

# House Bill 2950

Sponsored by COMMITTEE ON BUSINESS AND LABOR

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Limits State Fire Marshal or local approved authority to one inspection of alteration or construction of building or structure for compliance with Fire and Life Safety Code or local fire and safety code. Specifies timing for inspection. Integrates review of building or structure plan or sketch for compliance with Fire and Life Safety Code or local fire and safety code with review for compliance with state building code.

## A BILL FOR AN ACT

1  
2 Relating to code compliance; creating new provisions; and amending ORS 455.210 and 479.155.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Approved authority" means a person or division within a governmental subdivision**  
6 **that the State Fire Marshal designates as an approved authority for exercising functions**  
7 **relating to a local fire and safety code.**

8 (b) **"Local fire and safety code" means the fire prevention, fire safety and building con-**  
9 **struction standards of a governmental subdivision that is fully or partially exempted under**  
10 **ORS 476.030 from statutes, rules and regulations administered by the State Fire Marshal.**

11 **(2) Except as provided in subsection (4) of this section:**

12 (a) **A building or structure described in ORS 479.155 is not subject during the con-**  
13 **struction or alteration of the building or structure to more than one State Fire Marshal in-**  
14 **spection for compliance with the Fire and Life Safety Code.**

15 (b) **A building or structure that is subject to a local fire and safety code is not subject**  
16 **during the construction or alteration of the building or structure to more than one in-**  
17 **spection by an approved authority for compliance with the local fire and safety code.**

18 (c) **A building or structure that is located within a governmental subdivision that is**  
19 **partially subject to the Fire and Life Safety Code and partially subject to a local fire and**  
20 **safety code is not subject during the construction or alteration of the building or structure**  
21 **to more than one inspection, whether conducted by the State Fire Marshal or an approved**  
22 **authority, for compliance with the Fire and Life Safety Code and the local fire and safety**  
23 **code.**

24 (3) **An inspection described in subsection (2) of this section may not be made later than**  
25 **30 days before the scheduled completion of the construction or alteration.**

26 (4) **If the State Fire Marshal or approved authority orders changes in the alteration or**  
27 **construction of a building or structure as the result of an inspection described in subsection**  
28 **(2) of this section, the State Fire Marshal or approved authority may schedule one or more**  
29 **limited subsequent inspections for the sole purpose of verifying that the changes previously**  
30 **ordered during an inspection described in subsection (2) of this section have been made.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

**SECTION 2.** (1) As used in this section:

(a) “Approved authority” means a person or division within a governmental subdivision that the State Fire Marshal designates as an approved authority for exercising functions relating to a local fire and safety code.

(b) “Local fire and safety code” means the fire prevention, fire safety and building construction standards of a governmental subdivision that is fully or partially exempted under ORS 476.030 from statutes, rules and regulations administered by the State Fire Marshal.

(2) Except as provided in subsection (4) of this section, prior to construction or alteration of a building or structure that is subject to a local fire and safety code, or that requires any other approval by a governmental subdivision acting under a local fire and safety code, the owner shall submit two copies of a plan or sketch to:

(a) The Department of Consumer and Business Services;

(b) A municipality performing plan review under ORS 455.148 or 455.150; or

(c) A person performing plan review under ORS 455.457.

(3) The plan or sketch must show the location of the building or structure with relation to the premises, distances, lengths and details of construction, as required by the Director of the Department of Consumer and Business Services.

(4) If the governmental subdivision is only partly exempt under ORS 476.030 so that the building or structure is subject to both the Fire and Life Safety Code and a local fire and safety code, the plan or sketch must be filed and processed as provided under ORS 479.155 instead of under this section. Approval of plans or sketches under this section by the department or by the municipality or person performing plan review is considered approval by the governmental subdivision and satisfies any requirement for approval by the governmental subdivision with regard to the local fire and safety code.

