

CHAPTER 1

SCOPE AND ADMINISTRATION

PART I—SCOPE AND APPLICATION

SECTION 101

GENERAL

101.1 Title. These regulations shall be known as the *Oregon Mechanical Specialty Code*, hereinafter referred to as “this code.”

101.2 Scope. This code shall regulate the design, installation, *alteration* and inspection of mechanical systems that are permanently installed, and those systems utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, *equipment* and appliances specifically addressed herein. Mechanical *equipment* or systems not specifically addressed in this code shall be *approved* by the *building official* in accordance with Section 105.2. The installation of fuel gas distribution piping and *equipment*, fuel gas-fired appliances and fuel gas-fired *appliance* venting systems are found in Appendix C.

Exception: Structures regulated under the *Oregon Residential Specialty Code*.

ORS 455.020(1) is not part of this code but is reproduced here for the reader’s convenience:

455.020 Purpose; scope of application.

(1) This chapter is enacted to enable the Director of the Department of Consumer and Business Services 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. [Formerly 456.755; 1991 c.227 §2; 1991 c.310 §2; 1995 c.304 §1; 1995 c.400 §5; 1999 c.1045 §13; 1999 c.1082 §11; 2001 c.710 §8]

The *Oregon Mechanical Specialty Code* as adopted by the State of Oregon, Building Codes Division, includes portions of the International Mechanical Code and the International Fire Code pertaining to any construction, reconstruction, alteration, repair and installation of materials and equipment in or part of buildings and structures covered under the *State Building Code*.

101.2.1 Appendices. Provisions in the appendices shall not apply unless specifically adopted. The State of Oregon did not adopt Appendices A and B. Appendix C is adopted.

101.3 Intent Purpose. The purpose of this code is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, installation and location of mechanical systems.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where, in a specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Requirements for *equipment* and systems in detached one- and two-family dwellings and townhouses, three stories and less, are found in the *Oregon Residential Specialty Code*.

Note: Boilers and pressure vessels are also regulated by the State Building Code through the State of Oregon Boiler and Pressure Law (ORS 480.510 to 480.665).

102.2 Existing installations. Except as otherwise provided for in this chapter, a provision in this code shall not require the removal, *alteration* or abandonment of, nor prevent the continued utilization and maintenance of, an existing mechanical system lawfully in existence at the time of the adoption of this code.

102.3 Maintenance. Not adopted by the State of Oregon.

102.4 Additions, alterations or repairs. Additions, alterations, renovations or repairs to a mechanical system shall conform to that required for a new mechanical system without requiring the existing mechanical system to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing mechanical system to become unsafe, hazardous or overloaded.

Minor additions, alterations, renovations and repairs to existing mechanical systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous and is *approved*.

102.5 Change in occupancy. No change shall be made in the *occupancy* of any structure which will subject the structure to any special provision of this code applicable to the new *occupancy* without approval. The building official shall certify that such structure meets the intent of the provisions of the *Building Code*.

102.6 Historic buildings. The provisions of this code relating to the construction, *alteration*, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the building official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, *alteration*, repair, enlargement, restoration, relocation or moving of buildings.

102.7 Moved Buildings. Except as determined by Section 102.2, mechanical systems that are a part of buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code for new installations. See ORS 455.410 for moved buildings.

ORS 455.410 is not apart of this code but is reproduced here for the reader's convenience:

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.

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

102.8 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.8.1, 102.8.2 and 102.8.3.

102.8.1 Statutory references. This code is adopted pursuant to Oregon Revised Statutes (ORS). Where in any specific case this code and the statute specify different requirements, the statute shall govern. Statutes related to this code are include, but are not limited to, ORS 455.010 through 455.897 and ORS 447.210 through 447.310.

102.8.2 Conflicts. Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

102.8.3 Provisions in Referenced Codes and Standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code shall take precedence over the provisions in the referenced code or standard.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the *equipment* or *appliance*, the conditions of the listing and the manufacturer's installation instructions shall apply.

Statutes referenced may be obtained from the Building Codes Division, 1535 Edgewater St. NW, Salem, OR 97304 or P.O. Box 14470, Salem, OR 97309 at a nominal cost or read online at <http://www.BCD.oregon.gov/statutes.html>.

102.9 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

102.10 Application of references. Reference to chapter sec section numbers, or to provisions not

specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

PART 2—ADMINISTRATION AND ENFORCEMENT

SECTION 103 DEPARTMENT OF MECHANICAL INSPECTION

103.1 Liability. See ORS 30.265 for regulations relating to liability.

ORS 30.265 is not a part of this code but is reproduced here for the reader's convenience.

ORS 30.265 Scope of liability of public body, officers, employees and agents; liability in nuclear incident.

