



Department of Consumer  
and Business Services

## Implementation of enrolled Senate Bill 866 (2021) and housekeeping of rules

### Purpose of the rules:

The purpose of these rules is to implement Senate Bill 866, 2021 Oregon Laws Ch. 599, and to complete non-substantive updates to rule language in division 020.

### Citation:

Adopts OAR 918-020-0230, OAR 918-020-0240, OAR 918-020-0250, OAR 918-020-0260, OAR 918-020-0270

Amends OAR 918-020-0015, OAR 918-020-0070, OAR 918-020-0090, OAR 918-020-0095, OAR 918-020-0105, OAR 918-020-0180, OAR 918-020-0200, OAR 918-020-0220, OAR 918-020-0390, OAR 918-020-0410, OAR 918-098-1000, OAR 918-098-1005, OAR 918-098-1420, OAR 918-098-1475, OAR 918-098-1480, OAR 918-098-1530, OAR 918-098-1550, OAR 918-098-4002

These rules are effective Jan. 1, 2022.

### Background:

During the 2021 regular legislative session, the legislature passed Senate Bill (SB) 866. That bill permits a municipality or the Department of Consumer and Business Services to contract with a person to administer and enforce a building inspection program and to act as a building official. It further specifies conditions under which a municipality may procure services from a contract building official.

Following the passage of this bill, the division reconvened a rulemaking advisory committee for program delegation to discuss the implementation of SB 866, which includes the need for program renewals and updated operating plans. After receiving advice from the advisory committee, the division drafted proposed rule changes. The proposed rules were noticed, and a rulemaking hearing took place on Oct. 20, 2021. Written testimony was allowed through 5 p.m. on Oct. 22, 2021. The division received one piece of testimony, and this was considered when the division finalized these rules. A summary of the testimony received as well as the division's response is included in an attached document.

### Summary:

The rules amend chapter 918 division 020 and division 098 to implement SB 866 and to conduct housekeeping within those rules. The changes include, but are not limited to, the following:

- Requiring a city that intends to continue to procure services from a contract building official to notify the division of this intent and to comply with SB 866, section 2 by **Jan. 1, 2022**;
- Updating the reporting periods and renewal requirements for Groups 1 through 4, with the next renewal due on **Jan. 31, 2022**;
- Removal of references to an "approved" operating plan;
- Outlining requirements for a program that procures services from a contract building official; and



- Replacing the conflict of interest standards in OAR 918-098-1475 with the language in SB 866, section 4.

Also included in this rulemaking is the adoption of five new rules to implement the requirements in SB 866. This includes the following topics:

- When contract building officials may be used,
- Requirements for contract building officials when discretionary decisions are made,
- Training requirements and duties for qualified employees,
- The use of local boards and membership on the same,
- Appeals of discretionary decisions to the local boards, and
- Enforcement of SB 866, section 2.

Please review the rule filings and the new rules for the full scope of changes.

**Contact:**

If you have questions or need further information, contact Julia Hier at 503-779-7246 or [julia.m.hier@dcbs.oregon.gov](mailto:julia.m.hier@dcbs.oregon.gov).



# Oregon

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Oct. 26, 2021

**Response to testimony received regarding the adoption and amendment to rules in OAR 918-020 and OAR 918-098 to implement Senate Bill 866, 2021 Oregon Laws Ch. 599, and to complete non-substantive updates to rule language in division 020.**

**Testimony from Matt Rozzell - Oregon Building Officials Association:**

The Oregon Building Officials Association generally agrees with the proposed rules, with the recommended change that the memorandum of agreement requirement of OAR 918-020-0090(1)(m) be removed, as it is redundant and adds an unnecessary step in what is already a detailed and comprehensive process.

**Division response:** Thank you for your testimony. The division agrees the memorandum of agreement has redundant information and is not necessary. Historically, the division has required both the memorandum of agreement and the program administration request form during program assumption and renewal. *See* OAR 918-020-0095 and OAR 918-020-0105(2)(a). The division has amended OAR 918-020-0090(1)(m) to only make reference to the form, thus eliminating the memorandum of agreement from the process. It has also updated the language in OAR 918-020-0095 and OAR 918-020-0105 to provide additional information about the title and location of this form.

# Department of Consumer and Business Services

## Building Codes Division - Chapter 918

### Summary of rule changes

#### *Adopt:*

- OAR 918-020-0230
  - Describes when a contract building official may be used.
  - Outlines requirements related to the notice a contract building official must provide when a discretionary decision is made.
- OAR 918-020-0240: Describes the training required for a qualified employee and describes the duties of a qualified employee.
- OAR 918-020-0250: Describes the use of local boards and describes membership of local boards.
- OAR 918-020-0260: Describes appeals of discretionary decisions to local boards.
- OAR 918-020-0270: Describes enforcement of 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866).

#### *Amend:*

- OAR 918-020-0015
  - Adds definitions for “building official,” “contract building official,” “director,” “discretionary decision,” “division,” and “qualified employee.”
  - Clarifies that the definitions are as used in chapter 918, division 020, unless the context requires otherwise.
  - Removes definitions that were provided for the purpose of an alternative approval process for single-family dwelling conversion as used in OAR 918-020-0390. These definitions were moved to OAR 918-020-0390.
- OAR 918-020-0070
  - Adds 2021 Oregon Laws Ch. 599, Sections 2, 4 and 5 (Enrolled SB 866) to the list of statutes that are interpreted and applied in OAR chapter 918, division 020.
  - Explains 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) also authorizes the department to adopt rules regulating municipal administration and enforcement of building inspection programs, and includes the creation of standards related to qualified employees and the use of contract building officials to that list.
  - Removes reference to an “approved” operating plan.
  - Clarifies that a reporting period may be for a period of less than four years as described under OAR 918-020-0180.
  - Includes minor wording changes that enhance clarity.
- OAR 918-020-0090
  - Removes reference to an “approved” operating plan.
  - Clarifies that a completed data request form is only required when requested by the division.
  - Eliminates use of a memorandum of agreement while clarifying the need to complete a program administration form.
  - Describes requirements for a building inspection program to appoint or employ a person to serve as the building official.
  - Describes requirements for a program that procures services from a contract building official.
  - Includes minor wording changes that enhance clarity.
- OAR 918-020-0095
  - Requires a municipality’s assumption plan to include its ability to appoint or employ a person to serve as the building official pursuant to OAR 918-020-0090(1)(n) and either ORS 455.148(3) or 455.150(3).
  - Provides the location of the program administration form, and updates the name of that form.
- OAR 918-020-0105
  - Requires a city that intends to continue to procure services from a contract building official to notify the division of this intent and to comply with 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) by January 1, 2022.

- Requires all building programs to apply for renewal of their building program for a new reporting period by January 31, 2022, for a renewal effective July 1, 2022, and describes requirements for those renewals.
  - Provides the location of the program administration form, and updates the name of that form.
- OAR 918-020-0180
  - Updates the reporting periods for Groups 1 through 4.
  - Clarifies that this applies to all municipalities administering and enforcing a building inspection program on or after July 1, 2022.
  - Eliminates language related to the first reporting period in 1997.
- OAR 918-020-0200
  - Refers to “the municipality’s operating plan” rather than “an approved operating plan.”
  - Includes a minor grammatical change to enhance clarity.
- OAR 918-020-0220
  - Updates requirements for updating an operating plan when new building inspection fee schedules are adopted.
  - Includes minor wording changes to enhance clarity and maintain consistency with ORS 455.210.
- OAR 918-020-0390: Adds definitions that were previously in OAR 918-020-0015 and updates references to section numbers.
- OAR 918-020-0410: Includes minor wording changes to enhance clarity.
- OAR 918-098-1000: Clarifies that, for the division 098 rules, “plan reviewer” and “plans examiner” have the same meaning.
- OAR 918-098-1005
  - Adds definitions for “building official,” “contract building official,” and “director.”
  - Includes minor wording and grammatical changes to enhance clarity.
- OAR 918-098-1420: Includes minor wording changes to enhance clarity.
- OAR 918-098-1475: Replace rule with new conflict of interest standards contained within 2021 Oregon Laws Ch. 599, Sec. 4 (Enrolled SB 866).
- OAR 918-098-1480: Includes minor wording changes to enhance clarity.
- OAR 918-098-1530: Eliminates reference to a repealed rule and includes a minor wording change to enhance clarity.
- OAR 918-098-1550
  - Removes “or remains employed” to enhance clarity.
  - Adds “or otherwise authorized” when explaining that a specialized building inspector may perform duties authorized under that certification when employed “or otherwise authorized” by a municipality or the division.
- OAR 918-098-4002: Removes reference to OAR 918-098-1475(1).

# Division 20

## DELEGATION OF PROGRAMS TO LOCAL JURISDICTIONS

918-020-0015

### Definitions

**As used in OAR chapter 918, division 020, unless the context requires otherwise:**

~~(1) For the purpose of an alternative approval process for single family dwelling conversions as used in OAR 918-020-0390, the listed terms are defined as follows:~~

~~(a) “Alternate method” means a proposal from an alternate approval process permit applicant to meet the standard of care for fire life safety protection for the items listed in OAR 918-020-0390(1) as required by the state building code for a dwelling conversion in a manner other than what is listed in code, including consideration of alternate construction methods and materials that achieve equivalent safety.~~

~~(b) “Modification” means a proposal from an alternate approval process permit applicant for dwelling conversion to address one or more building code requirements in a similar manner as required by the state building code. A modification is not a waiver. Modifications address the general code requirement but do not have to meet an equivalent standard of care, or a specific code requirement. A modification is not permissible for the items listed in OAR 918-020-0390(1).~~

~~(c) “Waiver” means a proposal from an alternate approval process permit applicant for dwelling conversion to waive a non-building safety code requirement. A waiver is not permissible for the items listed in OAR 918-020-0390(1).~~

**(1) “Building official” has the meaning given to that term in ORS 455.715.**

**(2) “Contract building official” means an owner, manager or employee of a person that the director has licensed to perform specialty code inspections and plan reviews under ORS 455.457 and that engages in the business of providing the services described in ORS 455.148 (3) and 455.150 (3) to one or more municipalities to which the director has delegated a building inspection program.**

**(3) “Director” means the Director of the Department of Consumer and Business Services, or the director’s designee.**

**(4) “Discretionary decision” means a decision on whether to waive a plan review, an inspection or a provision of the state building code; or to allow an alternative material, design or method of construction.**

**(5) “Division” means the Building Codes Division of the Department of Consumer and Business Services.**

~~(6) “Full-service program” means a building inspection program that assumes administration and enforcement of all of the specialty code programs listed in ORS 455.148(1).~~

**(7) “Qualified employee” means an individual that a municipality employs and has designated to ratify or disapprove a contract building official’s discretionary decisions and who has satisfied the training requirements under OAR 918-020-0240.**

**Statutory/Other Authority:** ORS 455.148, 455.150 & 455.610, 2021 Oregon Laws Ch. 599, Sec. 2, (Enrolled SB 866)

**Statutes/Other Implemented:** ORS 455.148, 455.150 & 455.610, 2021 Oregon Laws Ch. 599, Sec. 2, (Enrolled SB 866)

918-020-0070

*Purpose and Scope*

(1) OAR chapter 918, division 020 interprets and applies ORS 455.148 to 455.210 and 2021 Oregon Laws Ch. 599, Sections 2, 4 and 5 (Enrolled SB 866). ORS 455.148 and 455.150 provide that municipalities that administer and enforce building inspection programs may do so for a period of up to four years before a renewal is required. A building inspection program is limited to the administration and enforcement of those specialty code programs assumed by a municipality under ORS 455.148, 455.150 and 479.855. ORS 455.148 and 455.150 authorize the department to adopt rules to adjust time periods for administration of building inspection programs to allow for variations in the needs of the department and participants. ORS 455.148 and 455.150 and 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) authorize the department to adopt rules regulating municipal administration and enforcement of building inspection programs including, but not limited to:

- (a) Creating building inspection program application and amendment requirements and procedures;
- (b) Granting or denying applications for building inspection program authority and amendments;
- (c) Reviewing procedures and program operations of municipalities;
- (d) Creating standards for efficient, effective, timely and acceptable building inspection programs;
- (e) Creating standards for justifying building inspection program fees adopted by a municipality; ~~and~~
- (f) Creating standards to determine whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program or part of the program throughout the county, if another municipality is allowed to provide a building inspection program or part of a building inspection program within the same county; and
- (g) Creating standards related to qualified employees and the use of contract building officials.**

(2) The purpose of these rules is to encourage municipalities to assume responsibility for the administration and enforcement of building inspection programs to the fullest possible extent. Each municipality is responsible for developing an independent operating plan that describes the manner in which the municipality will administer and enforce its building inspection program. Municipalities are encouraged to develop operating plans that meet the identified needs of their individual communities. The intent of the division is to cooperate with municipalities to obtain and maintain authority to administer and enforce efficient, effective, timely and acceptable building inspection programs.

(3) For the purpose of ~~these rules~~ OAR chapter 918, division 020, "reporting period" means a four-year period during which a municipality administers and enforces a building inspection program pursuant to an ~~approved~~ operating plan, or a period of less than four-years as described under OAR 918-020-0180.

**Statutory/Other Authority:** ORS 455.030, 2021 Oregon Laws Ch. 599, Sections 2, 4 and 5 (Enrolled SB 866)

**Statutes/Other Implemented:** ORS 455.148, 455.150 & 455.210, 2021 Oregon Laws Ch. 599, Sections 2, 4 and 5 (Enrolled SB 866)

918-020-0090

**Program Standards**

Every municipality that administers and enforces an approved building inspection program must establish and maintain the minimum standards, policies, and procedures set forth in this ~~section~~**rule**.

(1) Administrative Standards. A building inspection program must **comply with the following**:

- (a) Provide adequate funds, equipment, and other resources necessary to administer and enforce the building inspection program in conformance with an ~~approved~~ operating plan;
- (b) Document in writing the authority and responsibilities of the building official, plan reviewers, and inspectors based on an ordinance or resolution that authorizes the building official on behalf of the municipality to administer and enforce a building inspection program;
- (c) Establish a local process to review appeals of technical and scientific 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 notify the aggrieved persons of the provisions of ORS 455.475;
- (d) Account for all revenues collected and expenditures made relating to administration and enforcement of the building inspection program, and account for the electrical program revenues and expenditures separately when administered by the municipality.
- (A) Prepare income and expense projections for each code program it will administer and enforce during the reporting period; and
- (B) Describe how general administrative overhead costs and losses or surpluses, if any, will be allocated.
- (e) Establish policies and procedures for the retention and retrieval of records relating to the administration and enforcement of the specialty codes it administers and enforces;
- (f) Make its operating plan available to the public;
- (g) Establish a process to receive public inquiries, comments, and complaints;
- (h) Adopt a process to receive and respond to customers' questions regarding permitting, plan review, and inspections;
- (i) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will receive and respond to customers' questions;
- (j) Post its jurisdictional boundary, types of permits sold and hours of operation at each permit office it operates;
- (k) Identify all persons in addition to the building official to whom notices issued pursuant to these rules should be sent;
- ~~(L)~~ **When requested by the division, return** ~~Return~~ a completed data request form to and as provided by the division annually; ~~and~~
- (m) **Complete a program administration form, which is available on the division's website, for an** ~~Execute a memorandum of agreement with and as approved by the division for~~ initial building inspection program approval and assumption, for building program expansion approval and assumption, and thereafter when seeking ~~approval~~ to renew a program under OAR 918-020-0105.;

**(n) Appoint or employ a person to serve as the building official pursuant to ORS 455.148(3) or 455.150(3) as follows:**

**(A) The individual appointed or employed pursuant to this section must be certified by the division as a building official under OAR chapter 918, division 098;**

**(B) For the purposes of this subsection, to be directly employed the person must be subject to the provisions of ORS 316.162 to 316.221 and have completed a withholding exemptions certificate required by ORS 316.162 to 316.221;**

**(C) Two or more municipalities may combine in the appointment of a single building official who is employed by one of those municipalities for the purposes of administering a building inspection program within their communities; and**

**(D) A municipality may contract with a contract building official to administer and enforce all or parts of the building inspection program, in accordance with OAR chapter 918 division 020 and 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866).**

**(o) For any program that procures services from a contract building official under 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866):**

**(A) Document in its operating plan the information outlined in section 7 of this rule.**

**(B) Have audits conducted in accordance with 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 6 (Enrolled SB 866); and**



**(C) Make the results of each audit conducted under 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 6 (Enrolled SB 866) available to the public by easily accessible electronic means.**

(2) Permitting Standards. A building inspection program must:

- (a) Provide at least one office within its jurisdictional boundary where permits may be purchased;
- (b) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will make permits available for purchase;
- (c) Establish policies and procedures for receiving permit applications, determining whether permit applications are complete and notifying applicants what information, if any, is required to complete an application;
- (d) Set reasonable time periods within which the municipality will:
  - (A) Advise permit applicants whether an application is complete or requires additional information; and
  - (B) Generally issue a permit after an application has been submitted and approved.
- (e) Establish policies and procedure for issuing permits not requiring plan review, emergency permits, temporary permits, master permits, and minor labels;
- (f) Provide a means to receive permit applications via facsimile; and
- (g) Require proof of licensing, registration, and certification of any person who proposes to engage in any activity regulated by ORS chapters 446, 447, 455, 479, 693, and 701 prior to issuing any permit.

