

# Chapter 1—SCOPE AND ADMINISTRATION

## PART 1—SCOPE AND APPLICATION

### SECTION 101—SCOPE AND GENERAL REQUIREMENTS

**101.1 Title.** These regulations shall be known as the Oregon Mechanical Specialty Code ~~of [NAME OF JURISDICTION]~~, hereinafter referred to as “this code.”

**101.2 Scope.** The scope of this code is as provided in ORS 455.020(1) and as further noted in this section.

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

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

(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.

This code shall regulate the design, installation, ~~maintenance, alteration~~ and inspection of mechanical systems that are permanently installed and 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. The installation of fuel gas distribution piping and *equipment*, fuel gas-fired *appliances* and fuel gas-fired *appliance* venting systems shall ~~be regulated by the International~~ comply with Appendix C, “Fuel Gas,” of this code.

**Exception:** ~~Detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height shall comply with this code or the International Residential Code.~~

This code, as adopted by the State of Oregon, Building Codes Division, includes portions of the International Mechanical Code, the International Fuel Gas Code, the International Fire Code and other nationally adopted codes pertaining to any construction, reconstruction, alteration, repair and installation of materials and equipment in, or part of buildings and structures governed by the state building code.

**101.2.1 Matters not available for local regulation under the statutory authority of this code.** While the following matters may be included in the published national model code, they may not be regulated by the local municipality under the statutory authority of this code. Any references to these matters retained in this code are for the convenience of the reader.

1. The construction, alteration, moving, demolition, repair, maintenance and work located primarily in a public way.
2. Mechanical equipment not specifically regulated in this code.
3. Hydraulic flood control structures including, but not limited to, dams and levees.
4. Mechanical equipment in or part of structures that are not covered by the state building code. Buildings exempt from the Building Code by ORS 455.315 shall comply with this code, as applicable.

**101.2.2 ~~101.2.1~~ Appendices.** Provisions in the appendices shall not apply unless specifically adopted as noted in Sections 101.2.2.1 and 101.2.2.2.

**101.2.2.1 Appendices adopted.** Appendix C, “Fuel Gas,” is adopted by the State of Oregon, Building Codes Division, as part of the state building code.

**101.2.2.2 Appendices not adopted.** The following appendices are informative only and not adopted by the State of Oregon, Building Codes Division, as part of this code:

1. Appendix A (Chimney Connector Passthroughs).
2. Appendix B (Recommended Permit Fee Schedule).

The following appendices are not adopted by the State of Oregon, Building Codes Division, as part of this code, but the referenced matters are preempted by the state building code and may not be adopted by a local municipality:

1. International Mechanical Code Appendix C (Board of Appeals).
2. International Mechanical Code Appendix D (Clean Air Delivery)
3. International Mechanical Code Appendix E (Clean Air Delivery and Monitoring)

**101.3 Purpose.** The purpose of this code, as provided in ORS 455.020(1) and noted in Section 101.2, is to establish minimum requirements to provide a reasonable level of safety, health, ~~property protection~~ and general welfare by regulating and controlling the design, construction, installation, ~~quality of materials, and~~ location, ~~operation and maintenance or use~~ of mechanical ~~equipment or~~ systems.

**101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be ~~unconstitutional~~ 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.

**102.1.1 Statutory references.** [This code is adopted pursuant to Oregon Revised Statutes \(ORS\). Where this code and the statutes specify different requirements, the statute shall govern. Statutes related to this code include, but are not limited to, ORS 455.010 through 455.895 and ORS 447.210 through 447.310.](#)

[Statutes referenced may be obtained from the State of Oregon, 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: Oregon.gov/bcd.](#)

**102.2 102.8-Referenced codes and standards.** The codes and standards referenced herein shall be those that are listed in Chapter 15 and such codes and standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections [102.2.1 and 102.2.2](#) ~~102.8.1 and 102.8.2~~.