(5) A declaration of the value of the proposed construction or alteration and the appropriate fee required under ORS 455.210 must accompany the plan or sketch. However, the determination of value or valuation shall be made by the department or by the municipality that issues the building permit.

(6) The property owner shall furnish the department, municipality or person performing the plan review with not fewer than two accurate copies of the plan or sketch and details for the purpose of ascertaining compliance with the local fire and safety code. The plan reviewer shall indicate on the plan or sketch and in writing approval or disapproval and conditions for approval of the construction or alteration. If the plan reviewer is a person licensed under ORS 455.457, the plan reviewer shall forward at least two copies of the plan or sketch and two copies of the writing to the department or, if a municipality is responsible for issuing the building permit for the building or structure under ORS 455.148 or 455.150, to the municipality. The department or the municipality shall retain one copy of the plan or sketch and return one copy to the applicant.

(7) A building or structure referred to in subsection (2) of this section may not be constructed or altered unless the plan or sketch has been approved by the department, municipality or person reviewing the plan or sketch for compliance with the local fire and safety code. After approval of the plan or sketch and issuance of the required permit, construction or alteration must comply with the plan or sketch in all respects unless modified by a subsequent permit issued by the department or municipality or by an order of the approved authority pursuant to an inspection described in section 1 of this 2009 Act.

1 (8) The approval of a plan or sketch is not a permit for, or an approval of, a violation of  
 2 any statute, rule or code or any local ordinance or regulation. Any disapproval or condition  
 3 upon approval of a plan or sketch by the department or a municipality, or by a person per-  
 4 forming plan review under ORS 455.457 who forwards the plan or sketch to the department  
 5 or a municipality, is subject to the appeals process for proposed orders of the department  
 6 or municipality.

7 (9) Notwithstanding the requirements of subsections (2), (3) and (6) of this section, the  
 8 governmental subdivision may, by rule, require an additional copy of a plan or sketch for use  
 9 by the State Fire Marshal and may specify that plans or sketches submitted for review be  
 10 drawn clearly and to scale.

11 (10) This section does not apply to the alteration or construction of a building or struc-  
 12 ture regulated under ORS 480.200 to 480.290, any part of a gasoline dispensing device system  
 13 regulated under ORS 480.315 to 480.385 or a liquefied petroleum gas container or receptacle  
 14 regulated under ORS 480.420 to 480.460.

15 **SECTION 3.** ORS 479.155 is amended to read:

16 479.155. *[(1) As used in this section, "director" means the Director of the Department of Consumer*  
 17 *and Business Services.]*

18 *[(2)] (1) Prior to construction or alteration of a [hospital, public building as defined in ORS*  
 19 *479.168, public garage, dry cleaning establishment, apartment house, hotel, bulk oil storage plant,*  
 20 *school, institution as defined in ORS 479.210, or any other building or structure regulated by the State*  
 21 *Fire Marshal for use and occupancy or requiring approval by the State Fire Marshal pursuant to*  
 22 *statute] building or structure that is subject to the Fire and Life Safety Code adopted by the*  
 23 **State Fire Marshal, or that requires any other approval by the State Fire Marshal, the owner**  
 24 *shall submit [to the director] two copies of a plan or sketch [showing] to:*

25 **(a) The Department of Consumer and Business Services;**

26 **(b) A municipality performing plan review under ORS 455.148 or 455.150; or**

27 **(c) A person performing plan review under ORS 455.457.**

28 **(2) The plan or sketch must show** the location of the building or structure with relation to  
 29 the premises, distances, lengths and details of construction, as **required by** the Director *[shall re-*  
 30 *quire] of the Department of Consumer and Business Services.*

31 **(3) A filing is not required with respect to any [such] building or structure in any area totally**  
 32 **exempted by order of the State Fire Marshal pursuant to ORS 476.030. However, filing is required**  
 33 **under this section if the area is only partially exempt under ORS 476.030.** Approval of the plans  
 34 or sketches by the *[director] department or by the municipality or person performing plan re-*  
 35 **view** is considered approval by the State Fire Marshal and satisfies any statutory provision requir-  
 36 ing approval by the State Fire Marshal.

