

Requested by HOUSE COMMITTEE ON BUSINESS AND LABOR

**PROPOSED AMENDMENTS TO
HOUSE BILL 4086**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest
2 of the line and lines 3 and 4 and insert “amending ORS 215.236, 446.250,
3 446.255, 447.091, 450.837, 455.010, 455.042, 455.046, 455.062, 455.070, 455.080,
4 455.148, 455.150, 455.200, 455.210, 455.450, 455.485, 455.685, 455.715, 455.720,
5 455.723, 455.730, 455.732, 455.737, 455.740, 455.800 and 479.530; and declaring
6 an emergency.”.

7 Delete lines 6 through 29 and delete pages 2 through 14 and insert:
8

9 **“GENERAL DEFINITIONS**

10

11 **“SECTION 1.** ORS 455.010 is amended to read:

12 “455.010. As used in this chapter, unless the context requires otherwise:

13 “(1)(a) ‘Advisory board’ means the board with responsibility for assisting
14 in the adoption, amendment or administration of a specialty code, specif-
15 ically:

16 “(A) The Building Codes Structures Board established under ORS 455.132;

17 “(B) The Electrical and Elevator Board established under ORS 455.138;

18 “(C) The State Plumbing Board established under ORS 693.115;

19 “(D) The Board of Boiler Rules established under ORS 480.535;

20 “(E) The Residential and Manufactured Structures Board established un-
21 der ORS 455.135;

1 “(F) The Mechanical Board established under ORS 455.140; or

2 “(G) The Construction Industry Energy Board established under ORS
3 455.492.

4 “(b) ‘Appropriate advisory board’ means the advisory board that has ju-
5 risdiction over a particular code, standard, license, certification or matter.

6 “(2) ‘Department’ means the Department of Consumer and Business Ser-
7 vices.

8 “(3) ‘Director’ means the Director of the Department of Consumer and
9 Business Services.

10 “(4) ‘Low-Rise Residential Dwelling Code’ means the adopted specialty
11 code prescribing standards for the construction of residential dwellings that
12 are three stories or less above grade and have an exterior door for each
13 dwelling unit, but are not facilities or homes described in ORS 443.400 or
14 transient lodging.

15 “(5) **‘Municipal building official’ means a person who is charged by**
16 **a municipality with responsibility for the administration and enforce-**
17 **ment of a building inspection program in the municipality and is:**

18 “(a) **An employee of the municipality;**

19 “(b) **Employed under an intergovernmental agreement that provides**
20 **for the person to supply administration and enforcement services for**
21 **respective building inspection programs of municipalities; or**

22 “(c) **Employed by a council of governments to supply administration**
23 **and enforcement services for respective building inspection programs**
24 **of member governments.**

25 “(6) **‘Municipal inspector’ means a person who performs routine**
26 **enforcement of one or more state building code specialty codes or**
27 **parts of one or more specialty codes for a municipality and is:**

28 “(a) **An employee of the municipality;**

29 “(b) **Employed under an intergovernmental agreement that provides**
30 **for the person to perform routine enforcement of one or more state**

1 **building code specialty codes or parts of one or more specialty codes**
2 **for respective building inspection programs of municipalities;**

3 **“(c) Employed by a council of governments to perform routine**
4 **enforcement of one or more state building code specialty codes or**
5 **parts of one or more specialty codes for respective building inspection**
6 **programs of member governments; or**

7 **“(d) Performing under actual or apparent authority as an agent on**
8 **behalf of the municipality.**

9 “[5] (7) ‘Municipality’ means a city, county or other unit of local gov-
10 ernment otherwise authorized by law to administer a building code.

11 “[6] (8) ‘Prefabricated structure’ means a building or subassembly that
12 has been in whole or substantial part manufactured or assembled using
13 closed construction at an off-site location to be wholly or partially assembled
14 on-site. ‘Prefabricated structure’ does not include a manufactured dwelling,
15 recreational structure or recreational vehicle, as those terms are defined in
16 ORS 446.003.

17 “[7] (9) ‘Specialty code’ means a code of regulations adopted under ORS
18 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085,
19 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by
20 the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to
21 479.200 and 479.210 to 479.220.

22 “[8] (10) ‘State building code’ means the combined specialty codes.

23 “[9] (11) ‘Structural code’ means the specialty code prescribing struc-
24 tural standards for building construction.

25 “[10] (12) ‘Unsafe condition’ means a condition caused by earthquake
26 which is determined by the department or any representative of the depart-
27 ment to be dangerous to life and property. ‘Unsafe condition’ includes but
28 is not limited to:

29 **“(a) Any portion, member or appurtenance of a building that has become**
30 **detached or dislodged or appears likely to fail or collapse and thereby injure**

1 persons or damage property; or

2 “(b) Any portion, of a building or structure that has been damaged by
3 earthquake, or by fire or explosion resulting from an earthquake, to the ex-
4 tent that the structural strength or stability of the building is substantially
5 less than it was prior to the earthquake.

6

7 **“BUILDING OFFICIAL AND INSPECTOR QUALIFICATIONS**

8

9 **“SECTION 2.** ORS 455.715 is amended to read:

10 “455.715. As used in ORS 455.715 to 455.740, unless the context otherwise
11 requires:

12 “(1) ‘Building official’ means a person charged by a municipality with
13 responsibility for administration and enforcement of the state building code
14 in the municipality.

15 “(2) ‘Business of providing prefabricated structure plan approvals and in-
16 spections’ means an independent contractor providing prefabricated structure
17 plan approval or inspection services, or both, under the following specialty
18 codes, as provided in ORS 455.020, 455.705 and 455.715:

19 “(a) Structural;

20 “(b) Mechanical;

21 “(c) Plumbing;

22 “(d) Electrical; *[and]* **or**

23 “(e) Low-rise residential dwelling.

24 “(3) ‘Inspector’ means:

25 “(a) A person, including a plans examiner, [*acting under the authority and*
26 *direction of a building official and]* charged **by a municipality** with the re-
27 sponsibility of routine enforcement of one or more specialty codes or parts
28 of specialty codes **on behalf of the municipality;**

29 “(b) A person, including a plans examiner, who provides enforcement of
30 one or more specialty codes or parts of specialty codes and who is personally

1 in the business of providing prefabricated structure plan approvals or in-
2 spections or is employed by such a business;

3 “(c) A specialized building inspector certified under ORS 455.723 who [*is*
4 *employed by*] **provides services to** a municipality or [*by*] **through** the De-
5 partment of Consumer and Business Services;

6 “(d) A person [*employed by*] **providing services to** a municipality or the
7 department who is certified under ORS 455.732 to perform inspections under
8 one or more specialty codes throughout a building code administrative re-
9 gion; or

10 “(e) A person designated by the Director of the Department of Consumer
11 and Business Services to ensure compliance with a specialty code or with
12 any requirement for a license, registration, certification, endorsement or
13 other authorization to perform work [*related to the administration and*
14 *enforcement of*] **regulated under** the state building code.

15 **“SECTION 3.** ORS 455.720 is amended to read:

16 “455.720. (1) In accordance with applicable provisions of ORS chapter 183,
17 to promote effective and uniform enforcement of the state building code by
18 improving the competence of building officials and inspectors, the Director
19 of the Department of Consumer and Business Services, with the advice of the
20 advisory boards, shall:

21 “(a) Establish for building officials and inspectors reasonable minimum
22 training and experience standards, including but not limited to courses or
23 subjects for instruction, facilities for instruction, qualification of instructors
24 and methods of instruction. The standards shall include provisions for de-
25 termining a practical experience equivalent.

26 “(b) Establish a procedure to be used by municipalities to determine
27 whether a person meets minimum standards or has minimum training to [*be*
28 *appointed or employed*] **provide services** as a building official or inspector.
29 The procedure shall allow for a field examination of a person to determine
30 if the person meets the practical experience equivalent of a minimum stand-

1 ard.

2 “(c) Subject to such terms, conditions and classifications as the director
3 may impose, certify building officials as being qualified, and revoke such
4 certifications in the manner provided in ORS 455.740.

