

House Bill 2420

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim 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**.

Requires that municipal building official be employed by municipality or council of governments or under intergovernmental agreement. Makes municipal building official responsible for ensuring adequate administration and enforcement of municipal building inspection program activities.

Requires that municipality with building inspection program arrange for individual holding highest level of certification for structural specialty code inspection to provide supervision and active involvement in program aspects that involve inspections for routine enforcement of building code specialty codes. Requires that individual be building official or be employed by municipality or council of governments or under intergovernmental agreement.

Requires that municipal inspector be employed by municipality, or under intergovernmental agreement or by council of governments or perform inspections under actual or apparent authority as agent on behalf of municipality. Requires that municipal inspector acting as agent for municipality establish resources and methods for inspection, subject to approval by individual providing supervision over program inspections and enforcement.

Revises terminology regarding building officials and building inspectors who qualify for certification. Provides that specialized building inspector may be trained and certified in parts of more than one specialty code.

Prohibits municipality from accepting municipal building official or municipal inspector services from person who does not have valid certification.

Makes requirements regarding employment of municipal building official and individual to supervise inspection and enforcement of program operative July 1, 2021.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to building codes; creating new provisions; amending ORS 215.236, 446.250, 446.255, 447.091, 450.837, 455.010, 455.042, 455.046, 455.062, 455.070, 455.080, 455.148, 455.150, 455.200, 455.210, 455.450, 455.485, 455.685, 455.715, 455.720, 455.723, 455.730, 455.732, 455.737, 455.740, 455.800, 455.820, 479.530 and 693.115; and declaring an emergency.

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

GENERAL DEFINITIONS

SECTION 1. ORS 455.010 is amended to read:

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

(1)(a) "Advisory board" means the board with responsibility for assisting in the adoption, amendment or administration of a specialty code, specifically:

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

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

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

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

(E) The Residential and Manufactured Structures Board established under ORS 455.135;

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

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.

1 (G) The Construction Industry Energy Board established under ORS 455.492.

2 (b) "Appropriate advisory board" means the advisory board that has jurisdiction over a partic-
3 ular code, standard, license, certification or matter.

4 (2) "Department" means the Department of Consumer and Business Services.

5 (3) "Director" means the Director of the Department of Consumer and Business Services.

6 (4) "Low-Rise Residential Dwelling Code" means the adopted specialty code prescribing stan-
7 dards for the construction of residential dwellings that are three stories or less above grade and
8 have an exterior door for each dwelling unit, but are not facilities or homes described in ORS
9 443.400 or transient lodging.

10 (5) **"Municipal building official" means a person who is charged by a municipality with**
11 **responsibility for the administration and enforcement of a building inspection program in the**
12 **municipality and is:**

13 (a) **An employee of the municipality;**

14 (b) **Employed under an intergovernmental agreement that provides for the person to**
15 **supply administration and enforcement services for respective building inspection programs**
16 **of not more than three municipalities; or**

17 (c) **Employed by a council of governments to supply administration and enforcement**
18 **services for respective building inspection programs of not more than three member gov-**
19 **ernments.**

20 (6) **"Municipal inspector" means a person who performs routine enforcement of one or**
21 **more state building code specialty codes or parts of one or more specialty codes for a**
22 **municipality and is:**

23 (a) **An employee of the municipality;**

24 (b) **Employed under an intergovernmental agreement that provides for the person to**
25 **perform routine enforcement of one or more state building code specialty codes or parts of**
26 **one or more specialty codes for respective building inspection programs of not more than**
27 **three municipalities;**

28 (c) **Employed by a council of governments to perform routine enforcement of one or more**
29 **state building code specialty codes or parts of one or more specialty codes for respective**
30 **building inspection programs of not more than three member governments; or**

31 (d) **Performing under actual or apparent authority as an agent on behalf of the muni-**
32 **cipality.**

33 [(5)] (7) "Municipality" means a city, county or other unit of local government otherwise au-
34 thorized by law to administer a building code.

35 [(6)] (8) "Prefabricated structure" means a building or subassembly that has been in whole or
36 substantial part manufactured or assembled using closed construction at an off-site location to be
37 wholly or partially assembled on-site. "Prefabricated structure" does not include a manufactured
38 dwelling, recreational structure or recreational vehicle, as those terms are defined in ORS 446.003.

39 [(7)] (9) "Specialty code" means a code of regulations adopted under ORS 446.062, 446.185,
40 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not
41 include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015
42 to 479.200 and 479.210 to 479.220.

43 [(8)] (10) "State building code" means the combined specialty codes.

44 [(9)] (11) "Structural code" means the specialty code prescribing structural standards for build-
45 ing construction.

1 [(10)] (12) “Unsafe condition” means a condition caused by earthquake which is determined by
 2 the department or any representative of the department to be dangerous to life and property. “Un-
 3 safe condition” includes but is not limited to:

4 (a) Any portion, member or appurtenance of a building that has become detached or dislodged
 5 or appears likely to fail or collapse and thereby injure persons or damage property; or

6 (b) Any portion, of a building or structure that has been damaged by earthquake, or by fire or
 7 explosion resulting from an earthquake, to the extent that the structural strength or stability of the
 8 building is substantially less than it was prior to the earthquake.

9
 10 **BUILDING OFFICIAL AND INSPECTOR QUALIFICATIONS**

11
 12 **SECTION 2.** ORS 455.715 is amended to read:

13 455.715. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

14 (1) “Building official” means a person charged by a municipality with responsibility for admin-
 15 istration and enforcement of the state building code in the municipality.

16 (2) “Business of providing prefabricated structure plan approvals and inspections” means an in-
 17 dependent contractor providing prefabricated structure plan approval or inspection services, or both,
 18 under the following specialty 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 direction of a building*
 26 *official and]* charged **by a municipality** with the responsibility of routine enforcement of one or
 27 more specialty codes or parts of specialty codes **on behalf of the municipality**;

28 (b) A person, including a plans examiner, who provides enforcement of one or more specialty
 29 codes or parts of specialty codes and who is personally in the business of providing prefabricated
 30 structure plan approvals or inspections or is employed by such a business;

31 (c) A specialized building inspector certified under ORS 455.723 who *[is employed by]* **provides**
 32 **services to** a municipality or *[by]* **through** the Department of Consumer and Business Services;

33 (d) A person *[employed by]* **providing services to** a municipality or the department who is cer-
 34 tified under ORS 455.732 to perform inspections under one or more specialty codes throughout a
 35 building code administrative region; or

36 (e) A person designated by the Director of the Department of Consumer and Business Services
 37 to ensure compliance with a specialty code or with any requirement for a license, registration, cer-
 38 tification, endorsement or other authorization to perform work *[related to the administration and*
 39 *enforcement of]* **regulated under** the state building code.