37 *[(3)] (4) A declaration of the value of the proposed construction or alteration and the appropri-*  
 38 *ate fee required under ORS 455.210 must accompany the plan or sketch. However, the determination*  
 39 *of value or valuation shall be made by the [director] department or by the municipality that is-*  
 40 **ssues the building permit.**

41 *[(4)] (5) The [director shall be furnished] property owner shall furnish the department,*  
 42 **municipality or person performing the plan review** with not fewer than two accurate copies of  
 43 the plan or sketch and details for the purpose of ascertaining compliance with **the Fire and Life**  
 44 **Safety Code**, applicable fire prevention and protection statutes and *[regulations] State Fire Mar-*  
 45 **shal rules. If the building or structure is located within a governmental subdivision that is**

1 **partially exempt under ORS 476.030, the plan or sketch shall also be reviewed for compliance**  
 2 **with local fire prevention, fire safety and building construction regulations.** The plan  
 3 [examiner] reviewer shall indicate on the plan or sketch and in writing approval or disapproval and  
 4 conditions for approval of the construction or alteration. **If the plan reviewer is a person licensed**  
 5 **under ORS 455.457, the plan reviewer shall forward at least two copies of the plan or sketch**  
 6 **and two copies of the writing to the department or, if a municipality is responsible for issu-**  
 7 **ing the building permit for the building or structure under ORS 455.148 or 455.150, to the**  
 8 **municipality. The department or the municipality shall retain** one copy of the plan or sketch  
 9 [shall be retained by the director] and **return** one copy [shall be returned] to the applicant.

10 (6) [No] **A building or structure referred to in subsection [(2)] (1) of this section [shall be erected**  
 11 **or constructed without approval by the director if the building or structure requires approval by the**  
 12 **State Fire Marshal] may not be constructed or altered unless the plan or sketch has been**  
 13 **approved by the department, municipality or person reviewing the plan or sketch for com-**  
 14 **pliance with the Fire and Life Safety Code and, if applicable, with the local fire and safety**  
 15 **code.** After [such] approval [or] **of the plan or sketch and** issuance of the required permit, con-  
 16 struction or alteration must comply with the plan or sketch in all respects unless modified by a  
 17 subsequent permit **issued by the department or municipality or by an order of the [director]**  
 18 **State Fire Marshal pursuant to an inspection described in section 1 of this 2009 Act.**

19 [(5)] (7) The approval of a plan or sketch [may not be construed to be] **is not** a permit for, or  
 20 an approval of, [any] a violation of any statute, [or regulation or the applicable ordinances and reg-  
 21 ulations of any governmental subdivision of the state] **rule or code or any local ordinance or reg-**  
 22 **ulation.** [The approval of a plan or sketch may not be construed as an approval for noncompliance  
 23 with fire marshal regulations.] Any **disapproval or** condition upon approval [or disapproval is an  
 24 order subject to appeal as other orders are appealable] **of a plan or sketch by the department or**  
 25 **a municipality, or by a person performing plan review under ORS 455.457 who forwards the**  
 26 **plan or sketch to the department or a municipality, is subject to the appeals process for**  
 27 **proposed orders of the department or municipality.**

28 [(6)] (8) Notwithstanding the requirements of subsections [(2) and (4)] (1), (2) and (5) of this  
 29 section, the State Fire Marshal may, by rule, require an additional copy of a plan or sketch for local  
 30 government use and may specify that plans or sketches submitted for review be drawn clearly and  
 31 to scale.