5 “(d) Require an applicant for a certificate as a building official or in-
6 spector to demonstrate knowledge of the laws governing accessibility to
7 buildings by persons with disabilities by passing an examination prescribed
8 by the director.

9 “(2) The director shall maintain and, upon request of [*municipalities, fur-*
10 *nish information on applicants for appointment or employment as building of-*
11 *ficials or inspectors.*] **a municipality, furnish information on candidates**
12 **for the provision of municipal building official services, or municipal**
13 **inspector services, to the municipality.**

14 “(3) Pursuant to ORS chapter 183, the director shall adopt rules necessary
15 to carry out the certification programs provided by subsection (1) of this
16 section.

17 “(4) The director, by rule, may require evidence of completion of contin-
18 uing education covering any certification created under this section as a
19 condition of maintaining the certification. Nothing in this subsection shall
20 prohibit the director from delegating any of this power to a municipality.

21 “(5) The director, with the advice of the appropriate advisory boards, may
22 adopt rules for certifying inspectors as being qualified to enforce one or more
23 particular specialty codes, subject to any terms, conditions and classifica-
24 tions the director may impose, and for revoking those certifications in the
25 manner provided in ORS 455.740.

26 “**SECTION 4.** ORS 455.723 is amended to read:

27 “455.723. (1) The Director of the Department of Consumer and Business
28 Services, with the advice of the appropriate advisory boards, may adopt rules
29 establishing one or more programs to train, qualify and certify an individual
30 as a specialized building inspector authorized to enforce [*portions*] **parts** of

1 specialty codes. Notwithstanding ORS 455.720 (1) and 455.725, the rules may
2 include, but need not be limited to, rules that establish:

3 “(a) Work experience, training and other qualifications for program par-
4 ticipation;

5 “(b) Content and presentation requirements for training programs;

6 “(c) Methods for verifying the qualification of the individual to enforce
7 [portions] **parts** of specialty codes as a specialized building inspector certi-
8 fied under this section;

9 “(d) The [portions] **parts** of various specialty codes that each program
10 will enable a qualifying individual to enforce and any terms, conditions or
11 classifications applicable for that enforcement; and

12 “(e) Requirements the director believes reasonable for the administration
13 and enforcement of this section.

14 “(2) Notwithstanding ORS 446.250, 455.630, 455.720, 455.725, 479.530,
15 479.810 and 479.855, the director may issue or cause to be issued a certificate
16 as a specialized building inspector to an individual who successfully com-
17 pletes an approved training program and satisfies qualification verification
18 under this section. **A specialized building inspector may be trained and**
19 **certified in parts of more than one specialty code.**

20 “(3) An individual certified as a specialized building inspector under this
21 section may conduct inspections and enforce [portions] **parts** of specialty
22 codes under ORS 479.510 to 479.945 and 479.950 and this chapter and ORS
23 chapters 446, 447 and 693 as identified by the director. The enforcement of
24 [portions] **parts** of specialty codes by a specialized building inspector is
25 subject to any terms, conditions or classifications applicable to that
26 enforcement established by the director by rule.

27 **“SECTION 5.** ORS 455.730 is amended to read:

28 “455.730. *[No person shall be appointed or employed as a building official*
29 *or inspector by any municipality]* **A municipality may not accept municipi-**
30 **pal building official or municipal inspector services from a person un-**

1 less the person has been certified as being qualified under ORS 455.715 to
2 455.740, and the certification has not lapsed or been revoked.

3 **“SECTION 6.** ORS 455.732 is amended to read:

4 “455.732. (1) As used in this section, ‘building code administrative
5 region’ means a region established by the Director of the Department of
6 Consumer and Business Services under ORS 455.042 for the uniform admin-
7 istration of the state building code.

8 “(2) The authority of the director under **this section and** ORS 455.720
9 and 455.723 to specify terms, conditions and classifications for the certifica-
10 tion of inspectors includes the authority to certify an inspector to perform
11 inspections under multiple specialty codes or parts of a specialty code.

12 “(3) The director may provide for an inspector who is likely to be em-
13 ployed within a specific building code administrative region to be certified
14 to perform inspections throughout a building code administrative region,
15 whether within or outside of a municipality. The director may recognize any
16 training program certified by the director under ORS 455.723 or 455.725 for
17 purposes of certifying an inspector to perform inspections throughout a
18 building code administrative region. This subsection does not require a
19 municipality administering and enforcing a building inspection program un-
20 der ORS 455.148 or 455.150 to allow an inspector certified under this sub-
21 section who is not [*employed by*] **an employee of** the municipality to perform
22 building inspections on behalf of the municipality.

23 “(4) In determining the appropriate experience, training or other quali-
24 fications for an inspector under ORS 455.720 or 455.723, the director shall
25 consult with the appropriate advisory boards. The factors to be considered
26 by the director may include, but need not be limited to:

27 “(a) Any factors specific to, or of particular relevance to, a specialty code
28 or to the types of buildings, structures, systems or equipment in a geographic
29 area that are inspected under the specialty code;

30 “(b) Staffing levels or other specific criteria for building inspection pro-

1 grams established by a municipality where the inspector is likely to [*be em-*
2 *ployed*] **provide services** or for building inspection programs established by
3 the director; and

4 “(c) Any factors specific to, or of particular relevance to, the building
5 code administrative region within which the inspector is likely to [*be em-*
6 *ployed*] **provide services**.

7 “(5) In determining the scope of certifications and qualifications for an
8 inspector, the director may utilize field training equivalency, independent
9 evaluations or other methods the director deems appropriate.

10 **“SECTION 7.** ORS 455.737 is amended to read:

11 “455.737. (1) Notwithstanding ORS 455.720 (1), the Director of the De-
12 partment of Consumer and Business Services, by rule, shall adopt criteria for
13 review of the experience and training in building inspection and building
14 plan review acquired by a person outside the State of Oregon. The criteria
15 shall be adopted in a manner that facilitates review of a person’s qualifica-
16 tions by a [*local*] **municipal** building official.

17 “(2)(a) A [*local*] **municipal** building official who wishes to [*employ*] **use**
18 **the services of** a person who is not certified under ORS 455.735 as an in-
19 spector shall submit the person’s qualifications to the director. The director
20 shall review the stated qualifications against the criteria adopted under
21 subsection (1) of this section, including verification of experience and train-
22 ing. The director shall respond to the [*local*] **municipal** building official in
23 writing within 10 working days of receiving the applicant’s qualifications,
24 stating whether the person meets the applicable criteria.

25 “(b) Upon application and payment of the required fee, the director shall
26 allow a person whose qualifications meet the criteria adopted under sub-
27 section (1) of this section to sit for any examination necessary for the re-
28 quired certification.

29 **“SECTION 8.** ORS 455.740 is amended to read:

30 “455.740. (1) Subject to ORS chapter 183, the Director of the Department

1 of Consumer and Business Services may deny, condition, suspend, revoke or
2 refuse to renew a certificate of a building official or inspector if the director
3 finds that the building official or inspector has:

4 “(a) Consistently failed to act in the public interest in the performance
5 of duties;

6 “(b) Failed to complete the continuing education requirements as required
7 under ORS 455.720 (4);

8 “(c) Provided false information to the Department **of Consumer and**
9 **Business Services**; or

10 “(d) Committed an act described in ORS 455.125 or 455.129.

11 “(2) In any revocation proceeding under this section, [*the*] **a municipality**
12 **or council of governments** that employs the building official or inspector
13 [*shall be*] **is** entitled to appear as a party in interest, either for or against
14 the revocation.

15 “(3) When a certification is suspended or revoked under this section, the
16 director may also suspend, deny or place conditions on that person’s right
17 to reapply for certification under ORS 455.735 for a period not to exceed 12
18 months.

19 “(4) This section does not limit or otherwise affect the authority of a
20 municipality to dismiss or suspend a building official or inspector at the
21 discretion of the municipality.

22 “(5) Notwithstanding the requirements of subsections (1) to (4) of this
23 section, the director may adopt rules that:

24 “(a) Allow certifications to be placed on inactive status; and

25 “(b) Extend continuing education compliance requirements in case of ill-
26 ness or hardship.