40 **SECTION 3.** ORS 455.720 is amended to read:

41 455.720. (1) In accordance with applicable provisions of ORS chapter 183, to promote effective
 42 and uniform enforcement of the state building code by improving the competence of building officials
 43 and inspectors, the Director of the Department of Consumer and Business Services, with the advice
 44 of the advisory boards, shall:

- 45 (a) Establish for building officials and inspectors reasonable minimum training and experience

1 standards, including but not limited to courses or subjects for instruction, facilities for instruction,
 2 qualification of instructors and methods of instruction. The standards shall include provisions for
 3 determining a practical experience equivalent.

4 (b) Establish a procedure to be used by municipalities to determine whether a person meets
 5 minimum standards or has minimum training to *[be appointed or employed]* **provide services** as a
 6 building official or inspector. The procedure shall allow for a field examination of a person to de-
 7 termine if the person meets the practical experience equivalent of a minimum standard.

8 (c) Subject to such terms, conditions and classifications as the director may impose, certify
 9 building officials as being qualified, and revoke such certifications in the manner provided in ORS
 10 455.740.

11 (d) Require an applicant for a certificate as a building official or inspector to demonstrate
 12 knowledge of the laws governing accessibility to buildings by persons with disabilities by passing
 13 an examination prescribed by the director.

14 (2) The director shall maintain and, upon request of *[municipalities, furnish information on ap-
 15 plicants for appointment or employment as building officials or inspectors.]* **a municipality, furnish
 16 information on candidates for the provision of municipal building official services, or mu-
 17 nicipal inspector services, to the municipality.**

18 (3) Pursuant to ORS chapter 183, the director shall adopt rules necessary to carry out the cer-
 19 tification programs provided by subsection (1) of this section.

20 (4) The director, by rule, may require evidence of completion of continuing education covering
 21 any certification created under this section as a condition of maintaining the certification. Nothing
 22 in this subsection shall prohibit the director from delegating any of this power to a municipality.

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

27 **SECTION 4.** ORS 455.723 is amended to read:

28 455.723. (1) The Director of the Department of Consumer and Business Services, with the advice
 29 of the appropriate advisory boards, may adopt rules establishing one or more programs to train,
 30 qualify and certify an individual as a specialized building inspector authorized to enforce *[portions]*
 31 **parts** of specialty codes. Notwithstanding ORS 455.720 (1) and 455.725, the rules may include, but
 32 need not be limited to, rules that establish:

33 (a) Work experience, training and other qualifications for program participation;

34 (b) Content and presentation requirements for training programs;

35 (c) Methods for verifying the qualification of the individual to enforce *[portions]* **parts** of spe-
 36 cialty codes as a specialized building inspector certified under this section;

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

40 (e) Requirements the director believes reasonable for the administration and enforcement of this
 41 section.

42 (2) Notwithstanding ORS 446.250, 455.630, 455.720, 455.725, 479.530, 479.810 and 479.855, the di-
 43 rector may issue or cause to be issued a certificate as a specialized building inspector to an indi-
 44 vidual who successfully completes an approved training program and satisfies qualification
 45 verification under this section. **A specialized building inspector may be trained and certified in**

1 **parts of more than one specialty code.**

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

7 **SECTION 5.** ORS 455.730 is amended to read:

8 455.730. [No person shall be appointed or employed as a building official or inspector by any
 9 municipality] **A municipality may not accept municipal building official or municipal inspector**
 10 **services from a person** unless the person has been certified as being qualified under ORS 455.715
 11 to 455.740, and the certification has not lapsed or been revoked.

12 **SECTION 6.** ORS 455.732 is amended to read:

13 455.732. (1) As used in this section, “building code administrative region” means a region es-
 14 tablished by the Director of the Department of Consumer and Business Services under ORS 455.042
 15 for the uniform administration of the state building code.

16 (2) The authority of the director under **this section and** ORS 455.720 and 455.723 to specify
 17 terms, conditions and classifications for the certification of inspectors includes the authority to
 18 certify an inspector to perform inspections under multiple specialty codes or parts of a specialty
 19 code.

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

29 (4) In determining the appropriate experience, training or other qualifications for an inspector
 30 under ORS 455.720 or 455.723, the director shall consult with the appropriate advisory boards. The
 31 factors to be considered by the director may include, but need not be limited to:

32 (a) Any factors specific to, or of particular relevance to, a specialty code or to the types of
 33 buildings, structures, systems or equipment in a geographic area that are inspected under the spe-
 34 cialty code;

35 (b) Staffing levels or other specific criteria for building inspection programs established by a
 36 municipality where the inspector is likely to [be employed] **provide services** or for building in-
 37 spection programs established by the director; and

38 (c) Any factors specific to, or of particular relevance to, the building code administrative region
 39 within which the inspector is likely to [be employed] **provide services.**

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

43 **SECTION 7.** ORS 455.737 is amended to read:

44 455.737. (1) Notwithstanding ORS 455.720 (1), the Director of the Department of Consumer and
 45 Business Services, by rule, shall adopt criteria for review of the experience and training in building

1 inspection and building plan review acquired by a person outside the State of Oregon. The criteria
 2 shall be adopted in a manner that facilitates review of a person’s qualifications by a [local] **mu-**
 3 **nicipal** building official.

4 (2)(a) A [local] **municipal** building official who wishes to [employ] **use the services of** a person
 5 who is not certified under ORS 455.735 as an inspector shall submit the person’s qualifications to
 6 the director. The director shall review the stated qualifications against the criteria adopted under
 7 subsection (1) of this section, including verification of experience and training. The director shall
 8 respond to the [local] **municipal** building official in writing within 10 working days of receiving the
 9 applicant’s qualifications, stating whether the person meets the applicable criteria.

10 (b) Upon application and payment of the required fee, the director shall allow a person whose
 11 qualifications meet the criteria adopted under subsection (1) of this section to sit for any examina-
 12 tion necessary for the required certification.