(3) Plan Review Standards. A building inspection program must:

- (a) Establish policies and procedures for its plan review process to:
  - (A) Assure compliance with the specialty codes it is responsible for administering and enforcing, including any current interpretive rulings adopted pursuant to ORS 455.060 or 455.475;
  - (B) Make available checklists or other materials at each permitting office it operates that reasonably apprise persons of the information required to constitute a complete permit application or set of plans;
  - (C) Inform applicants within three working days of receiving an application, whether or not the application is complete and if it is for a simple residential plan. For the purposes of this rule and ORS 455.467, a "complete application" is defined by the division, taking into consideration the regional procedures in OAR chapter 918, division 50. If deemed a simple residential plan, the jurisdiction must also inform the applicant of the time period in which the plan review will generally be completed;
  - (D) Establish a process that includes phased permitting and deferred submittals for plan review of commercial projects for all assumed specialty codes, taking into consideration the regional procedures in OAR chapter 918, division 50. The process may not allow a project to proceed beyond the level of approval authorized by the building official. The process must:
    - (i) Require the building official to issue permits in accordance with the state building code as defined in ORS 455.010 provided that adequate information and detailed statements have been submitted and approved with pertinent requirements of the appropriate code. Permits may include, but not be limited to: excavation, shoring, grading and site utilities, construction of foundations, structural frame, shell, or any other part of a building or structure.
    - (ii) Allow deferred submittals to be permitted within each phase with the approval of the building official; and
    - (iii) Require the applicant to be notified of the estimated timelines for phased plan reviews and that the applicant is proceeding without assurance that a permit for the entire structure will be granted when a phased permit is issued.
  - (E) Verify that all plans have been stamped by a registered design professional and licensed plan reviewer where required;
  - (F) Verify for those architects and engineers requesting the use of alternative one and two family dwelling plan review program that all plans have been stamped by a registered professional who is also a residential plans examiner. This process must require the building official to:
    - (i) Establish policies and procedures in their operating plan for this process;
    - (ii) Waive building inspection program plan review requirements for conventional light frame construction for detached one and two family dwellings; and
    - (iii) Establish an appropriate fee for processing plans submitted under this rule.
  - (G) Establish a process for plan review if non-certified individuals review permit applications under OAR 918-098-1010.
- (b) Employ or contract with a person licensed, registered, or certified to provide consultation and advice on plan reviews as deemed necessary by the building official based on the complexity and scope of its customers' needs;

(c) Maintain a list of all persons it employs or contracts with to provide plan review services including licenses, registrations, and certifications held by each plan reviewer and evidence of compliance with all applicable statutory or professional continuing education requirements;

(d) Designate at least three licensed plan reviewers from whom the municipality will accept plan reviews when the time periods in subsection (e) of this section cannot be met; and

(e) Allow an applicant to use a plan reviewer licensed under OAR 918-090-0210 and approved by the building official when the time period for review of "simple one- or two-family dwelling plans" exceeds 10 days where the population served is less than 300,000, or 15 days where the population served is 300,000 or greater.

**(4) Simple and complex one- and two-family dwelling plans.**

**(a)** For the purposes of these rules, "simple one- or two-family dwelling plans" must:

**(aA)** Comply with the requirements for prescriptive construction under the Oregon Residential Specialty Code; or

**(bB)** Comply with the Oregon Manufactured Dwelling Installation Specialty Code and the requirements in OAR chapter 918, division 500; and

**(cC)** Be a structure of three stories or less with an enclosed total floor space of 4,500 square feet or less, inclusive of multiple stories and garage(s).

**(dD)** "Simple one- or two-family dwelling plans" may:

**(aA)** Include pre-engineered systems listed and approved by nationally accredited agencies in accordance with the appropriate specialty code, or by state interpretive rulings approved by the appropriate specialty board, that require no additional analysis; and

**(bB)** Be designed by an architect or engineer and be considered a simple one- and two-family dwelling if all other criteria in this rule are met.

**(cC)** The following are considered "simple one- or two-family dwelling plans":

**(aA)** Master plans approved by the division or municipality or under ORS 455.685, which require no additional analysis; and

**(bB)** Plans that include an engineering soil report if the report allows prescriptive building construction and requires no special systems or additional analysis.

**(7d)** A plan that does not meet the definition of "simple" in this rule is deemed "complex". In order to provide timely customer service, a building official may accept a plan review performed by a licensed plan reviewer for a complex one- or two-family dwelling.

**(85)** Inspection Standards.

**(a)** A building inspection program must:

**(aA)** Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will provide inspection services or alternative inspection schedules agreed to by the municipality and permittee;

**(bB)** Unless otherwise specified by statute or specialty code, establish reasonable time periods when inspection services will be provided following requests for inspections;

**(cC)** Establish policies and procedures for inspection services;

**(dD)** Leave a written copy of the inspection report on site;

**(eE)** Make available any inspection checklists;

**(fF)** Maintain a list of all persons it employs or contracts with to provide inspection services including licenses, registrations, and certifications held by persons performing inspection services and evidence of compliance with all applicable statutory or professional continuing education requirements;

**(gG)** Vest the building official with authority to issue stop work orders for failure to comply with the specialty codes the municipality is responsible for administering and enforcing; and

**(hH)** Require inspectors to perform license enforcement inspections as part of routine installation inspections.

**(ib)** Where a municipality investigates and enforces violations under ORS 455.156 or in accordance with the municipality's local compliance program, the municipality's inspectors must require proof of compliance with the licensing, permitting, registration, and certification requirements of persons engaged in any activity regulated by ORS Chapters 446, 447, 455, 479,

693, and 701. Inspectors must report any violation of a licensing, permitting, registration, or certification requirement to the appropriate enforcement agency.

(96) Compliance Programs. A municipality administering a building inspection program may enact local regulations to create its own enforcement program with local procedures and penalties; utilize the division's compliance program by submitting compliance reports to the division; elect to act as an agent of a division board pursuant to ORS 455.156; or develop a program that may include, but not be limited to, a combination thereof.

**(7) Operating Plan.** A building inspection program must establish in its operating plan:

(a) Procedures to respond to public complaints regarding work performed without a license or permit or in violation of the specialty codes the municipality is responsible for administering and enforcing;

(b) Procedures requiring proof of licensure for work being performed under the state building code utilizing the approved citation process and procedures in OAR 918-020-0091.

(c) Policies and procedures to implement their compliance program;

(d) Policies and procedures regarding investigation of complaints, where the municipality chooses to investigate and enforce violations pursuant to ORS 455.156; ~~and~~

(e) Policies and procedures regarding issuance of notices of proposed assessments of civil penalties, where the municipality chooses to act as an agent of a board pursuant to ORS 455.156. Penalties under such a program are subject to the limitations set in 455.156 and 455.895; ~~and~~;

**(f) The following information, if the program procures services from a contract building official under 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866):**

**(A) The name, title, and contact information of any qualified employee;**

**(B) The authority and responsibilities of the qualified employee, when that person is acting in the capacity as a qualified employee;**

**(C) The program's process for handling discretionary decisions, including the procedure for providing notice to the qualified employee and permit applicant of discretionary decisions;**

**(D) The procedure the qualified employee will follow when reviewing and ratifying or disapproving a contract building official's discretionary decision;**

**(E) The timelines for appeals of discretionary decisions;**

**(F) The local board which will hear appeals of the contract building official's discretionary decisions in accordance with 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 4 (Enrolled SB 866); and**

**(G) When an audit will occur under 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 6 (Enrolled SB 866), and where the results of this audit will be made available.**

(108) Electrical Programs. Municipalities that administer and enforce an electrical program must demonstrate compliance with all applicable electrical rules adopted pursuant to ORS 479.855.

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

**Statutory/Other Authority:** ORS 183.355, 455.030, 455.062, 455.148, 455.150, 455.156, 455.467 & 455.469, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**Statutes/Other Implemented:** ORS 455.062, 455.148, 455.150, 455.156, 455.467 & 455.469, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**918-020-0095**

***Program Assumption Procedures***

(1) Assumption of building inspection programs shall be approved only under ORS Chapters 455 and 479 and these rules, for municipalities meeting the following minimum standards. Municipalities requesting to assume new programs or additional parts of a program must provide a full-service program as described in ORS Chapter 455. The municipality shall prepare an assumption plan demonstrating its ability to:

- (a) Administer the program for at least four years;
- (b) Maintain or improve upon service levels presently provided to the area, including identifying proposed staffing, service contracts and intergovernmental agreements for at least the first two years;
- (c) Operate a program that is financially feasible for at least two years without unduly increasing short-term and long-term costs of services to the public, in the areas administered by the municipality. Information showing how the program will be financially feasible shall include an estimate of anticipated revenues and expenditures, the assumptions on which the estimates are based, and an explanation of how losses, if any, will be funded; and
- (d) Transition the program from the previous service provider including developing a method for:
  - (A) Transferring responsibility for existing buildings, open plan reviews, permits and inspections and corresponding revenues for completion of outstanding work;
  - (B) Transferring any pending enforcement actions;
  - (C) Informing contractors and others of the change of inspecting jurisdictions, jurisdictional boundaries and requirements for plan review, permits and inspections; and
  - (D) Transferring any affected employees consistent with ORS 236.605.

**(e) Appoint or employ a person to serve as the building official pursuant to OAR 918-020-0090(1)(n) and either ORS 455.148(3) or 455.150(3).**

(2) A municipality requesting to administer and enforce a new full-service building inspection program under ORS 455.148, or part of a building inspection program to become full-service under ORS 455.148 and 455.150 shall, by October 1:

- (a) Submit a completed division program ~~administration request form~~, **which is available on the division's website**, describing the specialty codes the municipality intends to administer effective July 1 of the following year, and provide the following:
    - (A) An assumption plan as required in ORS 455.148 and Section (1) of this rule;
    - (B) An operating plan as described in OAR 918-020-0090;
    - (C) A schedule, including the date, time, place and subject matter, of any proposed meetings of public or advisory bodies, where public comments will be received concerning their proposal to assume a full-service program or part of a program;
    - (D) Evidence of compliance with the notice and consultation requirements of this section; and
    - (E) When a municipality reapplies to assume administration of a program that was previously revoked, the application shall include an explanation of how past deficiencies were corrected and how they will be prevented in the future, and it shall meet the requirements of ORS 455.148 and 455.150 including timelines and full-service coverage.
  - (b) Consult with the jurisdiction from whom the program will be assumed, to:
    - (A) Notify them of the intent to assume the program;
    - (B) Discuss with them any impacts on their existing program;
    - (C) Attempt to resolve any negative impacts; and
    - (D) Attempt to reach agreement on the method of providing services in the area.
- (3) Upon receipt of an application for program assumption from a municipality, the division shall, by October 15, notify in writing all persons on the division maintained interested party mailing list.
- (4) Objections to proposed program assumptions, including or related to, claims of economic impairment by the division or the municipality potentially losing the program, shall be received within 30 days of notice and shall include:
- (a) An explanation of the objection to the proposed program assumption;
  - (b) Identification of the required program standard that is believed not to be met; and

(c) When related to economic impairment, the information provided shall include projected impact on the existing building inspection program revenues, expenses, and staffing levels and the ability to continue carrying out remaining portions of the affected program.

(5) When reviewing the objections, the division shall consider the criteria established in ORS 455.152 and whether the objections relate to the ability of the municipality to effectively carry out the program and meet the required standards of applicable statutes and rules.

(6) The municipality requesting administration of a program shall confirm its intent to proceed with its application and submit final information to the division by January 1.

(7) By April 1 the division shall approve or deny the request. A request may be denied when the municipality failed to meet any of the standards and timelines for assumption set forth in ORS Chapters 455 and 479 and the rules adopted thereunder, or when a claim of economic impairment is not resolved to the satisfaction of the director.

(8) Municipalities approved to assume programs may do so effective July 1.

(9) By September 1, the municipality shall submit a final approved copy of all applicable ordinances and fee schedules.

**Statutory/Other Authority:** ORS 455.148, 455.150, 455.152 & 479.855, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**Statutes/Other Implemented:** ORS 455.148, 455.150, 455.152 & 479.855, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**918-020-0105**

***Renewal of Existing Programs***

(1) Existing programs may continue to administer full-service or partial programs as permitted by ORS Chapter 455. Any municipality requesting to assume an additional program shall do so in accordance with ORS Chapter 455 and these rules.

(2) Depending on the respective reporting period outlined in OAR 918-020-0180 municipalities administering existing programs upon notification shall submit the following to the division by January 1, **unless the year is 2022, in which case the submission to the division is required by January 31:**

(a) A completed ~~division form~~ **program administration form, which is available on the division's website,** describing the specialty codes the municipality will continue to administer and enforce beginning July 1 of the next reporting period;

(b) A list of current staff, including contract providers, and their applicable certifications;

(c) An updated copy of the municipality's operating plan as described in OAR 918-020-0090; and

(d) A narrative describing any changes to the plan.

(3) Requests to extend the January 1 date as authorized in ORS 455.148(4) and 455.150(4) shall be filed with the division no later than December 21.

**(4) Notwithstanding OAR 918-020-0180:**

**(a) By January 1, 2022, a city that intends to continue to procure services from a contract building official shall notify the division of this intent and must comply with 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866).**

**(b) All municipalities that administer an existing program shall apply for renewal of their building program by January 31, 2022, for renewal effective July 1, 2022.**

**(c) Renewal applications must include the information outlined in section (2) of this rule.**

**Statutory/Other Authority:** ORS 455.148 & 455.150

**Statutes/Other Implemented:** ORS 455.148 & 455.150

**918-020-0180**

**Reporting Periods**

(1) All municipalities administering and enforcing a building inspection program on or after July 1, ~~1997~~2022, shall have four-year reporting periods. The division shall divide the municipalities administering and enforcing building inspection programs into four separate reporting groups identified as Group One, Group Two, Group Three and Group Four. ~~Each reporting group shall contain approximately one quarter (25 percent) of the municipalities administering and enforcing building inspection programs on July 1, 1997.~~ Reporting periods for each group shall begin on July 1 of the first year and shall end on June 30 of the fourth year, except as provided by Sections (2) to (5) of this rule.

(2) The first reporting period for municipalities in Group One shall start on July 1, ~~1997~~2022, and end on June 30, ~~1998~~2023. All subsequent reporting periods shall be four years. ~~Municipalities in Group One shall submit a program administration request form but not be required to submit a second operating plan until after the division has completed a general review of the municipal building inspection program following the conclusion of the first reporting period.~~

(3) The first reporting period for municipalities in Group Two shall start on July 1, ~~1997~~2022, and end on June 30, ~~1999~~2024. All subsequent reporting periods shall be for four years.