27

28 **“MUNICIPAL BUILDING INSPECTION PROGRAMS**

29

30 **“SECTION 9.** ORS 455.148 is amended to read:

1 “455.148. (1)(a) A municipality that assumes the administration and
2 enforcement of a building inspection program shall administer and enforce
3 the program for all of the following:

4 “(A) The state building code, as defined in ORS 455.010, except as set
5 forth in paragraph (b) of this subsection.

6 “(B) Manufactured structure installation requirements under ORS 446.155,
7 446.185 (1) and 446.230.

8 “(C) Manufactured dwelling parks and mobile home parks under ORS
9 chapter 446.

10 “(D) Park and camp programs regulated under ORS 455.680.

11 “(E) Tourist facilities regulated under ORS 446.310 to 446.350.

12 “(F) Manufactured dwelling alterations regulated under ORS 446.155.

13 “(G) Manufactured structure accessory buildings and structures under
14 ORS 446.253.

15 “(H) Boilers and pressure vessels described in rules adopted under ORS
16 480.525 (5).

17 “(b) A building inspection program of a municipality may not include:

18 “(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670
19 except those described in rules adopted under ORS 480.525 (5);

20 “(B) Elevator programs under ORS 460.005 to 460.175;

21 “(C) Amusement ride regulation under ORS 460.310 to 460.370;

22 “(D) Prefabricated structure regulation under ORS chapter 455;

23 “(E) Manufacture of manufactured structures programs under ORS 446.155
24 to 446.285, including the administration and enforcement of federal manu-
25 factured dwelling construction and safety standards adopted under ORS
26 446.155 or the National Manufactured Housing Construction and Safety
27 Standards Act of 1974;

28 “(F) Licensing and certification, or the adoption of statewide codes and
29 standards, under ORS chapter 446, 447, 455, 479 or 693; or

30 “(G) Review of plans and specifications as provided in ORS 455.685.

1 “(2) A municipality that administers a building inspection program as
2 allowed under this section shall do so for periods of four years. The De-
3 partment of Consumer and Business Services shall adopt rules to adjust time
4 periods for administration of a building inspection program to allow for
5 variations in the needs of the department and participants.

6 “(3) When a municipality administers a building inspection program, the
7 governing body of the municipality shall[, *unless other means are already*
8 *provided, appoint a person to administer and enforce the building inspection*
9 *program, who shall be known as the building official. A building official*
10 *shall, in the municipality for which appointed, attend to all aspects of code*
11 *enforcement, including the issuance of all building permits. Two or more*
12 *municipalities may combine in the appointment of a single building official for*
13 *the purpose of administering a building inspection program within their com-*
14 *munities.] **arrange for the services of a municipal building official for***

15 **the municipality. The municipal building official shall be responsible**
16 **for ensuring the adequate and proper administration and enforcement**
17 **of building inspection program activities, including but not limited to**
18 **the issuance of building permits, whether the program activities are**
19 **carried out by employees of the municipality or by other persons au-**
20 **thorized to act on behalf of the municipality.**

21 “(4)(a) By January 1 of the year preceding the expiration of the four-year
22 period described in subsection (2) of this section, the governing body of the
23 municipality shall notify the Director of the Department of Consumer and
24 Business Services and, if the municipality is not a county, notify the county
25 whether the municipality will continue to administer and enforce the build-
26 ing inspection program after expiration of the four-year period.

27 “(b) Notwithstanding the January 1 date set forth in paragraph (a) of this
28 subsection, the director and the municipality and, if the municipality is not
29 a county, the county may by agreement extend that date to no later than
30 March 1.

1 “(5) If a city does not notify the director, or notifies the director that it
2 will not administer the building inspection program, the county or counties
3 in which the city is located shall administer and enforce the county program
4 within the city in the same manner as the program is administered and en-
5 forced outside the city, except as provided by subsection (6) of this section.

6 “(6) If a county does not notify the director, or notifies the director that
7 it will not administer and enforce a building inspection program, the director
8 shall contract with a municipality or other person or use such state em-
9 ployees or state agencies as are necessary to administer and enforce a
10 building inspection program, and permit or other fees arising therefrom shall
11 be paid into the Consumer and Business Services Fund created by ORS
12 705.145 and credited to the account responsible for paying the expenses
13 thereof. A state employee may not be displaced as a result of using contract
14 personnel.

15 “(7) The governing body of a municipality may commence responsibility
16 for the administration and enforcement of a building inspection program be-
17 ginning July 1 of any year by notifying the director no later than January
18 1 of the same year and obtaining the director’s approval of an assumption
19 plan as described in subsection [(11)(c)] **(12)(c)** of this section.

20 “(8) The department shall adopt rules to require the governing body of
21 each municipality assuming or continuing a building inspection program
22 under this section to submit a written plan with the notice required under
23 subsection (4) or (7) of this section. If the department is the governing body,
24 the department shall have a plan on file. The plan must specify how coop-
25 eration with the State Fire Marshal or a designee of the State Fire Marshal
26 will be achieved and how a uniform fire code will be considered in the review
27 process of the design and construction phases of buildings or structures.

28 **“(9) A municipal inspector who performs routine enforcement ser-**
29 **vices under actual or apparent authority as an agent on behalf of the**
30 **municipality is responsible for establishing the resources used or**

1 **needed for the inspector to perform the enforcement services and es-**
2 **tablishing the method by which the enforcement services are to be**
3 **performed.**

4 “[9] (10) A municipality that administers and enforces a building in-
5 spection program pursuant to this section shall recognize and accept the
6 performances of state building code activities by businesses and persons au-
7 thorized under ORS 455.457 to perform the activities as if the activities were
8 performed by the municipality. A municipality is not required to accept an
9 inspection, a plan or a plan review that does not meet the requirements of
10 the state building code.

11 “[10] (11) The department or a municipality that accepts an inspection
12 or plan review as required by this section by a person licensed under ORS
13 455.457 has no responsibility or liability for the activities of the licensee.

14 “[11] (12) In addition to the requirements of ORS 455.100 and 455.110,
15 the director shall regulate building inspection programs that municipalities
16 assume on or after January 1, 2002. Regulation under this subsection shall
17 include but not be limited to:

18 “(a) Creating building inspection program application and amendment
19 requirements and procedures;

20 “(b) Granting or denying applications for building inspection program
21 authority and amendments;

22 “(c) Requiring a municipality assuming a building inspection program to
23 submit with the notice given under subsection (7) of this section an as-
24 sumption plan that includes, at a minimum:

25 “(A) A description of the intended availability of program services, in-
26 cluding proposed service agreements for carrying out the program during at
27 least the first two years;

28 “(B) Demonstration of the ability and intent to provide building in-
29 spection program services for at least two years;

30 “(C) An estimate of proposed permit revenue and program operating ex-

1 penses;

2 “(D) Proposed staffing levels; and

3 “(E) Proposed service levels;

4 “(d) Reviewing procedures and program operations of municipalities;

5 “(e) Creating standards for efficient, effective, timely and acceptable

6 building inspection programs;

7 “(f) Creating standards for justifying increases in building inspection

8 program fees adopted by a municipality;

9 “(g) Creating standards for determining whether a county or department

10 building inspection program is economically impaired in its ability to rea-

11 sonably continue providing the program throughout a county, if another

12 municipality is allowed to provide a building inspection program within the

13 same county; and

14 “(h) Enforcing the requirements of this section.

15 “[~~(12)~~] **(13)** The department may assume administration and enforcement

16 of a building inspection program:

17 “(a) During the pendency of activities under ORS 455.770;

18 “(b) If a municipality abandons or is no longer able to administer the

19 building inspection program; and

20 “(c) If a municipality fails to substantially comply with any provision of

21 this section or of ORS 455.465, 455.467 and 455.469.