32 (9) **This section does not apply to the alteration or construction of a building or structure**  
 33 **regulated under ORS 480.200 to 480.290, any part of a gasoline dispensing device system reg-**  
 34 **ulated under ORS 480.315 to 480.385 or a liquefied petroleum gas container or receptacle**  
 35 **regulated under ORS 480.420 to 480.460.**

36 **SECTION 4.** ORS 455.210 is amended to read:

37 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits  
 38 issued by the Department of Consumer and Business Services for the construction, reconstruction,  
 39 alteration and repair of prefabricated structures and of buildings and other structures and the in-  
 40 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130  
 41 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uni-  
 42 form Mechanical Code," 1979 Edition, both published by the International Conference of Building  
 43 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-  
 44 vices.

45 (2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Depart-

1 ment of Consumer and Business Services may prescribe for [*a limited*] plan **or sketch** review for  
 2 Fire and Life Safety **Code compliance** as required under ORS 479.155, **or for local fire and safety**  
 3 **code compliance as required under section 2 of this 2009 Act**, shall be 40 percent of the pre-  
 4 scribed permit fee.

5 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and  
 6 reasonable to provide for the administration and enforcement of any specialty code or codes for  
 7 which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality  
 8 shall give the director notice of the proposed adoption of a new or increased fee under this sub-  
 9 section. The municipality shall give the notice to the director at the time the municipality provides  
 10 the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is  
 11 contained in an estimate of municipal budget resources, at the time notice of the last budget meeting  
 12 is published in a newspaper under ORS 294.401.

13 (b) Ten or more persons or an association with 10 or more members may appeal the adoption  
 14 of a fee described in this subsection to the Director of the Department of Consumer and Business  
 15 Services. The persons or association must file the appeal no later than 60 days after the director  
 16 receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this  
 17 subsection. However, if the municipality failed to give notice to the director, an appeal may be filed  
 18 with the director within one year after adoption of the new or increased fee. Upon receiving a  
 19 timely appeal, the director shall, after notice to affected parties and hearing, review the munic-  
 20 ipality's fee adoption process and the costs of administering and enforcing the specialty code or  
 21 codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the di-  
 22 rector feels the fee is necessary and reasonable. If the director does not approve the fee upon ap-  
 23 peal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees  
 24 that have been submitted for a vote and approved by a majority of the electors voting on the ques-  
 25 tion.

26 (c) Fees collected by a municipality under this subsection shall be used for the administration  
 27 and enforcement of a building inspection program for which the municipality has assumed responsi-  
 28 bility under ORS 455.148 or 455.150.

29 (d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable  
 30 the director shall consider whether:

31 (A) The fee is the same amount as or closely approximates the amount of the fee charged by  
 32 other municipalities of a similar size and geographic location for the same level of service;

33 (B) The fee is calculated with the same or a similar calculation method as the fee charged by  
 34 other municipalities for the same service;

35 (C) The fee is the same type as the fee charged by other municipalities for the same level of  
 36 service; and

37 (D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401 and  
 38 this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

39 (4) Notwithstanding any other provision of this chapter:

40 (a) For the purpose of partially defraying state administrative costs, there is imposed a sur-  
 41 charge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an  
 42 hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

43 (b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge  
 44 in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly  
 45 rate instead of purchasing a permit, two percent of the total hourly charges collected.

1 (c) For the purpose of defraying the cost of administering and enforcing the state building code,  
 2 there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees.  
 3 The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to  
 4 pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

5 (d) For the purpose of defraying the cost of developing and administering the electronic building  
 6 codes information system described in ORS 455.095 and 455.097, there is imposed a surcharge in the  
 7 amount of five percent on permit fees, or if the applicant chooses to pay an hourly rate instead of  
 8 purchasing a permit, five percent of the total hourly charges collected. However, the department  
 9 may adopt rules to waive a portion of the surcharge imposed under this paragraph if the department  
 10 determines that the amount collected by the surcharge imposed under this paragraph exceeds the  
 11 actual cost to the department of developing and administering the electronic building codes infor-  
 12 mation system described in ORS 455.095 and 455.097.

13 (5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section  
 14 to the director as provided in ORS 455.220.