**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.

**102.2.1 102.8.1 Conflicts.** Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

**102.2.2 102.8.2 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, as applicable, shall take precedence over the provisions in the referenced code or standard.

**102.3 102.10 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

**102.4 102.11 Application of references.** Reference to chapter section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

**102.5 102.2 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, a mechanical system lawfully in existence at the time of the adoption of this code.

### Occupied and existing structures under state law related to building inspection programs.

Note: This information is provided for building official use and is not intended to provide direction to any other form of government outside of a building official operating under State of Oregon, Building Codes Division's laws and rules. Questions regarding this information should be addressed through local counsel.

Under ORS 476.030 and Chapter 455, building officials are prohibited from requiring corrections or any changes to an existing structure that is maintained in conformity with the state building code regulations in effect at the time of construction.

Under ORS Chapters 476 and 455, occupied structures that have no valid certificate of occupancy do not fall under the delegated authority from the State of Oregon, Building Codes Division. No state authority exists for building officials to access buildings or require corrections for structures unless a permit application is on file.

References within the state building code that provide access and investigative authority to building officials are rescinded and are not valid.

Under state authority, buildings occupied without a valid certificate of occupancy or permit are under the enforcement authority of the Office of State Fire Marshal.

Local programs should ensure that adequate local ordinances have been adopted allowing for enforcement action where a certificate of occupancy was not issued or where no permit has been applied for.

~~**102.2.1 Existing buildings.** Additions, alterations, renovations or repairs related to building or structural issues shall be regulated by the International Existing Building Code.~~

~~**102.3 Maintenance.** Mechanical systems, both existing and new, and parts thereof shall be maintained in proper operating condition in accordance with the original design and in a safe and sanitary condition. Devices or safeguards that are required by this code shall be maintained in compliance with the edition of the code under which they were installed. The owner or the owner's authorized agent shall be responsible for maintenance of mechanical systems. To determine compliance with this provision, the code official shall have the authority to require a mechanical system to be reinspected.~~

~~The inspection for maintenance of HVAC systems shall be performed in accordance with ASHRAE/ACCA/ANSI Standard 180.~~

**102.6 102.4 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*.

**102.7 102.5 Change in occupancy.** It shall be unlawful to make a change in the *occupancy* of any structure that will subject the structure to any special provision of this code applicable to the new *occupancy* without approval. The *building official* ~~code official~~ shall certify that such structure meets the intent of the provisions of ~~law governing building construction for the proposed new occupancy and that such change of occupancy does not result in any hazard to the public health, safety or welfare~~ [the Building Code](#).

**102.8 ~~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-~~*municipality* as historic *buildings* where such *buildings* or structures are judged by the ~~building official-~~*code 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*.

**102.9 ~~102.7~~ Moved buildings.** Except as determined by Section ~~102.5-~~*102.2*, mechanical systems that are a part of *buildings* or structures moved into or within the ~~jurisdiction-~~*municipality* shall comply with the provisions of this code for new installations.

ORS 455.410 is not part of this code but is reprinted 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.

~~**102.9 Requirements not covered by this code.** Requirements necessary for the strength, stability or proper operation of an existing or proposed mechanical system, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.~~

## PART 2—ADMINISTRATION AND ENFORCEMENT

### SECTION 103—CODE COMPLIANCE AGENCY

This section is not adopted by the State of Oregon, Building Codes Division, as part of this code.

~~**103.1 Creation of agency.** The ~~[NAME OF DEPARTMENT]~~ is hereby created and the official in charge thereof shall be known as the code official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.~~

~~**103.2 Appointment.** The code official shall be appointed by the chief appointing authority of the jurisdiction.~~

~~**103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees. Such employees shall have powers as delegated by the code official.~~

### SECTION 104—DUTIES AND POWERS OF THE CODE OFFICIAL

The requirements of Sections 104.1 and 104.3 shall apply unless specifically amended by a local *municipality* under the authority of ORS 455.020.

