municipality, where one is established, or directly to the applicable state advisory board where there is no local appeals board. The municipal appeals board or state advisory board shall reach a final decision within 14 days of the complainant's appeal. A municipal appeals board decision shall then be subject to appeal to a state advisory board under ORS 455.690, provided that the state advisory board shall reach a final determination within 14 days of notice of an appeal. A record of the written complaint and the findings of the appeals and advisory boards may be introduced into evidence in any judicial proceeding for damages brought against the complainant by any person suffering damages as a result of the complaint. [Formerly 456.842]

455.080 Inspector may require proof of compliance. Any inspector authorized by or pursuant to law to determine compliance with the requirements of the state building code or any specialty code under this chapter is authorized, in the performance of normal duties, to require any person who is engaged in any activity regulated by ORS chapter 693 or 701, ORS 447.010 to 447.160 or 479.510 to 479.945 to demonstrate proof of compliance with the licensing, registration or certification requirements of those statute sections. [Formerly 456.802]

Note: 455.080 was enacted into law by the Legislative Assembly but was not added to or made a part of

ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.085 Publication; readability; funding. (1) In addition to the requirements of ORS 455.110 (2), the administrator shall, upon receipt of adequate funds under subsection (2) of this section, publish all state building code provisions relating to the design, construction, prefabrication, equipment or appliance installation, quality of materials, use and occupancy location and repair of detached one or two family dwellings, not more than three stories in height, in two separate publications. One publication shall contain the applicable provisions of the specialty code adopted under ORS 479.730 (1) and the other publication shall contain the remaining applicable provisions of the state building code. The text of the publications made under this section shall be readable at the ninth grade level of reading, as determined by the administrator under one or more standard recognized readability formulas, including, but not limited to, the Flesch, Fry or Dale Chall tests.

(2) The publications under subsection (1) of this section shall be paid for by funds donated by interested citizens, who shall be made aware of the project by the agency through public service announcements and other nominal-cost advertising. Funds shall be collected until sufficient funds are available to conduct the publication. Refunds shall be made to the donors if sufficient funds are not collected. [Formerly 456.787 and then 455.635]

(Administrator; Structural Code Board)

455.100 State Building Code Administrator; duties; assistant; qualifications; duties. (1) The Governor shall appoint a State Building Code Administrator, who shall have general supervision over the administration of the state building code regulations, including the plumbing, elevator, electrical, manufactured dwelling, boiler, amusement ride, structural; mechanical, heating and ventilating; one and two family dwelling; and prefabricated structures codes. The administrator shall serve at the pleasure of the Governor and shall be in the unclassified service of the state. The administrator shall perform such other duties as the Governor may assign.

(2) The administrator, with the approval of the Governor, shall appoint an assistant who shall be responsible for the administration of the structural code. The assistant shall be competent in the field of administration and shall have such experience and professional qualifications in building design, construction and supervision as the adminis-

trator considers necessary. The assistant may, with the approval of the administrator, employ inspectors and other personnel as necessary to carry out the assistant's function under this chapter. The assistant shall perform such other duties in administering the code as the administrator may assign. [Formerly 456.790]

455.110 Other duties of administrator. Except as otherwise provided by ORS chapters 446, 447, 460, 476, ORS 479.010 to 479.220, 479.510 to 479.945, 479.990 and ORS chapter 480:

(1) The administrator shall coordinate and generally supervise the adoption, administration and enforcement of the state building code.

(2) The administrator with the approval of the appropriate advisory boards shall adopt and publish the specialty codes, including codes of regulations as authorized by ORS 455.020 (2) providing standards for the construction, reconstruction, alteration and repair of buildings and other structures and the installation of mechanical devices and equipment therein, governing matters of materials, design and construction, fire protection in one-family and two-family dwellings, health, sanitation, safety and maximum energy conservation.

(3) The administrator with the approval of the appropriate advisory boards may amend such codes from time to time. The codes of regulations and any amendment thereof shall conform in so far as practicable to model building codes generally accepted and in use throughout the United States. If there is no nationally recognized model code, consideration shall be given to the existing specialty codes presently in use in this state. Such model codes with modifications considered necessary and specialty codes may be adopted by reference. The codes so promulgated and any amendments thereof shall be based on the application of scientific principles, approved tests and professional judgment and, to the extent that it is practical to do so, the codes shall be promulgated in terms of desired results instead of the means of achieving such results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that end the codes shall encourage the use of new methods, new materials and maximum energy conservation. [Formerly 456.770]

455.130 State Structural Code Advisory Board; members; term; chairman; quorum; compensation; expenses. (1) The chairman of the Building, Housing and Real Estate Council shall appoint a State Structural Code Advisory Board to serve as provided by this chapter. The chairman may

appoint additional advisory boards as needed to carry out the intent of this chapter.

