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## Notice of Temporary Rules January 26, 2016

### Certification Changes

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#### **Purpose of the rules:**

These temporary rules are intended to provide clarity and reduce confusion regarding the responsibilities and accountability requirements for certified building officials, inspectors, and plans examiners. These temporary rules will help certified individuals know when appropriate action is required when administering and enforcing a building inspection program. These rules also clarify when a building official will need to take a division administered training course. These rules provide further clarity of the cite-it write-it requirement.

#### **Citation:**

Amend: OAR 918-098-1010, 918-098-1025, 918-098-1470, 918-098-1480, 918-098-1900.  
These rules become effective January 26, 2016.

#### **Effect of the rules:**

These temporary rules amend the division's certification rules and include the following changes:

- Building officials must take a training course administered by the division.
- Clarifies and updates the responsibilities and duties for building officials, inspectors, and plans examiners.
- Clarifies the cite-it write-it rule to explain when and to whom the rule applies and what is required in writing.

#### **Contact:**

If you have questions or need further information, contact Manager of Enforcement and Training, Andrea Simmons, at 503.373.2160 or [andrea.f.simmons@oregon.gov](mailto:andrea.f.simmons@oregon.gov).



**Authorization Page**  
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**TEMPORARY ADMINISTRATIVE RULES**

Department of Consumer and Business Services, Building Codes Division	918
Agency and Division	Administrative Rules Chapter Number
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Rules Coordinator	Email Address
PO Box 14470, Salem, OR 97309-0404	503-378-5331
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Upon filing.	
Adopted on	
01/26/2016 thru 07/23/2016	
Effective dates	

**RULE CAPTION**

Building official certification changes and clarifying accountability requirements for certified persons.

Not more than 15 words

**RULEMAKING ACTION**

**ADOPT:**

AMEND: 918-098-1010, 918-098-1025, 918-098-1470, 918-098-1480, 918-098-1900

**SUSPEND:**

Stat. Auth.: ORS 455.030, 455.055, 445.062, 455.110, 455.720, 455.730, 455.735, 455.740

**Other Auth.:**

Stats. Implemented: ORS 455.030, 455.055, 445.062, 455.110, 455.720, 455.730, 455.735, 455.740

**RULE SUMMARY**

These rules amend the division's certification requirements for persons performing work in Oregon as a building official. These rules clarify the duties and responsibilities of building officials, inspectors, and plans examiners.

**STATEMENT OF NEED AND JUSTIFICATION**

Amending 918-098-1010, 918-098-1025, 918-098-1470, 918-098-1480, 918-098-1900.

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In the Matter of

Rules are available from the division's rules coordinator located at 1535 Edgewater St. NW, Salem, Oregon, 97304 and are available on the division's web site: [www.bcd.oregon.gov](http://www.bcd.oregon.gov).

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Documents Relied Upon, and where they are available

These rules are necessary to address concerns and confusion regarding accountability of certified building officials, inspectors and plans examiners. These rules will provide more clarity for these certified persons when they issue directives or require corrective actions, and will provide more consistent administration and enforcement of a building inspection program. These rules are also needed to implement a division administered education and training program for building officials.

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Need for the Temporary Rule(s)

Current rules do not provide sufficient clarity regarding the accountability requirements of certified persons and have resulted in confusion. The division has seen an increase in enforcement activity when certified persons have either taken actions that were not required or failed to take appropriate action when required. Failure to act promptly may result in serious prejudice to the public or to the interests of the parties concerned. The division is also committed to provide education and training to persons seeking to perform duties as a building official. Adoption of these rules will provide immediate clarity regarding accountability for certified persons and allow the division to begin providing education and training while the division proceeds with permanent rulemaking.

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Justification of Temporary Rules

 Mark Love 1/26/2016

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Authorized Signer

Printed Name

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

## 918-098-1010

### Certification Requirements

(1) Unless otherwise stated in this rule, every person who performs building official duties, building code inspections, or plan reviews must possess a valid Oregon Inspector Certification and either:

(a) A valid appropriate Oregon Code Certification for the work being performed, or

(b) A valid appropriate International Code Council certification for the work being performed and the minimum level of experience as follows:

(A) Two years of construction or inspection-related experience or its equivalent;

(B) An approved one year inspection-related education program and one year of construction or inspection-related experience;

(C) A degree from an approved two year inspection-related education program or its equivalent; or

(D) Be a registered Oregon architect, a certified Oregon professional engineer, or have a Bachelor's or Master's degree in architecture or civil or structural engineering.