22 “[~~(13)~~] **(14)** If the department assumes the administration and enforcement

23 of a building inspection program under this section, in addition to any other

24 power granted to the director, the director may:

25 “(a) Enter into agreements with local governments under ORS 455.185

26 regarding the administration and enforcement of the assumed building in-

27 spection program;

28 “(b) Take action as described in ORS 455.192 to ensure that sufficient staff

29 and other resources are available for the administration and enforcement of

30 the assumed building inspection program; and

1 “(c) Charge fees described in ORS 455.195 for department services pro-
2 vided in administering and enforcing the assumed building inspection pro-
3 gram.

4 “[~~(14)~~] **(15)** A municipality that abandons or otherwise ceases to adminis-
5 ter and enforce a building inspection program that the municipality assumed
6 under this section may not resume the administration or enforcement of the
7 program for at least two years. The municipality may resume the adminis-
8 tration and enforcement of the abandoned program only on July 1 of an
9 odd-numbered year. Prior to resuming the administration and enforcement
10 of the program, the municipality must follow the notification procedure set
11 forth in subsection (7) of this section.

12 **“SECTION 10.** ORS 455.150 is amended to read:

13 “455.150. (1) Except as provided in subsection [~~(15)~~] **(16)** of this section,
14 a municipality that assumes the administration and enforcement of a build-
15 ing inspection program prior to January 1, 2002, may administer and enforce
16 all or part of a building inspection program. A building inspection program:

17 “(a) Is a program that includes the following:

18 “(A) The state building code, as defined in ORS 455.010, except as set
19 forth in paragraph (b) of this subsection.

20 “(B) Manufactured structure installation requirements under ORS 446.155,
21 446.185 (1) and 446.230.

22 “(C) Manufactured dwelling parks and mobile home parks under ORS
23 chapter 446.

24 “(D) Park and camp programs regulated under ORS 455.680.

25 “(E) Tourist facilities regulated under ORS 446.310 to 446.350.

26 “(F) Manufactured dwelling alterations regulated under ORS 446.155.

27 “(G) Manufactured structure accessory buildings and structures under
28 ORS 446.253.

29 “(H) Boilers and pressure vessels described in rules adopted under ORS
30 480.525 (5).

1 “(b) Is not a program that includes:

2 “(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670

3 except those described in rules adopted under ORS 480.525 (5);

4 “(B) Elevator programs under ORS 460.005 to 460.175;

5 “(C) Amusement ride regulation under ORS 460.310 to 460.370;

6 “(D) Prefabricated structure regulation under ORS chapter 455;

7 “(E) Manufacture of manufactured structures programs under ORS 446.155

8 to 446.285, including the administration and enforcement of federal manu-

9 factured dwelling construction and safety standards adopted under ORS

10 446.155 or the National Manufactured Housing Construction and Safety

11 Standards Act of 1974;

12 “(F) Licensing and certification, or the adoption of statewide codes and

13 standards, under ORS chapter 446, 447, 455, 479 or 693; and

14 “(G) Review of plans and specifications as provided in ORS 455.685.

15 “(2) A municipality that administers a building inspection program as

16 allowed under this section shall do so for periods of four years. The De-

17 partment of Consumer and Business Services shall adopt rules to adjust time

18 periods for administration of a building inspection program to allow for

19 variations in the needs of the department and participants.

20 “(3) When a municipality administers a building inspection program, the

21 governing body of the municipality shall[, *unless other means are already*

22 *provided, appoint a person to administer and enforce the building inspection*

23 *program or parts thereof, who shall be known as the building official. A*

24 *building official shall, in the municipality for which appointed, attend to all*

25 *aspects of code enforcement, including the issuance of all building permits.*

26 *Two or more municipalities may combine in the appointment of a single*

27 *building official for the purpose of administering a building inspection pro-*

28 *gram within their communities.] **arrange for the services of a municipal***

29 **building official for the municipality. The municipal building official**

30 **shall be responsible for ensuring the adequate and proper adminis-**

1 **tration and enforcement of building inspection program activities, in-**
2 **cluding but not limited to the issuance of building permits, whether**
3 **the program activities are carried out by employees of the municipi-**
4 **pality or by other persons authorized to act on behalf of the municipi-**
5 **pality.**

6 “(4)(a) By January 1 of the year preceding the expiration of the four-year
7 period described in subsection (2) of this section, the governing body of the
8 municipality shall notify the Director of the Department of Consumer and
9 Business Services and, if not a county, notify the county whether the
10 municipality will continue to administer the building inspection program, or
11 parts thereof, after expiration of the four-year period. If parts of a building
12 inspection program are to be administered and enforced by a municipality,
13 the parts shall correspond to a classification designated by the director as
14 reasonable divisions of work.

15 “(b) Notwithstanding the January 1 date set forth in paragraph (a) of this
16 subsection, the director and the municipality and, if the municipality is not
17 a county, the county may by agreement extend that date to no later than
18 March 1.

19 “(5) If a city does not notify the director, or notifies the director that it
20 will not administer certain specialty codes or parts thereof under the build-
21 ing inspection program, the county or counties in which the city is located
22 shall administer and enforce those codes or parts thereof within the city in
23 the same manner as it administers and enforces them outside the city, except
24 as provided by subsection (6) of this section.

25 “(6) If a county does not notify the director, or notifies the director that
26 it will not administer and enforce certain specialty codes or parts thereof
27 under the building inspection program, the director shall contract with a
28 municipality or other person or use such state employees or state agencies
29 as are necessary to administer and enforce those codes or parts thereof, and
30 permit or other fees arising therefrom shall be paid into the Consumer and

1 Business Services Fund created by ORS 705.145 and credited to the account
2 responsible for paying such expenses. A state employee may not be displaced
3 as a result of using contract personnel.

4 “(7) If a municipality administering a building inspection program under
5 this section seeks to administer additional parts of a program, the munici-
6 pality must comply with ORS 455.148, including the requirement that the
7 municipality administer and enforce all aspects of the building inspection
8 program. Thereafter, the municipality is subject to ORS 455.148 and ceases
9 to be subject to this section.

10 “(8) The department shall adopt rules to require the governing body of
11 each municipality to submit a written plan with the notice required under
12 subsection (4) of this section. If the department is the governing body, the
13 department shall have a plan on file. The plan shall specify how cooperation
14 with the State Fire Marshal or a designee of the State Fire Marshal will be
15 achieved and how a uniform fire code will be considered in the review pro-
16 cess of the design and construction phases of buildings or structures.

17 **“(9) A municipal inspector who performs routine enforcement ser-**
18 **vices under actual or apparent authority as an agent on behalf of the**
19 **municipality is responsible for establishing the resources used or**
20 **needed for the inspector to perform the enforcement services and es-**
21 **tablishing the method by which the enforcement services are to be**
22 **performed.**

23 “[9] (10) A municipality that administers a code for which persons or
24 businesses are authorized under ORS 455.457 to perform activities shall rec-
25 ognize and accept those activities as if performed by the municipality. A
26 municipality is not required to accept an inspection, a plan or a plan review
27 that does not meet the requirements of the state building code.

28 “[10] (11) The department or a municipality that accepts an inspection
29 or plan review as required by this section by a person licensed under ORS
30 455.457 has no responsibility or liability for the activities of the licensee.

1 “[(11)] **(12)** In addition to the requirements of ORS 455.100 and 455.110,
2 the director shall regulate building inspection programs of municipalities
3 assumed prior to January 1, 2002. Regulation under this subsection shall
4 include but not be limited to:

5 “(a) Creating building inspection program application and amendment
6 requirements and procedures;

7 “(b) Granting or denying applications for building inspection program
8 authority and amendments;

9 “(c) Reviewing procedures and program operations of municipalities;

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

12 “(e) Creating standards for justifying increases in building inspection
13 program fees adopted by a municipality;

14 “(f) Creating standards for determining whether a county or department
15 building inspection program is economically impaired in its ability to rea-
16 sonably continue providing the program or part of the program throughout
17 a county, if another municipality is allowed to provide a building inspection
18 program or part of a program within the same county; and

19 “(g) Enforcing the requirements of this section.