13 **SECTION 8.** ORS 455.740 is amended to read:

14 455.740. (1) Subject to ORS chapter 183, the Director of the Department of Consumer and Busi-
 15 ness Services may deny, condition, suspend, revoke or refuse to renew a certificate of a building
 16 official or inspector if the director finds that the building official or inspector has:

- 17 (a) Consistently failed to act in the public interest in the performance of duties;
- 18 (b) Failed to complete the continuing education requirements as required under ORS 455.720 (4);
- 19 (c) Provided false information to the Department of **Consumer and Business Services**; or
- 20 (d) Committed an act described in ORS 455.125 or 455.129.

21 (2) In any revocation proceeding under this section, [the] **a municipality or council of govern-**
 22 **ments** that employs the building official or inspector [shall be] **is** entitled to appear as a party in
 23 interest, either for or against the revocation.

24 (3) When a certification is suspended or revoked under this section, the director may also sus-
 25 pend, deny or place conditions on that person’s right to reapply for certification under ORS 455.735
 26 for a period not to exceed 12 months.

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

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

- 31 (a) Allow certifications to be placed on inactive status; and
- 32 (b) Extend continuing education compliance requirements in case of illness or hardship.

33
 34 **MUNICIPAL BUILDING INSPECTION PROGRAMS**

35
 36 **SECTION 9.** ORS 455.148 is amended to read:

37 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
 38 spection program shall administer and enforce the program for all of the following:

- 39 (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of
 40 this subsection.
- 41 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.
- 42 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.
- 43 (D) Park and camp programs regulated under ORS 455.680.
- 44 (E) Tourist facilities regulated under ORS 446.310 to 446.350.
- 45 (F) Manufactured dwelling alterations regulated under ORS 446.155.

1 (G) Manufactured structure accessory buildings and structures under ORS 446.253.

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

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

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

6 (B) Elevator programs under ORS 460.005 to 460.175;

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

8 (D) Prefabricated structure regulation under ORS chapter 455;

9 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
10 the administration and enforcement of federal manufactured dwelling construction and safety stan-
11 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
12 Standards Act of 1974;

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

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

16 (2) A municipality that administers a building inspection program as allowed under this section
17 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
18 rules to adjust time periods for administration of a building inspection program to allow for vari-
19 ations in the needs of the department and participants.

20 (3)(a) When a municipality administers a building inspection program, the governing body of the
21 municipality shall, *unless other means are already provided, appoint a person to administer and en-
22 force the building inspection program, who shall be known as the building official. A building official
23 shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the
24 issuance of all building permits. Two or more municipalities may combine in the appointment of a
25 single building official for the purpose of administering a building inspection program within their
26 communities.* **arrange for the services of a municipal building official for the municipality.
27 The municipality shall also arrange for the services of an individual who holds the highest
28 level of certification issued by the department under ORS 455.715 to 455.740 for conducting
29 inspections for compliance with the structural specialty code, who may also be the building
30 official. The individual must be an employee of the municipality or be employed under an
31 intergovernmental agreement or by a council of governments to provide services to the
32 municipality.**

33 **(b) Except as provided in this subsection, the municipal building official shall be respon-
34 sible for ensuring the adequate and proper administration and enforcement of building in-
35 spection program activities, including but not limited to the issuance of building permits,
36 whether the program activities are carried out by employees of the municipality or by other
37 persons authorized to act on behalf of the municipality. The individual described in paragraph
38 (a) of this subsection shall provide supervision for, and be actively involved in, the aspects
39 of the program involving inspections for routine enforcement of the specialty codes under
40 the program.**

41 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
42 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
43 Department of Consumer and Business Services and, if the municipality is not a county, notify the
44 county whether the municipality will continue to administer and enforce the building inspection
45 program after expiration of the four-year period.

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

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

8 (6) If a county does not notify the director, or notifies the director that it will not administer
 9 and enforce a building inspection program, the director shall contract with a municipality or other
 10 person or use such state employees or state agencies as are necessary to administer and enforce a
 11 building inspection program, and permit or other fees arising therefrom shall be paid into the Con-
 12 sumer and Business Services Fund created by ORS 705.145 and credited to the account responsible
 13 for paying the expenses 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 for the administration
 16 and enforcement of a building inspection program beginning July 1 of any year by notifying the di-
 17 rector no later than January 1 of the same year and obtaining the director's approval of an as-
 18 sumption plan as described in subsection [(11)(c)] (12)(c) of this section.

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

25 **(9) A municipal inspector who performs routine enforcement services under actual or**
 26 **apparent authority as an agent on behalf of the municipality shall, subject to the approval**
 27 **of the individual described in subsection (3)(a) of this section, establish the resources used**
 28 **or needed for the inspector to perform the enforcement services and establish the method**
 29 **by which the enforcement services are to be performed.**

30 [(9)] (10) A municipality that administers and enforces a building inspection program pursuant
 31 to this section shall recognize and accept the performances of state building code activities by
 32 businesses and persons authorized under ORS 455.457 to perform the activities as if the activities
 33 were performed by the municipality. A municipality is not required to accept an inspection, a plan
 34 or a plan review that does not meet the requirements of the state building code.

35 [(10)] (11) The department or a municipality that accepts an inspection or plan review as re-
 36 quired by this section by a person licensed under ORS 455.457 has no responsibility or liability for
 37 the activities of the licensee.

38 [(11)] (12) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate
 39 building inspection programs that municipalities assume on or after January 1, 2002. Regulation
 40 under this subsection shall include but not be limited to:

41 (a) Creating building inspection program application and amendment requirements and proce-
 42 dures;

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

44 (c) Requiring a municipality assuming a building inspection program to submit with the notice
 45 given under subsection (7) of this section an assumption plan that includes, at a minimum:

1 (A) A description of the intended availability of program services, including proposed service
2 agreements for carrying out the program during at least the first two years;

3 (B) Demonstration of the ability and intent to provide building inspection program services for
4 at least two years;

5 (C) An estimate of proposed permit revenue and program operating expenses;

6 (D) Proposed staffing levels; and

7 (E) Proposed service levels;

8 (d) Reviewing procedures and program operations of municipalities;

9 (e) Creating standards for efficient, effective, timely and acceptable building inspection pro-
10 grams;

11 (f) Creating standards for justifying increases in building inspection program fees adopted by a
12 municipality;

13 (g) Creating standards for determining whether a county or department building inspection
14 program is economically impaired in its ability to reasonably continue providing the program
15 throughout a county, if another municipality is allowed to provide a building inspection program
16 within the same county; and

17 (h) Enforcing the requirements of this section.