(2) The State Structural Code Advisory Board shall consist of the number of members fixed pursuant to ORS 456.762. The assistant to the administrator shall serve as secretary of the board but shall not be a member thereof. The administrator or a designated representative shall appoint a voting member from among nominees submitted by the Oregon Disabilities Commission. Each member shall be appointed to serve a four-year term, commencing July 1 of the year of appointment, and until a successor is appointed and qualified. The membership shall be broadly representative of the industries and professions involved in the development and construction of buildings including representation from building code enforcement agencies, architectural and engineering associations, building construction trades, the contracting and manufacturing industries, governing bodies of local government, fire protection agencies and the general public.

(3) The State Structural Code Advisory Board shall elect its own chairman, adopt rules for its procedure and meet on call of the chairman or majority of the members. A majority of the members shall constitute a quorum to do business. The administrator shall provide administrative facilities and services for the board.

(4) Members of the State Structural Code Advisory Board shall be entitled to compensation and expenses as provided by ORS 292.495. [Formerly 456.780; 1989 c.224 §118]

(Municipal Regulation)

455.150 Municipal building official; city enforcement of codes; county enforcement of codes. (1) When a municipality administers and enforces all or part of the plumbing, electrical, structural or mechanical, heating, ventilating codes and the One and Two Family Dwelling Code (ORS 455.610 to 455.630), the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce such specialty codes or parts thereof, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering the provisions of the code within their communities.

(2)(a) By January 1 of each year the governing body of each municipality shall notify the administrator and if not a county, notify the county of the specialty codes or parts

thereof that it will administer and enforce beginning July 1 of that year. If parts of specialty codes are to be administered and enforced by a municipality the parts shall correspond to a classification designated by the administrator as reasonable divisions of work by type of structure or installation, or by complexity of work.

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

(3) If a city does not notify the administrator, or notifies the administrator that it will not administer certain specialty codes or parts thereof, the county or counties in which the city is located shall administer and enforce those codes or parts thereof within the city in the same manner as it administers and enforces them outside the city, except as provided by subsection (4) of this section.

(4) If a county does not notify the administrator, or notifies the administrator that it will not administer and enforce certain specialty codes or parts thereof, the administrator shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce those codes or parts thereof, and permit or other fees arising therefrom shall be paid into the State Treasury and credited to the account responsible for paying such expenses. No state employee shall be displaced as a result of using contract personnel.

(5) The governing body of a municipality may change its building code administration and enforcement responsibility beginning July 1 of any year by notifying the administrator by January 1 of such year of the change to be made. Upon such change, responsibility shall be fixed as provided by subsections (3) and (4) of this section. [Formerly 456.800; 1991 c.308 §1; 1991 c.410 §1]

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

(2) Any person adversely affected by a pattern of conduct prohibited in subsection (1) of this section may serve the municipality

or the agency with a written demand to provide timely inspections or plan reviews.

(3) If a municipality, within five days of receipt of the demand, fails to provide timely inspections or plan reviews without reasonable cause, the person who served the demand may seek to compel the inspections or plan reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the court finds that the municipality has engaged in a pattern of conduct of failing to provide timely inspections or plan reviews without reasonable cause, it may direct the municipality to provide timely inspections or plan reviews or to transfer the administration and enforcement of the code in question under procedures outlined in ORS 455.150 (3) and (4).

(4) If the agency, within five days of receipt of the demand, fails to provide timely inspections or plan reviews without reasonable cause, the person who served the demand may seek to compel the inspections or plan reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the court finds that the agency has engaged in a pattern of conduct of failing to provide timely inspections or plan reviews without reasonable cause, it may direct the agency to provide timely inspections or plan reviews or to transfer the administration and enforcement of the code in question to an appropriate municipality, if the municipality accepts the responsibility. [Formerly 456.803]

455.170 Administrator may delegate certain duties. (1) The State Building Code Administrator shall delegate to any municipality which requests any of the authority, responsibilities and functions of the administrator relating to recreational parks, organizational camps and picnic parks as defined in ORS 446.310, including but not limited to plan review and inspections, if the administrator determines that the municipality is willing and able to carry out the rules of the administrator relating to such authority, responsibilities and functions. The administrator shall review and monitor each municipality's performance under this subsection. In accordance with ORS 183.310 to 183.550, the administrator may suspend or rescind a delegation under this subsection. If it is determined that a municipality is not carrying out such rules or the delegation is suspended, the unexpended portion of the fees collected under subsection (2) of this section shall be available to the administrator for carrying out the authority, responsibility and functions under this section.

(2) The State Building Code Administrator shall determine, by administrative rule, the amount of fee which the municipality may charge and retain for any function

undertaken pursuant to subsection (1) of this section. The amount of the fees shall not exceed the costs of administering the delegated functions. The municipality, quarterly, shall remit 15 percent of the collected fees to the administrator for monitoring municipal programs and for providing informational material necessary to maintain a uniform state program.