**104.1 General.** The ~~building official-~~*code official* is hereby authorized and directed to enforce the provisions of this code.

**104.2 Determination of compliance.** The ~~building official-~~*code official* shall have the authority to determine compliance with this code, to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. The *building official* shall act on any question relative to the installation, alteration or repair of mechanical systems, except as otherwise specifically provided for by statutory requirements.

Consistent with discretionary decision-making powers granted to *building officials*, a *building official* may take any action including but not limited to waiving a requirement, modifying a requirement or accepting an alternate method to the requirements of this code. When waiving or accepting a modification, a *building official* shall not allow a provision that would create an unsafe or dangerous condition regarding fire and life safety and may not enforce requirements that are in addition to this code except where additional code requirements are specified by the terms of an alternate method approval.

~~Such interpretations, policies and procedures:~~

- ~~1.—Shall be in compliance with the intent and purpose of this code.~~
- ~~2.—Shall not have the effect of waiving requirements specifically provided for in this code.~~

**104.2.1 Listed compliance.** Where this code or a referenced standard requires *equipment*, materials, products or services to be *listed* and a listing standard is specified, the listing shall be based on the specified standard. Where a listing standard is not specified, the listing shall be based on an *approved* listing criteria. Listings shall be germane to the provision requiring the listing. Installation shall be in accordance with the listing and the manufacturer's instructions, and where required to verify compliance, the listing standard and manufacturer's instructions shall be made available to the ~~building official-~~*code official*.

**104.2.2 Technical assistance.** ~~To determine compliance with~~ Where prescribed by this code, the ~~building official-code official~~ is authorized to require the owner or owner's authorized agent to provide a technical opinion and report.

**104.2.2.1 Costs.** A technical opinion and report shall be provided without charge to the ~~municipality-jurisdiction~~.

**104.2.2.2 Preparer qualifications.** The technical opinion and report shall be prepared by a qualified engineer, specialist, laboratory or specialty organization acceptable to the ~~building official-code official~~. The ~~building official-code official~~ is authorized to require design submittals to be prepared by, and bear the stamp of, a *registered design professional*.

**104.2.2.3 Content.** The technical opinion and report shall analyze the properties of the design, operation or use of the *building* or premises and the facilities and appurtenances situated thereon to identify and propose necessary recommendations.

**104.2.2.4 Tests.** Where there is insufficient evidence of compliance with the provisions of this code, the ~~building official-code official~~ shall have the authority to require tests as evidence of compliance. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized test standards, the ~~building official-code official~~ shall approve the testing procedures. Such tests shall be performed by a party acceptable to the ~~building official-code official~~.

**104.2.3 Alternative materials, ~~design and methods, of construction and equipment and appliances~~.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*.

**Exception:** Performance-based alternative materials, ~~designs or methods~~ of construction and *equipment* complying with the *International Code Council Performance Code*.

**104.2.3.1 Approval authority.** An alternative material, ~~design or~~ method of construction shall be *approved* where the ~~building official-code official~~ finds that the proposed alternative is satisfactory and complies with Sections 104.2.3 through 104.2.3.7, as applicable.

**104.2.3.2 Application and disposition.** Where required, a request to use an alternative material, ~~design or~~ method of construction shall be submitted in writing to the ~~building official-code official~~ for approval. ~~Where the alternative material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons the alternative was not approved.~~

**104.2.3.3 Compliance with code intent.** An alternative material, ~~design or~~ method of construction shall comply with the intent of the provisions of this code.

**104.2.3.4 Equivalency criteria.** An alternative material, ~~design or~~ method of construction shall, for the purpose intended, be not less than the equivalent of that prescribed in this code with respect to all of the following, as applicable:

1. Quality.
2. Strength.
3. Effectiveness.
4. Durability.
5. Safety, other than fire safety.
6. Fire safety.

**104.2.3.5 Tests.** Tests conducted to demonstrate equivalency in support of an alternative material, ~~design or~~ method of construction application shall be of a scale that is sufficient to predict performance of the end use configuration. Tests shall be performed by a party acceptable to the ~~building official-code official~~.