(4) The first reporting period for municipalities in Group Three shall start on July 1, ~~1997~~2022, and end on June 30, ~~2000~~2025. All subsequent reporting periods shall be for four years.

(5) The first reporting period for municipalities in Group Four shall start on July 1, ~~1997~~2022, and end on June 30, ~~2001~~2026. All subsequent reporting periods shall be for four years.

(6) The first reporting period for municipalities authorized to administer and enforce new building inspection programs shall start July 1 of the first year the municipality is authorized to administer and enforce a new building inspection program and shall end on June 30 of the fourth year. All subsequent reporting periods shall be for four years.

(7) A municipality that amends an existing building inspection program through the assumption of a new code program shall not alter its reporting period.

(8) All municipalities enforcing building inspection programs shall amend their operating plan within 30 days when changes occur and submit a copy of the amended operating plan to the division.

**Statutory/Other Authority:** ORS 455.030

**Statutes/Other Implemented:** ORS 455.150

**918-020-0200**

**Review Procedures**

- (1) The administrator may appoint one active building official from a municipality similar in size to the municipality subject to review and one contractor from an area similar in size to the municipality subject to review to assist and advise division staff during a general or interim review. Prior to beginning any general or interim review the division shall conduct an initial interview with the building official.
- (2) Review of Records. The division shall request that a municipality provide revenue and expense information prior to the actual site visit, and the opportunity to review documents and records, whether electronic or other media, regarding the administration and enforcement of a building inspection program.
- (3) General Administration and Compliance Review. The division shall review and verify compliance with the general administration and compliance program requirements described in OAR 918-020-0090.
- (4) Review of Prior Approved Construction Plans. The division may review a random selection of construction plans approved by the municipality during the subject reporting period and verify compliance with the minimum requirements of the applicable specialty codes.
- (5) Review of Inspections. The division may review a random selection of inspections completed by the municipality during the subject reporting period and verify compliance with the applicable specialty codes.
- (6) Post-Review Interview. At the completion of a general or interim review the division shall conduct a post-review interview with the building official or person designated by the building official. The reviewer shall describe the general results of the review, issue written notice regarding any failure to conform with ~~an approved~~ the municipality's operating plan that requires immediate attention, and generally respond to any questions.
- (7) Final Report. The division shall prepare and deliver a final written report describing the results of the review to a municipality within 60 days of completing a review.
- (8) The municipality being reviewed shall respond to the division's final report conclusions within 30 days after receipt of the report, or request an extension.

**Statutory/Other Authority:** ORS 455.030

**Statutes/Other Implemented:** ORS 455.150



**918-020-0220**

***Fee Adoption Standards***

(1) In addition to the standards set forth in ORS 455.210 and 479.845, a municipality intending to adopt **new or increased** building inspection program fees for any specialty code administered and enforced by the municipality shall comply with all of the following standards:

(a) The municipality shall notify the division of such adoptions **at least** 45 days prior to the adoptive date. The notification shall include a summary of the following:

(A) The affected specialty code or program areas;

(B) A description of the proposed building inspection program fees including the approximate percentage increase when applicable;

(C) The proposed effective date;

(D) The date of the last fee increase in the specialty code or program area if applicable;

(E) The anticipated date, time and location of the local municipal hearing scheduled pursuant to ORS 294.160;

(F) The name, phone number and title of a contact person; and

(G) A narrative explaining the purpose of the proposed fee adoption.

(b) Upon notification from the division that an appeal request has been received under ORS 455.210 or 479.845, the municipality shall submit further documentation to be received by the division within 15 days following notification. This documentation shall include, but not be limited to:

(A) A narrative explaining why the building inspection program fees are necessary at the level proposed;

(B) The municipality's newly adopted fee schedule and, if applicable, the prior fee schedule;

(C) Revenue and expense information for the building inspection program including the current fiscal year, including a minimum of 12 months actual and 12 months projected revenues and expenses;

(D) An explanation of the municipality's cost allocation method(s) for expenses;

(E) An explanation of all reserve and ending fund balances;

(F) A determination of whether the fee is reasonable, including an analysis of whether the fee is:

(i) Comparable to fees charged by other municipalities of similar size and geographic location for the same level of service;

(ii) Established through the same or similar calculation methods used by other municipalities; and

(iii) The same type as those charged by other municipalities for similar services; and

(G) The identification of any potential building inspection program changes that are anticipated as a result of the proposed fee.

(c) The municipality shall update its operating plan ~~on file with the division~~ within 30 days of the adoption of a new building inspection program fee schedule including sufficient information ~~for the division to determine the~~ **to demonstrate how the fee revenue will be used within the building inspection program and shall provide a copy of the updated operating plan to the division.**

(2) The division shall establish and maintain a list of all interested persons who wish to receive notice of all planned fee adoptions for building inspection programs. The division shall notify in writing all interested persons on the division's mailing list within 15 days of receiving a municipal notice of intent to adopt building inspection program fees.

(3) Upon a determination that the municipality failed to meet any of the fee adoption standards, the director may deny a fee adoption or require a municipality to rescind that portion of a local ordinance or regulation and readopt building inspection program fees. A municipality shall refund all building inspection program fees collected under the rescinded ordinance that exceed the prior building inspection program fee schedule, unless a waiver is approved by the director upon written request from the municipality. Copies of the waiver request shall be forwarded by the division to the interested parties list.

**Statutory/Other Authority:** ORS 455.030, 455.148 & 455.150

**Statutes/Other Implemented:** ORS 455.148, 455.150, 455.210 & 479.845

OAR 918-020-0230 (new)  
Contract Building Officials

(1) Use of Contract Building Officials.

(a) City.

(A) A city may procure services from a contract building official only if the city complies with the provisions of 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 2, Paragraph (a) (Enrolled SB 866) and 2021 Oregon Laws Ch. 599, Sec. 5 (Enrolled SB 866).

(B) A city that procured services from a contract building official within the period described in 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 2 (Enrolled SB 866) may at any time choose to procure services from a different contract building official, may employ a building official or, in cooperation with another municipality, may appoint a building official employed by the other municipality to administer a building inspection program for both the city and the other municipality.

(b) County. A county may procure services from a contract building official only if the county complies with the provisions of 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 2, Paragraph (b) (Enrolled SB 866).

(2) Notice from a Contract Building Official. Within five business days from making a discretionary decision, the contract building official must:

(a) Notify a qualified employee in writing of the discretionary decision; and

(b) Notify a permit applicant in writing of the discretionary decision that relates to the permit application. This notice must list and describe available opportunities for a hearing and appeal of the decision.

Statutory/Other Authority: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

OAR 918-020-0240 (new)

Qualified Employees

(1) Training.

(a) Basic Training. Before exercising oversight over a contract building official, a qualified employee must complete the division's basic training course for qualified employees.

(b) Advanced Training. Within 180 days after a municipality's designation of the individual as a qualified employee, the qualified employee must complete the division's advanced training course for qualified employees.

(c) The director will provide the qualified employee with evidence of satisfactory completion of the basic training and advanced training course.

(2) Duties. A qualified employee must review and ratify or disapprove a contract building official's discretionary decision in writing within 30 days after receiving notice of the decision.

**Statutory/Other Authority:** 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**Statutes/Other Implemented:** 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

OAR 918-020-0250 (new)

Local Boards

(1) Use of Local Boards.

(a) Except as otherwise provided in subsection (b) and (c) of this section, a municipality that procures services from a contract building official must establish a local board to which a permit applicant may appeal a contract building official's discretionary decisions.

(b) A city does not need to establish a local board if the county within which the city is located, or an adjacent county, has a local board that hears, in accordance with this rule, all appeals of the discretionary decisions of the city's contract building official.

(c) A county does not need to establish a local board if an adjacent county has a local board that hears, in accordance with this rule, all appeals of the discretionary decisions of the county's contract building official or the discretionary decisions of all contract building officials for cities located within the county.

(d) Agreements.

(A) A city may enter into an agreement with the county within which the city is located, or an adjacent county, to hear appeals in accordance with this rule.

(B) A county may enter into an agreement with an adjacent county to hear appeals in accordance with this rule.

(2) Membership of Local Boards.

(a) If a city establishes a local board under section (1)(a) of this rule, the city must include as a member the building official of the county within which the city is located or the building official of an adjacent county.

(b) If a county establishes a local board under section (1)(a) of this rule, the county must include as a member a building official from an adjacent county.

(c) A local board described in section (1)(a) of this rule may not include as a member:

(A) Any contract building official; or

(B) An owner, manager, director, officer or employee of a person, other than an employee of the municipality, that performs building inspections.

(d) An individual who engages in the business of building design or construction may be a member of the local board, but may not hear an appeal of a contract building official's discretionary decision concerning a project that involves a business, or competitor of a business, that:

(A) The individual owns or manages or for which the individual provides services as an employee, agent or contractor; or

(B) A family member or a member of the individual's householder owns or manages or for which the family member or member of the household provides services as an employee, agent or contractor.

Statutory/Other Authority: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

OAR 918-020-0260 (New)

Appeals of Discretionary Decisions to the Local Board

**(1) After receiving notice of the building official's discretionary decision, a permit applicant has 30 days to submit an appeal to the local board.**

**(2) In an appeal before the local board, the permit applicant has the burden of establishing by a preponderance of the evidence that overturning the discretionary decision of the contract building official will not create a dangerous or unsafe condition or decrease the minimum fire and life safety standards set forth in the relevant code.**

**(3) Upon receipt of a notice of appeal, the local board has 30 days to review the appeal and issue a determination.**

**(4) The appeal rights to which a permit applicant is entitled before a local board is in addition to, and not in lieu of, any other rights of appeal the permit applicant may have.**

**Statutory/Other Authority:** 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**Statutes/Other Implemented:** 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

OAR 918-020-0270 (new)

Enforcement of 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

(1) If the director has reason to believe that a violation of 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) has occurred, the director may issue notice and take action under 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 8 (Enrolled SB 866).

(2) If the director finds that a violation of ORS 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) has occurred, the director may issue and serve a written order upon the municipality, or upon a contract building official which the municipality procured services, that specifies corrective action. The order must state the facts and identify applicable law that forms the basis for the director's finding that a violation has occurred and must give the municipality or the contract building official reasonable time, which may not be less than 10 business days, within which to perform the director's specified corrective action. In addition, the director may require the municipality to:

(a) Increase the frequency of the audit required under 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 6 (Enrolled SB 866) to once per year;

(b) Submit a written plan that describes how the municipality will achieve compliance with 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866). If the director accepts the plan, the director will incorporate the provisions of the plan into an order that is binding upon the municipality;

(c) State and document the actions that the municipality has undertaken independently to correct the violation; or

(d) If the director finds that a pattern of violations of 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) has occurred, 2021 Oregon Laws Ch. 599, Sec. 2, Subs. (9), Paragraph (c) (Enrolled SB 866) applies.

Statutory/Other Authority: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

*Alternative Approval Process for Single-Family Dwelling Conversions*

**(1) For the purpose of an alternative approval process for single-family dwelling conversions as used in this rule, the listed terms are defined as follows:**

**(a) “Alternate method” means a proposal from an alternate approval process permit applicant to meet the standard of care for fire life safety protection for the items listed in section (2) of this rule as required by the state building code for a dwelling conversion in a manner other than what is listed in code, including consideration of alternate construction methods and materials that achieve equivalent safety.**

**(b) “Modification” means a proposal from an alternate approval process permit applicant for dwelling conversion to address one or more building code requirements in a similar manner as required by the state building code. A modification is not a waiver. Modifications address the general code requirement but do not have to meet an equivalent standard of care, or a specific code requirement. A modification is not permissible for the items listed in section (2) of this rule.**

**(c) “Waiver” means a proposal from an alternate approval process permit applicant for dwelling conversion to waive a non-building safety code requirement. A waiver is not permissible for the items listed in section (2) of this rule.**

(~~2~~) A municipality administering and enforcing a building inspection program under ORS 455.148 or 455.150 shall, upon written request from an applicant for a building permit, exercise its ability to grant a local alternate approval, including alternate methods, modifications, and waivers under the state building code for projects related to conversion of a single-family dwelling to no more than four dwelling units. When making decisions regarding such a permit application, a building official may grant an alternate method for the following elements:

- (a) Means of egress requirements, including emergency escape and rescue openings;
- (b) Smoke alarms, carbon monoxide alarms, and radon gas mitigation;
- (c) Fire separation, fire resistance ratings, and dwelling unit penetrations and compartmentalization; and
- (d) Required automatic fire sprinkler systems.

(~~3~~) In making decisions related to an alternate method for conversion of an existing single-family dwelling into no more than four dwelling units, a building official may consider whether an automatic sprinkler system is technically feasible and consider alternate methods and materials, provided that adequate safeguards exist to address the items listed in section (~~4~~) of this rule and other appropriate measures are in place to ensure public safety, fire and smoke control, and safe egress.

(~~4~~) A building official may accept an alternate method, a modification, or waiver of other code items pertaining to the conversion of existing single-family dwellings into no more than four dwelling units. However, consistent with the discretionary decision making powers granted to building officials, and consistent with this rule, a building official may not approve a condition that would create an imminent threat to public health and safety.

(~~5~~) Applicable standards for the conversion of a single-family dwelling as follows:

- (a) A conversion into two dwelling units follows the construction standards of the Oregon Residential Specialty Code; and
- (b) A conversion into three or four dwelling units follows the construction standards of the Oregon Structural Specialty Code.

**Statutory/Other Authority:** ORS 455.610

**Statutes/Other Implemented:** ORS 455.610

**918-020-0410**

**Statewide Master Builder Program — Definitions**

For the purpose of these rules **OAR 918-020-0400 through OAR 918-020-0490**, the following definitions apply:

- (1) "Building trade committee" means a group, including, but not limited to, two local general contractors, one local building official and any other persons having substantial expertise in various aspects of one and two family dwelling construction.
- (2) "General contractor" has the meaning given in ORS 701.005.
- (3) "Master builder" means a person certified under the provisions of OAR 918-020-0420.
- (4) "Qualified Construction Company" means a company that has been continuously licensed by the Construction Contractors Board during:
  - (a) The preceding five years as a general contractor; or
  - (b) At least the preceding two years as a general contractor and by one or more other states during the balance of the preceding five years in an occupation equivalent to that of a general contractor.
- (5) "Regular employee" is someone who:
  - (a) Is continuously employed by, and on the regular payroll of, a qualified construction company;
  - (b) Has filed a withholding exemption certificate pursuant to ORS 316.182 for work performed for the qualified construction company; and
  - (c) Is available during working hours to supervise on-site dwelling construction including, but not limited to, supervising the installation through completion of:
    - (A) Drywall;
    - (B) Electrical systems;
    - (C) Footings;
    - (D) Foundations;
    - (E) Framing;
    - (F) Insulation;
    - (G) Mechanical systems;
    - (H) Plumbing systems; and
    - (I) Stairs.
- (6) "Whole dwelling remodel" means a project that includes the installation in an existing dwelling of all the following:
  - (a) Footings;
  - (b) Foundations;
  - (c) Framing;
  - (d) Work that includes the installation of plumbing, electrical and mechanical systems;
  - (e) Insulation; and
  - (f) Drywall.

**Statutory/Other Authority:** ORS 455.805 & 455.810

**Statutes/Other Implemented:** ORS 455.805 & 455.810



# Division 98

## CERTIFICATION RULES

### *918-098-1000*

#### *Purpose and Scope*

(1) These rules establish minimum training, experience, certification, and certification renewal requirements for building officials and persons who perform specialty code plan review and inspections in this state.

(a) The certification requirements for commercial plumbing and electrical inspectors are located in OAR 918-695-0400 through 918-695-0410 and 918-281-0000 through 918-281-0020.