18 [(12)] (13) The department may assume administration and enforcement of a building inspection
19 program:

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

21 (b) If a municipality abandons or is no longer able to administer the building inspection program;
22 and

23 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
24 455.465, 455.467 and 455.469.

25 [(13)] (14) If the department assumes the administration and enforcement of a building inspection
26 program under this section, in addition to any other power granted to the director, the director may:

27 (a) Enter into agreements with local governments under ORS 455.185 regarding the adminis-
28 tration and enforcement of the assumed building inspection program;

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

32 (c) Charge fees described in ORS 455.195 for department services provided in administering and
33 enforcing the assumed building inspection program.

34 [(14)] (15) A municipality that abandons or otherwise ceases to administer and enforce a building
35 inspection program that the municipality assumed under this section may not resume the adminis-
36 tration or enforcement of the program for at least two years. The municipality may resume the ad-
37 ministration and enforcement of the abandoned program only on July 1 of an odd-numbered year.
38 Prior to resuming the administration and enforcement of the program, the municipality must follow
39 the notification procedure set forth in subsection (7) of this section.

40 **SECTION 10.** ORS 455.150 is amended to read:

41 455.150. (1) Except as provided in subsection [(15)] (16) of this section, a municipality that as-
42 sumes the administration and enforcement of a building inspection program prior to January 1, 2002,
43 may administer and enforce all or part of a building inspection program. A building inspection pro-
44 gram:

45 (a) Is a program that includes the following:

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

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

4 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

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

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

7 (F) Manufactured dwelling alterations regulated under ORS 446.155.

8 (G) Manufactured structure accessory buildings and structures under ORS 446.253.

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

10 (b) Is not a program that includes:

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

13 (B) Elevator programs under ORS 460.005 to 460.175;

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

15 (D) Prefabricated structure regulation under ORS chapter 455;

16 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
 17 the administration and enforcement of federal manufactured dwelling construction and safety stan-
 18 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
 19 Standards Act of 1974;

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

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

23 (2) A municipality that administers a building inspection program as allowed under this section
 24 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
 25 rules to adjust time periods for administration of a building inspection program to allow for vari-
 26 ations in the needs of the department and participants.

27 (3)(a) When a municipality administers a building inspection program, the governing body of the
 28 municipality shall, *unless other means are already provided, appoint a person to administer and en-
 29 force the building inspection program or parts thereof, who shall be known as the building official. A
 30 building official shall, in the municipality for which appointed, attend to all aspects of code enforce-
 31 ment, including the issuance of all building permits. Two or more municipalities may combine in the
 32 appointment of a single building official for the purpose of administering a building inspection program
 33 within their communities.* **arrange for the services of a municipal building official for the
 34 municipality. The municipality shall also arrange for the services of an individual who holds
 35 hold the highest level of certification issued by the department under ORS 455.715 to 455.740
 36 for conducting inspections for compliance with the structural specialty code, who may also
 37 be the building official. The individual must be an employee of the municipality or be em-
 38 ployed under an intergovernmental agreement or by a council of governments to provide
 39 services to the municipality.**

40 (b) **Except as provided in this subsection, the municipal building official shall be respon-
 41 sible for ensuring the adequate and proper administration and enforcement of building in-
 42 spection program activities, including but not limited to the issuance of building permits,
 43 whether the program activities are carried out by employees of the municipality or by other
 44 persons authorized to act on behalf of the municipality. The individual described in paragraph
 45 (a) of this subsection shall provide supervision for, and be actively involved in, the aspects**

1 **of the program involving inspections for routine enforcement of the specialty codes under**
 2 **the program.**

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

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

13 (5) If a city does not notify the director, or notifies the director that it will not administer cer-
 14 tain specialty codes or parts thereof under the building inspection program, the county or counties
 15 in which the city is located shall administer and enforce those codes or parts thereof within the city
 16 in the same manner as it administers and enforces them outside the city, except as provided by
 17 subsection (6) of this section.

18 (6) If a county does not notify the director, or notifies the director that it will not administer
 19 and enforce certain specialty codes or parts thereof under the building inspection program, the di-
 20 rector shall contract with a municipality or other person or use such state employees or state
 21 agencies as are necessary to administer and enforce those codes or parts thereof, and permit or
 22 other fees arising therefrom shall be paid into the Consumer and Business Services Fund created
 23 by ORS 705.145 and credited to the account responsible for paying such expenses. A state employee
 24 may not be displaced as a result of using contract personnel.

25 (7) If a municipality administering a building inspection program under this section seeks to
 26 administer additional parts of a program, the municipality must comply with ORS 455.148, including
 27 the requirement that the municipality administer and enforce all aspects of the building inspection
 28 program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this
 29 section.

30 (8) The department shall adopt rules to require the governing body of each municipality to
 31 submit a written plan with the notice required under subsection (4) of this section. If the department
 32 is the governing body, the department shall have a plan on file. The plan shall specify how coop-
 33 eration with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and
 34 how a uniform fire code will be considered in the review process of the design and construction
 35 phases of buildings or structures.

36 **(9) A municipal inspector who performs routine enforcement services under actual or**
 37 **apparent authority as an agent on behalf of the municipality shall, subject to the approval**
 38 **of the individual described in subsection (3)(a) of this section, establish the resources used**
 39 **or needed for the inspector to perform the enforcement services and establish the method**
 40 **by which the enforcement services are to be performed.**

41 [(9)] (10) A municipality that administers a code for which persons or businesses are authorized
 42 under ORS 455.457 to perform activities shall recognize and accept those activities as if performed
 43 by the municipality. A municipality is not required to accept an inspection, a plan or a plan review
 44 that does not meet the requirements of the state building code.

45 [(10)] (11) The department or a municipality that accepts an inspection or plan review as re-

1 quired by this section by a person licensed under ORS 455.457 has no responsibility or liability for
2 the activities of the licensee.