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

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

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

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

(Financial Administration)

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

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

(3) A municipality shall not, for the kind of permits provided for by subsection (1) of this section, enact or enforce any ordinance, rule or regulation fixing any permit fee that

is higher than the maximum fee provided by subsection (1) of this section unless the municipality has the prior approval of the administrator to do so. The administrator shall approve any such fee or fees if the administrator finds, after notice and hearing, that the proposed fee or fees are reasonable and necessary to provide funds for the municipality to pay for the expenses of carrying out effective enforcement of the specialty code or codes that are its responsibility, pursuant to ORS 455.150, to enforce.

(4) Notwithstanding any other provision of ORS 455.010 to 455.315 and 455.410 to 455.740, for the purpose of partially defraying state administrative costs, there is hereby imposed a surcharge in the amount of two percent of the total permit fees collected. Municipalities shall collect and remit to the administrator as provided in ORS 455.220.

(5) Notwithstanding any other provisions of ORS 455.010 to 455.315 and 455.410 to 455.740, for the purpose of partially defraying state inspection costs, there is hereby imposed a surcharge in the amount of two percent of the total permit fees collected. Municipalities shall collect and remit to the administrator as provided in ORS 455.220.

(6) The administrator shall adopt administrative rules to allow reduced fees for review of plans which have been previously reviewed. [Subsections (1) to (5) formerly 456.760; subsection (6) enacted as 1987 c.604 §6]

455.220 Surcharge on building permit fees; collection; deposit. (1) For the purpose of defraying the costs of training and other educational programs administered by the agency under this chapter there is hereby imposed a surcharge in the amount of one percent of the total building permit fees collected in connection with the construction of, or addition or alteration to, buildings and equipment or appurtenances.

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

month or quarter in which the surcharges are collected.

(3) All surcharges and other fees prescribed by ORS 455.010 to 455.240 and 455.410 to 455.740 and payable to the agency, except fees received under ORS 455.150 (4), shall be deposited by the administrator in the State Treasury for credit to the Building Code Account created by ORS 455.230. [Formerly 456.860]

455.230 Building Code Account. There hereby is established in the General Fund of the State Treasury the Building Code Account. Except as otherwise provided by law, all moneys appropriated or credited to the Building Code Account hereby are appropriated continuously for and shall be used by the administrator for the purpose of carrying out the duties and responsibilities imposed upon the agency, under this chapter, ORS 446.155 to 446.200, 446.410, 447.010 to 447.160, 460.005 to 460.175, 460.310 to 460.410, 479.510 to 479.945, 480.510 to 480.665 and ORS chapter 693. [Formerly 456.890; 1989 c.683 §9]

Note: 455.230 and 455.240 (formerly 456.890 and 456.910) were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 455 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

455.240 Building Codes Agency Publication Revolving Account. (1) All revenues derived from the sale of publications of the Building Codes Agency shall be deposited in the Building Codes Agency Publication Revolving Account, which is established as an account in the General Fund.

(2) Moneys credited to the Building Codes Agency Publication Revolving Account under subsection (1) of this section are continuously appropriated exclusively to pay for publication costs of the Building Codes Agency. [Formerly 456.910]

Note: See note under 455.230.

(Exemptions Generally)

455.310 Single-family residence repair and maintenance exempt from codes; exemption itemized. (1) It is not the purpose of this chapter to require that permits be obtained or fees be paid for repairs and maintenance which do not violate the intent of the structural and fire and life safety specialty codes, adopted pursuant to ORS 455.020, ORS chapter 476, ORS 479.010 to 479.200 and 479.210 to 479.220, when such repair or maintenance is done on a single-family residence, or a private garage, carport or storage shed that is accessory to a single-family residence.

(2) Items designated by the administrator, with the advice of the Structural Codes Advisory Board shall be exempt from permits

and fees required under this chapter. The administrator shall, pursuant to ORS 183.310 to 183.550, develop and maintain an applicable list of such exempt items, which shall include, but not be limited to, concrete slabs, driveways, sidewalks, masonry repair, porches, patio covers, painting, interior wall, floor or ceiling covering, nonbearing partitions, shelving, cabinet work, gutters, downspouts, small accessory buildings, door and window replacements, replacement or repair of siding and replacement or repair of roofing. In making the list of exempt items, the administrator shall further define the items on the list contained in this subsection so that no item which adversely affects the structural integrity of the dwelling shall be on the list. [Formerly 456.753 and then 456.915]

455.315 Agricultural buildings; application of specialty code; regulation by cities. (1) Nothing in this chapter is intended to authorize the application of a state structural specialty code to any agricultural building.