20 “[(12)] **(13)** The department may assume administration and enforcement
21 of a building inspection program:

22 “(a) During the pendency of activities under ORS 455.770;

23 “(b) If a municipality abandons any part of the building inspection pro-
24 gram or is no longer able to administer the building inspection program; and

25 “(c) If a municipality fails to substantially comply with any provision of
26 this section or of ORS 455.465, 455.467 and 455.469.

27 “[(13)] **(14)** If the department assumes the administration and enforcement
28 of a building inspection program under this section, in addition to any other
29 power granted to the director, the director may:

30 “(a) Enter into agreements with local governments under ORS 455.185

1 regarding the administration and enforcement of the assumed building in-
2 spection program;

3 “(b) Take action as described in ORS 455.192 to ensure that sufficient staff
4 and other resources are available for the administration and enforcement of
5 the assumed building inspection program; and

6 “(c) Charge fees described in ORS 455.195 for department services pro-
7 vided in administering and enforcing the assumed building inspection pro-
8 gram.

9 “[~~(14)~~] **(15)** If a municipality abandons or otherwise ceases to administer
10 all or part of a building inspection program described in this section, the
11 municipality may not resume the administration and enforcement of the
12 abandoned program or part of a program for at least two years. The
13 municipality may resume the administration and enforcement of the aban-
14 doned program or part of a program only on July 1 of an odd-numbered year.
15 To resume the administration and enforcement of the abandoned program or
16 part of a program, the municipality must comply with ORS 455.148, including
17 the requirement that the municipality administer and enforce all aspects of
18 the building inspection program. Thereafter, the municipality is subject to
19 ORS 455.148 and ceases to be subject to this section.

20 “[~~(15)~~] **(16)** A municipality that administers and enforces a building in-
21 spection program under this section shall include in the program the in-
22 spection of boilers and pressure vessels described in subsection (1)(a)(H) of
23 this section.

24

25 **“CONFORMING AMENDMENTS**

26

27 **“SECTION 11.** ORS 215.236 is amended to read:

28 “215.236. (1) As used in this section, ‘dwelling’ means a single-family res-
29 idential dwelling not provided in conjunction with farm use.

30 “(2) The governing body or its designee may not grant final approval of

1 an application made under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7)
2 for the establishment of a dwelling on a lot or parcel in an exclusive farm
3 use zone that is, or has been, receiving special assessment without evidence
4 that the lot or parcel upon which the dwelling is proposed has been dis-
5 qualified for special assessment at value for farm use under ORS 308A.050
6 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to
7 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax im-
8 posed as the result of disqualification has been paid.

9 “(3) The governing body or its designee may grant tentative approval of
10 an application made under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7)
11 for the establishment of a dwelling on a lot or parcel in an exclusive farm
12 use zone that is specially assessed at value for farm use under ORS 308A.050
13 to 308A.128 upon making the findings required by ORS 215.213 (3) or 215.284
14 (1), (2), (3), (4) or (7). An application for the establishment of a dwelling that
15 has been tentatively approved shall be given final approval by the governing
16 body or its designee upon receipt of evidence that the lot or parcel upon
17 which establishment of the dwelling is proposed has been disqualified for
18 special assessment at value for farm use under ORS 308A.050 to 308A.128 or
19 other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to
20 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of
21 disqualification has been paid.

22 “(4) The owner of a lot or parcel upon which the establishment of a
23 dwelling has been tentatively approved as provided by subsection (3) of this
24 section shall, before final approval, simultaneously:

25 “(a) Notify the county assessor that the lot or parcel is no longer being
26 used as farmland or for other specially assessed uses described in subsection
27 (2) or (3) of this section;

28 “(b) Request that the county assessor disqualify the lot or parcel from
29 special assessment under ORS 308A.050 to 308A.128, 308A.315, 321.257 to
30 321.390, 321.700 to 321.754 or 321.805 to 321.855; and

1 “(c) Pay any additional tax imposed upon disqualification from special
2 assessment.

3 “(5) Except as provided in subsection (6) of this section, a lot or parcel
4 that has been disqualified pursuant to subsection (4) of this section may not
5 requalify for special assessment unless, when combined with another contig-
6 uous lot or parcel, it constitutes a qualifying parcel.

7 “(6)(a) A lot or parcel that has been disqualified pursuant to subsection
8 (4) of this section may requalify for wildlife habitat special assessment under
9 ORS 308A.403 to 308A.430 or conservation easement special assessment under
10 ORS 308A.450 to 308A.465 without satisfying the requirements of subsection
11 (5) of this section.

12 “(b) Upon disqualification from wildlife habitat special assessment under
13 ORS 308A.430 or disqualification from conservation easement special assess-
14 ment under ORS 308A.465, the lot or parcel shall be subject to the require-
15 ments of subsection (5) of this section.

16 “(7) When the owner of a lot or parcel upon which the establishment of
17 a dwelling has been tentatively approved notifies the county assessor that
18 the lot or parcel is no longer being used as farmland and requests disquali-
19 fication of the lot or parcel for special assessment at value for farm use, the
20 county assessor shall:

21 “(a) Disqualify the lot or parcel for special assessment at value for farm
22 use under ORS 308A.050 to 308A.128 or other special assessment by removing
23 the special assessment;

24 “(b) Provide the owner of the lot or parcel with written notice of the
25 disqualification; and

26 “(c) Impose the additional tax, if any, provided by statute upon disquali-
27 fication.

28 “(8) The Department of Consumer and Business Services, a **municipal**
29 building official, as defined in ORS [455.715 (1)] **455.010**, or any other agency
30 or official responsible for the administration and enforcement of the state

1 building code, as defined in ORS 455.010, may not issue a building permit for
2 the construction of a dwelling on a lot or parcel in an exclusive farm use
3 zone without evidence that the owner of the lot or parcel upon which the
4 dwelling is proposed to be constructed has paid the additional tax, if any,
5 imposed by the county assessor under subsection (7)(c) of this section.

6 **“SECTION 12.** ORS 446.250 is amended to read:

7 “446.250. The Director of the Department of Consumer and Business Ser-
8 vices shall cause inspections to be made, approve plans and specifications,
9 provide technical services and issue permits for alteration of manufactured
10 dwellings and installation of manufactured dwellings and manufactured
11 structure accessory buildings and structures on a lot. The director shall ap-
12 point or contract with municipalities that request such appointment or con-
13 tract for inspection and issuance of permits for alteration of manufactured
14 dwellings and installation of manufactured dwellings and manufactured
15 structure accessory buildings and structures and alterations of installations
16 of plumbing, heating, illuminating, cooking or electrical equipment, provided
17 the [*municipality employs as local*] **municipal** inspectors **are** qualified per-
18 sons who have been certified by the director for inspection and issuance of
19 permits for alteration of manufactured dwellings and installation of manu-
20 factured dwellings and manufactured structure accessory buildings and
21 structures, pursuant to ORS 446.003, 446.111, 446.155, 446.160, 446.176, 446.225
22 to 446.285 and 446.990. However, the certification standards under this sec-
23 tion shall relate to the inspections to be performed and shall not be more
24 stringent for municipal inspectors than those applying to state inspectors.

25 **“SECTION 13.** ORS 446.255 is amended to read:

26 “446.255. (1) After written notice and hearing as provided in subsection
27 (2) of this section, the Director of the Department of Consumer and Business
28 Services may revoke the certification of a [*local*] **municipal** inspector certi-
29 fied under ORS 446.250, or the authority of a [*local government*] **muni-
30 pality** to enforce provisions of ORS 446.003, 446.111, 446.160, 446.176, 446.225

1 to 446.285 and 446.990, when it appears by competent evidence that the in-
2 spector or *[local government]* **municipality** has consistently failed to act in
3 the public interest in the enforcement of the provisions of ORS 446.003,
4 446.111, 446.160, 446.176, 446.225 to 446.285 and 446.990.

5 “(2) Any proceedings under subsection (1) of this section shall be con-
6 ducted pursuant to the provisions of ORS 183.415 to 183.430, 183.440 to
7 183.460, 183.470 to 183.485 and 183.490 to 183.540, dealing with contested
8 cases.