- (1) Subject to the limitations of ORS 30.260 to 30.300, every public body is subject to civil action for its torts and those of its officers, employees and agents acting within the scope of their employment or duties, whether arising out of a governmental or proprietary function or while operating a motor vehicle in a ridesharing arrangement authorized under ORS 276.598.
- (2) The sole cause of action for a tort committed by officers, employees or agents of a public body acting within the scope of their employment or duties and eligible for representation and indemnification under ORS 30.285 or 30.287 is an action under ORS 30.260 to 30.300. The remedy provided by ORS 30.260 to 30.300 is exclusive of any other action against any such officer, employee or agent of a public body whose act or omission within the scope of the officer's, employee's or agent's employment or duties gives rise to the action. No other form of civil action is permitted.
- (3) If an action under ORS 30.260 to 30.300 alleges damages in an amount equal to or less than the damages allowed under ORS 30.271, 30.272 or 30.273, the sole cause of action for a tort committed by officers, employees or agents of a public body acting within the scope of their employment or duties and eligible for representation and indemnification under ORS 30.285 or 30.287 is an action against the public body. If an action is filed against an officer, employee or agent of a public body, and the plaintiff alleges damages in an amount equal to or less than the damages allowed under ORS 30.271, 30.272 or 30.273, the court upon motion shall substitute the public body as the defendant. Substitution of the public body as the defendant does not exempt the public body from making any report required under ORS 742.400.
- (4) If an action under ORS 30.260 to 30.300 alleges damages in an amount greater than the damages allowed under ORS 30.271, 30.272 or 30.273, the action may be brought and maintained against an officer, employee or agent of a public body, whether or not the public body is also named as a defendant. An action brought under this subsection is subject to the limitations on damages imposed under ORS 30.271, 30.272 or 30.273, and the total combined amount recovered in the action may not exceed those limitations for a single accident or occurrence without regard to the number or types of defendants named in the action.
- (5) Every public body is immune from liability for any claim for injury to or death of any person or injury to property resulting from an act or omission of an officer, employee or agent of a public body when such officer, employee or agent is immune from liability.
- (6) Every public body and its officers, employees and agents acting within the scope of their employment or duties, or while operating a motor vehicle in a ridesharing arrangement authorized under ORS 276.598, are immune from liability for:
 - (a) Any claim for injury to or death of any person covered by any workers' compensation law.
 - (b) Any claim in connection with the assessment and collection of taxes.
 - (c) Any claim based upon the performance of or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused.
 - (d) Any claim that is limited or barred by the provisions of any other statute, including but not limited to any statute of ultimate repose.
 - (e) Any claim arising out of riot, civil commotion or mob action or out of any act or omission in connection with the prevention of any of the foregoing.
 - (f) Any claim arising out of an act done or omitted under apparent authority of a law, resolution, rule or regulation that is unconstitutional, invalid or inapplicable except to the extent that they would have been liable had the law, resolution, rule or regulation been constitutional, valid and applicable, unless such act was done or omitted in bad faith or with malice.
- (7) This section applies to any action of any officer, employee or agent of the state relating to a nuclear incident, whether or not the officer, employee or agent is acting within the scope of employment, and provided the nuclear incident is covered by an insurance or indemnity agreement under 42 U.S.C. 2210.
- (8) Subsection (6)(c) of this section does not apply to any discretionary act that is found to be the cause or partial cause of a nuclear incident covered by an insurance or indemnity agreement under the provisions of 42 U.S.C. 2210, including but not limited to road design and route selection. [1967 c.627 §§2,3,10; 1969 c.429 §1; 1975 c.609 §12; 1977 c.823 §2; 1981 c.490 §4; 1985 c.731 §31; 1987 c.705 §7; 1991 c.861 §1; 2005 c.22 §19; 2007 c.803 §4; 2011 c.270 §1]

SECTION 104 DUTIES AND POWERS OF THE BUILDING OFFICIAL

104.1 General. The *building official* is hereby authorized and directed to enforce the provisions of this code and shall act on any question relative to the installation, alteration or repair of mechanical systems, except as otherwise specifically provided for by statutory requirements.

104.2 Applications and permits. The *building official* shall receive applications, review *construction documents* and issue permits for the installation and *alteration* of mechanical systems, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

104.3 Inspections. The *building official* shall ensure all of the required inspections under this code are made by properly certified individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual.

104.4 Right of entry. Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the *building official* has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code which make the building or premises unsafe, insanitary, dangerous or hazardous, the *building official* shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the *building official* by this code. If such building or premises is occupied, the *building official* shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the *building official* shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the *building official* has recourse to every remedy provided by law to secure entry.

When the *building official* has first obtained a proper inspection warrant or other remedy provided by law to secure entry, an owner or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the *building official* for the purpose of inspection and examination pursuant to this code.

104.5 Notices and orders. The *building official* shall issue all necessary notices or orders to ensure compliance with this code.

104.6 Department records. The *building official* shall keep official records as dictated by OAR 166-150-0020 where a county has jurisdiction, OAR 166-200-0025 where a city has jurisdiction and OAR Division 166, Chapter 300 for the cities and counties where the State of Oregon has jurisdiction. Such records shall be retained in the official records for the period indicated in the respective OARs noted above. The *building official* shall maintain a permanent record of all permits issued in *flood hazard areas*, including copies of inspection reports and certifications required.

OAR 918-008-0000 is not part of this code but is provided here for the readers' convenience:

918-008-0000 Purpose and Scope

(1) The Department of Consumer and Business Services, Building Codes Division, adopts model building codes, standards and other publications by reference, as necessary, through administrative rule to create the state building code. When a matter is included in a specialty code or referenced publication that is in conflict with Oregon Revised Statutes or Oregon Administrative Rules, the statute or rule applies and the code or standard provision does not. All remaining parts or application of the code or standard remain in effect.

(2) Unless required by law, matters generally not authorized for inclusion in a specialty code or referenced standard include, but are not limited to: licensing or certification requirements, or other qualifications and standards for businesses or workers; structures or equipment maintenance requirements; matters covered by federal or state law; and matters that conflict with other specialty codes or publications adopted by the department.

(3) OAR 918-008-0000 to OAR 918-008-0070 provides the process for adopting and amending the state building code that is consistent across all program areas.

(4) The state building code is derived from the most appropriate version of base model codes, which are updated periodically.

(5) The Oregon specialty code amendment process begins approximately midway into a code cycle.

(6) An appropriate advisory board approves or forwards the adoption of the Oregon specialty code and amendments to the Department for adoption.

(7) Notwithstanding sections (3) through (6) of this rule, the division may adopt supplemental code amendments as authorized by OAR 918-008-0028.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 447.020, 455.030 & 479.730

Stats. Implemented: ORS 447.020, 455.030 & 479.730

Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. & cert. ef. 4-1-97; BCD 3-2006(Temp), f. & cert. ef. 3-1-06 thru 8-27-06; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06; BCD 1-2014, f. 1-22-14, cert. ef. 4-1-14

SECTION 105 APPROVAL

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative, provided that the *building official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the files of the mechanical inspection department.