**104.2.3.5.1 Fire tests.** Tests conducted to demonstrate equivalent fire safety in support of an alternative material, ~~design or~~ method of construction application shall be of a scale that is sufficient to predict fire safety performance of the end use configuration. Tests shall be performed by a party acceptable to the ~~building official-code official~~.

**104.2.3.6 Reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall comply with Sections 104.2.3.6.1 and 104.2.3.6.2.

**104.2.3.6.1 Evaluation reports.** Evaluation reports shall be issued by an *approved* agency, and use of the evaluation report shall require approval by the ~~building official-code official~~ for the installation. The alternate material, design or method of construction and product evaluated shall be within the scope of the ~~building official's-code official's~~ recognition of the *approved* agency. Criteria used for the evaluation shall be identified within the report and, where required, provided to the ~~building official-code official~~.

**104.2.3.6.2 Other reports.** Reports not complying with Section 104.2.3.6.1 shall describe criteria, including but not limited to any referenced testing or analysis, used to determine compliance with code intent and justify code equivalence. The report shall be prepared by a qualified engineer, specialist, laboratory or specialty organization acceptable to the code official. The ~~building official-code official~~ is authorized to require design submittals to be prepared by, and bear the stamp of, a *registered design professional*.

**104.2.3.7 Peer review.** The ~~building official-code official~~ is authorized to require submittal of a peer review report in conjunction with a request to use an alternative material, design or method of construction, prepared by a peer reviewer that is *approved* by the ~~building official-code official~~.

**104.2.4 Modifications. Modifications.** Where there are practical difficulties involved in carrying out the provisions of this code, the ~~building official-code official~~ shall have the authority to grant modifications for individual cases, provided that the ~~building official-code official~~ shall first find that one or more special individual reasons make the strict letter of this code impractical, and that the modification is in compliance with the intent and purpose of this code and that such modification does not create an unsafe or dangerous condition regarding fire and life safety, and does not enforce requirements that are in addition to the state building code except where additional code requirements are specified by the terms of an alternate method approval ~~lessen health, accessibility, life and fire safety or structural requirements~~. The details of the written request for and action granting modifications shall be recorded and entered in the files of the department of building safety.

**104.2.4.1 Flood hazard areas.** ~~This section is not adopted by the State of Oregon, Building Codes Division, as part of this code.~~ The code official shall not grant modifications to any provision required in flood hazard areas, as established by Section 1612.3 of the *International Building Code*, unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 1612 of the *International Building Code* inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; cause fraud on or victimization of the public; or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the *building* is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

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

**104.3.1 Determination of substantially improved or substantially damaged existing buildings and structures in flood hazard areas.** For applications for reconstruction, rehabilitation, repair, *alteration*, addition or other improvement of existing *buildings* or structures located in flood hazard areas, the code official shall determine if the proposed work constitutes substantial improvement or repair of substantial damage. Where the code official determines that the proposed work constitutes substantial improvement or repair of substantial damage, and where required by this code, the code official shall require the *building* to meet the requirements of Section 1612 of the *International Building Code* or Section R306 of the *International Residential Code*, as applicable.

**104.4 Right of entry.** ~~This section is not adopted by the State of Oregon, Building Codes Division, as part of this code. Where it is necessary to make an inspection to enforce the provisions of this code, or where the code official has reasonable cause to believe that there exists in a structure or on any premises a condition that is contrary to or in violation of this code that makes the structure or premises unsafe, dangerous or hazardous, the code official is authorized to enter the structure or premises at all reasonable times to inspect or to perform the duties imposed by this code. If such structure or premises is occupied, the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner, the owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to every remedy provided by law to secure entry.~~

**104.4.1 Warrant.** ~~Where the code official has first obtained a proper inspection warrant or other remedy provided by law to secure entry, an owner, the owner's authorized agent, occupant or person having charge, care or control of the structure or premises shall not fail or neglect, after a proper request is made as herein provided, to permit entry therein by the code official for the purposes of inspection and examination pursuant to this code.~~

**104.5 Identification.** The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

**104.6 Notices and orders.** The ~~building official~~ *code official* shall issue all necessary notices or orders to ensure compliance with this code. Notices of violations shall be in accordance with Section 114.