15 (6) The director shall adopt administrative rules to allow reduced fees for review of plans that  
 16 have been previously reviewed.

17 **SECTION 5.** ORS 455.210, as amended by section 6, chapter 69, Oregon Laws 2007, is amended  
 18 to read:

19 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits  
 20 issued by the Department of Consumer and Business Services for the construction, reconstruction,  
 21 alteration and repair of prefabricated structures and of buildings and other structures and the in-  
 22 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130  
 23 percent of the fee schedule printed in the “Uniform Building Code,” 1979 Edition, and in the “Uni-  
 24 form Mechanical Code,” 1979 Edition, both published by the International Conference of Building  
 25 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-  
 26 vices.

27 (2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Depart-  
 28 ment of Consumer and Business Services may prescribe for *[a limited]* plan **or sketch** review for  
 29 Fire and Life Safety **Code compliance** as required under ORS 479.155, **or for local fire and safety**  
 30 **code compliance as required under section 2 of this 2009 Act**, shall be 40 percent of the pre-  
 31 scribed permit fee.

32 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and  
 33 reasonable to provide for the administration and enforcement of any specialty code or codes for  
 34 which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality  
 35 shall give the director notice of the proposed adoption of a new or increased fee under this sub-  
 36 section. The municipality shall give the notice to the director at the time the municipality provides  
 37 the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is  
 38 contained in an estimate of municipal budget resources, at the time notice of the last budget meeting  
 39 is published in a newspaper under ORS 294.401.

40 (b) Ten or more persons or an association with 10 or more members may appeal the adoption  
 41 of a fee described in this subsection to the Director of the Department of Consumer and Business  
 42 Services. The persons or association must file the appeal no later than 60 days after the director  
 43 receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this  
 44 subsection. However, if the municipality failed to give notice to the director, an appeal may be filed  
 45 with the director within one year after adoption of the new or increased fee. Upon receiving a

1 timely appeal, the director shall, after notice to affected parties and hearing, review the municipi-  
 2 pality's fee adoption process and the costs of administering and enforcing the specialty code or  
 3 codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the di-  
 4 rector feels the fee is necessary and reasonable. If the director does not approve the fee upon ap-  
 5 peal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees  
 6 that have been submitted for a vote and approved by a majority of the electors voting on the ques-  
 7 tion.

8 (c) Fees collected by a municipality under this subsection shall be used for the administration  
 9 and enforcement of a building inspection program for which the municipality has assumed responsi-  
 10 bility under ORS 455.148 or 455.150.

11 (d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable  
 12 the director shall consider whether:

13 (A) The fee is the same amount as or closely approximates the amount of the fee charged by  
 14 other municipalities of a similar size and geographic location for the same level of service;

15 (B) The fee is calculated with the same or a similar calculation method as the fee charged by  
 16 other municipalities for the same service;

17 (C) The fee is the same type as the fee charged by other municipalities for the same level of  
 18 service; and

19 (D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401 and  
 20 this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

21 (4) Notwithstanding any other provision of this chapter:

22 (a) For the purpose of partially defraying state administrative costs, there is imposed a sur-  
 23 charge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an  
 24 hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

25 (b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge  
 26 in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly  
 27 rate instead of purchasing a permit, two percent of the total hourly charges collected.

28 (c) For the purpose of defraying the cost of administering and enforcing the state building code,  
 29 there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees.  
 30 The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to  
 31 pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

32 (5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section  
 33 to the director as provided in ORS 455.220.

34 (6) The director shall adopt administrative rules to allow reduced fees for review of plans that  
 35 have been previously reviewed.

36 **SECTION 6. Sections 1 and 2 of this 2009 Act and the amendments to ORS 455.210 and**  
 37 **479.155 by sections 3 to 5 of this 2009 Act apply to the alteration or construction of buildings**  
 38 **and structures for which a property owner submits plans on or after the effective date of**  
 39 **this 2009 Act to be reviewed for compliance with the state building code.**