105.2 Alternative materials, methods, equipment and appliances. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *building official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

105.2.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction.

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures.

105.3.2 Testing agency. All tests shall be performed by an *approved* agency.

105.3.3 Test reports. Reports of tests shall be retained by the *building official* for the period required for retention of public records.

105.4 Approved materials and equipment. Materials, *equipment* and devices *approved* by the *building official* shall be constructed and installed in accordance with such approval.

105.5 Material, equipment and appliance reuse. Materials, *equipment*, appliances and devices shall not be reused unless such elements have been reconditioned, tested and placed in good and proper working condition and *approved*.

105.6 Request for approval. ORS 455.060 provides for state rulings on acceptable materials, design and methods of construction. When a ruling has been issued, ORS 455.060(4) applies.

ORS 455.060(4) is not part of this code but is reproduced here for the reader's convenience:

455.060 Rulings on acceptability of material, design or method of construction; effect of approval; fees.

- (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 Director of the Department of Consumer and Business Services 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 director 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 director shall be certified to the person making the request. Additional copies shall be transmitted to all building officials in the state. The director 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 director may prescribe.
- (4) A building official or inspector shall approve the use of any material, design or method of construction approved by the director pursuant to this section if the requirements of all other local ordinances are satisfied. [Formerly 456.845]

**SECTION 106
PERMITS**

Note: Unless amended by a municipality, under authority of ORS 455.020, the following shall apply.

ORS 455.020(2) is not part of this code but is reproduced here for the reader's convenience:

455.020 Purpose; scope of application; exceptions; scope of rules; fees by rule.

~~(2) The rules 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, prescribe reasonable fees for the issuance of building permits and similar documents, inspections and plan review services by the Department of Consumer and Business Services. The department may also establish, by rule, the amount of any fee pertaining to the state building code or any specialty code that is authorized by statute, but for which an amount is not specified by statute. [Formerly 456.755; 1991 e.227 §2; 1991 e.310 §2; 1995 e.304 §1; 1995 e.400 §5; 1999 e.1045 §13; 1999 e.1082 §11; 2001 e.710 §8]~~

106.1 When required. An owner, authorized agent or contractor who desires to erect, install, enlarge, alter, repair, remove, convert or replace a mechanical system, the installation of which is regulated by this code, or to cause such work to be done, shall first make application to the building official and obtain the required permit for the work. See ORS 455.020(2).

Exception: Where *equipment* and *appliance* replacements or repairs must be performed in an emergency situation, the permit application shall be submitted to the building official within the next ~~working business~~ 5 business days. ~~of the department of mechanical inspection.~~

ORS 455.058 is not part of this code but is reprinted here for the reader's convenience:

ORS 455.058 Investigation fee for work commenced without permit; rules.

Except as provided in subsection (2) of this section, the Department of Consumer and Business Services, or a municipality administering and enforcing a building inspection program, may assess an investigation fee against a person that is required to obtain a permit for work on the electrical, gas, mechanical, elevator, boiler, plumbing or other systems of a building or structure if the work is commenced before the permit required for the work is obtained. The amount of the investigation fee shall be the average or actual additional cost of ensuring that a building, structure or system is in conformance with state building code requirements that results from the person not obtaining a required permit before work for which the permit is required commences.

(2) This section does not apply to:

(a) An emergency repair required for health, safety, the prevention of property damage or the prevention of financial harm if the required building permit for the repair is obtained no later than five business days after commencement of the repair; or

(b) Any project for which construction, alteration, repair, maintenance or installation in a building or structure prior to obtaining a permit is expressly authorized by law.

(3) The department may adopt rules and establish policies and procedures for use by the department or municipalities in assessing an investigation fee under this section. [2013 c.324 §2]

106.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

1. Portable heating appliances;
2. Portable ventilation appliances and *equipment*;
3. Portable cooling units;
4. Steam, hot water or chilled water piping within any heating or cooling *equipment* or appliances regulated by this code;
5. The replacement of any minor part that does not alter the approval of *equipment* or an *appliance* or make such *equipment* or *appliance* unsafe;
6. Portable evaporative coolers;
7. Self-contained refrigeration systems that contain 10 pounds (4.5 kg) or less of refrigerant, or that are actuated by motors of 1 horsepower (0.75 kW) or less; and
8. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

~~Exemption from the permit requirements of this code shall not be deemed to grant authorization for work to be done in violation of the provisions of this code or other laws or ordinances of this jurisdiction.~~

Note: Unless amended by a municipality, under authority of ORS 455.020, the following requirements of 106.3 through 106.4.5 shall apply.

106.3 Application for permit. Each application for a permit, with the required fee, shall be filed with the *building official* on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or an authorized agent. The permit application shall indicate the proposed *occupancy* of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure and shall contain such other information required by the *building official*.

Exception: For those inspecting jurisdictions that may have adopted a master permit and/or minor label program under OAR Chapter 918, Division 100, different requirements may also apply.

106.3.1 Construction documents. *Construction documents*, engineering calculations, diagrams and other data shall be submitted in two or more sets with each application for a permit. The *building official* shall require *construction documents*, computations and specifications to be prepared and designed by a *registered design professional* when required by state law. *Construction documents* shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the work conforms to the provisions of this code. *Construction documents* for buildings more than two stories in height shall indicate where penetrations will be made for mechanical systems.

Exception: The *building official* shall have the authority to waive the submission of *construction documents*, calculations or other data if the nature of the work applied for is such that reviewing of *construction documents* is not necessary to determine compliance with this code.