(b) Plan review and inspections required under the Oregon Reach Code are to be performed by individuals certified under these rules, OAR chapter 918, division 281, or chapter 918, division 695 to conduct plan review or inspections for the specialty code under which the particular Reach Code provision is regulated.

(2) Nothing in these rules is intended to allow a person to violate statute or rule or change certification and licensing requirements set forth in statute.

(3) Nothing in these rules prevents the director from waiving procedural requirements in the rare circumstance where substantial compliance is impracticable.

(4) Nothing in these rules prevents the director from pursuing actions under ORS 455.125, 455.127, 455.129, 455.740, 455.895 or these rules.

**(5) For the purpose of these rules, “plan reviewer” and “plans examiner” have the same meaning.**

**Statutory/Other Authority:** ORS 455.500 & 455.720

**Statutes/Other Implemented:** ORS 446.250, 455.500, 455.622 & 455.720, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**Definitions**

As used in OAR chapter 918, division 098, unless the context requires otherwise:

- (1) “A-level ~~Structures~~ **structures**” means structures regulated by the Oregon Structural Specialty Code that require a state fire and life safety plan review or are required to be designed by an Oregon licensed architect or engineer pursuant to ORS Chapter 671.
- (2) “B-level ~~Structures~~ **structures**” means structures regulated by the Oregon Structural Specialty Code that do not require a state fire and life safety plan review and are not required to be designed by an Oregon licensed architect or engineer pursuant to ORS Chapter 671.
- (3) “Building ~~Inspection Technology~~ **inspection technology**” means an approved curriculum meeting the requirements of OAR 918-098-1420.

**(4) “Building official” has the meaning given to that term in ORS 455.715.**

**(5) “Contract building official” means an owner, manager or employee of a person that the director has licensed to perform specialty code inspections and plan reviews under ORS 455.457 and that engages in the business of providing the services described in ORS 455.148 (3) and 455.150 (3) to one or more municipalities to which the director has delegated a building inspection program.**

~~(46)~~ “Code ~~Change Course~~ **change course**” means a continuing education course that addresses changes to specialty codes, code standards, interpretations and alternate methods or administrative rules addressing code.

~~(57)~~ “Commercial” means structures regulated by the Oregon Structural Specialty Code.

~~(68)~~ “Cross ~~Training Program~~ **training program**” means a division approved residential, electrical or plumbing inspector on-the-job cross-training program and practical evaluation, established by the building official of a local jurisdiction, that meets the minimum training and education requirements established by the division.

~~(79)~~ “Design” means professional, engineering or technical design of systems or components that requires computations, research or special knowledge.

**(10) “Director” means the director of the Department of Consumer and Business Services.**

~~(811)~~ “Division” means the Building Codes Division **of the Department of Consumer and Business Services.**

~~(912)~~ “Education ~~Institution~~ **institution**” is an institution accredited through a nationally recognized body and is usually governed by a local board and receives a state recognition.

~~(4013)~~ “Education ~~Program~~ **program**” is a minimum two-year, or one-year focused building inspection technology program administered by an education institution.

~~(414)~~ “International Code Council certification” means a certification issued by the International Code Council demonstrating that an individual has passed a specific International Code Council certification examination.

~~(4215)~~ “Nationally ~~Recognized Certification Body~~ **recognized certification body**” means a body or organization that provides formal recognition that a person possesses minimum knowledge of a recognized code.

~~(4316)~~ “High ~~Priority Training~~ **priority training**” means periodic continuing education training identified by the division that addresses new technologies or specific problem areas identified by the division.

~~(4417)~~ “Oregon ~~Code Certification~~ **code certification**” means a certification issued by the division for **a**:

- (a) Building Official;
- (b) Fire and Life Safety Plans Examiner;
- (c) A-Level Structural Plans Examiner;
- (d) B-Level Structural Plans Examiner;
- (e) Residential or One-and-Two Family Dwelling Plans Examiner;
- (f) Residential or One-and-Two Family Dwelling Structural Inspector;
- (g) A-Level Structural Inspector;
- (h) A-Level Mechanical Inspector;
- (i) B-Level Structural Inspector;
- (j) B-Level Mechanical Inspector;

- (k) Residential or One-and-Two Family Dwelling Mechanical Inspector;
- (l) Electrical Specialty Code Inspector;
- (m) Residential or One-and-Two Family Dwelling Electrical Inspector;
- (n) Plumbing Specialty Code Inspector;
- (o) Residential or One-and-Two Family Dwelling Plumbing Inspector;
- (p) Limited Plumbing Inspector – Building Sewers;
- (q) Manufactured Structure Construction Inspector;
- (r) Manufactured Structure Installation Inspector; and
- (s) Park and Camp Inspector.

~~(1518)~~ **(1718)** “Oregon Inspector Certification” means a certification issued by the division demonstrating that a person has passed a division-approved examination that covers Oregon laws and regulations relating to state building codes including, but not limited to, architectural barrier laws governing accessibility to buildings by disabled persons.

~~(1619)~~ **(1719)** “~~Practical Experience Evaluation~~ experience evaluation” means a division-approved process that may include, but is not limited to field training or evaluation to determine the skill and knowledge of a person by the division for the purposes of certification.

~~(1720)~~ **(1720)** “~~Recognized Code~~ code” means a regulatory document enforced by one or more state or local governments that prescribes minimum standards for building materials and construction methods of buildings or structures and building service equipment including plumbing, mechanical and electrical systems.

~~(1821)~~ **(1821)** “~~Residential Structures~~ structures” means a structure regulated by the “Low-Rise Residential Dwelling Code” as defined by ORS 455.010.

~~(1922)~~ **(1922)** “~~Specialized Inspector~~ inspector” means a person authorized to enforce all or portions of the specialty codes.

~~(2023)~~ **(2023)** “~~Year of Experience~~ experience” means 2,000 hours of documented experience.

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

**Statutory/Other Authority:** ORS 455.715, 455.720, 455.723 & 455.732, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**Statutes/Other Implemented:** ORS 455.715, 455.720, 455.723 & 455.732, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

**918-098-1420**

***Education Program Requirements***

- (1) Educational institutes may submit a written application to the division for approval of their education program.
- (2) Programs shall be resubmitted for review and approval every three years following initial approval.
- (3) ~~Class room~~**Classroom** and laboratory instructors, **including virtual instructors**, shall possess an appropriate inspector certification for the specialty code area being taught.
- (4) All ~~Class room~~**classroom** and laboratory instruction, **including virtual instruction**, shall be based on the specialty codes adopted by the division or the corresponding nationally recognized model codes.
- (5) All classes shall be updated with the most recent adopted code-changes. Program amendments shall be submitted to the division for review and approval.

**Statutory/Other Authority:** ORS 455.720

**Statutes/Other Implemented:** ORS 455.720

918-098-1475

***Conflicts of Interest for Building Officials, Inspectors, and Plans Examiners***

~~(1) A person with an Oregon Inspector Certification and an Oregon Code Certification may not get paid to perform or manage work regulated by the state building code for a company engaged in construction or property development in Oregon when employed as an inspector, plans examiner, or building official by the division, a municipality, or a registered business under ORS 455.457.~~

~~(2) Notwithstanding (1), a person hired by the division, a municipality, or a registered business under ORS 455.457 may continue to perform or manage work for a company engaged in construction or property development in Oregon for 6 months after hire only as necessary to complete or transition previously accepted work, if:~~

~~(a) The person does not engage in any conflicts of interest;~~

~~(b) The person submits written notice to the jurisdiction that hired them of their intent to continue outside work; and~~

~~(c) The jurisdiction that hired the person consents in writing to the continued outside work.~~

~~(3) For the purposes of this section “engaged in construction or property development” includes, but is not limited to:~~

~~(a) Designing, testing, or auditing of buildings or other structures, devices, and equipment regulated by the state building code; and~~

~~(b) Selling products or services that design, test, or audit buildings or other structures, devices, and equipment that are regulated by the state building code or that provide information related to the requirements of the state building code.~~

~~(4) For the purposes of this section, “employed” means working directly for an employer as an employee and completing a withholding exemptions certificate required by ORS 316.162 to 316.212.~~

~~(5) For the purposes of this section, “paid” means receiving any compensation from any source.~~

**(1) A building official, a contract building official, an inspector, a plan reviewer or another person that provides building inspection services under contract with a municipality is a public official for the purposes of ORS chapter 244.**

**(2) The director may suspend, revoke, deny, condition or refuse to renew a license, certification or registration of a building official, inspector, plan reviewer or other person that provides building inspection services under contract with a municipality if the director determines that the building official, inspector, plan reviewer or other person or an owner, director, officer, manager, member or majority shareholder of the building official, inspector, plan reviewer or other person has violated ORS 244.025, 244.040, 244.047, 244.175, 244.177 and 244.179 or has engaged in an actual conflict of interest as defined in ORS 244.020.**

Statutory/Other Authority: ORS 455.720, 2021 Oregon Laws Ch. 599, Sec. 4 (Enrolled SB 866)

Statutes/Other Implemented: 455.720, 2021 Oregon Laws Ch. 599, Sec. 4 (Enrolled SB 866)

**918-098-1480**

***Additional Responsibilities for Building Officials***

In addition to the ~~above~~ responsibilities **outlined in these rules**, all certified individuals who are performing the duties of the building official must also:

- (1) Ensure a person is properly certified under these rules or licensed under ORS 455.455 and 455.457 and meets the minimum experience requirements and possess appropriate knowledge prior to allowing the individual to perform plan reviews and inspections;
- (2) Ensure all inspectors and plans examiners in the municipality take all required continuing education and track the continuing education in a manner that may be presented to the division upon request;
- (3) Ensure that employees under the direction of the building official administering and enforcing elements of a building inspection program follow all applicable building code statutes and rules, including statewide code interpretations, directives and other building program requirements and allowing the use of statewide alternate method rulings and ensuring they are enforced and carried out through their certified individuals in their municipality, including items specified in OAR 918-098-1470;
- (4) Enforce applicable construction trade licensing requirements issued under ORS Chapters 447, 479, 693, and 701; and
- (5)(a) Ensure all building inspection program fees adopted by the municipality under ORS 455.210 and 479.855 are utilized for the administration and enforcement of the building inspection program established under ORS 455.148 or 455.150; and  
(b) Ensure all surcharges are properly collected and submitted to the division as required by ORS 455.210 and 455.220.

**Statutory/Other Authority:** ORS 455.720

**Statutes/Other Implemented:** ORS 455.720

**918-098-1530**

**Training Programs**

- (1) Approved applicants must complete an appropriate division-approved training program and pass a division-approved examination for the desired specialized certification. Training program requirements are stated ~~in OAR 918-098-1560 for the Specialized Solar Photo-Voltaic Inspector Certification,~~ in 918-098-1570 for the Specialized Plumbing Inspector Certification, ~~and~~ in 918-098-1580 for the Specialized Electrical Inspector Certification, and in 918-098-1590 and 918-098-1591 for the Specialized Finals Inspector Certification.
- (2) Approved fieldwork supervisors must be qualified by training, licensure, and experience to perform the specialized inspector certification fieldwork inspections being performed.
- (3) Fieldwork Training. A specialized inspector certification applicant is eligible to perform the required fieldwork training after the applicant has begun the division training program.
- (4) Fieldwork Supervision. All specialized certification fieldwork training must be supervised and verified by an inspector with a valid Oregon Inspector Certification required to conduct the inspections being performed.
- (a) An applicant's fieldwork training must be documented on a division-approved form and signed by the inspector who supervised the inspections.
- (b) An inspector supervising and verifying an applicant's fieldwork training may not be qualified to conduct the inspections performed based solely on a specialized inspector certification issued according to these rules.
- (5) Alternate Evaluation. The division may evaluate the skill and knowledge level of a specialized inspector applicant in lieu of some or all of the fieldwork requirements.
- (6) Fieldwork Training Approval. A specialized inspector certification applicant must submit proof of completed fieldwork training, or alternate evaluation and approval by the division, to the division for verification and approval, and issuance of specialized inspector certification.
- (7) Examination Approval. A specialized inspector certification applicant is eligible to take a certification examination once the application has been approved by the division. A certification will not be issued until the division receives proof that the applicant has successfully completed the required training program and passed the exam.

**Statutory/Other Authority:** ORS 455.720, 455.730 & 455.735

**Statutes/Other Implemented:** ORS 455.720, 455.730 & 455.735

**918-098-1550**

***Specialized Inspector Certification Issuance and Expiration***

- (1) Upon receiving proof of completion of all requirements listed in these rules, the division may issue the appropriate specialized inspector certification.
- (2) The scope of a certification may be tailored to an individual's knowledge level and skill as determined by the division through an independent evaluation, but may not exceed the scope of work allowed under the rules.
- (3) A person holding a valid specialized inspector certification may only perform the duties authorized under that certification provided the person is employed ~~or remains employed~~ **or otherwise authorized** by a municipality or the division.
- (4) All specialized certifications remain valid provided the holder maintains a current Oregon Inspector Certification. Should the holder fail to maintain a valid Oregon Inspector Certification, all certifications, including any specialized certification issued under this rule, become invalid and the holder may not conduct any inspections until the Oregon Inspector Certification is again valid.

**Statutory/Other Authority:** ORS 455.715, 455.720, 455.723, 455.730 & 455.735

**Statutes/Other Implemented:** ORS 455.715, 455.720, 455.723, 455.730 & 455.735



**918-098-4002**

***Flexibility after COVID-19 and the 2020 Wildfires, and in Anticipation of Future Emergencies***

(1) Purpose. The purpose of this rule is to provide greater flexibility to building departments to meet demand and provide services without compromising safety throughout the impacts of COVID-19 and the 2020 wildfires in the State of Oregon, and in anticipation of future emergencies.

(2) When the Governor declares a State of Emergency, the director may issue an order that the emergency may cause a workforce shortage among inspectors or plans examiners, and under such an order, notwithstanding OAR 918-098-1015, 918-281-0020, and 918-695-0400, a person with an Oregon Inspector Certification and a code certification issued by the Building Codes Division may perform inspections and review plans beyond the scope of work for their code certification if both of the following conditions are met:

(a) The relevant building official determines the person has the skills necessary to perform the specific inspection or plan review without compromising safety; and

(b) The relevant building official authorizes the person, in writing, to perform the inspection or plan review.

(3) If a municipality adopts an ordinance that allows for unpaid leave, or broadened unpaid leave, due to the COVID-19 pandemic, ~~notwithstanding OAR 918-098-1475(1)~~:

(a) A person with an Oregon Inspector Certification and an Oregon Code Certification may get paid to perform or manage work regulated by the state building code for a company engaged in construction or property development in Oregon when employed as an inspector, plans examiner, or building official by a municipality under ORS 455.457, if the following is met at the time the work is performed or managed:

(A) The person is on unpaid leave from their employment as an inspector, plans examiner, or building official, and the unpaid leave relates to the passage of the municipality's ordinance referenced in this section;

(B) The period of time for the unpaid leave in paragraph (A) of this subsection is expected to last not less than 30 consecutive days;

(C) The person does not engage in any conflicts of interest;

(D) The person submits written notice to the jurisdiction where they are taking their unpaid leave to inform them of their intent to engage in outside work and details the nature of that outside work;

(E) The jurisdiction where the person is taking unpaid leave consents in writing to the outside work;

(F) The jurisdiction where the person is taking unpaid leave agrees in writing that this work is not expected to create a conflict of interest; and

(G) As applicable, the person holds the appropriate licensure to perform or manage the outside work.

(b) For the purposes of subsection (a) of this section, "unpaid leave" means the person is not receiving wages or a salary. A person may still receive benefits, such as healthcare benefits, while on "unpaid leave."