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

6 (a) Creating building inspection program application and amendment requirements and proce-
7 dures;

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

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

10 (d) Creating standards for efficient, effective, timely and acceptable building inspection pro-
11 grams;

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

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

18 (g) Enforcing the requirements of this section.

19 [(12)] (13) The department may assume administration and enforcement of a building inspection
20 program:

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

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

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

26 [(13)] (14) If the department assumes the administration and enforcement of a building inspection
27 program under this section, in addition to any other power granted to the director, the director may:

28 (a) Enter into agreements with local governments under ORS 455.185 regarding the adminis-
29 tration and enforcement of the assumed building inspection program;

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

33 (c) Charge fees described in ORS 455.195 for department services provided in administering and
34 enforcing the assumed building inspection program.

35 [(14)] (15) If a municipality abandons or otherwise ceases to administer all or part of a building
36 inspection program described in this section, the municipality may not resume the administration
37 and enforcement of the abandoned program or part of a program for at least two years. The
38 municipality may resume the administration and enforcement of the abandoned program or part of
39 a program only on July 1 of an odd-numbered year. To resume the administration and enforcement
40 of the abandoned program or part of a program, the municipality must comply with ORS 455.148,
41 including the requirement that the municipality administer and enforce all aspects of the building
42 inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject
43 to this section.

44 [(15)] (16) A municipality that administers and enforces a building inspection program under this
45 section shall include in the program the inspection of boilers and pressure vessels described in

1 subsection (1)(a)(H) of this section.

2
3 **CONFORMING AMENDMENTS**
4

5 **SECTION 11.** ORS 215.236 is amended to read:

6 215.236. (1) As used in this section, “dwelling” means a single-family residential dwelling not
7 provided in conjunction with farm use.

8 (2) The governing body or its designee may not grant final approval of an application made un-
9 der ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or
10 parcel in an exclusive farm use zone that is, or has been, receiving special assessment without evi-
11 dence that the lot or parcel upon which the dwelling is proposed has been disqualified for special
12 assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under
13 ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax
14 imposed as the result of disqualification has been paid.

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

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

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

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

31 (c) Pay any additional tax imposed upon disqualification from special assessment.

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

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

39 (b) Upon disqualification from wildlife habitat special assessment under ORS 308A.430 or dis-
40 qualification from conservation easement special assessment under ORS 308A.465, the lot or parcel
41 shall be subject to the requirements of subsection (5) of this section.

42 (7) When the owner of a lot or parcel upon which the establishment of a dwelling has been
43 tentatively approved notifies the county assessor that the lot or parcel is no longer being used as
44 farmland and requests disqualification of the lot or parcel for special assessment at value for farm
45 use, the county assessor shall:

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

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

4 (c) Impose the additional tax, if any, provided by statute upon disqualification.

5 (8) The Department of Consumer and Business Services, a **municipal** building official, as defined
 6 in ORS [455.715 (1)] **455.010**, or any other agency or official responsible for the administration and
 7 enforcement of the state building code, as defined in ORS 455.010, may not issue a building permit
 8 for the construction of a dwelling on a lot or parcel in an exclusive farm use zone without evidence
 9 that the owner of the lot or parcel upon which the dwelling is proposed to be constructed has paid
 10 the additional tax, if any, imposed by the county assessor under subsection (7)(c) of this section.

11 **SECTION 12.** ORS 446.250 is amended to read:

12 446.250. The Director of the Department of Consumer and Business Services shall cause in-
 13 spections to be made, approve plans and specifications, provide technical services and issue permits
 14 for alteration of manufactured dwellings and installation of manufactured dwellings and manufac-
 15 tured structure accessory buildings and structures on a lot. The director shall appoint or contract
 16 with municipalities that request such appointment or contract for inspection and issuance of permits
 17 for alteration of manufactured dwellings and installation of manufactured dwellings and manufac-
 18 tured structure accessory buildings and structures and alterations of installations of plumbing,
 19 heating, illuminating, cooking or electrical equipment, provided the [*municipality employs as local*]
 20 **municipal** inspectors **are** qualified persons who have been certified by the director for inspection
 21 and issuance of permits for alteration of manufactured dwellings and installation of manufactured
 22 dwellings and manufactured structure accessory buildings and structures, pursuant to ORS 446.003,
 23 446.111, 446.155, 446.160, 446.176, 446.225 to 446.285 and 446.990. However, the certification stan-
 24 dards under this section shall relate to the inspections to be performed and shall not be more
 25 stringent for municipal inspectors than those applying to state inspectors.

26 **SECTION 13.** ORS 446.255 is amended to read:

27 446.255. (1) After written notice and hearing as provided in subsection (2) of this section, the
 28 Director of the Department of Consumer and Business Services may revoke the certification of a
 29 [*local*] **municipal** inspector certified under ORS 446.250, or the authority of a [*local government*]
 30 **municipality** to enforce provisions of ORS 446.003, 446.111, 446.160, 446.176, 446.225 to 446.285 and
 31 446.990, [*when*] **if** it appears by competent evidence that the inspector or [*local government*]
 32 **municipality** has consistently failed to act in the public interest in the enforcement of the pro-
 33 visions of ORS 446.003, 446.111, 446.160, 446.176, 446.225 to 446.285 and 446.990.

34 (2) Any proceedings under subsection (1) of this section shall be conducted pursuant to the
 35 provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490 to 183.540,
 36 dealing with contested cases.

37 **SECTION 14.** ORS 447.091 is amended to read:

38 447.091. The Department of Consumer and Business Services or local government administering
 39 the plumbing specialty code adopted under ORS 447.020 (2) may, upon request of any sanitary dis-
 40 trict formed pursuant to ORS 450.005 to 450.245, sanitary authority established under ORS 450.600
 41 to 450.989, or county service district established under ORS 451.410 to 451.610, contract for [*the*]
 42 **district** inspection of building sewers constructed to connect a district sewage system if inspectors
 43 [*employed by such*] **for the** district are certified for sewer inspections under ORS 455.715 to 455.740.

44 **SECTION 15.** ORS 450.837 is amended to read:

45 450.837. (1) Water authorities and sanitary authorities are municipalities for the purposes of

1 administering and enforcing the plumbing code as provided under ORS 455.150.