106.3.2 Preliminary inspection. Before a permit is issued, the *building official* is authorized to inspect and evaluate the systems, *equipment*, buildings, devices, premises and spaces or areas to be used.

106.3.3 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the *building official* shall have the authority to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

~~Note: Unless amended by a municipality, under authority of ORS 455.020, the following shall apply.~~

106.4 Action on permit issuance. The application, *construction documents* and other data filed by an applicant for a permit shall be reviewed by the *building official*. If the *building official* finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, and that the fees specified in Section 106.5 have been paid, a permit shall be issued to the applicant.

Note: For those inspecting jurisdictions that may have adopted a master permit and/or minor label program different requirements may also apply.

106.4.1 Approved construction documents. When the *building official* issues the permit where *construction documents* are required, the *construction documents* shall be endorsed in writing and stamped "APPROVED." Such *approved construction documents* shall not be changed, modified or altered without authorization from the *building official*. Work shall be done in accordance with the *approved construction documents*.

The *building official* shall have the authority to issue a permit for the construction of part of a mechanical system before the *construction documents* for the entire system have been submitted or *approved*, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of such permit shall proceed at his or her own risk without assurance that the permit for the entire mechanical system will be granted.

106.4.2 Validity. The issuance of a permit or approval of *construction documents* shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of other laws or ordinances of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of this code shall be invalid.

The issuance of a permit based upon *construction documents* and other data shall not prevent the

building official from thereafter requiring the correction of errors in said *construction documents* and other data or from preventing building operations from being carried on thereunder when in violation of this code or of other laws or ordinances of this jurisdiction.

106.4.3 Expiration. Every permit issued by the *building official* under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work recommences, a new permit shall be first obtained and the fee, therefore, shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original *construction documents* for such work, and provided further that such suspension or abandonment has not exceeded one year.

106.4.4 Extensions. A permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The *building official* shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. A permit shall not be extended more than once.

106.4.5 Suspension or revocation of permit. The *building official* shall have the authority to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

106.4.6 Retention of construction documents. One set of *approved construction documents* shall be retained by the *building official* for a period of not less than that dictated by OAR 166-150-0020 where a county has jurisdiction, OAR 166-200-0025 where a city has jurisdiction and OAR Division 166, Chapter 300 for the cities and counties where the State of Oregon has jurisdiction. One set of *approved construction documents* shall be returned to the applicant, and said set shall be kept on the site of the building or job at all times during which the work authorized thereby is in progress.

106.4.7 Previous approvals. This code shall not require changes in the *construction documents*, construction or designated *occupancy* of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

106.4.8 Posting of permit. The permit or a copy shall be kept on the site of the work until the completion of the project.

~~Note: Unless amended by a municipality, under authority of ORS 455.020 and 455.210, the following shall apply.~~

ORS 455.210(3)(a) is not part of this code but is reproduced here for the reader's convenience:

455.210 Fees; appeal of fees; surcharge; reduced fees; rules.

(3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption of a new or increased fee under this subsection. The municipality shall give the notice to the director at the time the municipality provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources, at the time notice of the last budget meeting is published under ORS 294.426. [Subsections (1) to (5) formerly 456.760; subsection (6) enacted as 1987 c.604 §6; 1997 c.856 §1; 1999 c.432 §1; 1999 c.1045 §24; 1999 c.1082 §9; 2001 c.573 §9; 2001 c.673 §1; 2005 c.193 §1; 2005 c.833 §3; 2007 c.69 §5; 2011 c.473 §29]

106.5 Fees. ~~A permit shall not be issued until the fees prescribed in Section 106.5.2 have been paid, nor shall an amendment to a permit be released until the additional fee, if any, due to an increase of the mechanical system has been paid. A permit shall not be issued, nor shall an amendment to a permit be released until the fee, or additional fee, if any, due to an increase of the mechanical system, has been paid in accordance with the schedules as established by the municipality, under authority of ORS 455.020 and 455.210, or as set forth in OAR chapter 918, division 440 where the State of Oregon has jurisdiction.~~

ORS 455.020(2) is not a part of this code but is reprinted here for the reader's convenience:

455.020(2) Purpose: scope of application; exceptions; scope of rules; fees by rule.

(2) The rules 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, prescribe reasonable fees for the issuance of building permits and similar documents, inspections and plan review services by the Department of Consumer and Business Services. The department may also establish, by rule, the amount of any fee pertaining to the state building code or any specialty code that is authorized by statute, but for which an amount is not specified by statute. [Formerly 456.755; 1991 c.227 §2; 1991 c.310 §2; 1995 c.304 §1; 1995 c.400 §5; 1999 c.1045 §13; 1999 c.1082 §11; 2001 c.710 §8]

ORS 455.210(3)(a) is not a part of this code but is reproduced for the reader's convenience:

ORS 455.210 Fees; appeal of fees; surcharge; reduced fees; rules.

(3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption of a new or increased fee under this subsection. The municipality shall give the notice to the director at the time the municipality provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources, at the time notice of the last budget meeting is published in a newspaper under ORS 294.426. [Subsections (1) to (5) formerly 456.760; subsection (6) enacted as 1987 c.604 §6; 1997 c.856 §1; 1999 c.432 §1; 1999 c.1045 §24; 1999 c.1082 §9; 2001 c.573 §9; 2001 c.673 §1; 2005 c.193 §1; 2005 c.833 §3; 2007 c.69 §5; 2011 c.473 §29]

106.5.1 Work commencing before permit issuance. Any person who commences work on a mechanical system before obtaining the necessary permits shall be subject to ~~100 percent of the usual permit fee in addition to the required permit fees~~ an investigative fee. The amount of the investigative fee shall be the average or actual additional cost of ensuring that the mechanical system is in conformance with this code and shall be in addition to the required permit fees. Fees shall be charged according to the rate established by the municipality, or as established by the state where the State of Oregon has

jurisdiction.