**104.7 Official records.** The ~~building official~~ *code official* shall keep official records according to the applicable retention requirements set forth in OAR 166-150-0020 for locations where the county has jurisdiction, in OAR 166-200-0250 for locations where a city has jurisdiction, and in OAR 166 Division 300, et al., for locations where the State of Oregon has jurisdiction. The *building official* shall maintain a permanent record of all *permits* issued in *flood hazard areas*, including copies of inspection reports and certifications.

~~as required by Sections 104.7.1 through 104.7.5. Such official records shall be retained for not less than 5 years or for as long as the *building* or structure to which such records relate remains in existence, unless otherwise provided by other regulations.~~

**104.7.1 Approvals.** ~~A record of approvals shall be maintained by the code official and shall be available for public inspection during business hours in accordance with applicable laws.~~

**104.7.2 Inspections.** ~~The code official shall have the authority to conduct inspections, or shall accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official shall keep a record of each inspection made, including notices and orders issued, showing the findings and disposition of each.~~

**104.7.3 Code alternatives and modifications.** ~~Application for alternative materials, design and methods of construction and equipment in accordance with Section 104.2.3; modifications in accordance with Section 104.2.4; and documentation of the final decision of the code official for either shall be in writing and shall be retained in the official records.~~

**104.7.4 Tests.** The ~~building official~~ *code official* shall keep a record of tests conducted to comply with Sections 104.2.2.4 and 104.2.3.5.

**104.7.5 Fees.** The ~~building official~~ *code official* shall keep a record of fees collected and refunded in accordance with Section 108.

**104.8 Liability.** See ORS 30.265 for regulations relating to liability. ~~The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered personally liable, either civilly or criminally, and is hereby relieved from personal liability for any damage accruing to persons or property as a result of an act or by reason of any act or omission in the discharge of official duties.~~

~~104.8.1 Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code or other laws or ordinances implemented through the enforcement of this code shall be defended by the legal representatives of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.~~

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

**104.9.1 Material and equipment reuse.** Materials, *equipment* and devices shall not be reused unless such elements are in good working condition and *approved*.

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

ORS 455.060(4) is not part of this code but is reprinted 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 105—PERMITS

**105.1 Where required.** An owner, owner's 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 performed, shall first make application to the ~~building official~~ code official and obtain the required permit for the work.

**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 5~~ business day of the department of mechanical inspection days.

~~105.1.1 Annual permit. Instead of an individual construction permit for each alteration to an already approved system or equipment or application installation, the code official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.~~

~~105.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The code official shall have access to such records at all times or such records shall be filed with the code official as designated.~~

**105.2 Permits not required** Work exempt from permit. 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.
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.~~

The requirements of Sections 106.3 through 106.4.6 shall apply unless specifically amended by a local *municipality*, under the authority of ORS 455.020.

**105.3 Application for permit.** Each application for a permit, with the required fee, shall be filed with the ~~building official~~ code 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 the owner's 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~~ code official.

Where the local *municipality* has adopted a master permit or minor label program, see OAR Chapter 918, Division 100.

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

**105.3.2 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-code official~~ shall have the authority to grant one or more extensions of time for additional periods not exceeding ~~180-90~~ days each. The extension shall be requested in writing and justifiable cause demonstrated.

**105.4 Action on permit ~~Permit issuance.~~** The application, *construction documents* and other data filed by an applicant for a permit shall be reviewed by the ~~building official-code official~~. If the ~~building official-code 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 108.1 have been paid, a permit shall be issued to the applicant. Where the local municipality has adopted a master permit or minor label program, see OAR Chapter 918, Division 100.