9 **“SECTION 14.** ORS 447.091 is amended to read:

10 “447.091. The Department of Consumer and Business Services or local
11 government administering the plumbing specialty code adopted under ORS
12 447.020 (2) may, upon request of any sanitary district formed pursuant to
13 ORS 450.005 to 450.245, sanitary authority established under ORS 450.600 to
14 450.989, or county service district established under ORS 451.410 to 451.610,
15 contract for *[the]* **district** inspection of building sewers constructed to con-
16 nect a district sewage system if inspectors *[employed by such]* **for the** district
17 are certified for sewer inspections under ORS 455.715 to 455.740.

18 **“SECTION 15.** ORS 450.837 is amended to read:

19 “450.837. (1) Water authorities and sanitary authorities are municipalities
20 for the purposes of administering and enforcing the plumbing code as pro-
21 vided under ORS 455.150.

22 “(2) However, notwithstanding ORS 455.150 (3), a **municipal** building of-
23 ficial *[appointed by]* **providing services to** a water authority or sanitary
24 authority, or *[an]* **a municipal** inspector acting under the authority and di-
25 rection of such a building official, shall *[administer and enforce only that*
26 *portion]* **carry out administration and enforcement activities only for**
27 **that part** of the plumbing code governing the installation and maintenance
28 of connections between structures and the mains and sewers of the authority.

29 “(3) Nothing in this section authorizes a building official or inspector
30 *[of]* **for** a water authority or sanitary authority to administer or enforce all

1 or part of any specialty code except the plumbing code.

2 “(4) A water authority or sanitary authority shall notify the Director of
3 the Department of Consumer and Business Services not later than May 1 of
4 each year as to whether the authority will or will not exercise the code
5 enforcement power granted by this section.

6 **“SECTION 16.** ORS 455.042 is amended to read:

7 “455.042. The Director of the Department of Consumer and Business Ser-
8 vices shall establish regions for all areas of the state to carry out the uni-
9 form administration of the state building code. The director shall assign
10 Department of Consumer and Business Services employees for the regions
11 as necessary to:

12 “(1) Promote consistent interpretation of the state building code;

13 “(2) Resolve disputes between [*local*] **municipal** building officials and
14 contractors or developers regarding the application of one or more provisions
15 of the state building code; and

16 “(3) Provide oversight and enforcement of ORS 446.003 to 446.200, 446.225
17 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950, 479.995 and 480.510
18 to 480.670 and ORS chapters 447, 455, 460 and 693 and the rules adopted un-
19 der those statutes.

20 **“SECTION 17.** ORS 455.046 is amended to read:

21 “455.046. (1) The Department of Consumer and Business Services shall:

22 “(a) Develop and administer an installation label program for minor in-
23 stallations under the state building code, including but not limited to elec-
24 trical installations under ORS 455.627, 479.540 and 479.570 and plumbing
25 installations under ORS 447.076;

26 “(b) Develop standard application forms and procedures for use by
27 municipalities in Clackamas, Multnomah and Washington Counties when is-
28 suing structural, mechanical, electrical, plumbing and other permits when
29 those permits do not require a review of building plans;

30 “(c) Develop standard application forms and procedures for issuing build-

1 ing permits and recording inspections;

2 “(d) Develop standard forms and procedures for reviewing building plans;

3 “(e) Establish standardized criteria and methodology for determining fee
4 amounts for permits that are required under the state building code estab-
5 lished under ORS 455.030;

6 “(f) Maintain and make available to the public the names of persons cer-
7 tified to review building plans;

8 “(g) Maintain and make available to the public the names of persons
9 certified to perform technical inspections; and

10 “(h) Administer prepaid building permit cost accounts.

11 “(2) The department may use the resources of the Tri-County Building
12 Industry Service Center to:

13 “(a) Assist [*local*] **municipal** building officials in the administration and
14 enforcement of the state building code; and

15 “(b) Establish a process to facilitate the consistent application of the
16 state building code throughout the state.

17 **“SECTION 18.** ORS 455.062 is amended to read:

18 “455.062. (1) A Department of Consumer and Business Services employee
19 acting within the scope of that employment may provide typical plans and
20 specifications:

21 “(a) For structures of a type for which the provision of plans or specifi-
22 cations is exempted under ORS 671.030 from the application of ORS 671.010
23 to 671.220 and exempted under ORS 672.060 from the application of ORS
24 672.002 to 672.325; and

25 “(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for
26 structures that are metal or wood frame Use and Occupancy Classification
27 Group U structures under the structural specialty code.

28 “(2) A **municipal** building official [*or inspector, as those terms are defined*
29 *in ORS 455.715, when*], **if** acting within the scope of direct employment by
30 a municipality, may provide typical plans and specifications for structures

1 of a type for which the provision of plans or specifications is exempted under
2 ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted
3 under ORS 672.060 from the application of ORS 672.002 to 672.325.

4 “(3) This section does not alter any applicable requirement under ORS
5 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and seals for a set
6 of plans for a structure.

7 **“SECTION 19.** ORS 455.070 is amended to read:

8 “455.070. (1) Any person may report a suspected violation of the state
9 building code that poses an imminent threat to public health or safety to the
10 local **municipal** building official or, where the code is state-administered,
11 to the Department of Consumer and Business Services. The complaint shall
12 be in writing and submitted under rules adopted by the department. The
13 rules of the department shall provide for the disposition of frivolous or har-
14 assing complaints by requiring detailed descriptions of the alleged violation
15 and reference to the code sections allegedly violated.

16 “(2) The municipality or the department shall give notice of the complaint
17 to the contractor, building owner and subcontractor, if any, involved in the
18 project alleged to be in violation. The municipality or the department may
19 charge the complainant for the necessary costs of supplying, copying and
20 distributing the complaint form.

21 “(3) If, after five working days, no remedial action has taken place, the
22 complainant has standing to appeal the matter to the appeals board of the
23 municipality, where one is established, or directly to the appropriate advi-
24 sory board where there is no local appeals board. The municipal appeals
25 board or state advisory board shall reach a final decision within 14 days of
26 the complainant’s appeal. A municipal appeals board decision shall then be
27 subject to appeal to a state advisory board under ORS 455.690, provided that
28 the state advisory board shall reach a final determination within 14 days of
29 notice of an appeal. A record of the written complaint and the findings of
30 the appeals and advisory boards may be introduced into evidence in any ju-

1 dicial proceeding for damages brought against the complainant by any person
2 suffering damages as a result of the complaint.

3 **“SECTION 20.** ORS 455.080 is amended to read:

4 “455.080. Notwithstanding ORS 455.630 (2), any inspector, including a
5 specialty code inspector licensed under ORS 455.457, authorized by ORS
6 **455.148**, 455.150 or 455.153 to determine compliance with the requirements
7 of the state building code or any specialty code under this chapter may, in
8 accordance with a compliance program as described in ORS 455.153 (2), re-
9 quire any person who is engaged in any activity regulated by the state
10 building code to demonstrate proof of compliance with the applicable li-
11 censing, registration or certification requirements of ORS chapters 446, 447,
12 455, 460, 479, 480, 693 and 701.

13 **“SECTION 21.** ORS 455.200 is amended to read:

14 “455.200. The Director of the Department of Consumer and Business Ser-
15 vices:

16 “(1) May adopt rules, establish policies and procedures and take other
17 actions the director considers reasonable or expedient for carrying out
18 agreements under ORS 455.148 [(13)] (14), 455.150 [(13)] (14) or 455.185 and
19 any duties, functions and powers of the director or the Department of Con-
20 sumer and Business Services under ORS 455.148 [(13)] (14), 455.150 [(13)] (14)
21 or 455.185 to 455.198;

22 “(2) Shall consult at least annually with appropriate advisory boards re-
23 garding any agreements under ORS 455.185 or actions taken by the director
24 under ORS 455.148 [(13)] (14), 455.150 [(13)] (14) or 455.185 to 455.198; and

25 “(3) Shall report annually to the Legislative Assembly as provided under
26 ORS 192.230 to 192.250 regarding any department activities under ORS
27 455.148 [(13)] (14), 455.150 [(13)] (14) or 455.185 to 455.198. The report shall
28 include, but not be limited to, information regarding any projected need for
29 an increase in department resources required for carrying out the adminis-
30 tration and enforcement of building inspection programs under ORS 455.148

1 [(13)] (14), 455.150 [(13)] (14) or 455.185 to 455.198.