ORS 455.058 is not part of this code but is reprinted here for the reader's convenience:

ORS 455.058 Investigation fee for work commenced without permit; rules.

Except as provided in subsection (2) of this section, the Department of Consumer and Business Services, or a municipality administering and enforcing a building inspection program, may assess an investigation fee against a person that is required to obtain a permit for work on the electrical, gas, mechanical, elevator, boiler, plumbing or other systems of a building or structure if the work is commenced before the permit required for the work is obtained. The amount of the investigation fee shall be the average or actual additional cost of ensuring that a building, structure or system is in conformance with state building code requirements that results from the person not obtaining a required permit before work for which the permit is required commences.

(2) This section does not apply to:

(a) An emergency repair required for health, safety, the prevention of property damage or the prevention of financial harm if the required building permit for the repair is obtained no later than five business days after commencement of the repair; or

(b) Any project for which construction, alteration, repair, maintenance or installation in a building or structure prior to obtaining a permit is expressly authorized by law.

(3) The department may adopt rules and establish policies and procedures for use by the department or municipalities in assessing an investigation fee under this section. [2013 c.324 §2]

106.5.2 Mechanical permits valuations. Mechanical permit valuations shall be based upon the Uniform Fee methodologies as established by OAR 918-050-0100. Fees shall be assessed in accordance with the provisions of this section and as set forth in the fee schedule of the municipality under the authority of ORS 455.210, or as set forth in OAR 918-440-0050 where the State of Oregon has jurisdiction.

OAR 918-050-0100 is not a part of this code but is reproduced here for the reader's convenience.

Uniform Fee Methodology

918-050-0100

Statewide Fee Methodologies for Residential and Commercial Permits

(1) Residential construction permit fees shall be calculated using the following methodologies:

(a) A plumbing permit fee for new construction includes one kitchen and is based on the number of bathrooms, from one to three, on a graduated scale. An additional set fee shall be assessed for each additional bath or kitchen.

(A) No additional fee shall be charged for the first 100 feet of water and sewer lines, hose bibbs, icemakers, underfloor low-point drains, and rain drain packages that include the piping, gutters, downspouts, and perimeter system.

(B) The plumbing permit fee described in this section does not include:

(i) Any storm water retention/detention facility;

(ii) Irrigation and fire suppression systems; or

(iii) Additional water, sewer and service piping or private storm drainage systems exceeding the first 100 feet.

(C) Permit fees for an addition, alteration, or repair shall be calculated based on the number of fixtures, appurtenances, and piping, with a set minimum fee.

(b) A mechanical permit fee shall be calculated per appliance and related equipment, with a set minimum fee.

(c) Effective January 1, 2009, a structural permit fee for new construction and additions shall be calculated using the ICC Building Valuation Data Table current as of April 1 of each year, multiplied by the square footage of the dwelling to determine the valuation. The valuation shall then be applied to the municipality's fee schedule to determine the permit fee. The plan review fee shall be based on a predetermined percentage of the permit fee set by the municipality.

(A) The square footage of a dwelling, addition, or garage shall be determined from outside exterior wall to outside exterior wall for each level.

(B) The square footage of a carport, covered porch, patio, or deck shall be calculated separately at fifty percent of the value of a private garage from the ICC Building Valuation Data Table current as of April 1.

(C) Permit fees for an alteration or repair shall be calculated based on the fair market value as determined by the building official, and then applying the valuation to the municipality's fee schedule.

(2) Commercial construction permit fees shall be calculated using the following methodologies:

- (a) A plumbing permit fee shall be calculated based on the number of fixtures and footage of piping, with a set minimum fee.
- (b) A mechanical permit fee shall be calculated based on the value of the mechanical equipment and installation costs and applied to the municipality's fee schedule with a set minimum fee.
- (c) A structural permit fee shall be calculated by applying the valuation to the municipality's fee schedule with a minimum set fee. Valuation shall be the greater of either:
- (A) The valuation based on the ICC Building Valuation Data Table current as of April 1 of each year, using the occupancy and construction type as determined by the building official, multiplied by the square footage of the structure; or
- (B) The value as stated by the applicant.
- (C) When the construction or occupancy type does not fit the ICC Building Valuation Data Table, the valuation shall be determined by the building official with input from the applicant.

Stat. Auth.: ORS 455.048 & 455.055

Stats. Implemented: ORS 455.046 & 455.055

Hist.: BCD 9-2000, f. 6-15-00, cert. ef. 10-1-00; BCD 31-2005, f. 12-30-05, cert. ef. 1-1-06; BCD 5-2007, f. 5-11-07, cert. ef. 7-1-07; BCD 27-2008, f. ef. 12-12-08, cert. ef. 1-1-09; BCD 7-2009, f. 9-30-09, cert. ef. 10-1-09

~~Note: Mechanical permit fees are adopted as fees for the Building Codes Division as required by ORS 455.210. Oregon municipalities may adopt their own fees according to ORS 455.150 and 455.210.~~

Table 1 A from OAR 918-440-0050 is not part of this code but is reproduced here for the reader's convenience.