2 (2) However, notwithstanding ORS 455.150 (3), a **municipal** building official [*appointed by*] **pro-**
 3 **viding services to** a water authority or sanitary authority, or [*an*] **a municipal** inspector acting
 4 under the authority and direction of such a building official shall [*administer and enforce only that*
 5 *portion*] **carry out administration and enforcement activities only for that part** of the plumbing
 6 code governing the installation and maintenance of connections between structures and the mains
 7 and sewers of the authority.

8 (3) Nothing in this section authorizes a building official or inspector [*of*] **for** a water authority
 9 or sanitary authority to administer or enforce all or part of any specialty code except the plumbing
 10 code.

11 (4) A water authority or sanitary authority shall notify the Director of the Department of Con-
 12 sumer and Business Services not later than May 1 of each year as to whether the authority will or
 13 will not exercise the code enforcement power granted by this section.

14 **SECTION 16.** ORS 455.042 is amended to read:

15 455.042. The Director of the Department of Consumer and Business Services shall establish re-
 16 gions for all areas of the state to carry out the uniform administration of the state building code.
 17 The director shall assign Department of Consumer and Business Services employees for the regions
 18 as necessary to:

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

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

22 (3) Provide oversight and enforcement of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to
 23 446.420, 479.510 to 479.945, 479.950, 479.995 and 480.510 to 480.670 and ORS chapters 447, 455, 460
 24 and 693 and the rules adopted under those statutes.

25 **SECTION 17.** ORS 455.046 is amended to read:

26 455.046. (1) The Department of Consumer and Business Services shall:

27 (a) Develop and administer an installation label program for minor installations under the state
 28 building code, including but not limited to electrical installations under ORS 455.627, 479.540 and
 29 479.570 and plumbing installations under ORS 447.076;

30 (b) Develop standard application forms and procedures for use by municipalities in Clackamas,
 31 Multnomah and Washington Counties when issuing structural, mechanical, electrical, plumbing and
 32 other permits when those permits do not require a review of building plans;

33 (c) Develop standard application forms and procedures for issuing building permits and record-
 34 ing inspections;

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

36 (e) Establish standardized criteria and methodology for determining fee amounts for permits that
 37 are required under the state building code established under ORS 455.030;

38 (f) Maintain and make available to the public the names of persons certified to review building
 39 plans;

40 (g) Maintain and make available to the public the names of persons certified to perform techni-
 41 cal inspections; and

42 (h) Administer prepaid building permit cost accounts.

43 (2) The department may use the resources of the Tri-County Building Industry Service Center
 44 to:

45 (a) Assist [*local*] **municipal** building officials in the administration and enforcement of the state

1 building code; and

2 (b) Establish a process to facilitate the consistent application of the state building code
3 throughout the state.

4 **SECTION 18.** ORS 455.062 is amended to read:

5 455.062. (1) A Department of Consumer and Business Services employee acting within the scope
6 of that employment may provide typical plans and specifications:

7 (a) For structures of a type for which the provision of plans or specifications is exempted under
8 ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from
9 the application of ORS 672.002 to 672.325; and

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

13 (2) A **municipal** building official [*or inspector, as those terms are defined in ORS 455.715,*
14 *when*], **if** acting within the scope of direct employment by a municipality, may provide typical plans
15 and specifications for structures of a type for which the provision of plans or specifications is ex-
16 empted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS
17 672.060 from the application of ORS 672.002 to 672.325.

18 (3) This section does not alter any applicable requirement under ORS 671.010 to 671.220 or
19 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

20 **SECTION 19.** ORS 455.070 is amended to read:

21 455.070. (1) Any person may report a suspected violation of the state building code that poses
22 an imminent threat to public health or safety to the local **municipal** building official or, where the
23 code is state-administered, to the Department of Consumer and Business Services. The complaint
24 shall be in writing and submitted under rules adopted by the department. The rules of the depart-
25 ment shall provide for the disposition of frivolous or harassing complaints by requiring detailed de-
26 scriptions of the alleged violation and reference to the code sections allegedly violated.

27 (2) The municipality or the department shall give notice of the complaint to the contractor,
28 building owner and subcontractor, if any, involved in the project alleged to be in violation. The
29 municipality or the department may charge the complainant for the necessary costs of supplying,
30 copying and distributing the complaint form.

31 (3) If, after five working days, no remedial action has taken place, the complainant has standing
32 to appeal the matter to the appeals board of the municipality, where one is established, or directly
33 to the appropriate advisory board where there is no local appeals board. The municipal appeals
34 board or state advisory board shall reach a final decision within 14 days of the complainant's appeal.
35 A municipal appeals board decision shall then be subject to appeal to a state advisory board under
36 ORS 455.690, provided that the state advisory board shall reach a final determination within 14 days
37 of notice of an appeal. A record of the written complaint and the findings of the appeals and advi-
38 sory boards may be introduced into evidence in any judicial proceeding for damages brought against
39 the complainant by any person suffering damages as a result of the complaint.

40 **SECTION 20.** ORS 455.080 is amended to read:

41 455.080. Notwithstanding ORS 455.630 (2), any inspector, including a specialty code inspector
42 licensed under ORS 455.457, authorized by ORS **455.148**, 455.150 or 455.153 to determine compliance
43 with the requirements of the state building code or any specialty code under this chapter may, in
44 accordance with a compliance program as described in ORS 455.153 (2), require any person who is
45 engaged in any activity regulated by the state building code to demonstrate proof of compliance with

1 the applicable licensing, registration or certification requirements of ORS chapters 446, 447, 455,
2 460, 479, 480, 693 and 701.

3 **SECTION 21.** ORS 455.200 is amended to read:

4 455.200. The Director of the Department of Consumer and Business Services:

5 (1) May adopt rules, establish policies and procedures and take other actions the director con-
6 siderers reasonable or expedient for carrying out agreements under ORS 455.148 [(13)] (14), 455.150
7 [(13)] (14) or 455.185 and any duties, functions and powers of the director or the Department of
8 Consumer and Business Services under ORS 455.148 [(13)] (14), 455.150 [(13)] (14) or 455.185 to
9 455.198;

10 (2) Shall consult at least annually with appropriate advisory boards regarding any agreements
11 under ORS 455.185 or actions taken by the director under ORS 455.148 [(13)] (14), 455.150 [(13)] (14)
12 or 455.185 to 455.198; and

13 (3) Shall report annually to the Legislative Assembly as provided under ORS 192.230 to 192.250
14 regarding any department activities under ORS 455.148 [(13)] (14), 455.150 [(13)] (14) or 455.185 to
15 455.198. The report shall include, but not be limited to, information regarding any projected need for
16 an increase in department resources required for carrying out the administration and enforcement
17 of building inspection programs under ORS 455.148 [(13)] (14), 455.150 [(13)] (14) or 455.185 to
18 455.198.