**105.4.1 Approved construction documents.** When the ~~building official-code 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-code official~~. Work shall be done in accordance with the *approved construction documents*.

The ~~building official-code 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 that 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.

**105.4.2 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 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 on *construction documents* and other data shall not prevent the ~~building official-code 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 where in violation of this code ~~or of other ordinances of this jurisdiction~~.

**105.4.3 Expiration.** Every permit issued by the ~~building official-code 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 therefor shall be one-half the amount required for a new permit for such work, provided that changes have not been made and will not be made in the original *construction documents* for such work, and provided further that such suspension or abandonment has not exceeded 1 year.

**105.4.4 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 where work is unable to be commenced within the time required by this section for good and satisfactory reasons. The ~~building official-code 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. The fee for an extension shall be one-half the amount required for a new permit for such work.~~

**105.4.5 Suspension or revocation of permit.** The ~~building official-code 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.

**105.4.6 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.

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

## SECTION 106—CONSTRUCTION DOCUMENTS

**106.1 Construction documents.** *Construction documents*, engineering calculations, diagrams and other data shall be submitted in two or more sets, or in a digital format where allowed by the building official, with each application for a permit. The ~~building official-code official~~ shall require *construction documents*, computations and specifications to be prepared and designed by a *registered design professional* where required by state law. ~~Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a registered design professional.~~ *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, ~~and the materials and methods for maintaining required structural safety, fire-resistance rating and fireblocking.~~

**Exception:** The code 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.

**106.2 Retention of construction documents.** One set of *approved construction documents* shall be retained by the ~~building official-code official~~ for a period of not less than ~~180 days from date of completion of that dictated by OAR 166-150-0020 where a county has jurisdiction, OAR 166-200-0250 where a city has jurisdiction and OAR Division 166, Chapter 300 for the permitted work, or as required by state or local laws-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.

## SECTION 107—NOTICE OF APPROVAL

**107.1 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~~ ~~code official~~.

**107.2 Revocation.** The ~~building official~~ ~~code 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.

## SECTION 108—FEES

**108.1 Payment of fees.** A permit shall not be valid until the fees prescribed by law have been paid. An amendment to a permit shall not be released until the additional fee, if any, has been paid.

**108.2 Schedule of permit fees.** Where work requires a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the ~~applicable governing authority~~ ~~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 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 part of this code but is reprinted 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 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 §29.30; 2015 c.170 §5]

**108.2.1 Mechanical permits.** 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.

**108.2.2 Plan review fees.** Where a plan or other data is required to be submitted by Section 107, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fees for mechanical work shall be a percentage of the total permit fee as set forth in Section 108.2.

**108.2.2.1 Separate fees for plan review.** The plan review fees in this section are separate from the permit fees specified in Section 108.5 and are in addition to the permit fees. The state surcharge is not applied to plan review fees.

**108.2.2.2 Incomplete or changed plans.** Where plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged according to the rate established by the *municipality* or OAR Chapter 918, Division 460 where the State of Oregon has jurisdiction.

ORAR 918-050-0100 is not part of this code but is reprinted 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 lowpoint 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

~~108.3 Permit valuations. The applicant for a permit shall provide an estimated value of the work for which the permit is being issued at the time of application. Such estimated valuations shall include the total value of work, including materials and labor, for which the permit is being issued, such as mechanical equipment and permanent systems. Where, in the opinion of the code official, the valuation is underestimated, the permit shall be denied unless the applicant can show detailed estimates to the code official. The code official shall have the authority to adjust the final valuation for permit fees.~~

**108.4 Work commencing before permit issuance.** Any person who commences work on a mechanical system before obtaining the necessary permits shall be subject to ~~a an investigation fee established by the code official.~~ The amount of the investigation 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]

**108.5 Related fees.** The payment of the fee for the construction, *alteration*, removal or demolition for work done in connection to or concurrently with the work authorized by a permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

**108.6 Refunds.** The ~~building official-code official~~ is authorized to establish a refund policy.

## SECTION 109—SERVICE UTILITIES

This section is not adopted by the State of Oregon, Building Codes Division, as part of this code.  
Municipalities may have independent local authority regarding service utilities.