(2) As used in this section, "agricultural building" means a structure located on a farm and used in the operation of such farm for storage, maintenance or repair of farm machinery and equipment or for the raising, harvesting and selling of crops or in the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on such farm for human use and animal use and disposal by marketing or otherwise. "Agricultural building" does not include:

- (a) A dwelling;
- (b) A structure used for a purpose other than growing plants in which persons perform more than 144 hours of labor a week;
- (c) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;
- (d) A structure used by the public; or
- (e) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

(3) Notwithstanding the provisions of subsection (1) of this section, incorporated cities may regulate agricultural buildings within their boundaries pursuant to this chapter. [Formerly 456.758 and then 456.917]

455.320 Owner-built dwellings exempt from certain structural code provisions; recording of exemption. (1) As used in this

section, unless the context requires otherwise:

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

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

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

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

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

(Exemptions in Rural Areas)

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

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

(2) "Owner-built dwelling and out-buildings" means a single-family residence and adjacent auxiliary structures the components of which, that are exempted from the structural code under ORS 455.330, are con-

structed entirely by the owner who intends to occupy the structures or by that owner and friends and relatives of the owner assisting on an unpaid basis.

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

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

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

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

455.335 Rural areas to be mapped; building permit issuance for exempt dwellings limited. (1) A county exempting owner-built dwellings and outbuildings in rural areas from the structural code under ORS 455.330 shall designate those rural areas upon publicly available maps of readable scale showing individual property lines.

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

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

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

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

(3) Insulation and energy conservation. [Formerly 456.940]

455.345 Permit, fee, plan check and inspection provisions apply; notice of noncompliance to owner-builder; recording of notice; notice to purchasers. (1) Permit, fee, plan check and inspection requirements required by ORS 455.210 (1) to (5) shall apply to owner-built dwellings and outbuildings exempted from the structural code under ORS 455.330.

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

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

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

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

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

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

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

(Seasonal Farm-worker Housing)

Note: Sections 12 to 14, chapter 964, Oregon Laws 1989, provide:

Sec. 12. Notwithstanding that an applicant does not meet the requirements of ORS chapter 455 and the rules adopted thereunder, the Building Codes Agency shall authorize issuance of a building permit to rehabilitate existing seasonal farm-worker housing, as defined in section 4 of this Act [ORS 197.675], outside city boundaries, if the agency determines that the proposed rehabilitation will meet health and safety standards of the Accident Prevention Division of the Department of Insurance and Finance. [1989 c.964 §12]

Sec. 13. The Building Codes Agency shall adopt rules and implement the provisions of section 12 of this Act by December 31, 1989. [1989 c.964 §13]

Sec. 14. The provisions of sections 12 and 13 of this Act are repealed on December 31, 1995. [1989 c.964 §14]

455.380 Building Codes Agency as final authority on seasonal farm-worker housing; rules. (1) Notwithstanding the provisions of ORS 455.150, the Building Codes Agency is the final authority in interpretation, execution and enforcement of state and municipal administration of building codes and rules with respect to construction of seasonal farm-worker housing as defined in ORS 197.675.

(2) The agency shall provide for a state-wide uniform application and method of calculating permit fees for seasonal farm-worker housing as defined in ORS 197.675.

(3) The Building Codes Agency shall adopt rules to carry out the provisions of subsections (1) and (2) of this section. Rules relating to subsection (2) of this section shall be adopted on or before December 31, 1989. [1989 c.964 §§16, 17]

(Miscellaneous Provisions)

455.410 Relocated buildings; substantial compliance required; permits. (1) Existing buildings or structures which are removed from their foundation and relocated to another site within this state shall be in substantial compliance as defined in subsections (2) and (3) of this section.

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

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

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

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

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

(2) For the purpose of carrying out the provisions of subsection (1) of this section, the administrator, based on recommendations of the Energy Conservation Board, shall adopt by rule standards for determining whether the installation of a single electrical meter for all dwelling units in a multifamily residential building facilitates an overall reduction in electrical consumption by such units. [Formerly 456.763]

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

(2) The administrator shall adopt rules, in accordance with the applicable provisions of ORS 183.310 to 183.550, establishing standards and specifications for low-income elderly housing multiservice rooms required under subsection (1) of this section. In development of standards and specifications, the administrator may take into account any standards or specifications established pursuant to any federal program under which the construction of such housing is funded.

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

455.430 Reciprocity for prefabricated structures. If the administrator determines that the standards for prefabricated structures prescribed by statute, rule or regu-

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

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

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

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

(A) The legal description of the property; and

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

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

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

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

(4) If the first transferor violates the provisions of subsection (3) of this section, the first transferee shall have a cause of action to recover damages of \$750 from the first transferor. Any person recovering damages under this section may be entitled to reasonable attorney fees as determined by the court in addition to costs and disbursements. [1989 c.1026 §§1, 2, 3]

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

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

(2) The Administrator of the Building Codes Agency shall adopt building codes and building product standards to protect the indoor air quality of private residences but only as necessary to address serious or unique indoor air quality problems in Oregon when federal statutes, regulations and national codes fail to address building product and building code related indoor air quality problems.