**TABLE 1 A
MECHANICAL PERMIT FEES**

PERMIT ISSUANCE		
1	For the issuance of each permit.	\$13.00
2	For issuing each supplemental permit.	3.90
UNIT FEE SCHEDULE		
1	For the installation or relocation of each forced air or gravity type furnace or burner, including ducts and vents attached to such appliance, up to and including 100,000 Btu/h (29.3 kW).	7.80
2	For the installation or relocation of each forced air or gravity type furnace or burner, including ducts and vents attached to such appliance over 100,000 Btu/h (29.3 kW).	9.75
3	For the installation or relocation of each floor furnace, including vent.	7.80
4	For the installation or relocation of each suspended heater, recessed wall heater or floor mounted unit heater.	7.80
5	For the installation, relocation or replacement of each appliance vent installed and not included in an appliance permit.	3.90
6	For the repair of, alteration of, or addition to each heating appliance, refrigeration unit, cooling unit, absorption unit or each heating, cooling, absorption, or vaporative cooling system, including installation of controls regulated by this code.	7.80
7	For the installation or relocation of each compressor to and including three horsepower (10.6 kW), or each absorption system to and including 100,000 Btu/h (29.3kW).	7.80
8	For the installation or relocation of each compressor over three horsepower (10.6 kW), to and including 15 horsepower (52.7 kW), or each absorption system over 100,000 Btu/h (29.3 kW) to and including 500,000 Btu/h (146.6 kW).	14.30

9	For the installation or relocation of each compressor over 15 horsepower (52.7 kW) to and including 30 horsepower (105.5 kW), or each absorption system over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW).	19.50
10	For the installation or relocation of each compressor over 30 horsepower (105.5 kW) to and including 50 horsepower (176 kW), or for each absorption system over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW).	29.25
11	For the installation or relocation of each refrigeration compressor over 50 horsepower (176 kW), or each absorption system over 1,750,000 Btu/h (512.9 kW).	48.75
12	For each air handling unit to and including 10,000 cubic feet per minute (4720 L/s), including ducts attached thereto. (Note: This fee shall not apply to an air handling unit which is a portion of a factory assembled appliance, cooling unit, evaporative cooler or absorption unit for which a permit is required elsewhere in this code.)	5.85
13	For each air handling unit exceeding 10,000 cfm (4720 L/s).	9.75
14	For each evaporative cooler other than portable type.	5.85
15	For each ventilation fan connected to a single duct.	3.90
16	For each ventilation system which is not a portion of any heating or air conditioning system authorized by a permit.	5.85
17	For the installation of each hood which is served by mechanical exhaust, including the ducts for such hood.	5.85
18	For the installation or relocation of each domestic type incinerator.	9.75
19	For the installation or relocation of each commercial or industrial type incinerator.	39.00
20	For each appliance or piece of equipment regulated by this code, but not classed in other appliance categories or for which no other fee is listed in this code.	5.85
24	Permit fees for fuel gas piping shall be as follows: For each gas piping system of one to four outlets. For each gas piping system of five or more outlets, per outlet.	2.60 0.65
OTHER INSPECTIONS AND FEES		
1	Inspections outside normal business hours (minimum charge 2 hours).	\$19.50/hour
2	Reinspection fees.	19.50 each
1	Inspections for which no fee is specifically indicated (minimum charge $\frac{1}{2}$ hour).	19.50/hour
2	Additional plan review required by changes, additions, or revisions to approved plans (minimum charge $\frac{1}{2}$ hour).	19.50/hour

106.5.3 Fee refunds. The *building official* is authorized to establish a refund program.

106.5.4 Plan review fees. When a plan or other data is required to be submitted by Section 106.3.1, a plan review fee shall be paid at the time of submitting plans and specification for review. The plan review fees for mechanical work shall be equal to ~~25 percent~~ a percentage of the total permit fee as set forth in ~~Table 1-A~~ Section 106.5.

106.5.4.1 Separate fees for plan review. The plan review fees in this section are separate fees from the permit fees specified in Section ~~106.5.2~~ 106.5 and are in addition to the permit fees. The state surcharge is not applied to plan review fees.

106.5.4.2 Incomplete or changed plans. When plans are incomplete or changed so as to require

additional plan review, an additional plan review fee shall be charged ~~at the rate shown in Table 1-A~~ according to the rate established by the municipality, or OAR chapter 918, division 460 where the State of Oregon has jurisdiction.

SECTION 107 INSPECTIONS AND TESTING

107.1 General. The *building official* is authorized to conduct such inspections as are deemed necessary to determine compliance with the provisions of this code. Construction or work for which a permit is required shall be subject to inspection by the *building official*, and such construction or work shall remain accessible and exposed for inspection purposes until *approved*. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

107.2 Required inspections and testing. The *building official*, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and other such inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or the permit holder's agent of violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

1. Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site.
2. Rough-in inspection shall be made after the roof, framing, fireblocking and bracing are in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.
3. Final inspection shall be made upon completion of the mechanical system.

Exception: Ground-source heat pump loop systems tested in accordance with Section 1208. 1.1 shall be permitted to be backfilled prior to inspection.

The requirements of this section shall not be considered to prohibit the operation of any heating *equipment* or appliances installed to replace existing heating *equipment* or appliances serving an occupied portion of a structure provided that a request for inspection of such heating *equipment* or appliances has been filed with the department not more than 48 hours after such replacement work is completed, and before any portion of such *equipment* or appliances is concealed by any permanent portion of the structure.

107.2.1 Other inspections. In addition to the inspections specified above, the *building official* is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced.

107.2.2 Inspection requests. It shall be the duty of the holder of the permit or their duly authorized agent to notify the *building official* when work is ready for inspection. It shall be the duty of the permit holder to provide *access* to and means for inspections of such work that are required by this code.

107.2.3 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *building official*. The *building official*, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the

same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

107.3 Testing. Mechanical systems shall be tested as required in this code and in accordance with Sections 107.3.1 through 107.3.3. Tests shall be made by the permit holder and observed by the building official.

107.3.1 New, altered, extended or repaired systems. New mechanical systems and parts of existing systems, which have been altered, extended, renovated or repaired, shall be tested as prescribed herein to disclose leaks and defects.

107.3.2 Apparatus, material and labor for tests. Apparatus, material and labor required for testing a mechanical system or part thereof shall be furnished by the permit holder.