~~**109.1 Connection of service utilities.** A person shall not 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 code official.~~

~~**109.2 Temporary connection.** The code official shall have the authority to authorize the temporary connection of the building or system to the utility, source of energy, fuel, power, water system or sewer system for the purpose of testing systems or for use under a temporary approval.~~

~~**109.3 Authority to disconnect service utilities.** The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without the approval required by Section 109.1 or 109.2. The code official shall notify the serving utility, and wherever possible the owner or the owner's authorized agent and occupant of the building, structure or service system, of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner, the owner's authorized agent or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.~~

## SECTION 110—TEMPORARY USES, EQUIPMENT AND SYSTEMS

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

**110.2 Conformance.** Temporary uses, *equipment* and systems shall conform to the requirements of this code as necessary to ensure health, safety and general welfare.

**110.3 Temporary service utilities.** The ~~building official~~ code official is authorized to give permission to temporarily supply service utilities in accordance with Section 109.

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

## SECTION 111—INSPECTIONS AND TESTING

**111.1 General.** The ~~building official~~ code 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~~ code official, and such construction or work shall remain ~~visible accessible~~ able to be accessed ~~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.

**111.2 Required inspections and testing.** The ~~building official~~ code 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. Where 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 1210.10 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.

**111.2.1 Other inspections.** In addition to the inspections specified in Section 111.2, the ~~building official~~ code 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.

**111.2.2 Inspection requests.** It shall be the duty of the holder of the permit or their duly authorized agent to notify the ~~building official~~ code 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.

**111.2.3 Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the ~~building official~~ code official. The ~~building official~~ code 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~~ code official.

~~111.2.4 Approved inspection agencies. The code official is authorized to accept reports of approved agencies, provided that such agencies satisfy the requirements as to qualifications and reliability.~~

~~111.2.5 Evaluation and follow-up inspection services. Prior to the approval of a prefabricated construction assembly having concealed mechanical work and the issuance of a mechanical permit, the code official shall require the submittal of an evaluation report on each prefabricated construction assembly, indicating the complete details of the mechanical system, including a description of the system and its components, the basis on which the system is being evaluated, test results and similar information, and other data as necessary for the code official to determine conformance to this code.~~

~~111.2.5.1 Evaluation service. The code official shall designate the evaluation service of an approved agency as the evaluation agency, and review such agency's evaluation report for adequacy and conformance to this code.~~

~~111.2.5.2 Follow-up inspection. Except where ready access is provided to mechanical systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the code official shall conduct the in-plant inspections as frequently as necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the code official with the follow-up inspection manual and a report of inspections on request, and the mechanical system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.~~

~~111.2.5.3 Test and inspection records. Required test and inspection records shall be available to the code official at all times during the fabrication of the mechanical system and the erection of the building; or such records as the code official designates shall be filed.~~

**111.3 Testing.** Mechanical systems shall be tested as required in this code and in accordance with Sections 111.3.1 through 111.3.3. Tests shall be made by the permit holder and observed by the building official ~~code official~~.

**111.3.1 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.

**111.3.2 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.

**111.3.3 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 ~~code official~~ for inspection and testing. Reinspection fees shall be in accordance with a rate established by the municipality, or as established by the state where the State of Oregon has jurisdiction.

111.4 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.

## SECTION 112—MEANS OF APPEALS

**112.1 General.** The local municipality shall establish a process to review appeals of determinations made by the building official regarding any provision of the specialty codes the municipality administers and enforces, to include a method to identify the local building official or designee and to notify a permit applicant of the provisions of ORS 455.475, see OAR 918-020-0090(1)(c).