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

Note: See note under 455.440.

455.447 Regulation of certain structures vulnerable to earthquakes. (1) As used in this section, unless the context requires otherwise:

(a) "Essential facility" means:

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

(B) Fire and police stations;

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

(D) Emergency vehicle shelters and garages;

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

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

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

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

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

(d) "Seismic hazard" means a geologic condition that is a potential danger to life and property which includes but is not limited to earthquake, landslide, liquefaction, Tsunami flooding, fault displacement, and subsidence.

(e) "Special occupancy structure" means:

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

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

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

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

(E) Jails and detention facilities; and

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

(2) The Building Codes Agency shall consult with the commission and the State Department of Geology and Mineral Industries prior to adopting rules. Thereafter, the Building Codes Agency may adopt rules as set forth in ORS 183.325 to 183.410 to amend the state building code to:

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

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

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

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

(3) For the purpose of defraying the cost of applying the regulations in subsection (2) of this section, there is hereby imposed a surcharge in the amount of one percent of the total fees collected under the structural and mechanical specialty codes for essential facilities, hazardous facilities, major struc-

tures and special occupancy structures, which fees shall be retained by the jurisdiction enforcing the particular specialty code as provided in ORS 455.150. [1991 c.956 §12]

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

(Prohibited Acts)

455.450 Prohibited acts. A person shall not:

(1) Violate or procure, aid or abet in the violation of any final order concerning the application of a provision of the state building code in a particular case made by the administrator, an advisory board, a state administrative officer or any local appeals board, building official or inspector.

(2) Engage in or procure, aid or abet any other person to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by any specialty code or other regulation promulgated pursuant to this chapter without first having obtained such permit, certificate, label or other formal authorization. [Formerly 456.885 (1)]

ENERGY CONSERVATION

(Generally)

455.510 Energy Conservation Board; creation; membership; term. (1) There is hereby established within the Building Codes Agency an Energy Conservation Board, consisting of seven public members appointed by the Governor, subject to confirmation by the Senate in the manner prescribed by ORS 171.562 and 171.565. The membership of the board shall be made up of one builder, one mechanical engineer, one building code official, one energy supplier, one representative of a recognized environmental protection group, one architect and one public member.

(2) The term of office of each public member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a public member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy in the membership for any cause, the Governor shall make an appointment immediately effective for the unexpired term. [Formerly 456.730]

455.520 Officers; executive secretary; quorum. (1) The Energy Conservation Board shall select from among its members a chairman, a vice chairman and such other officers for such terms and with such duties and powers necessary for the performance of their duties as the board determines.

(2) The board may appoint an executive secretary who shall serve at the pleasure of the board and perform such duties as may be designated by the board.

(3) A majority of the members of the board constitutes a quorum for the transaction of business.

(4) Notwithstanding ORS 293.262 and 297.120, payments of per diem to any member of the Energy Conservation Board before December 31, 1980, are ratified and approved. Any member who received per diem payment shall not be required to repay the payment and the person authorizing the payment shall not be held liable for that payment. This section does not authorize any person to make a claim for a per diem payment for service on the Energy Conservation Board. [Formerly 456.735]

455.525 Rules for energy conservation and passive solar energy in structures; inclusion in building code; review of regulations. (1) In the manner provided in ORS 183.310 to 183.550 for the adoption of rules and after consideration of available technology and costs, the Energy Conservation Board shall establish basic and uniform performance standards to provide maximum energy conservation and use of passive solar energy in the design, construction, reconstruction, alteration and repair of buildings and other structures. Such standards shall be submitted to the Administrator of the Building Codes Agency for proposed inclusion in the state building code as provided by ORS 455.030 (4).

(2) Regulations relating to the use and conservation of energy adopted pursuant to ORS 455.020 (2) shall be reviewed by the Energy Conservation Board. [Formerly 456.740]

455.530 Authority to receive money and contract. The Energy Conservation Board may:

(1) Apply for and receive moneys from any person, from the Federal Government, or from this state or any of its agencies or departments.

(2) Contract with any public agency for the performance of services or the exchange of employees or services by one to the other necessary in carrying out the purposes of ORS 455.510 to 455.530. [Formerly 456.745 and then 456.742]

(Energy Conservation Standards for Public Buildings)

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

(1) "Administrator" means the State Building Code Administrator.

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

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

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

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

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

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

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

455.570 Maximum lighting standards for new public buildings. (1) After consultation with the Energy Conservation Board and the Department of Energy, the administrator, as provided in this chapter, shall establish maximum lighting standards for public buildings constructed on or after July 1, 1978. Such standards may distinguish between type of design, the uses to which buildings are put, location, age or any other applicable classification.