19 **SECTION 22.** ORS 455.210 is amended to read:

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

28 (2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Depart-
29 ment of Consumer and Business Services may prescribe for a limited plan review for fire and life
30 safety as required under ORS 479.155 shall be 40 percent of the prescribed permit fee.

31 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and
32 reasonable to provide for the administration and enforcement of any specialty code or codes for
33 which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality
34 shall give the director notice of the proposed adoption of a new or increased fee under this sub-
35 section. The municipality shall give the notice to the director at the time the municipality provides
36 the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is
37 contained in an estimate of municipal budget resources, at the time notice of the last budget meeting
38 is published under ORS 294.426.

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

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

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

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

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

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

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

18 (D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.426 and
 19 this section and standards adopted by the director under ORS 455.148 [(11)] (12) or 455.150 [(11)]
 20 (12).

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

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

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

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

41 455.450. A person may not:

42 (1) Violate, or procure or assist in the violation of, any final order of the Director of the De-
 43 partment of Consumer and Business Services, an advisory board, a state administrative officer or
 44 any local appeals board, a building official or an inspector, concerning the application of the state
 45 building code in a particular case or concerning a license, certificate, registration or other author-

1 ization.

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

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

13 **SECTION 24.** ORS 455.485 is amended to read:

14 455.485. (1) When adopting the state building code, the Director of the Department of Consumer
 15 and Business Services shall give special consideration to the unique needs of construction in rural
 16 or remote parts of this state.

17 (2) Notwithstanding any description of State Fire Marshal duties in ORS 476.030, 476.033,
 18 476.035, 476.150 or 476.155, the Director of the Department of Consumer and Business Services or
 19 a *[local]* **municipal** building official administering a building inspection program under ORS 455.148
 20 or 455.150 may determine whether the structure as set forth in the plans and specifications or as
 21 constructed meets the standards of the state building code, including but not limited to fire and life
 22 safety standards. The State Fire Marshal, or a local fire official for a governmental subdivision ex-
 23 empted from State Fire Marshal regulations as described under ORS 476.030, may provide advice to
 24 building officials, inspectors or Department of Consumer and Business Services employees concern-
 25 ing state building code standards. A *[local]* **municipal** building official or department employee shall
 26 give consideration to advice of the State Fire Marshal or local fire official that does not conflict
 27 with the state building code, but shall retain the authority to make final decisions regarding the
 28 code.

29 **SECTION 25.** ORS 455.685 is amended to read:

30 455.685. The Director of the Department of Consumer and Business Services may, upon an ap-
 31 plication setting forth a set of plans and specifications that will be utilized in one or more munici-
 32 palities to acquire building permits, review and approve the application for the construction or
 33 erection of any building or structure if such set of plans meets the requirements of the state building
 34 code. All costs incurred by the director by virtue of the examination of such a set of plans and
 35 specifications shall be paid by the applicant. The plans and specifications or any plans and specifi-
 36 cations required to be submitted to a state agency shall be submitted to the director who shall ex-
 37 amine the instruments and if necessary distribute them to the appropriate state agencies for scrutiny
 38 regarding adequacy as to fire safety, life safety and all other appropriate features. The state agen-
 39 cies shall examine and promptly return the plans and specifications together with their certified
 40 statement as to the adequacy of the instruments regarding that agency's area of concern. The ap-
 41 plicant shall submit the plans and specifications to a *[local building official]* **municipality** prior to
 42 application for a building permit. The *[local]* **municipal** building official shall *[review]* **cause** the
 43 plan **to be reviewed** for those features required by local ordinance or by any site-specific, ge-
 44 ographic, geologic or climatic code requirements. A *[local building official]* **municipality** shall issue
 45 a building permit upon application and presentation to the *[local building official]* **municipality** of

1 such a set of plans and specifications bearing the approval of the director if the requirements of all
 2 other local ordinances are satisfied. The director or [local] **municipal** building official may assess
 3 such fees as necessary to recover the reasonable costs incurred to ensure the compliance of the
 4 plans and specifications with the state building code.

5 **SECTION 26.** ORS 455.800 is amended to read:

6 455.800. As used in ORS 455.800 to 455.820:

7 (1) "Building official" means a person who is a **municipal** building official as defined in ORS
 8 [455.715] **455.010** or a Department of Consumer and Business Services employee charged with
 9 enforcement or administration of the state building code.

10 (2) "Building trade committee" means a group composed of experienced and knowledgeable local
 11 general contractors or other persons having substantial expertise in various aspects of one and two
 12 family dwelling construction 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 the preceding 60
 17 months as a general contractor; or

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

21 (6) "Regular employee" means a person who:

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

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

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

27 (A) Drywall;

28 (B) Electrical systems;

29 (C) Footings;

30 (D) Foundations;

31 (E) Framing;

32 (F) Insulation;

33 (G) Mechanical systems;

34 (H) Plumbing systems; and

35 (I) Stairs.

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

38 (a) Drywall;

39 (b) Electrical systems;

40 (c) Footings;

41 (d) Foundations;

42 (e) Framing;

43 (f) Insulation;

44 (g) Mechanical systems; and

45 (h) Plumbing systems.

SECTION 27. ORS 455.820 is amended to read:

455.820. (1) A master builder must perform all plan review and required verifications for which government review or inspection has been waived by a building official. The master builder shall maintain copies of all documents and reports required by the government granting the waiver and provide those copies to the building official.

(2) When waiving government performance of plan review or required inspections, a building official shall require the master builder to sign a form that specifically identifies each waiver and states that the master builder accepts the duty of performing the review and verifications. A master builder who accepts the duty of performing a review or verification remains responsible for that duty unless released by written and signed permission of the building official. A building official may release a master builder from a review or verification duty by a written and signed assumption of the review or inspection duty by the building official or written and signed assumption of the review and verification duty by another master builder.