Where there are practical difficulties in establishing a local appeals board, appeals filed under the provisions of ORS 455.475 shall satisfy this requirement.

~~In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the code official.~~

**112.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The appeals board, where appointed, shall not have the authority to waive requirements of this code.

**112.3 Qualifications.** The ~~board of~~ appeals board, where appointed, shall consist of members who are qualified by experience and training to pass on matters pertaining to ~~the provisions of~~ professions or disciplines applicable to this code ~~and are not employees of the jurisdiction.~~

~~112.4 Administration. The code official shall take action without delay in accordance with the decision of the board.~~

112.4 Alternative appeal process. ORS 455.475 provides an alternative appeal process to any established by a local municipality. See OAR 918-008-0120. An applicant for a building permit may choose to appeal a building official's decision regarding a particular specialty code to a local appeals board or directly to the appropriate specialty code program chief.

Note: Forms for filing an appeal under ORS 455.475 are available online at: [Oregon.gov/bcd](http://Oregon.gov/bcd).

ORS 455.475 is not part of this code but is reprinted 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 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]

ORS 455.690 is not part of this code but is reprinted 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]

**SECTION 113—RESERVED BOARD OF APPEALS**

~~113.1 Membership of board. The board of appeals shall consist of five members appointed by the chief appointing authority as follows: one for 5 years; one for 4 years; one for 3 years; one for 2 years; and one for 1 year. Thereafter, each new member shall serve for 5 years or until a successor has been appointed.~~

**SECTION 114—VIOLATIONS**

**114.1 Prohibited acts.** Prohibited acts are as described in ORS 455.450.

ORS 455.450 is not part of this code but is reprinted 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 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 these 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.

~~114.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a mechanical system, or cause same to be done, in conflict with or in violation of any of the provisions of this code.~~

~~114.2 Notice of violation. The building official ~~code official~~ shall serve a notice of violation or order to the person responsible for the ~~erection, installation, alteration, extension, or~~ repair, ~~removal or demolition~~ 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.~~

~~114.3 Prosecution of violation. If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.~~

~~114.3 114.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall ~~erect, install, alter or repair~~ mechanical work in violation of the *approved construction documents* or directive of the building official ~~code official~~, or of a permit or certificate issued under the provisions of this code, may be subject to penalties prescribed by law. ~~shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.~~~~

114.4 Penalties. Penalty amounts other than those described in Section 109.4 are limited by ORS 455.895. Local authority to levy penalties is limited to violations of code application only.

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

**455.895 Civil penalties.**

(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.

~~**114.5 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.~~

~~**114.6 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.~~

~~**114.6.1 Authority to condemn mechanical systems.** Where the code 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 code 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.~~

~~Where such mechanical system is to be disconnected, written notice as prescribed in Section 114.2 shall be given. In cases of immediate danger to life or property, such disconnection shall be made immediately without such notice.~~

~~**114.6.2 Authority to disconnect service utilities.** The code official shall have the authority to authorize disconnection of utility services in accordance with Section 109.3.~~

~~**114.6.3 Connection after order to disconnect.** A person shall not make energy source connections to mechanical systems regulated by this code that have been disconnected or ordered to be disconnected by the code official, or the use of which has been ordered to be discontinued by the code official until the code official authorizes the reconnection and use of such mechanical systems.~~

~~Where 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 code official shall institute appropriate action to prevent, restrain, correct or abate the violation.~~

## **SECTION 115—STOP WORK ORDER**

Not adopted by the State of Oregon Building Codes Division as part of this code. A municipality may have authority outside of this code to regulate these matters locally, where not preempted.

~~**115.1 Authority.** Where the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.~~

~~**115.2 Issuance.** The stop work order shall be in writing and shall be given to the owner of the property, the owner's authorized agent or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.~~

~~**115.3 Emergencies.** Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.~~

~~**115.4 Failure to comply.** Any person who shall continue any work 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, shall be subject to fines established by the authority having jurisdiction.~~