(4) Consistent with ORS 455.020 and the discretion granted to building officials, nothing in OAR Chapter 918 should be construed to limit the ability of building officials to employ flexible and creative solutions in service delivery, which may include but is not limited to:

(a) The use of virtual inspections, including videos, pictures, and the use of drones;

(b) The use of electronic signatures;

(c) The granting of written requests to reconnect an electrical installation pursuant to ORS 479.570 and OAR 918-311-0070;

(d) Waiving a code requirement, modifying a code requirement, or accepting an alternate method, so long as it would not create an unsafe or dangerous condition regarding fire and life safety;

(e) Entering into agreements with other jurisdictions to provide plan reviews or inspections;

(f) Waiving all or part of plan review fees and inspection fees; and

(g) Accepting the use of master plans.

(5) Section (2) of this rule is retroactive to December 29, 2020.

**Statutory/Other Authority:** ORS 446.250, ORS 455.020, ORS 455.030, ORS 455.055, ORS 455.465 & ORS 455.720

**Statutes/Other Implemented:** ORS 446.250, ORS 455.055 & ORS 455.720

OFFICE OF THE SECRETARY OF STATE

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## PERMANENT ADMINISTRATIVE ORDER

### BCD 12-2021

CHAPTER 918

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

BUILDING CODES DIVISION

**FILED**

11/18/2021 4:20 PM  
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#### RULES:

918-020-0015, 918-020-0070, 918-020-0090, 918-020-0095, 918-020-0105, 918-020-0180, 918-020-0200, 918-020-0220, 918-020-0230, 918-020-0240, 918-020-0250, 918-020-0260, 918-020-0270, 918-020-0390, 918-020-0410, 918-098-1000, 918-098-1005, 918-098-1420, 918-098-1475, 918-098-1480, 918-098-1530, 918-098-1550, 918-098-4002

AMEND: 918-020-0015

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Adds definitions for "building official," "contract building official," "director," "discretionary decision," "division," and "qualified employee."

Clarifies that the definitions are as used in chapter 918, division 020, unless the context requires otherwise.

Removes definitions that were provided for the purpose of an alternative approval process for single-family dwelling conversion as used in OAR 918-020-0390. These definitions were moved to OAR 918-020-0390.

#### CHANGES TO RULE:

918-020-0015

Definitions ¶¶

~~(1) For the purpose of an alternative approval process for single-family dwelling conversions as used in OAR 918-020-0390, the listed terms are defined as follows~~ As used in OAR chapter 918, division 020, unless the context requires otherwise:¶¶

~~(a) "Alternate method" means a proposal from an alternate approval process permit applicant to meet the standard of care for fire life safety protection for the items listed in OAR 918-020-0390(1) as required by the state building code for a dwelling conversion in a~~ "Building official" has the meaning given to that term in ORS 455.715.¶¶

~~(2) "Contract building official" means an owner, manager other than employee of a person wthat is listed in code, including consideration of alternate construction methods and materials that achieve equivalent safety.¶¶~~

~~(b) "Modification" means a proposal from an alternate approval prothe director has licensed to perform specialty code inspections and plan reviews under ORS 455.457 and that engages in the business of providing the services~~ permit applicant for dwelling conversion to address one or more building code requirements in a similar

~~mannedescribed in ORS 455.148 (3) and 455.150 (3) to one or more municipalities to which the director has required by the state building code. A modification is not a waiver. Modifications the general code requirement but do not have to meet an equivalent standard of care, or delegated a building inspection program.~~¶

~~(3) "Director" means the Director of the Department of Consumer and Business Services, or the director's designee.~~¶

~~(4) "Discretionary decision" means a specific code requirement. A modification is not permissible for the items listed in OAR 918-020-0390(1).~~¶

~~(c) "Waiver" means a proposal fromsion on whether to waive a plan review, an inspection or a provision of the state building code; or to allow an alternate approval process permit applicant for dwelling conversion to waive a non-building safety code requirement. A waiver is not permissible for the items listed in OAR 918-020-0390(1)ive material, design or method of construction.~~¶

~~(5) "Division" means the Building Codes Division of the Department of Consumer and Business Services.~~¶

~~(26) "Full-service program" means a building inspection program that assumes administration and enforcement of all of the specialty code programs listed in ORS 455.148(1).~~¶

~~(7) "Qualified employee" means an individual that a municipality employs and has designated to ratify or disapprove a contract building official's discretionary decisions and who has satisfied the training requirements under OAR 918-020-0240.~~

~~Statutory/Other Authority: ORS 455.148, ORS 455.150, ORS 455.610, 2021 Oregon Laws Ch. 599, Sec. 2, (Enrolled SB 866)~~

~~Statutes/Other Implemented: ORS 455.148, ORS 455.150, ORS 455.610, 2021 Oregon Laws Ch. 599, Sec. 2, (Enrolled SB 866)~~

AMEND: 918-020-0070

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Adds 2021 Oregon Laws Ch. 599, Sections 2, 4 and 5 (Enrolled SB 866) to the list of statutes that are interpreted and applied in OAR chapter 918, division 020.

Explains 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) also authorizes the department to adopt rules regulating municipal administration and enforcement of building inspection programs, and includes the creation of standards related to qualified employees and the use of contract building officials to that list.

Removes reference to an "approved" operating plan.

Clarifies that a reporting period may be for a period of less than four years as described under OAR 918-020-0180.

Includes minor wording changes that enhance clarity.

CHANGES TO RULE:

918-020-0070

Purpose and Scope ¶¶

(1) OAR chapter 918, division 020 interprets and applies ORS 455.148 to 455.210 and 2021 Oregon Laws Ch. 599, Sections 2, 4 and 5 (Enrolled SB 866). ORS 455.148 and 455.150 provide that municipalities that administer and enforce building inspection programs may do so for a period of up to four years before a renewal is required. A building inspection program is limited to the administration and enforcement of those specialty code programs assumed by a municipality under ORS 455.148, 455.150 and 479.855. ORS 455.148 and 455.150 authorize the department to adopt rules to adjust time periods for administration of building inspection programs to allow for variations in the needs of the department and participants. ORS 455.148 and 455.150 and 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) authorize the department to adopt rules regulating municipal administration and enforcement of building inspection programs including, but not limited to:¶¶

(a) Creating building inspection program application and amendment requirements and procedures;¶¶

(b) Granting or denying applications for building inspection program authority and amendments;¶¶

(c) Reviewing procedures and program operations of municipalities;¶¶

(d) Creating standards for efficient, effective, timely and acceptable building inspection programs;¶¶

(e) Creating standards for justifying building inspection program fees adopted by a municipality; and¶¶

(f) Creating standards to determine whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program or part of the program throughout the county, if another municipality is allowed to provide a building inspection program or part of a building inspection program within the same county; and¶¶

(g) Creating standards related to qualified employees and the use of contract building officials.¶¶

(2) The purpose of these rules is to encourage municipalities to assume responsibility for the administration and enforcement of building inspection programs to the fullest possible extent. Each municipality is responsible for developing an independent operating plan that describes the manner in which the municipality will administer and enforce its building inspection program. Municipalities are encouraged to develop operating plans that meet the identified needs of their individual communities. The intent of the division is to cooperate with municipalities to obtain and maintain authority to administer and enforce efficient, effective, timely and acceptable building inspection programs.¶¶

(3) For the purpose of ~~these rules~~ OAR chapter 918, division 020, "reporting period" means a four-year period during which a municipality administers and enforces a building inspection program pursuant to an approved operating plan, or a period of less than four-years as described under OAR 918-020-0180.

Statutory/Other Authority: ORS 455.030, 2021 Oregon Laws Ch. 599, Sections 2, 4 and 5 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sections 2, 4 and 5 (Enrolled SB 866), ORS 455.148, 50, ORS 455.2150, ORS 455.210, 148

AMEND: 918-020-0090

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Removes reference to an "approved" operating plan.

Clarifies that a completed data request form is only required when requested by the division.

Eliminates use of a memorandum of agreement while clarifying the need to complete a program administration form.

Describes requirements for a building inspection program to appoint or employ a person to serve as the building official.

Describes requirements for a program that procures services from a contract building official.

Includes minor wording changes that enhance clarity.

CHANGES TO RULE:

918-020-0090

Program Standards ¶¶

Every municipality that administers and enforces an approved building inspection program must establish and maintain the minimum standards, policies, and procedures set forth in this ~~section~~rule.¶¶

(1) Administrative Standards. A building inspection program must comply with the following:¶¶

(a) Provide adequate funds, equipment, and other resources necessary to administer and enforce the building inspection program in conformance with an ~~approved~~ operating plan;¶¶

(b) Document in writing the authority and responsibilities of the building official, plan reviewers, and inspectors based on an ordinance or resolution that authorizes the building official on behalf of the municipality to administer and enforce a building inspection program;¶¶

(c) Establish a local process to review appeals of technical and scientific 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 notify the aggrieved persons of the provisions of ORS 455.475;¶¶

(d) Account for all revenues collected and expenditures made relating to administration and enforcement of the building inspection program, and account for the electrical program revenues and expenditures separately when administered by the municipality.¶¶

(A) Prepare income and expense projections for each code program it will administer and enforce during the reporting period; and¶¶

(B) Describe how general administrative overhead costs and losses or surpluses, if any, will be allocated.¶¶

(e) Establish policies and procedures for the retention and retrieval of records relating to the administration and enforcement of the specialty codes it administers and enforces;¶¶

(f) Make its operating plan available to the public;¶¶

(g) Establish a process to receive public inquiries, comments, and complaints;¶¶

(h) Adopt a process to receive and respond to customers' questions regarding permitting, plan review, and inspections;¶¶

(i) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will receive and respond to customers' questions;¶¶

(j) Post its jurisdictional boundary, types of permits sold and hours of operation at each permit office it operates;¶¶

(k) Identify all persons in addition to the building official to whom notices issued pursuant to these rules should be sent;¶¶

~~(L) R~~When requested by the division, return a completed data request form to and as provided by the division annually; and¶¶

~~(m) Execute a memorandum of agreement with and as approved by~~Complete a program administration form, which is available on the division's website, for an initial building inspection program approval and assumption, for building program expansion approval and assumption, and thereafter when seeking approval to renew a program under OAR 918-020-0105;¶¶

(n) Appoint or employ a person to serve as the building official pursuant to ORS 455.148(3) or 455.150(3) as follows:¶¶

(A) The individual appointed or employed pursuant to this section must be certified by the division as a building official under OAR chapter 918, division 098;¶¶

(B) For the purposes of this subsection, to be directly employed the person must be subject to the provisions of ORS 316.162 to 316.221 and have completed a withholding exemptions certificate required by ORS 316.162 to 316.221;¶¶

(C) Two or more municipalities may combine in the appointment of a single building official who is employed by

one of those municipalities for the purposes of administering a building inspection program within their communities; and

(D) A municipality may contract with a contract building official to administer and enforce all or parts of the building inspection program, in accordance with OAR chapter 918 division 020 and 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866).

(o) For any program that procures services from a contract building official under 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866):

(A) Document in its operating plan the information outlined in section 7 of this rule.

(B) Have audits conducted in accordance with 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 6 (Enrolled SB 866); and

(C) Make the results of each audit conducted under 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 6 (Enrolled SB 866) available to the public by easily accessible electronic means.

(2) Permitting Standards. A building inspection program must:

(a) Provide at least one office within its jurisdictional boundary where permits may be purchased;

(b) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will make permits available for purchase;

(c) Establish policies and procedures for receiving permit applications, determining whether permit applications are complete and notifying applicants what information, if any, is required to complete an application;

(d) Set reasonable time periods within which the municipality will:

(A) Advise permit applicants whether an application is complete or requires additional information; and

(B) Generally issue a permit after an application has been submitted and approved.

(e) Establish policies and procedure for issuing permits not requiring plan review, emergency permits, temporary permits, master permits, and minor labels;

(f) Provide a means to receive permit applications via facsimile; and

(g) Require proof of licensing, registration, and certification of any person who proposes to engage in any activity regulated by ORS chapters 446, 447, 455, 479, 693, and 701 prior to issuing any permit.

(3) Plan Review Standards. A building inspection program must:

(a) Establish policies and procedures for its plan review process to:

(A) Assure compliance with the specialty codes it is responsible for administering and enforcing, including any current interpretive rulings adopted pursuant to ORS 455.060 or 455.475;

(B) Make available checklists or other materials at each permitting office it operates that reasonably apprises persons of the information required to constitute a complete permit application or set of plans;

(C) Inform applicants within three working days of receiving an application, whether or not the application is complete and if it is for a simple residential plan. For the purposes of this rule and ORS 455.467, a "complete application" is defined by the division, taking into consideration the regional procedures in OAR chapter 918, division 50. If deemed a simple residential plan, the jurisdiction must also inform the applicant of the time period in which the plan review will generally be completed;

(D) Establish a process that includes phased permitting and deferred submittals for plan review of commercial projects for all assumed specialty codes, taking into consideration the regional procedures in OAR chapter 918, division 50. The process may not allow a project to proceed beyond the level of approval authorized by the building official. The process must:

(i) Require the building official to issue permits in accordance with the state building code as defined in ORS 455.010 provided that adequate information and detailed statements have been submitted and approved with pertinent requirements of the appropriate code. Permits may include, but not be limited to: excavation, shoring, grading and site utilities, construction of foundations, structural frame, shell, or any other part of a building or structure.

(ii) Allow deferred submittals to be permitted within each phase with the approval of the building official; and

(iii) Require the applicant to be notified of the estimated timelines for phased plan reviews and that the applicant is proceeding without assurance that a permit for the entire structure will be granted when a phased permit is issued.

(E) Verify that all plans have been stamped by a registered design professional and licensed plan reviewer where required;

(F) Verify for those architects and engineers requesting the use of alternative one and two family dwelling plan review program that all plans have been stamped by a registered professional who is also a residential plans examiner. This process must require the building official to:

(i) Establish policies and procedures in their operating plan for this process;

(ii) Waive building inspection program plan review requirements for conventional light frame construction for detached one and two family dwellings; and

(iii) Establish an appropriate fee for processing plans submitted under this rule.