(2) Such standards shall allow for:

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

(b) The interaction between lighting and heating systems.

(c) Occupational safety and health standards.

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

- (a) Are of insufficient size to warrant maximum lighting standard regulations;
- (b) Should be allowed a specific period of time before compliance with maximum lighting standards is required;
- (c) Are difficult or impractical to regulate based upon location;
- (d) Are not open to the public during normal business hours;
- (e) Are impractical to regulate, based upon unique design; or
- (f) Would not be benefited by regulation, based upon the insignificant amount of energy possible to conserve.

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

455.575 Advisory lighting standards for public buildings constructed before July 1, 1978. After consultation with the Energy Conservation Board and the Department of Energy, the administrator, as provided in ORS 183.310 to 183.550, shall establish advisory maximum lighting standards for public buildings constructed before July 1, 1978, based on the factors set forth in ORS 455.570. [Formerly 456.748]

455.580 Powers of administrator additional. The powers and duties given the administrator by ORS 455.560 to 455.580 shall be in addition to, and not in derogation of, all other powers, duties and responsibilities vested in the administrator. [Formerly 456.749]

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

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

ONE AND TWO FAMILY DWELLING CODE

455.610 One and Two Family Dwelling Code; adoption; changes. (1) The administrator shall adopt, and amend as necessary,

a nationally recognized One and Two Family Dwelling Code.

(2) Changes or amendments shall not be made to the existing code except:

- (a) Because of geographic or climatic conditions unique to Oregon;
- (b) As necessary to be compatible with other statutory provisions;
- (c) When the national code is updated or changed;
- (d) When Oregon amendments to the national code:

(A) Are the minimum changes necessary to achieve the desired result;

(B) Authorize the use of building materials and techniques that are consistent with nationally recognized standards or building practices; and

(C) Are also reviewed by the appropriate specialty board;

(e) As necessary to update provisions adopted by reference by the nationally recognized One and Two Family Dwelling Code when later editions of these provisions are available; or

(f) As necessary to adopt, and make immediately effective, code changes or updates to the nationally recognized One and Two Family Dwelling Code as soon as the amendment is irrevocably a part of the code regardless of whether there is a publication of the code changes or whether the effective date is in the future.

(3) The energy conservation provisions of the One and Two Family Dwelling Code shall be the same as those adopted in the State of Oregon Structural Specialty Code.

(4) The code shall be adopted and amended as provided by ORS 455.030 and 455.110.

(5) The State Structural Code Advisory Board is the only appropriate board to advise the director on the adoption of or amendments to the One and Two Family Dwelling Code covered by the rules adopted under subsections (1) and (2) of this section. [1987 c.604 §2; 1991 c.366 §1; 1991 c.558 §1]

Note: Section 8, chapter 945, Oregon Laws 1991, provides:

Sec. 8. The State Building Code Administrator and the Building Codes Agency shall take any action before the operative date of this Act [July 1, 1993] that is necessary:

(1) To enable the administrator and the Building Codes Agency to exercise, on and after the operative date of this Act, all the duties, functions and powers conferred on the administrator by this Act [ORS 445.610 and 447.145]; and

(2) To amend the One and Two Family Dwelling Code to adopt water conservation provisions appropriate to Oregon. [1991 c.945 §8]

Note: The amendments to 455.610 by section 6, chapter 945, Oregon Laws 1991, become operative July 1, 1993. See section 7, chapter 945, Oregon Laws 1991. The text that is operative after July 1, 1993, is set forth for the user's convenience.

455.610. (1) The administrator shall adopt, and amend as necessary, a nationally recognized One and Two Family Dwelling Code.

(2) Changes or amendments shall not be made to the existing code except:

(a) Because of geographic or climatic conditions unique to Oregon;

(b) As necessary to be compatible with other statutory provisions;

(c) When the national code is updated or changed;

(d) When Oregon amendments to the national code:

(A) Are the minimum changes necessary to achieve the desired result;

(B) Authorize the use of building materials and techniques that are consistent with nationally recognized standards or building practices; and

(C) Are also reviewed by the appropriate specialty board;

(e) As necessary to update provisions adopted by reference by the nationally recognized One and Two Family Dwelling Code when later editions of these provisions are available; or

(f) As necessary to adopt, and make immediately effective, code changes or updates to the nationally recognized One and Two Family Dwelling Code as soon as the amendment is irrevocably a part of the code regardless of whether there is a publication of the code changes or whether the effective date is in the future.

(3) The energy conservation provisions of the One and Two Family Dwelling Code shall be the same as those adopted in the State of Oregon Structural Specialty Code.

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

(5) The code shall be adopted and amended as provided by ORS 455.030 and 455.110.