(2) Notwithstanding section (1)(b) of this rule, a person may perform the duties of a building official provided the person has a valid Oregon Inspector Certification and meets one of the following:

(a) Passed the International Code Council Certified Building Official Legal Management examination prior to January 1, 2016 and completes a training course for building officials administered by the division within six months of hire; or

(b) Possesses a valid Oregon Building Official Certification and completes a training course for building officials administered by the division within six months of hire; or

(c) Has applied for an Oregon Building Official Certification under OAR 918-098-1025(3).

(3) If a certified building official is appointed by the municipality to perform duties as a building official on or after April 1, 2014, the person must be enrolled in or complete a training course for building officials administered by the division within six months of appointment unless the person has previously completed a training course for building officials administered by the division under Section 2 of this rule.

(4) Plan review certification is not required for individuals reviewing one- and two-family dwelling permit applications for the following:

(a) First floor decks attached to a dwelling that:

(A) Extend not more than 12 feet from the dwelling but not closer than three feet to a property line;

(B) Are not more than 8 feet above grade;

(C) Will not exceed a 70 PSF live load and not a combined live and dead load of 80 PSF; and

(D) Are not in excess of a 2 horizontal 1 vertical ground slope.

(b) Car ports with a single slope that:

(A) Have a rafter span extending not more than 12 feet from a dwelling;

(B) Are attached to the dwelling for the full length not to exceed 30 feet;

(C) Have a maximum overhang of two feet that is not closer than three feet to a property line; and

(D) Will not exceed a combined 80 PSF live and dead load.

(c) Patio covers that:

(A) Have a single slope roof;

(B) Have a rafter span extending not more than 12 feet from the dwelling;

(C) Are attached to the dwelling the full length not to exceed 30 feet;

(D) Have a maximum overhang of two feet that is not closer than three feet to a property line; and

(E) Will not exceed a combined 80 PSF live and dead load.

(d) Fences not greater than 8 feet in height.

(e) Garage conversions as an accessory to a one- or two-family dwelling with no new cut openings in the existing wall.

(f) Window, door, or bathroom remodels where there are no load-bearing or lateral-bracing wall penetrations.

(g) Pole or manufactured steel structures with a maximum of 3,000 square feet that:

(A) Have a maximum 14-foot eave height;

(B) Are not closer than three feet to the property line and at least 6 feet from all other buildings on the same lot; and

(C) Fully engineered, including foundation where applicable.

(h) Mechanical equipment for the purposes of determining setback requirements have been met.

(5) Plan review certification is not required for individuals reviewing permit applications for buildings or structures that have plans and specifications provided by the department or a municipality under ORS 455.062.

(6) The building official is responsible for ensuring that persons performing permit reviews under this section utilize a division-approved checklist to perform reviews.

(7) The building official may determine based on unusual features, characteristics or other

complicating circumstances that a certified individual must review a permit application.

(8) Where a jurisdiction routinely performs permit reviews for a type of project determined by the building official to be similar in complexity to the types of projects listed in sections (4) and (5) of this rule, the building official may submit a checklist to the division for approval. If approved, the jurisdiction may utilize the checklist in the same manner as section (6).

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

Stat. Auth.: ORS 455.030, 455.055, 455.062, 455.110, 455.720, & 455.730

Stat. Implemented: ORS 455.030, 455.055, 455.062, 455.110, 455.720, & 455.730

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 18-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 7-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; BCD 9-2013, f. 12-16-13, cert. ef. 1-1-14; BCD 5-2014, f. & cert. ef. 4-1-14

### **918-098-1025**

#### **Oregon Inspector Certification and Oregon Code Certification Application Process; Testing Procedures**

(1)(a) All persons who seek certification to perform the duties of a building official, inspector, or plans examiner must apply for the Oregon Inspector Certification as follows:

(A) Submit a division-approved application with the \$125 fee; and

(B) Successfully pass the Oregon Inspector Certification examination.

(b) Applicants for an Oregon Inspector Certification who fail the examination may reapply under this section to retest for a fee of \$80.

(2) Persons applying for an Oregon Code Certification under these rules, or under OAR 918-281-0020 and 918-695-0400 must:

(a) Submit a division-approved application demonstrating appropriate experience, as defined in OAR chapter 918, division 281, 695, these rules, or complete a certification training course administered by the division;

(b) Pay the \$80.00 fee; and

(c) Successfully pass the appropriate Oregon Code Certification exam.