(G) Establish a process for plan review if non-certified individuals review permit applications under OAR 918-098-1010.¶

(b) Employ or contract with a person licensed, registered, or certified to provide consultation and advice on plan reviews as deemed necessary by the building official based on the complexity and scope of its customers' needs;¶

(c) Maintain a list of all persons it employs or contracts with to provide plan review services including licenses, registrations, and certifications held by each plan reviewer and evidence of compliance with all applicable statutory or professional continuing education requirements;¶

(d) Designate at least three licensed plan reviewers from whom the municipality will accept plan reviews when the time periods in subsection (e) of this section cannot be met; and¶

(e) Allow an applicant to use a plan reviewer licensed under OAR 918-090-0210 and approved by the building official when the time period for review of "simple one- or two-family dwelling plans" exceeds 10 days where the population served is less than 300,000, or 15 days where the population served is 300,000 or greater.¶

(4) Simple and complex one- and two-family dwelling plans.¶

(a) For the purposes of these rules, "simple one- or two-family dwelling plans" must:¶

(aA) Comply with the requirements for prescriptive construction under the Oregon Residential Specialty Code; or¶

(bB) Comply with the Oregon Manufactured Dwelling Installation Specialty Code and the requirements in OAR chapter 918, division 500; and¶

(cC) Be a structure of three stories or less with an enclosed total floor space of 4,500 square feet or less, inclusive of multiple stories and garage(s).¶

(5b) "Simple one- or two-family dwelling plans" may:¶

(aA) Include pre-engineered systems listed and approved by nationally accredited agencies in accordance with the appropriate specialty code, or by state interpretive rulings approved by the appropriate specialty board, that require no additional analysis; and¶

(bB) Be designed by an architect or engineer and be considered a simple one- and two-family dwelling if all other criteria in this rule are met.¶

(6c) The following are considered "simple one- or two-family dwelling plans":¶

(aA) Master plans approved by the division or municipality or under ORS 455.685, which require no additional analysis; and¶

(bB) Plans that include an engineering soil report if the report allows prescriptive building construction and requires no special systems or additional analysis.¶

(7d) A plan that does not meet the definition of "simple" in this rule is deemed "complex". In order to provide timely customer service, a building official may accept a plan review performed by a licensed plan reviewer for a complex one- or two-family dwelling.¶

(85) Inspection Standards. ¶

(a) A building inspection program must:¶

(aA) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will provide inspection services or alternative inspection schedules agreed to by the municipality and permittee;¶

(bB) Unless otherwise specified by statute or specialty code, establish reasonable time periods when inspection services will be provided following requests for inspections;¶

(cC) Establish policies and procedures for inspection services;¶

(dD) Leave a written copy of the inspection report on site;¶

(eE) Make available any inspection checklists;¶

(fF) Maintain a list of all persons it employs or contracts with to provide inspection services including licenses, registrations, and certifications held by persons performing inspection services and evidence of compliance with all applicable statutory or professional continuing education requirements;¶

(gG) Vest the building official with authority to issue stop work orders for failure to comply with the specialty codes the municipality is responsible for administering and enforcing; and¶

(hH) Require inspectors to perform license enforcement inspections as part of routine installation inspections.¶

(i) Where a municipality investigates and enforces violations under ORS 455.156 or in accordance with the municipality's local compliance program, the municipality's inspectors must require proof of compliance with the licensing, permitting, registration, and certification requirements of persons engaged in any activity regulated by ORS Chapters 446, 447, 455, 479, 693, and 701. Inspectors must report any violation of a licensing, permitting, registration, or certification requirement to the appropriate enforcement agency.¶

(96) Compliance Programs. A municipality administering a building inspection program may enact local regulations to create its own enforcement program with local procedures and penalties; utilize the division's compliance program by submitting compliance reports to the division; elect to act as an agent of a division board pursuant to ORS 455.156; or develop a program that may include, but not be limited to, a combination thereof.¶

(7) Operating Plan. A building inspection program must establish in its operating plan:¶

(a) Procedures to respond to public complaints regarding work performed without a license or permit or in violation of the specialty codes the municipality is responsible for administering and enforcing;¶

(b) Procedures requiring proof of licensure for work being performed under the state building code utilizing the approved citation process and procedures in OAR 918-020-0091.¶

(c) Policies and procedures to implement their compliance program;¶

(d) Policies and procedures regarding investigation of complaints, where the municipality chooses to investigate and enforce violations pursuant to ORS 455.156; ~~and~~¶

(e) Policies and procedures regarding issuance of notices of proposed assessments of civil penalties, where the municipality chooses to act as an agent of a board pursuant to ORS 455.156. Penalties under such a program are subject to the limitations set in 455.156 and 455.895.¶

~~(f) and~~¶

(f) The following information, if the program procures services from a contract building official under 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866):¶

(A) The name, title, and contact information of any qualified employee;¶

(B) The authority and responsibilities of the qualified employee, when that person is acting in the capacity as a qualified employee;¶

(C) The program's process for handling discretionary decisions, including the procedure for providing notice to the qualified employee and permit applicant of discretionary decisions;¶

(D) The procedure the qualified employee will follow when reviewing and ratifying or disapproving a contract building official's discretionary decision;¶

(E) The timelines for appeals of discretionary decisions;¶

(F) The local board which will hear appeals of the contract building official's discretionary decisions in accordance with 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 4 (Enrolled SB 866); and¶

(G) When an audit will occur under 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 6 (Enrolled SB 866), and where the results of this audit will be made available.¶

(8) Electrical Programs. Municipalities that administer and enforce an electrical program must demonstrate compliance with all applicable electrical rules adopted pursuant to ORS 479.855.¶

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

Statutory/Other Authority: ORS 183.355, ORS 455.030, ORS 455.062, ORS 455.148, ORS 455.150, ORS 455.156, ORS 455.467, ORS 455.469, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: ORS 455.062, ORS 455.148, ORS 455.150, ORS 455.156, ORS 455.467, ORS 455.469, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)



AMEND: 918-020-0095

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Requires a municipality's assumption plan to include its ability to appoint or employ a person to serve as the building official pursuant to OAR 918-020-0090(1)(n) and either ORS 455.148(3) or 455.150(3).

Provides the location of the program administration form, and updates the name of that form.

CHANGES TO RULE:

918-020-0095

Program Assumption Procedures ¶¶

(1) Assumption of building inspection programs shall be approved only under ORS Chapters 455 and 479 and these rules, for municipalities meeting the following minimum standards. Municipalities requesting to assume new programs or additional parts of a program must provide a full-service program as described in ORS Chapter 455. The municipality shall prepare an assumption plan demonstrating its ability to:¶¶

(a) Administer the program for at least four years;¶¶

(b) Maintain or improve upon service levels presently provided to the area, including identifying proposed staffing, service contracts and intergovernmental agreements for at least the first two years;¶¶

(c) Operate a program that is financially feasible for at least two years without unduly increasing short-term and long-term costs of services to the public, in the areas administered by the municipality. Information showing how the program will be financially feasible shall include an estimate of anticipated revenues and expenditures, the assumptions on which the estimates are based, and an explanation of how losses, if any, will be funded; and¶¶

(d) Transition the program from the previous service provider including developing a method for:¶¶

(A) Transferring responsibility for existing buildings, open plan reviews, permits and inspections and corresponding revenues for completion of outstanding work;¶¶

(B) Transferring any pending enforcement actions;¶¶

(C) Informing contractors and others of the change of inspecting jurisdictions, jurisdictional boundaries and requirements for plan review, permits and inspections; and¶¶

(D) Transferring any affected employees consistent with ORS 236.605.¶¶

(e) Appoint or employ a person to serve as the building official pursuant to OAR 918-020-0090(1)(n) and either ORS 455.148(3) or 455.150(3).¶¶

(2) A municipality requesting to administer and enforce a new full-service building inspection program under ORS 455.148, or part of a building inspection program to become full-service under ORS 455.148 and 455.150 shall, by October 1:¶¶

(a) Submit a completed division program ~~request form~~ administration form, which is available on the division's website, describing the specialty codes the municipality intends to administer effective July 1 of the following year, and provide the following:¶¶

(A) An assumption plan as required in ORS 455.148 and Section (1) of this rule;¶¶

(B) An operating plan as described in OAR 918-020-0090;¶¶

(C) A schedule, including the date, time, place and subject matter, of any proposed meetings of public or advisory bodies, where public comments will be received concerning their proposal to assume a full-service program or part of a program;¶¶

(D) Evidence of compliance with the notice and consultation requirements of this section; and¶¶

(E) When a municipality reapplies to assume administration of a program that was previously revoked, the application shall include an explanation of how past deficiencies were corrected and how they will be prevented in the future, and it shall meet the requirements of ORS 455.148 and 455.150 including timelines and full-service coverage.¶¶

(b) Consult with the jurisdiction from whom the program will be assumed, to:¶¶

(A) Notify them of the intent to assume the program;¶¶

(B) Discuss with them any impacts on their existing program;¶¶

(C) Attempt to resolve any negative impacts; and¶¶

(D) Attempt to reach agreement on the method of providing services in the area.¶¶

(3) Upon receipt of an application for program assumption from a municipality, the division shall, by October 15, notify in writing all persons on the division maintained interested party mailing list.¶¶

(4) Objections to proposed program assumptions, including or related to, claims of economic impairment by the division or the municipality potentially losing the program, shall be received within 30 days of notice and shall include:¶¶

(a) An explanation of the objection to the proposed program assumption;¶¶

- (b) Identification of the required program standard that is believed not to be met; and¶
- (c) When related to economic impairment, the information provided shall include projected impact on the existing building inspection program revenues, expenses, and staffing levels and the ability to continue carrying out remaining portions of the affected program.¶
- (5) When reviewing the objections, the division shall consider the criteria established in ORS 455.152 and whether the objections relate to the ability of the municipality to effectively carry out the program and meet the required standards of applicable statutes and rules.¶
- (6) The municipality requesting administration of a program shall confirm its intent to proceed with its application and submit final information to the division by January 1.¶
- (7) By April 1 the division shall approve or deny the request. A request may be denied when the municipality failed to meet any of the standards and timelines for assumption set forth in ORS Chapters 455 and 479 and the rules adopted thereunder, or when a claim of economic impairment is not resolved to the satisfaction of the director.¶
- (8) Municipalities approved to assume programs may do so effective July 1.¶
- (9) By September 1, the municipality shall submit a final approved copy of all applicable ordinances and fee schedules.

Statutory/Other Authority: ORS 455.148, ORS 455.150, ORS 455.152, ORS 479.855, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: ORS 455.148, ORS 455.150, ORS 455.152, ORS 479.855, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

AMEND: 918-020-0105

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Requires a city that intends to continue to procure services from a contract building official to notify the division of this intent and to comply with 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) by January 1, 2022. Requires all building programs to apply for renewal of their building program for a new reporting period by January 31, 2022, for a renewal effective July 1, 2022, and describes requirements for those renewals. Provides the location of the program administration form, and updates the name of that form.

CHANGES TO RULE:

918-020-0105

Renewal of Existing Programs ¶

(1) Existing programs may continue to administer full-service or partial programs as permitted by ORS Chapter 455. Any municipality requesting to assume an additional program shall do so in accordance with ORS Chapter 455 and these rules.¶

(2) Depending on the respective reporting period outlined in OAR 918-020-0180 municipalities administering existing programs upon notification shall submit the following to the division by January 1:¶

~~(a) A completed division form, unless the year is 2022, in which case the submission to the division is required by January 31.~~¶

(a) A completed program administration form, which is available on the division's website, describing the specialty codes the municipality will continue to administer and enforce beginning July 1 of the next reporting period;¶

(b) A list of current staff, including contract providers, and their applicable certifications;¶

(c) An updated copy of the municipality's operating plan as described in OAR 918-020-0090; and¶

(d) A narrative describing any changes to the plan.¶

(3) Requests to extend the January 1 date as authorized in ORS 455.148(4) and 455.150(4) shall be filed with the division no later than December 21.¶

(4) Notwithstanding OAR 918-020-0180:¶

(a) By January 1, 2022, a city that intends to continue to procure services from a contract building official shall notify the division of this intent and must comply with 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866).¶

(b) All municipalities that administer an existing program shall apply for renewal of their building program by January 31, 2022, for renewal effective July 1, 2022.¶

(c) Renewal applications must include the information outlined in section (2) of this rule.

Statutory/Other Authority: ORS 455.148, ORS 455.150

Statutes/Other Implemented: ORS 455.148, ORS 455.150

AMEND: 918-020-0180

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Updates the reporting periods for Groups 1 through 4.

Clarifies that this applies to all municipalities administering and enforcing a building inspection program on or after July 1, 2022.

Eliminates language related to the first reporting period in 1997.

CHANGES TO RULE:

918-020-0180

Reporting Periods ¶

(1) All municipalities administering and enforcing a building inspection program on or after July 1, 1997~~2022~~, shall have four-year reporting periods. The division shall divide the municipalities administering and enforcing building inspection programs into four separate reporting groups identified as Group One, Group Two, Group Three and Group Four. ~~Each reporting group shall contain approximately one quarter (25 percent) of the municipalities administering and enforcing building inspection programs on July 1, 1997.~~ Reporting periods for each group shall begin on July 1 of the first year and shall end on June 30 of the fourth year, except as provided by Sections (2) to (5) of this rule.¶

(2) The first reporting period for municipalities in Group One shall start on July 1, ~~1997~~2022, and end on June 30, ~~1998~~2023. All subsequent reporting periods shall be four years. ~~Municipalities in Group One shall submit a program administration request form but not be required to submit a second operating plan until after the division has completed a general review of the municipal building inspection program following the conclusion of the first reporting period.~~¶

(3) The first reporting period for municipalities in Group Two shall start on July 1, ~~1997~~2022, and end on June 30, ~~1999~~2024. All subsequent reporting periods shall be for four years.¶

(4) The first reporting period for municipalities in Group Three shall start on July 1, ~~1997~~2022, and end on June 30, ~~2000~~25. All subsequent reporting periods shall be for four years.¶

(5) The first reporting period for municipalities in Group Four shall start on July 1, ~~1997~~2022, and end on June 30, ~~2001~~26. All subsequent reporting periods shall be for four years.¶

(6) The first reporting period for municipalities authorized to administer and enforce new building inspection programs shall start July 1 of the first year the municipality is authorized to administer and enforce a new building inspection program and shall end on June 30 of the fourth year. All subsequent reporting periods shall be for four years.¶

(7) A municipality that amends an existing building inspection program through the assumption of a new code program shall not alter its reporting period.¶

(8) All municipalities enforcing building inspection programs shall amend their operating plan within 30 days when changes occur and submit a copy of the amended operating plan to the division.

Statutory/Other Authority: ORS 455.030

Statutes/Other Implemented: ORS 455.150

AMEND: 918-020-0200

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Refers to "the municipality's operating plan" rather than "an approved operating plan."  
Includes a minor grammatical change to enhance clarity.

CHANGES TO RULE:

918-020-0200

Review Procedures ¶

(1) The administrator may appoint one active building official from a municipality similar in size to the municipality subject to review and one contractor from an area similar in size to the municipality subject to review to assist and advise division staff during a general or interim review. Prior to beginning any general or interim review the division shall conduct an initial interview with the building official.¶

(2) Review of Records. The division shall request that a municipality provide revenue and expense information prior to the actual site visit, and the opportunity to review documents and records, whether electronic or other media, regarding the administration and enforcement of a building inspection program.¶

(3) General Administration and Compliance Review. The division shall review and verify compliance with the general administration and compliance program requirements described in OAR 918-020-0090.¶

(4) Review of Prior Approved Construction Plans. The division may review a random selection of construction plans approved by the municipality during the subject reporting period and verify compliance with the minimum requirements of the applicable specialty codes.¶

(5) Review of Inspections. The division may review a random selection of inspections completed by the municipality during the subject reporting period and verify compliance with the applicable specialty codes.¶

(6) Post-Review Interview. At the completion of a general or interim review the division shall conduct a post-review interview with the building official or person designated by the building official. The reviewer shall describe the general results of the review, issue written notice regarding any failure to conform with ~~an approved~~ the municipality's operating plan that requires immediate attention, and generally respond to any questions.¶

(7) Final Report. The division shall prepare and deliver a final written report describing the results of the review to a municipality within 60 days of completing a review.¶

(8) The municipality being reviewed shall respond to the division's final report conclusions within 30 days after receipt of the report, or request an extension.

Statutory/Other Authority: ORS 455.030

Statutes/Other Implemented: ORS 455.150

AMEND: 918-020-0220

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Updates requirements for updating an operating plan when new building inspection fee schedules are adopted.

Includes minor wording changes to enhance clarity and maintain consistency with ORS 455.210.