(3) A building official for a government that has a master builder program:

(a) Must conduct inspections of at least 10 percent of projects that are built under a master builder program;

(b) May revoke a waiver for a plan review or required inspection if the master builder fails to properly perform, or document performance of, review or verification duties; and

(c) Must notify the Department of Consumer and Business Services when the official revokes a waiver pursuant to paragraph (b) of this subsection.

(4) When revoking a waiver, a building official shall provide the master builder with a release under subsection (2) of this section from future performance of review or verification duties. A release does not relieve a master builder from liability for the failure to perform, or document performance of, review or verification duties prior to the revocation of the waiver.

(5) A government having a master builder program has no legal duty with regard to plan review or required inspections properly waived under ORS 455.815 and accepted by a master builder in a signed form described under subsection (2) of this section. This subsection does not release a government from a duty arising due to a waiver revocation under subsection (3) of this section or an assumption under subsection (2) of this section.

(6) A *[local government]* **municipality** may refuse to grant recognition to a certified master builder if a waiver granted to the master builder under that government's master builder program has been revoked pursuant to subsection (3)(b) of this section. If a waiver is revoked pursuant to subsection (3)(b) of this section, a *[local government]* **municipality** or **municipal** building official may send a recommendation to the department for action against the master builder who was granted the waiver. The *[local government]* **municipality** or **municipal** building official may also send the department any information supporting the recommendation.

SECTION 28. ORS 479.530 is amended to read:

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

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

(2) "Board" means the Electrical and Elevator Board established under ORS 455.138.

(3) "Certified electrical product" means an electrical product that is certified under ORS 479.760 and that is not decertified.

(4) "Competent inspection service" means an electrical inspection service *[of a city or county]*

1 administered **by a municipality** under ORS 455.148 or 455.150 that [*employs*] **provides services**
2 **through** electrical inspectors who are certified to meet standards under ORS 479.810.

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

7 (6) “Demarcation point” means the place of interconnection between the communications cabl-
8 ing, terminal equipment or protective apparatus of the telecommunications service provider and the
9 customer’s premises.

10 (7) “Department” means the Department of Consumer and Business Services.

11 (8) “Director” means the Director of the Department of Consumer and Business Services.

12 (9) “Dwelling unit” means one or more rooms for the use of one or more persons as a house-
13 keeping unit with space for eating, living and sleeping and permanent provisions for cooking and
14 sanitation.

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

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

23 (12) “Equipment” means any material, fittings, devices, appliances, fixtures, apparatus or the like
24 that are used as part of or in connection with an electrical installation.

25 (13) “Field evaluation firm” means an independent organization that provides:

26 (a) Evaluations or testing, or both; and

27 (b) Documentation regarding compliance with electrical product safety standards and with the
28 electrical installation safety code.

29 (14) “Industrial electrical equipment” means electrical products used in industry or government
30 that utilize electric energy for mechanical, chemical, heating, lighting or similar purposes, that are
31 designed to service or produce a product and that are used directly in the production of the service
32 or product.

33 (15) “Installation label” means an adhesive tag issued by governmental agencies that administer
34 the Electrical Safety Law to licensed electrical contractors for application to those minor electrical
35 installations for which the board by rule determines to be appropriate for random inspections.

36 (16) “License” means a permit issued by the department under ORS 479.630 authorizing the
37 person whose name appears as licensee thereon to act as an electrical contractor, supervising
38 electrician, journeyman electrician, electrical apprentice or limited elevator journeyman as indicated
39 thereon.

40 (17) “Minimum safety standards” means safety standards prescribed by concurrence of the board
41 and the director under ORS 479.730.

42 (18) “Multifamily dwelling” means a building containing more than one dwelling unit.

43 (19) “Oil module” means a prefabricated structure manufactured to the specifications of the
44 purchaser and used outside this state in the exploration for or processing or extraction of petroleum
45 products.

1 (20) "Permit" means an official document or card issued by the enforcing agency to authorize
2 performance of a specified electrical installation.

3 (21) "Single family dwelling" means a building consisting solely of one dwelling unit.

4 (22) "Telecommunications service provider" means a telecommunications carrier as defined in
5 ORS 133.721 or a telecommunications utility or competitive telecommunications provider, both as
6 defined in ORS 759.005.

7 (23) "Uncertified product" means any electrical product that is not an electrical product certi-
8 fied under ORS 479.760.

9 **SECTION 29.** ORS 693.115 is amended to read:

10 693.115. (1) The State Plumbing Board is established in the Department of Consumer and Busi-
11 ness Services, consisting of seven members appointed by the Governor. The appointment of a mem-
12 ber of the board is subject to confirmation by the Senate pursuant to section 4, Article III of the
13 Oregon Constitution.

14 (2) The members of the board shall be as follows:

15 (a) One journeyman plumber with 10 or more years' experience in the trade or calling of
16 journeyman plumber;

17 (b) One licensed plumbing contractor;

18 (c) One [local] **municipal** plumbing inspector who is a journeyman plumber;

19 (d) One registered professional mechanical engineer;

20 (e) One officer or employee of the Oregon Health Authority;

21 (f) One plumbing equipment supplier who otherwise qualifies by experience in the industry or
22 one building official; and

23 (g) One member of the general public.

24 (3) The term of office of each member is four years, but a member serves at the pleasure of the
25 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor.
26 A member is not eligible for appointment to more than two full terms of office. If there is a vacancy
27 for any cause, the Governor shall make an appointment to become immediately effective for the
28 unexpired term.

29 (4) A member of the board shall receive compensation and expenses as provided in ORS 292.495.

30 **SECTION 30.** ORS 455.148 is added to and made a part of ORS chapter 455.

31
32 **UNIT CAPTIONS**

33
34 **SECTION 31.** The unit captions used in this 2019 Act are provided only for the conven-
35 ience of the reader and do not become part of the statutory law of this state or express any
36 legislative intent in the enactment of this 2019 Act.

37
38 **OPERATIVE DATE**

39
40 **SECTION 32.** The amendments to ORS 215.236, 446.250, 446.255, 447.091, 450.837, 455.042,
41 455.046, 455.062, 455.070, 455.080, 455.148, 455.150, 455.200, 455.210, 455.450, 455.485, 455.685,
42 455.800, 455.820, 479.530 and 693.115 by sections 9 to 29 of this 2019 Act become operative on
43 July 1, 2021.

44
45 **EMERGENCY CLAUSE**

1 **SECTION 33.** This 2019 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
3 on its passage.

4