(3) Applicants for certification as a building official must possess a valid Oregon Inspector

Certification and must enroll in or complete a certification training course for building officials administered by the division within six months of hire. A person enrolled in a certification training course for building officials administered by the division must successfully complete this course to continue performing building official duties.

(4) Applicants for an Oregon Code Certification who fail the examination may reapply under section (2) of this rule to retest. Applicants may not retake the test for 30 days after each failed attempt.

(5) If an applicant fails to take the Oregon Inspector Certification exam or the Oregon Code Certification exam within 60 days of being approved to do so, the applicant must re-apply under section (1) or (2) of this rule.

Stat. Auth.: ORS 455.720, 455.730 & 455.735

Stat. Implemented: ORS 455.720, 455.730 & 455.735

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11

### **918-098-1470**

#### **Duties and Responsibilities of Certified Building Officials, Inspectors, and Plans Examiners**

Persons who hold an Oregon Inspector Certification or an Oregon Code Certification must act in the public interest in performing their duties as a building official, inspector, or plans examiner, including but not limited to:

(1) Obtaining and maintaining any required certification prior to performing their duties;

(2) Not performing any inspections or plan reviews without holding the appropriate valid certification for the inspection or plan review being performed;

(3) Completing all required continuing education requirements and maintaining records of completion of continuing education courses required for each required certification sufficient to demonstrate compliance with OAR 918-098-1450;

(4) Administering and enforcing building inspection program requirements established in ORS Chapter 455 and rules adopted thereunder, including but not limited to:

(a) Enforcing all appropriate building code statutes and rules adopted thereunder;

(b) Enforcing specialty codes, adopted standards, and statewide code interpretations under ORS 455.110;

(c) Allowing the use of alternate method rulings under ORS 455.060, emerging technologies under ORS 455.065, and other requirements under ORS chapter 455;

(d) Following appeal decisions issued by the department or an appropriate advisory board under ORS 455.475 or 455.690;

(e) Following fee methodologies and number of inspections established under OAR chapter 918, division 50;

(f) Allowing the use of plans approved by the division under ORS 455.062 or 455.685;

(g) Following the department's direction established for an essential project and assist with any action the department determines is necessary to ensure the project proceeds in a timely manner under ORS 455.466 (4) and (5);

(h) Abiding by all of the terms and conditions of any agreements entered into with the department, including but not limited to, partnership agreements entered into under ORS 455.185 and program approvals under ORS 455.148 and 455.150, and delegations under ORS 479.855;

(i) Communicating requirements to customers clearly as required under OAR 918-098-1900; and

(j) Following any directives, orders, or other building program requirements established by the department;

(5) Cooperating with the division in the course of investigations. Failure to provide information upon request may be considered a violation of an order by the Director or an advisory board and may result in action taken under ORS 455.740 or 455.895 or other appropriate sanction;

(6) Notifying the division of any changes of name or address in a manner prescribed by the division within 10 business days; and

(7) Following all licensing and other requirements under ORS 455.455 and 455.457 and rules adopted thereunder when required.

Stat. Auth.: ORS 455.720

Stat. Implemented: ORS 455.720

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 5-2014, f. & cert. ef. 4-1-14

### **918-098-1480**

#### **Additional Responsibilities for Building Officials**

In addition to the above responsibilities, 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 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 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 ORS 479.855 are utilized for the administration and enforcement of the building inspection program established under ORS 455.148 or 455.150.

(b) Ensure all surcharges are properly collected and submitted to the division as required by ORS 455.210 and 455.220.

Stat. Auth.: ORS 455.720

Stat. Implemented: ORS 455.720

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05

### **918-098-1900**

#### **Cite-it Write-it Requirement**

In addition to any other requirements set forth in statute and rule, all building officials, inspectors and plans examiners certified under Division 098, OAR 918-225-0540, 918-281-0020, 918-695-0400, and ORS 460.055 must include an exact reference to the applicable specialty code section, Oregon administrative rule, or statute, when issuing corrective notices at construction sites or to buildings or related appurtenances during a plan review while administering or enforcing a building inspection program. The building official, inspector, or plans examiner must include a plain

statement of facts upon which the citation for correction action is based.

Stat. Auth.: ORS 455.720 & 455.740

Stat. Implemented: ORS 455.720 & 455.740

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05  
thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef.  
10-1-05