CHANGES TO RULE:

918-020-0220

Fee Adoption Standards ¶¶

(1) In addition to the standards set forth in ORS 455.210 and 479.845, a municipality intending to adopt new or increased building inspection program fees for any specialty code administered and enforced by the municipality shall comply with all of the following standards:¶¶

(a) The municipality shall notify the division of such adoptions at least 45 days prior to the adoptive date. The notification shall include a summary of the following:¶¶

(A) The affected specialty code or program areas;¶¶

(B) A description of the proposed building inspection program fees including the approximate percentage increase when applicable;¶¶

(C) The proposed effective date;¶¶

(D) The date of the last fee increase in the specialty code or program area if applicable;¶¶

(E) The anticipated date, time and location of the local municipal hearing scheduled pursuant to ORS 294.160;¶¶

(F) The name, phone number and title of a contact person; and¶¶

(G) A narrative explaining the purpose of the proposed fee adoption.¶¶

(b) Upon notification from the division that an appeal request has been received under ORS 455.210 or 479.845, the municipality shall submit further documentation to be received by the division within 15 days following notification. This documentation shall include, but not be limited to:¶¶

(A) A narrative explaining why the building inspection program fees are necessary at the level proposed;¶¶

(B) The municipality's newly adopted fee schedule and, if applicable, the prior fee schedule;¶¶

(C) Revenue and expense information for the building inspection program including the current fiscal year, including a minimum of 12 months actual and 12 months projected revenues and expenses;¶¶

(D) An explanation of the municipality's cost allocation method(s) for expenses;¶¶

(E) An explanation of all reserve and ending fund balances;¶¶

(F) A determination of whether the fee is reasonable, including an analysis of whether the fee is:¶¶

(i) Comparable to fees charged by other municipalities of similar size and geographic location for the same level of service;¶¶

(ii) Established through the same or similar calculation methods used by other municipalities; and¶¶

(iii) The same type as those charged by other municipalities for similar services; and¶¶

(G) The identification of any potential building inspection program changes that are anticipated as a result of the proposed fee.¶¶

(c) The municipality shall update its operating plan ~~on file with the division~~ within 30 days of the adoption of a new building inspection program fee schedule including sufficient information ~~for the division to determine to~~ demonstrate how the fee revenue will be used within the building inspection program and shall provide a copy of the updated operating plan to the division.¶¶

(2) The division shall establish and maintain a list of all interested persons who wish to receive notice of all planned fee adoptions for building inspection programs. The division shall notify in writing all interested persons on the division's mailing list within 15 days of receiving a municipal notice of intent to adopt building inspection program fees.¶¶

(3) Upon a determination that the municipality failed to meet any of the fee adoption standards, the director may deny a fee adoption or require a municipality to rescind that portion of a local ordinance or regulation and readopt building inspection program fees. A municipality shall refund all building inspection program fees collected under the rescinded ordinance that exceed the prior building inspection program fee schedule, unless a waiver is approved by the director upon written request from the municipality. Copies of the waiver request shall be forwarded by the division to the interested parties list.

Statutory/Other Authority: ORS 455.030, ORS 455.148, ORS 455.150

Statutes/Other Implemented: ORS 455.148, ORS 455.150, 455.210, 479.845 ORS 479.845, ORS 455.210

ADOPT: 918-020-0230

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Describes when a contract building official may be used.

Outlines requirements related to the notice a contract building official must provide when a discretionary decision is made.

CHANGES TO RULE:

918-020-0230

Contract Building Officials

(1) Use of Contract Building Officials.

(a) City.

(A) A city may procure services from a contract building official only if the city complies with the provisions of 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 2, Paragraph (a) (Enrolled SB 866) and 2021 Oregon Laws Ch. 599, Sec. 5 (Enrolled SB 866).

(B) A city that procured services from a contract building official within the period described in 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 2 (Enrolled SB 866) may at any time choose to procure services from a different contract building official, may employ a building official or, in cooperation with another municipality, may appoint a building official employed by the other municipality to administer a building inspection program for both the city and the other municipality.

(b) County. A county may procure services from a contract building official only if the county complies with the provisions of 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 2, Paragraph (b) (Enrolled SB 866).

(2) Notice from a Contract Building Official. Within five business days from making a discretionary decision, the contract building official must:

(a) Notify a qualified employee in writing of the discretionary decision; and

(b) Notify a permit applicant in writing of the discretionary decision that relates to the permit application. This notice must list and describe available opportunities for a hearing and appeal of the decision.

Statutory/Other Authority: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

ADOPT: 918-020-0240

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Describes the training required for a qualified employee.

Describes the duties of a qualified employee.

CHANGES TO RULE:

918-020-0240

Qualified Employees

(1) Training.¶

(a) Basic Training. Before exercising oversight over a contract building official, a qualified employee must complete the division's basic training course for qualified employees. ¶

(b) Advanced Training. Within 180 days after a municipality's designation of the individual as a qualified employee, the qualified employee must complete the division's advanced training course for qualified employees. ¶

(c) The director will provide the qualified employee with evidence of satisfactory completion of the basic training and advanced training course.¶

(2) Duties. A qualified employee must review and ratify or disapprove a contract building official's discretionary decision in writing within 30 days after receiving notice of the decision.

Statutory/Other Authority: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)



ADOPT: 918-020-0250

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Describes the use of local boards.

Describes membership of local boards.

CHANGES TO RULE:

918-020-0250

Local Boards

(1) Use of Local Boards.

(a) Except as otherwise provided in subsection (b) and (c) of this section, a municipality that procures services from a contract building official must establish a local board to which a permit applicant may appeal a contract building official's discretionary decisions.

(b) A city does not need to establish a local board if the county within which the city is located, or an adjacent county, has a local board that hears, in accordance with this rule, all appeals of the discretionary decisions of the city's contract building official.

(c) A county does not need to establish a local board if an adjacent county has a local board that hears, in accordance with this rule, all appeals of the discretionary decisions of the county's contract building official or the discretionary decisions of all contract building officials for cities located within the county.

(d) Agreements.

(A) A city may enter into an agreement with the county within which the city is located, or an adjacent county, to hear appeals in accordance with this rule.

(B) A county may enter into an agreement with an adjacent county to hear appeals in accordance with this rule.

(2) Membership of Local Boards.

(a) If a city establishes a local board under section (1)(a) of this rule, the city must include as a member the building official of the county within which the city is located or the building official of an adjacent county.

(b) If a county establishes a local board under section (1)(a) of this rule, the county must include as a member a building official from an adjacent county.

(c) A local board described in section (1)(a) of this rule may not include as a member:

(A) Any contract building official; or

(B) An owner, manager, director, officer or employee of a person, other than an employee of the municipality, that performs building inspections.

(d) An individual who engages in the business of building design or construction may be a member of the local board, but may not hear an appeal of a contract building official's discretionary decision concerning a project that involves a business, or competitor of a business, that:

(A) The individual owns or manages or for which the individual provides services as an employee, agent or contractor; or

(B) A family member or a member of the individual's householder owns or manages or for which the family member or member of the household provides services as an employee, agent or contractor.

Statutory/Other Authority: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

ADOPT: 918-020-0260

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Describes appeals of discretionary decisions to local boards.

CHANGES TO RULE:

918-020-0260

Appeals of Discretionary Decisions to the Local Board

(1) After receiving notice of the building official's discretionary decision, a permit applicant has 30 days to submit an appeal to the local board.

(2) In an appeal before the local board, the permit applicant has the burden of establishing by a preponderance of the evidence that overturning the discretionary decision of the contract building official will not create a dangerous or unsafe condition or decrease the minimum fire and life safety standards set forth in the relevant code.

(3) Upon receipt of a notice of appeal, the local board has 30 days to review the appeal and issue a determination.

(4) The appeal rights to which a permit applicant is entitled before a local board is in addition to, and not in lieu of, any other rights of appeal the permit applicant may have.

Statutory/Other Authority: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

ADOPT: 918-020-0270

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Describes enforcement of 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866).

CHANGES TO RULE:

918-020-0270

Enforcement of 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

(1) If the director has reason to believe that a violation of 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) has occurred, the director may issue notice and take action under 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 8 (Enrolled SB 866).¶

(2) If the director finds that a violation of ORS 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) has occurred, the director may issue and serve a written order upon the municipality, or upon a contract building official which the municipality procured services, that specifies corrective action. The order must state the facts and identify applicable law that forms the basis for the director's finding that a violation has occurred and must give the municipality or the contract building official reasonable time, which may not be less than 10 business days, within which to perform the director's specified corrective action. In addition, the director may require the municipality to:¶

(a) Increase the frequency of the audit required under 2021 Oregon Laws Ch. 599, Sec. 2, Subsec. 6 (Enrolled SB 866) to once per year;¶

(b) Submit a written plan that describes how the municipality will achieve compliance with 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866). If the director accepts the plan, the director will incorporate the provisions of the plan into an order that is binding upon the municipality;¶

(c) State and document the actions that the municipality has undertaken independently to correct the violation; or¶

(d) If the director finds that a pattern of violations of 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866) has occurred, 2021 Oregon Laws Ch. 599, Sec. 2, Subs. (9), Paragraph (c) (Enrolled SB 866) applies.

Statutory/Other Authority: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

Statutes/Other Implemented: 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

AMEND: 918-020-0390

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Adds definitions that were previously in OAR 918-020-0015.

Updates references to section numbers.

CHANGES TO RULE:

918-020-0390

Alternative Approval Process for Single-Family Dwelling Conversions

(1) For the purpose of an alternative approval process for single-family dwelling conversions as used in this rule, the listed terms are defined as follows:

(a) "Alternate method" means a proposal from an alternate approval process permit applicant to meet the standard of care for fire life safety protection for the items listed in section (2) of this rule as required by the state building code for a dwelling conversion in a manner other than what is listed in code, including consideration of alternate construction methods and materials that achieve equivalent safety.

(b) "Modification" means a proposal from an alternate approval process permit applicant for dwelling conversion to address one or more building code requirements in a similar manner as required by the state building code. A modification is not a waiver. Modifications address the general code requirement but do not have to meet an equivalent standard of care, or a specific code requirement. A modification is not permissible for the items listed in section (2) of this rule.

(c) "Waiver" means a proposal from an alternate approval process permit applicant for dwelling conversion to waive a non-building safety code requirement. A waiver is not permissible for the items listed in section (2) of this rule.

(2) A municipality administering and enforcing a building inspection program under ORS 455.148 or 455.150 shall, upon written request from an applicant for a building permit, exercise its ability to grant a local alternate approval, including alternate methods, modifications, and waivers under the state building code for projects related to conversion of a single-family dwelling to no more than four dwelling units. When making decisions regarding such a permit application, a building official may grant an alternate method for the following elements:

(a) Means of egress requirements, including emergency escape and rescue openings;

(b) Smoke alarms, carbon monoxide alarms, and radon gas mitigation;

(c) Fire separation, fire resistance ratings, and dwelling unit penetrations and compartmentalization; and

(d) Required automatic fire sprinkler systems.

(23) In making decisions related to an alternate method for conversion of an existing single-family dwelling into no more than four dwelling units, a building official may consider whether an automatic sprinkler system is technically feasible and consider alternate methods and materials, provided that adequate safeguards exist to address the items listed in section (12) of this rule and other appropriate measures are in place to ensure public safety, fire and smoke control, and safe egress.

(34) A building official may accept an alternate method, a modification, or waiver of other code items pertaining to the conversion of existing single-family dwellings into no more than four dwelling units. However, consistent with the discretionary decision making powers granted to building officials, and consistent with this rule, a building official may not approve a condition that would create an imminent threat to public health and safety.

(45) Applicable standards for the conversion of a single-family dwelling as follows:

(a) A conversion into two dwelling units follows the construction standards of the Oregon Residential Specialty Code; and

(b) A conversion into three or four dwelling units follows the construction standards of the Oregon Structural Specialty Code.

Statutory/Other Authority: ORS 455.610

Statutes/Other Implemented: ORS 455.610

AMEND: 918-020-0410

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Includes minor wording changes to enhance clarity.

CHANGES TO RULE:

918-020-0410

Statewide Master Builder Program - Definitions ¶¶

For the purpose of ~~these rules~~ OAR 918-020-0400 through OAR 918-020-0490, the following definitions apply:¶¶

(1) "Building trade committee" means a group, including, but not limited to, two local general contractors, one local building official and any other persons having substantial expertise in various aspects of one and two family dwelling construction.¶¶

(2) "General contractor" has the meaning given in ORS 701.005.¶¶

(3) "Master builder" means a person certified under the provisions of OAR 918-020-0420.¶¶

(4) "Qualified Construction Company" means a company that has been continuously licensed by the Construction Contractors Board during:¶¶

(a) The preceding five years as a general contractor; or¶¶

(b) At least the preceding two years as a general contractor and by one or more other states during the balance of the preceding five years in an occupation equivalent to that of a general contractor.¶¶

(5) "Regular employee" is someone who:¶¶

(a) Is continuously employed by, and on the regular payroll of, a qualified construction company;¶¶

(b) Has filed a withholding exemption certificate pursuant to ORS 316.182 for work performed for the qualified construction company; and¶¶

(c) Is available during working hours to supervise on-site dwelling construction including, but not limited to, supervising the installation through completion of:¶¶

(A) Drywall;¶¶

(B) Electrical systems;¶¶

(C) Footings;¶¶

(D) Foundations;¶¶

(E) Framing;¶¶

(F) Insulation;¶¶

(G) Mechanical systems;¶¶

(H) Plumbing systems; and¶¶

(I) Stairs.¶¶

(6) "Whole dwelling remodel" means a project that includes the installation in an existing dwelling of all the following:¶¶

(a) Footings;¶¶

(b) Foundations;¶¶

(c) Framing;¶¶

(d) Work that includes the installation of plumbing, electrical and mechanical systems;¶¶

(e) Insulation; and¶¶

(f) Drywall.

Statutory/Other Authority: ORS 455.805, ORS 455.810

Statutes/Other Implemented: ORS 455.805, ORS 455.810

AMEND: 918-098-1000

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Clarifies that, for the division 098 rules, "plan reviewer" and "plans examiner" have the same meaning.

CHANGES TO RULE:

918-098-1000

Purpose and Scope ¶¶

(1) These rules establish minimum training, experience, certification, and certification renewal requirements for building officials and persons who perform specialty code plan review and inspections in this state.¶¶

(a) The certification requirements for commercial plumbing and electrical inspectors are located in OAR 918-695-0400 through 918-695-0410 and 918-281-0000 through 918-281-0020.¶¶

(b) Plan review and inspections required under the Oregon Reach Code are to be performed by individuals certified under these rules, OAR chapter 918, division 281, or chapter 918, division 695 to conduct plan review or inspections for the specialty code under which the particular Reach Code provision is regulated.¶¶

(2) Nothing in these rules is intended to allow a person to violate statute or rule or change certification and licensing requirements set forth in statute.¶¶

(3) Nothing in these rules prevents the director from waiving procedural requirements in the rare circumstance where substantial compliance is impracticable.¶¶

(4) Nothing in these rules prevents the director from pursuing actions under ORS 455.125, 455.127, 455.129, 455.740, 455.895 or these rules.¶¶

(5) For the purpose of these rules, "plan reviewer" and "plans examiner" have the same meaning.