2 **“SECTION 22.** ORS 455.210 is amended to read:

3 “455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan
4 review and permits issued by the Department of Consumer and Business
5 Services for the construction, reconstruction, alteration and repair of pre-
6 fabricated structures and of buildings and other structures and the installa-
7 tion of mechanical heating and ventilating devices and equipment. The fees
8 may not exceed 130 percent of the fee schedule printed in the ‘Uniform
9 Building Code,’ 1979 Edition, and in the ‘Uniform Mechanical Code,’ 1979
10 Edition, both published by the International Conference of Building Officials.
11 Fees are not effective until approved by the Oregon Department of Admin-
12 istrative Services.

13 “(2) Notwithstanding subsection (1) of this section, the maximum fee the
14 Director of the Department of Consumer and Business Services may prescribe
15 for a limited plan review for fire and life safety as required under ORS
16 479.155 shall be 40 percent of the prescribed permit fee.

17 “(3)(a) A municipality may adopt by ordinance or regulation such fees as
18 may be necessary and reasonable to provide for the administration and
19 enforcement of any specialty code or codes for which the municipality has
20 assumed responsibility under ORS 455.148 or 455.150. A municipality shall
21 give the director notice of the proposed adoption of a new or increased fee
22 under this subsection. The municipality shall give the notice to the director
23 at the time the municipality provides the opportunity for public comment
24 under ORS 294.160 regarding the fee or, if the proposed fee is contained in
25 an estimate of municipal budget resources, at the time notice of the last
26 budget meeting is published under ORS 294.426.

27 “(b) Ten or more persons or an association with 10 or more members may
28 appeal the adoption of a fee described in this subsection to the Director of
29 the Department of Consumer and Business Services. The persons or associ-
30 ation must file the appeal no later than 60 days after the director receives

1 notice of the proposed adoption of the fee from the municipality under par-
2 agraph (a) of this subsection. However, if the municipality failed to give
3 notice to the director, an appeal may be filed with the director within one
4 year after adoption of the new or increased fee. Upon receiving a timely
5 appeal, the director shall, after notice to affected parties and hearing, review
6 the municipality's fee adoption process and the costs of administering and
7 enforcing the specialty code or codes referred to in paragraph (a) of this
8 subsection. The director shall approve the fee if the director feels the fee is
9 necessary and reasonable. If the director does not approve the fee upon ap-
10 peal, the fee is not effective. The appeal process provided in this paragraph
11 does not apply to fees that have been submitted for a vote and approved by
12 a majority of the electors voting on the question.

13 “(c) Fees collected by a municipality under this subsection shall be used
14 for the administration and enforcement of a building inspection program for
15 which the municipality has assumed responsibility under ORS 455.148 or
16 455.150.

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

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

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

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

26 “(D) The municipality, in adopting the fee, complied with ORS 294.160,
27 294.361 and 294.426 and this section and standards adopted by the director
28 under ORS 455.148 [(11)] (12) or 455.150 [(11)] (12).

29 “(4) Notwithstanding any other provision of this chapter:

30 “(a) For the purpose of partially defraying state administrative costs,

1 there is imposed a surcharge in the amount of four percent of the total per-
2 mit fees or, if the applicant chooses to pay an hourly rate instead of pur-
3 chasing a permit, four percent of the total hourly charges collected.

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

8 “(c) For the purpose of defraying the cost of administering and enforcing
9 the state building code, there is imposed a surcharge on permit fees and on
10 hourly charges collected instead of permit fees. The surcharge may not ex-
11 ceed one percent of the total permit fees or, if the applicant chooses to pay
12 an hourly rate instead of purchasing a permit, one percent of the total hourly
13 charges collected.

14 “(d) For the purpose of defraying the cost of developing and administering
15 the electronic building codes information system described in ORS 455.095
16 and 455.097, there is imposed a surcharge in the amount of four percent on
17 permit fees, or if the applicant chooses to pay an hourly rate instead of
18 purchasing a permit, four percent of the total hourly charges collected.

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

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

23 **“SECTION 23.** ORS 455.450 is amended to read:

24 “455.450. A person may not:

25 “(1) Violate, or procure or assist in the violation of, any final order of the
26 Director of the Department of Consumer and Business Services, an advisory
27 board, a state administrative officer or any local appeals board, a building
28 official or **an** inspector, concerning the application of the state building code
29 in a particular case or concerning a license, certificate, registration or other
30 authorization.

1 “(2) Engage in, or procure or assist any other person to engage in, any
2 conduct or activity for which a permit, label, license, certificate, registration
3 or other formal authorization is required by any specialty code, any pro-
4 vision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566
5 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670,
6 this chapter or ORS chapter 447, 460 or 693, or any rule adopted or order
7 issued for the administration and enforcement of those provisions, without
8 first having obtained such permit, label, license, certificate, registration or
9 other formal authorization.

10 “(3) Violate, or procure or assist in the violation of, any standard, spec-
11 ification, requirement, prohibition or other technical provision set forth in
12 the state building code or an applicable local building code or in any rule
13 or order of the Department of Consumer and Business Services, an advisory
14 board, a [local] **municipal** governing body or [local] **municipal** building of-
15 ficial.

16 “**SECTION 24.** ORS 455.485 is amended to read:

17 “455.485. (1) When adopting the state building code, the Director of the
18 Department of Consumer and Business Services shall give special consider-
19 ation to the unique needs of construction in rural or remote parts of this
20 state.

21 “(2) Notwithstanding any description of State Fire Marshal duties in ORS
22 476.030, 476.033, 476.035, 476.150 or 476.155, the Director of the Department
23 of Consumer and Business Services or a [local] **municipal** building official
24 administering a building inspection program under ORS 455.148 or 455.150
25 may determine whether the structure as set forth in the plans and specifi-
26 cations or as constructed meets the standards of the state building code, in-
27 cluding but not limited to fire and life safety standards. The State Fire
28 Marshal, or a local fire official for a governmental subdivision exempted
29 from State Fire Marshal regulations as described under ORS 476.030, may
30 provide advice to building officials, inspectors or Department of Consumer

1 and Business Services employees concerning state building code standards.
2 A *[local]* **municipal** building official or department employee shall give
3 consideration to advice of the State Fire Marshal or local fire official that
4 does not conflict with the state building code, but shall retain the authority
5 to make final decisions regarding the code.

6 **“SECTION 25.** ORS 455.685 is amended to read:

7 “455.685. The Director of the Department of Consumer and Business Ser-
8 vices may, upon an application setting forth a set of plans and specifications
9 that will be utilized in one or more municipalities to acquire building per-
10 mits, review and approve the application for the construction or erection of
11 any building or structure if such set of plans meets the requirements of the
12 state building code. All costs incurred by the director by virtue of the ex-
13 amination of such a set of plans and specifications shall be paid by the ap-
14 plicant. The plans and specifications or any plans and specifications required
15 to be submitted to a state agency shall be submitted to the director who shall
16 examine the instruments and if necessary distribute them to the appropriate
17 state agencies for scrutiny regarding adequacy as to fire safety, life safety
18 and all other appropriate features. The state agencies shall examine and
19 promptly return the plans and specifications together with their certified
20 statement as to the adequacy of the instruments regarding that agency’s area
21 of concern. The applicant shall submit the plans and specifications to a *[local*
22 *building official]* **municipality** prior to application for a building permit.
23 The *[local]* **municipal** building official shall *[review]* **cause the plan to be**
24 **reviewed** for those features required by local ordinance or by any site-
25 specific, geographic, geologic or climatic code requirements. A *[local building*
26 *official]* **municipality** shall issue a building permit upon application and
27 presentation to the *[local building official]* **municipality** of such a set of
28 plans and specifications bearing the approval of the director if the require-
29 ments of all other local ordinances are satisfied. The director or *[local]*
30 **municipal** building official may assess such fees as necessary to recover the

1 reasonable costs incurred to ensure the compliance of the plans and specifi-
2 cations with the state building code.