107.3.3 Reinspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the building official for inspection and testing. Reinspection fees shall be in accordance with Table 1-A a rate established by the municipality, or as established by the state where the State of Oregon has jurisdiction.

107.4 Contractor responsibilities. It shall be the responsibility of every contractor who enters into contracts for the installation or repair of mechanical systems for which a permit is required to comply with adopted state and local rules and regulations concerning licensing and permits.

107.5 Approval. After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the building official.

107.5.1 Revocation. The building official is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code wherever the notice is issued in error, on the basis of incorrect information supplied, or where it is determined that the building or structure, premise or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

107.6 Temporary connection. The building official shall have the authority to authorize the temporary connection of a mechanical system to the sources of energy for the purpose of testing mechanical systems or for use under a temporary certificate of *occupancy*.

107.7 Connection of service utilities. No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until authorized by the building official.

SECTION 108 VIOLATIONS

108.1 Prohibited acts are described in ORS 455.450.

ORS 455.450 is not part of this code but are reproduced here for the reader's convenience:

455.450 Prohibited acts. A person may not:

- (1) Violate, or procure or assist in the violation of, any final order of the Director of the Department of Consumer and Business Services, an advisory board, a state administrative officer or any local appeals board, building official or inspector, concerning the application of the state building code in a particular case or concerning a license, certificate, registration or other authorization.
- (2) Engage in, or procure or assist any other person to engage in, any conduct or activity for which a permit, label, license, certificate, registration or other formal authorization is required by any specialty code, any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670, this chapter or ORS chapter 447, 460 or 693, or any rule adopted or order issued for the administration and enforcement of those provisions, without first having obtained such permit, label, license, certificate, registration or other formal authorization.
- (3) Violate, or procure or assist in the violation of, any standard, specification, requirement, prohibition or other technical provision set forth in the state building code or an applicable local building code or in any rule or order of the Department of Consumer and Business Services, an advisory board, a local governing body or local building official. [Formerly 456.885 (1); 2007 c.306 §3]

108.2 Notice of violation. The *building official* is authorized to serve a notice of violation or order to the person responsible for the erection, installation, *alteration*, extension or repair of mechanical work in violation of the provisions of this code, or in violation of a detail statement or the *approved construction documents* thereunder, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

108.3 Violation penalties.

108.3.1 General. Persons who violate a provision of this code or fail to comply with any of the requirements thereof or who erects, installs, alters or repairs mechanical work in violation of the approved construction documents or directive of the *building official*, or of a permit or certificate issued under the provisions of this code may be subject to penalties as prescribed by law.

108.3.2 Penalties. ~~Penalties for violations are prescribed in~~ Penalty amounts, except those described in section 106.5.1, are limited by ORS 455.895 or as adopted by the municipality having authority. Local authority to levy penalties is limited to violations of code application ~~only unless authorized as an agent under ORS 455.156.~~

ORS 455.895 is not part of this code but are reproduced here for the reader's convenience:

455.895 Civil penalties.

- (1)
 - (a) The State Plumbing Board may impose a civil penalty against a person as provided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS 693.165.
 - (b) The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.
 - (c) The Board of Boiler Rules may impose a civil penalty against a person as provided under ORS 480.670. Amounts recovered under this paragraph are subject to ORS 480.670.
- (2) The Department of Consumer and Business Services, or an appropriate advisory board, if any, may at its discretion impose a civil penalty against any person who violates the state building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 or 480.510 to 480.670, or this chapter or ORS chapter 447, 460 or 693, or any rule adopted or order issued for the administration and enforcement of those statutes. Except as provided in subsections (3), (4) and (9) of this section or ORS 446.995, a civil penalty imposed under this section must be in an amount determined by the appropriate advisory board or the department of not more than \$5,000 for each offense or, in the case of a continuing offense, not more than \$1,000 for each day of the offense.
- (3) Each violation of ORS 446.003 to 446.200 or 446.225 to 446.285, or any rule or order issued under ORS 446.003 to 446.200 or 446.225 to 446.285, constitutes a separate violation with respect to each manufactured structure or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed \$1 million for any related series of violations occurring within one year from the date of the first violation.
- (4) The department may impose a civil penalty of not more than \$25,000 against a public body responsible for administering and enforcing a building inspection program. As used in this subsection, "public body" has the meaning given that term in ORS 174.109.
- (5) The maximum penalty established by this section for a violation may be imposed only upon a finding that the person has engaged in a pattern of violations. The department, by rule, shall define what constitutes a pattern of violations. Except as provided in subsections (1) and (10) of this section, moneys received from any civil penalty under this section are appropriated continuously for and shall be used by the department for enforcement and administration of provisions and rules described in subsection (2) of this section.
- (6) Civil penalties under this section shall be imposed as provided in ORS 183.745.
- (7) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the department or the appropriate advisory board considers proper and consistent with the public health and safety. In any judicial review of a civil penalty imposed under this section, the court may, in its discretion, reduce the penalty.
- (8) Any officer, director, shareholder or agent of a corporation, or member or agent of a partnership or association, who personally participates in or is an accessory to any violation by the partnership, association or corporation of a provision or rule described in subsection (2) of this section is subject to the penalties prescribed in this section.
- (9) In addition to the civil penalty set forth in subsection (1) or (2) of this section, any person who violates a provision or rule described in subsection (2) of this section may be required by the department or the appropriate advisory board to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the department or advisory board that does not exceed five times the amount by which such person profited in any transaction that violates a provision or rule described in subsection (2) of this section.
- (10) If a civil penalty is imposed for a violation of a provision of ORS 446.566 to 446.646 and the violation relates to a filing or failure to file with a county assessor functioning as agent of the department, the department, after deducting an amount equal to the department's procedural, collection and other related costs and expenses, shall forward one-half of the remaining civil penalty amount to the county in which the manufactured structure is located at the time of the violation. [1991 c.792 §4; 1991 c.734 §111; 1999 c.1045 §19; 2001 c.411 §21; 2003 c.14 §286; 2003 c.655 §76; 2007 c.549 §6; 2007 c.898 §1; 2013 c. 324 §11]

108.4 Stop work orders. Upon notice from the *building official* that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the *building official* shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, may be liable for a fine.