Statutory/Other Authority: ORS 455.500, ~~ORS 455.720~~

Statutes/Other Implemented: ~~ORS 446.250, 455.500, 455.622, 455.720~~ ORS 455.500, ORS 455.720, ORS 446.250, ORS 455.622, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866)

AMEND: 918-098-1005

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Adds definitions for "building official," "contract building official," and "director."  
Includes minor wording and grammatical changes to enhance clarity

CHANGES TO RULE:

918-098-1005

Definitions ¶¶

As used in OAR chapter 918, division 098, unless the context requires otherwise:¶¶

(1) "A-level ~~S~~structures" means structures regulated by the Oregon Structural Specialty Code that require a state fire and life safety plan review or are required to be designed by an Oregon licensed architect or engineer pursuant to ORS Chapter 671.¶¶

(2) "B-level ~~S~~structures" means structures regulated by the Oregon Structural Specialty Code that do not require a state fire and life safety plan review and are not required to be designed by an Oregon licensed architect or engineer pursuant to ORS Chapter 671.¶¶

(3) "Building ~~I~~inspection ~~T~~technology" means an approved curriculum meeting the requirements of OAR 918-098-1420.¶¶

(4) "~~Code Change C~~Building official" has the meaning given to that term in ORS 455.715.¶¶

(5) "Contract building official" means an owner, manager or employee of a person that the director has licensed to perform specialty code inspections and plan reviews under ORS 455.457 and that engages in the business of providing the services described in ORS 455.148 (3) and 455.150 (3) to one or more municipalities to which the director has delegated a building inspection program.¶¶

(6) "Code change course" means a continuing education course that addresses changes to specialty codes, code standards, interpretations and alternate methods or administrative rules addressing code.¶¶

(~~5~~7) "Commercial" means structures regulated by the Oregon Structural Specialty Code.¶¶

(~~6~~8) "~~Cross-T~~training ~~P~~program" means a division approved residential, electrical or plumbing inspector on-the-job cross-training program and practical evaluation, established by the building official of a local jurisdiction, that meets the minimum training and education requirements established by the division.¶¶

(~~7~~9) "Design" means professional, engineering or technical design of systems or components that requires computations, research or special knowledge.¶¶

(8) "~~Division~~" means the Building Codes Division 10) "Director" means the director of the Department of Consumer and Business Services.¶¶

(11) "Division" means the Building Codes Division of the Department of Consumer and Business Services.¶¶

(~~9~~12) "Education ~~I~~nstitution" is an institution accredited through a nationally recognized body and is usually governed by a local board and receives a state recognition.¶¶

(10~~3~~) "Education ~~P~~rogram" is a minimum two-year, or one-year focused building inspection technology program administered by an education institution.¶¶

(114) "International Code Council certification" means a certification issued by the International Code Council demonstrating that an individual has passed a specific International Code Council certification examination.¶¶

(125) "Nationally ~~R~~ecognized ~~C~~ertification ~~B~~ody" means a body or organization that provides formal recognition that a person possesses minimum knowledge of a recognized code.¶¶

(136) "High ~~P~~riority ~~T~~training" means periodic continuing education training identified by the division that addresses new technologies or specific problem areas identified by the division.¶¶

(147) "Oregon ~~C~~ode ~~C~~ertification" means a certification issued by the division for a.¶¶

(a) Building Official;¶¶

(b) Fire and Life Safety Plans Examiner;¶¶

(c) A-Level Structural Plans Examiner;¶¶

(d) B-Level Structural Plans Examiner;¶¶

(e) Residential or One-and-Two Family Dwelling Plans Examiner;¶¶

(f) Residential or One-and-Two Family Dwelling Structural Inspector;¶¶

(g) A-Level Structural Inspector;¶¶

(h) A-Level Mechanical Inspector;¶¶

(i) B-Level Structural Inspector;¶¶

(j) B-Level Mechanical Inspector;¶¶

(k) Residential or One-and-Two Family Dwelling Mechanical Inspector;¶¶

(l) Electrical Specialty Code Inspector;¶¶

- (m) Residential or One-and-Two Family Dwelling Electrical Inspector;¶
- (n) Plumbing Specialty Code Inspector;¶
- (o) Residential or One-and-Two Family Dwelling Plumbing Inspector;¶
- (p) Limited Plumbing Inspector - Building Sewers;¶
- (q) Manufactured Structure Construction Inspector;¶
- (r) Manufactured Structure Installation Inspector; and¶
- (s) Park and Camp Inspector.¶

(158) "Oregon Inspector Certification" means a certification issued by the division demonstrating that a person has passed a division-approved examination that covers Oregon laws and regulations relating to state building codes including, but not limited to, architectural barrier laws governing accessibility to buildings by disabled persons.¶

(169) "Practical Experience Evaluation" means a division-approved process that may include, but is not limited to field training or evaluation to determine the skill and knowledge of a person by the division for the purposes of certification.¶

(1720) "Recognized Code" means a regulatory document enforced by one or more state or local governments that prescribes minimum standards for building materials and construction methods of buildings or structures and building service equipment including plumbing, mechanical and electrical systems.¶

(218) "Residential Structures" means a structure regulated by the "Low-Rise Residential Dwelling Code" as defined by ORS 455.010.¶

(1922) "Specialized Inspector" means a person authorized to enforce all or portions of the specialty codes.¶

(203) "Year of Experience" means 2,000 hours of documented experience.¶

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

Statutory/Other Authority: ORS 455.715, ORS 455.720, ORS 455.723, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866), ORS 455.732

Statutes/Other Implemented: ORS 455.715, ORS 455.720, ORS 455.723, 2021 Oregon Laws Ch. 599, Sec. 2 (Enrolled SB 866), ORS 455.732



AMEND: 918-098-1420

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Includes minor wording changes to enhance clarity.

CHANGES TO RULE:

918-098-1420

Education Program Requirements ¶

(1) Educational institutes may submit a written application to the division for approval of their education program.¶

(2) Programs shall be resubmitted for review and approval every three years following initial approval.¶

(3) Class-room and laboratory instructors, including virtual instructors, shall possess an appropriate inspector certification for the specialty code area being taught.¶

(4) All class-room and laboratory instruction, including virtual instruction, shall be based on the specialty codes adopted by the division or the corresponding nationally recognized model codes.¶

(5) All classes shall be updated with the most recent adopted code-changes. Program amendments shall be submitted to the division for review and approval.

Statutory/Other Authority: ORS 455.720

Statutes/Other Implemented: ORS 455.720

AMEND: 918-098-1475

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Replace rule with new conflict of interest standards contained within 2021 Oregon Laws Ch. 599, Sec. 4 (Enrolled SB 866).

CHANGES TO RULE:

918-098-1475

~~Conflicts of Interest for Building Officials, Inspectors, and Plans Examiners~~ ¶¶

- ~~(1) A person with an Oregon Inspector Certification and an Oregon Code Certification may not get paid to perform or manage work regulated by the state building code for a company engaged in construction or property development in Oregon when employed as a building official, a contract building official, an inspector, a plans examiner, a reviewer, or building official by the division, a municipality, or a registered business under ORS 455.457.¶¶~~
- ~~(2) Notwithstanding (1), a person hired by the division, a municipality, or a registered business under ORS 455.457 may continue to perform or manage work for a company engaged in construction or property development in Oregon for 6 months after hire only as necessary to complete or transition previously accepted work, if: another person that provides building inspection services under contract with a municipality is a public official for the purposes of ORS chapter 244.¶¶~~
- ~~(a) The person does not engage in any conflicts of interest;¶¶~~
- ~~(b) The person submits written notice to the jurisdiction director may suspend, revoke, deny, condition that hired them of their intent to continue outside work; and¶¶~~
- ~~(c) The jurisdiction refuse to renew a license, certification that hired the person consents in writing to the continued outside work.¶¶~~
- ~~(3) For registration of a building official, inspector, plan reviewer or other purposes of this section "engaged in construction or property development" includes, but is not limited to:¶¶~~
- ~~(a) Designing, testing, or auditing of buildings or other structures, devices, and equipment regulated by the state building code; and¶¶~~
- ~~(b) Selling products or services that design, test, or audit buildings or other structures, devr person that provides building inspection services under contract with a municipality if the director determines that the building official, inspector, plan reviewer or other person or an owner, director, officesr, and equipment that are regulated by the state building code or that provide information related to the requirements manager, member or majority shareholder of the state building code.¶¶~~
- ~~(4) For the purposes of this section, "employed" means working directly for an employer as an employee and completing a withholding exemptions certificate required by ORS 316.162 to 316.212.¶¶~~
- ~~(5) For the purposes of this section, "paid" means receive official, inspector, plan reviewer or other person has violated ORS 244.025, 244.040, 244.047, 244.175, 244.177 and 244.179 or has engaged in any compensation from any source actual conflict of interest as defined in ORS 244.020.~~

Statutory/Other Authority: ORS 455.720, 2021 Oregon Laws Ch. 599, Sec. 4 (Enrolled SB 866)

Statutes/Other Implemented: ORS 455.720, 2021 Oregon Laws Ch. 599, Sec. 4 (Enrolled SB 866)

AMEND: 918-098-1480

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Includes minor wording changes to enhance clarity.

CHANGES TO RULE:

918-098-1480

#### Additional Responsibilities for Building Officials ¶

In addition to the ~~above~~ responsibilities outlined in these rules, all certified individuals who are performing the duties of the building official must also:¶

- (1) Ensure a person is properly certified under these rules or licensed under ORS 455.455 and 455.457 and meets the minimum experience requirements and possess appropriate knowledge prior to allowing the individual to perform plan reviews and inspections;¶
- (2) Ensure all inspectors and plans examiners in the municipality take all required continuing education and track the continuing education in a manner that may be presented to the division upon request;¶
- (3) Ensure that employees under the direction of the building official administering and enforcing elements of a building inspection program follow all applicable building code statutes and rules, including statewide code interpretations, directives and other building program requirements and allowing the use of statewide alternate method rulings and ensuring they are enforced and carried out through their certified individuals in their municipality, including items specified in OAR 918-098-1470;¶
- (4) Enforce applicable construction trade licensing requirements issued under ORS Chapters 447, 479, 693, and 701; and¶
- (5)(a) Ensure all building inspection program fees adopted by the municipality under ORS 455.210 and 479.855 are utilized for the administration and enforcement of the building inspection program established under ORS 455.148 or 455.150; and¶
- (b) Ensure all surcharges are properly collected and submitted to the division as required by ORS 455.210 and 455.220.

Statutory/Other Authority: ORS 455.720

Statutes/Other Implemented: ORS 455.720

AMEND: 918-098-1530

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Eliminates reference to a repealed rule.

Includes a minor wording change to enhance clarity.

CHANGES TO RULE:

918-098-1530

Training Programs ¶¶

(1) Approved applicants must complete an appropriate division-approved training program and pass a division-approved examination for the desired specialized certification. Training program requirements are stated in ~~OR 918-098-1560 for the Specialized Solar Photo-Voltaic Inspector Certification~~, in 918-098-1570 for the Specialized Plumbing Inspector Certification, and in 918-098-1580 for the Specialized Electrical Inspector Certification, and in 918-098-1590 and 918-098-1591 for the Specialized Finals Inspector Certification. ¶¶

(2) Approved fieldwork supervisors must be qualified by training, licensure, and experience to perform the specialized inspector certification fieldwork inspections being performed. ¶¶

(3) Fieldwork Training. A specialized inspector certification applicant is eligible to perform the required fieldwork training after the applicant has begun the division training program. ¶¶

(4) Fieldwork Supervision. All specialized certification fieldwork training must be supervised and verified by an inspector with a valid Oregon Inspector Certification required to conduct the inspections being performed. ¶¶

(a) An applicant's fieldwork training must be documented on a division-approved form and signed by the inspector who supervised the inspections. ¶¶

(b) An inspector supervising and verifying an applicant's fieldwork training may not be qualified to conduct the inspections performed based solely on a specialized inspector certification issued according to these rules. ¶¶

(5) Alternate Evaluation. The division may evaluate the skill and knowledge level of an specialized inspector applicant in lieu of some or all of the fieldwork requirements. ¶¶

(6) Fieldwork Training Approval. A specialized inspector certification applicant must submit proof of completed fieldwork training, or alternate evaluation and approval by the division, to the division for verification and approval, and issuance of specialized inspector certification. ¶¶

(7) Examination Approval. A specialized inspector certification applicant is eligible to take a certification examination once the application has been approved by the division. A certification will not be issued until the division receives proof that the applicant has successfully completed the required training program and passed the exam.

Statutory/Other Authority: ORS 455.720, ORS 455.730, ORS 455.735

Statutes/Other Implemented: ORS 455.720, ORS 455.730, ORS 455.735

AMEND: 918-098-1550

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Removes "or remains employed" to enhance clarity.

Adds "or otherwise authorized" when explaining that a specialized building inspector may perform duties authorized under that certification when employed "or otherwise authorized" by a municipality or the division.

CHANGES TO RULE:

918-098-1550

#### Specialized Inspector Certification Issuance and Expiration ¶¶

(1) Upon receiving proof of completion of all requirements listed in these rules, the division may issue the appropriate specialized inspector certification.¶

(2) The scope of a certification may be tailored to an individual's knowledge level and skill as determined by the division through an independent evaluation, but may not exceed the scope of work allowed under the rules.¶

(3) A person holding a valid specialized inspector certification may only perform the duties authorized under that certification provided the person is employed or ~~remains employ~~otherwise authorized by a municipality or the division.¶

(4) All specialized certifications remain valid provided the holder maintains a current Oregon Inspector Certification. Should the holder fail to maintain a valid Oregon Inspector Certification, all certifications, including any specialized certification issued under this rule, become invalid and the holder may not conduct any inspections until the Oregon Inspector Certification is again valid.

Statutory/Other Authority: ORS 455.715, ORS 455.720, ORS 455.723, ORS 455.730, ORS 455.735

Statutes/Other Implemented: ORS 455.715, ORS 455.720, ORS 455.723, ORS 455.730, ORS 455.735

AMEND: 918-098-4002

NOTICE FILED DATE: 09/29/2021

RULE SUMMARY: Removes reference to OAR 918-098-1475(1).

CHANGES TO RULE:

#### 918-098-4002

##### Flexibility after COVID-19 and the 2020 Wildfires, and in Anticipation of Future Emergencies

(1) Purpose. The purpose of this rule is to provide greater flexibility to building departments to meet demand and provide services without compromising safety throughout the impacts of COVID-19 and the 2020 wildfires in the State of Oregon, and in anticipation of future emergencies.¶

(2) When the Governor declares a State of Emergency, the director may issue an order that the emergency may cause a workforce shortage among inspectors or plans examiners, and under such an order, notwithstanding OAR 918-098-1015, 918-281-0020, and 918-695-0400, a person with an Oregon Inspector Certification and a code certification issued by the Building Codes Division may perform inspections and review plans beyond the scope of work for their code certification if both of the following conditions are met:¶

(a) The relevant building official determines the person has the skills necessary to perform the specific inspection or plan review without compromising safety; and¶

(b) The relevant building official authorizes the person, in writing, to perform the inspection or plan review.¶

(3) If a municipality adopts an ordinance that allows for unpaid leave, or broadened unpaid leave, due to the COVID-19 pandemic, ~~notwithstanding OAR 918-098-1475(1).~~¶

(a) A person with an Oregon Inspector Certification and an Oregon Code Certification may get paid to perform or manage work regulated by the state building code for a company engaged in construction or property development in Oregon when employed as an inspector, plans examiner, or building official by a municipality under ORS 455.457, if the following is met at the time the work is performed or managed:¶

(A) The person is on unpaid leave from their employment as an inspector, plans examiner, or building official, and the unpaid leave relates to the passage of the municipality's ordinance referenced in this section;¶

(B) The period of time for the unpaid leave in paragraph (A) of this subsection is expected to last not less than 30 consecutive days;¶

(C) The person does not engage in any conflicts of interest;¶

(D) The person submits written notice to the jurisdiction where they are taking their unpaid leave to inform them of their intent to engage in outside work and details the nature of that outside work;¶

(E) The jurisdiction where the person is taking unpaid leave consents in writing to the outside work;¶

(F) The jurisdiction where the person is taking unpaid leave agrees in writing that this work is not expected to create a conflict of interest; and¶

(G) As applicable, the person holds the appropriate licensure to perform or manage the outside work.¶

(b) For the purposes of subsection (a) of this section, "unpaid leave" means the person is not receiving wages or a salary. A person may still receive benefits, such as healthcare benefits, while on "unpaid leave."¶

(4) Consistent with ORS 455.020 and the discretion granted to building officials, nothing in OAR Chapter 918 should be construed to limit the ability of building officials to employ flexible and creative solutions in service delivery, which may include but is not limited to:¶

(a) The use of virtual inspections, including videos, pictures, and the use of drones;¶

(b) The use of electronic signatures;¶

(c) The granting of written requests to reconnect an electrical installation pursuant to ORS 479.570 and OAR 918-311-0070;¶

(d) Waiving a code requirement, modifying a code requirement, or accepting an alternate method, so long as it would not create an unsafe or dangerous condition regarding fire and life safety;¶

(e) Entering into agreements with other jurisdictions to provide plan reviews or inspections;¶

(f) Waiving all or part of plan review fees and inspection fees; and¶

(g) Accepting the use of master plans.¶

(5) Section (2) of this rule is retroactive to December 29, 2020.

Statutory/Other Authority: ORS 446.250, ORS 455.020, ORS 455.030, ORS 455.055, ORS 455.465, ORS 455.720

Statutes/Other Implemented: ORS 446.250, ORS 455.055, ORS 455.720