3 **“SECTION 26.** ORS 455.800 is amended to read:

4 “455.800. As used in ORS 455.800 to 455.820:

5 “(1) ‘Building official’ means a person who is a **municipal** building offi-
6 cial as defined in ORS [455.715] **455.010** or a Department of Consumer and
7 Business Services employee charged with enforcement or administration of
8 the state building code.

9 “(2) ‘Building trade committee’ means a group composed of experienced
10 and knowledgeable local general contractors or other persons having sub-
11 stantial expertise in various aspects of one and two family dwelling con-
12 struction under the Low-Rise Residential Dwelling Code.

13 “(3) ‘General contractor’ has the meaning given that term in ORS 701.005.

14 “(4) ‘Master builder’ means a person certified under ORS 455.810.

15 “(5) ‘Qualified construction company’ means a company that has been:

16 “(a) Continuously licensed by the Construction Contractors Board during
17 the preceding 60 months as a general contractor; or

18 “(b) Continuously licensed by the Construction Contractors Board during
19 at least the preceding 24 months as a general contractor and by one or more
20 other states during the balance of the preceding 60 months in an occupation
21 equivalent to that of a general contractor.

22 “(6) ‘Regular employee’ means a person who:

23 “(a) Is continuously employed by, and on the regular payroll of, a quali-
24 fied construction company;

25 “(b) Has filed a withholding exemption certificate pursuant to ORS
26 316.182 for work performed for the qualified construction company; and

27 “(c) Is available during working hours to supervise on-site dwelling con-
28 struction, including but not limited to supervising the installation of:

29 “(A) Drywall;

30 “(B) Electrical systems;

- 1 “(C) Footings;
- 2 “(D) Foundations;
- 3 “(E) Framing;
- 4 “(F) Insulation;
- 5 “(G) Mechanical systems;
- 6 “(H) Plumbing systems; and
- 7 “(I) Stairs.

8 “(7) ‘Whole dwelling remodel’ means a project that includes the installa-
9 tion in an existing dwelling of all of the following:

- 10 “(a) Drywall;
- 11 “(b) Electrical systems;
- 12 “(c) Footings;
- 13 “(d) Foundations;
- 14 “(e) Framing;
- 15 “(f) Insulation;
- 16 “(g) Mechanical systems; and
- 17 “(h) Plumbing systems.

18 **“SECTION 27.** ORS 479.530 is amended to read:

19 “479.530. As used in ORS 479.510 to 479.945 and 479.995, unless the context
20 requires otherwise:

21 “(1) ‘Approved testing laboratory’ means a testing laboratory that meets
22 criteria for electrical product evaluation established by the Director of the
23 Department of Consumer and Business Services with the approval of the
24 Electrical and Elevator Board under ORS 479.730.

25 “(2) ‘Board’ means the Electrical and Elevator Board established under
26 ORS 455.138.

27 “(3) ‘Certified electrical product’ means an electrical product that is cer-
28 tified under ORS 479.760 and that is not decertified.

29 “(4) ‘Competent inspection service’ means an electrical inspection service
30 [*of a city or county*] administered **by a municipality** under ORS 455.148 or

1 455.150 that *employs* **provides services through** electrical inspectors who
2 are certified to meet standards under ORS 479.810.

3 “(5) ‘Commercial electrical air conditioning equipment’ means heating,
4 cooling, refrigeration, dehumidifying, humidifying and filtering equipment
5 used for climatizing or moving of air if used in commerce, industry or gov-
6 ernment and if installed in a place not accessible to the general public other
7 than the switches regulating the operation of the equipment.

8 “(6) ‘Demarcation point’ means the place of interconnection between the
9 communications cabling, terminal equipment or protective apparatus of the
10 telecommunications service provider and the customer’s premises.

11 “(7) ‘Department’ means the Department of Consumer and Business Ser-
12 vices.

13 “(8) ‘Director’ means the Director of the Department of Consumer and
14 Business Services.

15 “(9) ‘Dwelling unit’ means one or more rooms for the use of one or more
16 persons as a housekeeping unit with space for eating, living and sleeping and
17 permanent provisions for cooking and sanitation.

18 “(10) ‘Electrical installations’ means the construction or installation of
19 electrical wiring and the permanent attachment or installation of electrical
20 products in or on any structure that is not itself an electrical product.
21 ‘Electrical installation’ also means the maintenance or repair of installed
22 electrical wiring and permanently attached electrical products. ‘Electrical
23 installation’ does not include an oil module.

24 “(11) ‘Electrical product’ means any electrical equipment, material, device
25 or apparatus that, except as provided in ORS 479.540, requires a license or
26 permit to install and either conveys or is operated by electrical current.

27 “(12) ‘Equipment’ means any material, fittings, devices, appliances, fix-
28 tures, apparatus or the like that are used as part of or in connection with
29 an electrical installation.

30 “(13) ‘Field evaluation firm’ means an independent organization that pro-

1 vides:

2 “(a) Evaluations or testing, or both; and

3 “(b) Documentation regarding compliance with electrical product safety
4 standards and with the electrical installation safety code.

5 “(14) ‘Industrial electrical equipment’ means electrical products used in
6 industry or government that utilize electric energy for mechanical, chemical,
7 heating, lighting or similar purposes, that are designed to service or produce
8 a product and that are used directly in the production of the service or
9 product.

10 “(15) ‘Installation label’ means an adhesive tag issued by governmental
11 agencies that administer the Electrical Safety Law to licensed electrical
12 contractors for application to those minor electrical installations for which
13 the board by rule determines to be appropriate for random inspections.

14 “(16) ‘License’ means a permit issued by the department under ORS
15 479.630 authorizing the person whose name appears as licensee thereon to
16 act as an electrical contractor, supervising electrician, journeyman
17 electrician, electrical apprentice or limited elevator journeyman as indicated
18 thereon.

19 “(17) ‘Minimum safety standards’ means safety standards prescribed by
20 concurrence of the board and the director under ORS 479.730.

21 “(18) ‘Multifamily dwelling’ means a building containing more than one
22 dwelling unit.

23 “(19) ‘Oil module’ means a prefabricated structure manufactured to the
24 specifications of the purchaser and used outside this state in the exploration
25 for or processing or extraction of petroleum products.

26 “(20) ‘Permit’ means an official document or card issued by the enforcing
27 agency to authorize performance of a specified electrical installation.

28 “(21) ‘Single family dwelling’ means a building consisting solely of one
29 dwelling unit.

30 “(22) ‘Telecommunications service provider’ means a telecommunications

1 carrier as defined in ORS 133.721 or a telecommunications utility or com-
2 petitive telecommunications provider, both as defined in ORS 759.005.

3 “(23) ‘Uncertified product’ means any electrical product that is not an
4 electrical product certified under ORS 479.760.

5 **“SECTION 28. ORS 455.148 is added to and made a part of ORS**
6 **chapter 455.**

7

8

“UNIT CAPTIONS

9

10 **“SECTION 29. The unit captions used in this 2018 Act are provided**
11 **only for the convenience of the reader and do not become part of the**
12 **statutory law of this state or express any legislative intent in the**
13 **enactment of this 2018 Act.**

14

15

“OPERATIVE DATE

16

17 **SECTION 30. The amendments to ORS 215.236, 446.250, 446.255,**
18 **447.091, 450.837, 455.042, 455.046, 455.062, 455.070, 455.080, 455.148, 455.150,**
19 **455.200, 455.210, 455.450, 455.485, 455.685, 455.800 and 479.530 by sections**
20 **9 to 27 of this 2018 Act become operative July 1, 2019.**

21

22

“EMERGENCY

23

24 **“SECTION 31. This 2018 Act being necessary for the immediate**
25 **preservation of the public peace, health and safety, an emergency is**
26 **declared to exist, and this 2018 Act takes effect on its passage.”.**

27