(6) The State Structural Code Advisory Board is the only appropriate board to advise the administrator on the adoption of or amendments to the One and Two Family Dwelling Code covered by the rules adopted under subsections (1) and (2) of this section.

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

455.625 Permits; content. The administrator shall, by rule, adopt a list of information required for one and two family building permits. [1987 c.604 §5]

455.630 Enforcement. The One and Two Family Dwelling Code shall be enforced by inspectors and building officials qualified pursuant to ORS 455.715 to 455.740. [1987 c.604 §7]

455.635 [Formerly 456.787; renumbered 455.085 in 1991]

MUNICIPAL REVIEW AND INSPECTION

(Generally)

455.675 Authorized substitutions in codes adopted by reference. For the pur-

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

(1) "Building official" for "administrative authority."

(2) "Governing body" for "mayor" and "city council."

(3) "Municipality" for "city." [Formerly 456.875]

455.680 Plan approval and permits for recreation or picnic park or camp; license; rules. (1) Plan approval and permits shall be obtained from the agency prior to construction, enlargement or alteration of any recreation park, picnic park or organizational camp.

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

(3) In accordance with ORS 455.010 to 455.240, 455.410 to 455.450 and 455.595 to 455.740 and in consultation and agreement with the Health Division of the Department of Human Resources, the agency shall adopt rules to carry out this section. [Formerly 446.337 and then 456.837]

455.685 Review of plans and specifications to determine compliance; effect of approval. The administrator may, upon an application setting forth a set of plans and specifications that will be utilized in one or more municipalities to acquire building permits, review and approve the application for the construction or erection of any building or structure if such set of plans meets the requirements of the state building code. All costs incurred by the administrator by virtue of the examination of such a set of plans and specifications shall be paid by the applicant. The plans and specifications or any plans and specifications required to be submitted to a state agency shall be submitted to the administrator who shall examine the instruments and if necessary distribute them to the appropriate state agencies for scrutiny regarding adequacy as to fire safety and all other appropriate features. The state agencies shall examine and promptly return the plans and specifications together with their certified statement as to the adequacy of the instruments regarding that agency's area of concern. Any building official shall issue a

building permit upon application and presentation to the building official of such a set of plans and specifications bearing the approval of the administrator if the requirements of all other local ordinances are satisfied. [Formerly 456.840]

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

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

(Inspectors)

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

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

(2) "Inspector" means a person, including a plans examiner, acting under the authority and direction of a building official and charged with the responsibility of routine enforcement of any specialty code. [Formerly 456.805; 1991 c.361 §1]

455.720 Standards and qualifications for personnel. (1) In accordance with applicable provisions of ORS 183.310 to 183.550, to promote effective and uniform enforcement of the state building code by improving the competence of building officials and inspectors, the administrator, with the advice of the advisory boards, shall:

(a) Establish for building officials and inspectors reasonable minimum training and experience standards, including but not limited to courses or subjects for instruction, facilities for instruction, qualification of instructors, methods of instruction and classification of responsibility.

(b) Establish a procedure to be used by municipalities to determine whether a person meets minimum standards or has minimum training to be appointed or employed as a building official or inspector.

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

(d) Subject to such terms, conditions and classifications as the administrator may impose, certify inspectors as being qualified to enforce one or more particular specialty codes, and revoke such certifications in the manner provided in ORS 455.740.

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

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

(3) Pursuant to ORS 183.310 to 183.550, the administrator shall adopt rules necessary to carry out the certification programs provided by subsections (1) to (3) of this section.

(4) The administrator, by rule, may require evidence of completion of continuing education covering any certification created under ORS 455.720 as a condition of maintaining the certification. Nothing in this subsection shall prohibit the administrator from delegating any of this power to a municipality. [Formerly 456.810; 1989 c.224 §119; subsection (4) enacted as 1991 c.361 §5]

455.725 Certification of personnel training programs. (1) Upon application, the administrator or an authorized representative shall examine and evaluate any program or facility established by a municipality or educational institution for the training of building officials and inspectors.

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

455.730 Certification of personnel required. No person shall be appointed or em-

ployed as a building official or inspector by any municipality unless the person has been certified as being qualified under ORS 455.715 to 455.740, and the certification has not lapsed or been revoked. [Formerly 456.820]

455.735 Application for certification; fee; certification content. (1) Any person desiring to be certified as a building official or inspector pursuant to ORS 455.715 to 455.740 shall make application to the administrator upon such forms as the administrator may prescribe for such purpose.

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

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

(3) Upon determining that the applicant is qualified under ORS 455.715 to 455.740, the administrator shall issue or cause to be issued to the applicant a certificate setting forth the class and any restrictions upon the certification, including, if the applicant is an inspector, the particular specialty codes which the applicant is certified to enforce. [Formerly 456.825; 1991 c.201 §1; 1991 c.361 §2]

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

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

(b) Failed to complete the continuing education requirements as required under ORS 455.720 (4); or

(c) Provided false information to the agency.