Sections 108.5, 108.6 and 108.6.1 are not adopted by the State of Oregon but may be adopted by the local jurisdiction.

108.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the mechanical system on or about any premises.

108.6 Unsafe mechanical systems. A mechanical system that is unsafe, constitutes a fire or health hazard, or is otherwise dangerous to human life, as regulated by this code, is hereby declared as an unsafe mechanical system. Use of a mechanical system regulated by this code constituting a hazard to health, safety or welfare by reason of inadequate maintenance, dilapidation, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Such unsafe *equipment* and appliances are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

108.6.1 Authority to condemn mechanical systems. Whenever the *building official* determines that any mechanical system, or portion thereof, regulated by this code has become hazardous to life, health, property, or has become insanitary, the *building official* shall order in writing that such system either be removed or restored to a safe condition. A time limit for compliance with such order shall be specified in the written notice. A person shall not use or maintain a defective mechanical system after receiving such notice.

When such mechanical system is to be disconnected, written notice as prescribed in Section 108.2 shall be given. In cases of immediate danger to life or property, such disconnection shall be made immediately without such notice.

108.6.2 Authority to order disconnection of energy sources. The *building official* shall have the authority to order disconnection of energy sources supplied to a building, structure or mechanical system regulated by this code, when it is determined that the mechanical system or any portion thereof has become hazardous or unsafe. Written notice of such order to disconnect service and the causes therefor shall be given within 24 hours to the owner and occupant of such building, structure or premises, provided, however, that in cases of immediate danger to life or property, such disconnection shall be made immediately without such notice. Where energy sources are provided by a public utility, the *building official* shall immediately notify the serving utility in writing of the issuance of such order to disconnect.

108.6.3 Connection after order to disconnect. A person shall not make energy source connections to mechanical systems regulated by this code which have been disconnected or ordered to be disconnected by the *building official*, or the use of which has been ordered to be discontinued by the *building official* until the *building official* authorizes the reconnection and use of such mechanical systems.

When a mechanical system is maintained in violation of this code, and in violation of a notice issued pursuant to the provisions of this section, the *building official* shall institute appropriate action to prevent, restrain, correct or abate the violation.

SECTION 109 BOARD OF APPEALS

109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the

building official relative to the application and interpretation of this code, the local jurisdiction shall establish an appeals procedure.

109.1.1 Limitation of authority. An application for appeal shall be based on a claim that the true intent of the this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. An appeals board, when appointed, shall have no authority to waive requirements of this code.

109.2 Qualifications. An appeals board, when appointed, shall consist of members who are qualified by experience and training to pass on matters pertaining to professions or disciplines applicable to this code.

109.3 Appeal of decisions of *building official*. ORS 455.475 provides an alternative appeals process to that set forth by the local municipality.

ORS 455.475 is not part of this code but is reproduced here for the reader's convenience:

455.475. Appeal of decision of building official.

- (1) An applicant for a building permit may appeal a decision made by a building official under authority established pursuant to ORS 455.148, 455.150 or 455.467. The following apply to an appeal under this subsection:
 - (a) An appeal regarding the interpretation or application of a particular specialty code provision shall be made first to the appropriate specialty code chief inspector of the Department of Consumer and Business Services. The decision of the department chief inspector may be appealed to the appropriate advisory board. The decision of the advisory board may only be appealed to the Director of the Department of Consumer and Business Services if codes in addition to the applicable specialty code are at issue.
 - (b) If the appropriate advisory board determines that a decision by the department chief inspector is a major code interpretation, then the inspector shall distribute the decision in writing to all applicable specialty code public and private inspection authorities in the state. The decision shall be distributed within 60 days after the board's determination, and there shall be no charge for the distribution of the decision. As used in this ~~subsection~~ paragraph, a "major code interpretation" means a code interpretation decision that affects or may affect more than one job site or more than one inspection jurisdiction.
- (2) Except as provided in subsection (1) of this section, an applicant for a building permit may appeal the decision of a building official on any matter relating to the administration and enforcement of this chapter to the department. The appeal must be in writing. A decision by the department on an appeal filed under this subsection is subject to judicial review as provided in ORS 183.484.
- (3) If an appeal is made under this section, an inspection authority shall extend the plan review deadline by the number of days it takes for a final decision to be issued for the appeal. [1999 c.1045 §23; 2001 c.573 §15; 2013 c. 528 §13]

~~Note: Forms for filing an appeal under ORS 455.475 are available online at: www.bcd.oregon.gov.~~

ORS 455.690 allows appeals of a local appeals board decision to the state Mechanical Board. Appeals to the Mechanical Board are limited to those that are technical and scientific in nature.

ORS 455.690 is not part of this code but is reproduced here for the reader's convenience:

455.690 Appeal to advisory boards.

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

Note: Forms for filing an appeal under ORS 455.475 are available online at: www.bcd.oregon.gov.

SECTION 110 **TEMPORARY EQUIPMENT, SYSTEMS AND USES**

110.1 General. The *building official* is authorized to issue a permit for temporary *equipment*, systems and uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The *building official* is authorized to grant extensions for demonstrated cause.

110.2 Conformance. Temporary *equipment*, systems and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

110.3 Temporary utilities. The *building official* is authorized to give permission to temporarily supply utilities before an installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the code.

110.4 Termination of approval. The *building official* is authorized to terminate such permit for temporary *equipment*, systems or uses and to order the temporary *equipment*, systems or uses to be discontinued.