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

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

(4) Nothing in this section shall be construed to limit or otherwise affect the authority of a municipality to dismiss or suspend a building official or inspector at its discretion.

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

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

(b) Extend continuing education compliance requirements in case of illness or hardship. [Formerly 456.835; 1991 c.361 §3]

(Remedial Authority of Administrator)

455.770 Investigative authority of administrator over municipalities; corrective action; limitation. (1) In addition to any other authority and power granted to the administrator under this chapter and ORS chapters 446, 447, 460, 479 and 480, with respect to municipalities, building officials and inspectors, if the administrator has reason to believe that there is a failure to enforce or a violation of any provision of this chapter or ORS chapter 446, 447, 460 or 479 or any rule adopted thereunder, the administrator may:

(a) Examine building code activities of the municipality;

(b) Take sworn testimony; and

(c) With the authorization of the Office of the Attorney General, subpoena persons and records to obtain testimony on official actions that were taken or omitted or to obtain documents otherwise subject to public inspection under ORS 192.410 to 192.595.

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

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

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

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

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

(4) If the agency directs corrective action the following shall be done:

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

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

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

(5) The administrator may revoke any authority of the municipality to administer any part of this chapter or ORS chapter 446, 447, 460 or 479 or any rule adopted thereunder if the administrator determines after a hearing conducted under ORS 183.413 to 183.497 that:

(a) All of the requirements of ORS 455.770, 455.775 and 455.895 were met; and

(b) The municipality did not comply with the corrective action required.

(6) Nothing in ORS 455.775 or 455.895 shall be construed to grant any authority over a municipality or inspector employed by a municipality. [1991 c.792 §2, 6]

455.775 Investigative authority of administrator; corrective action. In addition to any other authority and power granted to the administrator under this chapter and ORS chapters 446, 447, 460, 479 and 480:

(1) Except where inconsistent with other provisions of law, the administrator may enforce the provisions of this chapter and ORS chapters 446, 447, 460, 479 and 480 against any person regardless of whether a permit, certificate, license or other indicia of authority has been issued. The administrator may:

(a) Make an investigation;

(b) Take sworn testimony;

(c) With the authorization of the Office of the Attorney General, subpoena persons and records;

(d) Order corrective action; and

(e) If an immediate hazard to health and safety is imminent, issue an order to stop all or any part of the work under the applicable specialty code.

(2) If the administrator has reason to believe that any person has been engaged, or is engaging, or is about to engage in any violation of this chapter and ORS chapters 446, 447, 460, 479 and 480 and any rule adopted thereunder, the administrator may issue an order, subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or threatened violation.

(3) If the administrator has reason to believe that any person has been engaged, or is engaging, or is about to engage in any vi-

olation of this chapter and ORS chapters 446, 447, 460, 479 and 480 and any rule adopted thereunder, the administrator may bring suit in the name and on behalf of the State of Oregon in the circuit court of any county of this state to enjoin the acts or practices and to enforce compliance with this chapter and ORS chapters 446, 447, 460, 479 and 480 and any rule adopted thereunder. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted.

(4) The provisions of paragraph (c) of subsection (1) of this section apply only to testimony and documents related to enforcement of the building codes.

(5) A provision allowing a board to assess a penalty in this chapter or ORS chapter 446, 447, 460, 479 or 480 shall take precedence over any provision allowing for a penalty in ORS 455.770, 455.775 and 455.895. [1991 c.792 §§3, 5]

PENALTIES

455.895 Civil penalties. In addition to any other authority and power granted to the administrator under this chapter and ORS chapters 446, 447, 460, 479 and 480:

(1) The administrator, in consultation with the appropriate board, may impose a civil penalty against any person who violates any provision of this chapter and ORS chapters 446, 447, 460, 479 and 480 or any rule adopted thereunder. A civil penalty imposed under this subsection shall be in an amount determined by the administrator of not more than \$1,000 for each offense or, in the case of a continuing offense, not more than \$1,000 for each day of the offense. Moneys received from any civil penalty under this subsection shall be disposed of according to ORS 455.230 to be used for enforcement of ORS chapters 446, 447, 460, 479 and 480.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.090.

(3) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the administrator considers proper and consistent with the public health and safety. In any judicial review of a civil penalty imposed under this section, the court may, in its discretion, reduce the penalty. [1991 c.734 §111; 1991 c.792 §4]

455.990 Criminal penalty. A person who violates ORS 455.450 shall be subject to a civil penalty of not to exceed \$100 per violation. In the case of a continuing violation, every day's continuance of the violation is a separate violation. [Formerly 456.885 (2)]