

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 9/24/19 **Approximate Start Time:** 1:30 pm **Approximate Length:** 30min. **Presentation Title:** Building Codes *Scope and Administration* Provisions Proposal

Department: Transportation & Development – Building Codes Division

Presenters: Dan Johnson, *DTD Director*; Matt Rozzell, *Building Codes Administrator*

Other Invitees: Nathan Boderman, *Assistant County Counsel*; Elizabeth Bunga, *Deputy Building Codes Administrator*; Jennifer Hughes, *Planning Director*; Lindsey Nesbitt, *Current Planning Manager*

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

None. This is an informational only session.

EXECUTIVE SUMMARY:

The purpose of this policy session is to inform the Board of critical changes that are proposed for the State residential (Oregon Residential Specialty Code or ORSC) and commercial (Oregon Structural Specialty Code or OSSC) building codes, and provide a preview of *Scope and Administration* provisions that staff will bring to the Board for adoption into Title 9.02 of the County Code in future sessions.

Background

As part of the Department of Transportation and Development's Land Use and Development line of business, Clackamas County administers a building codes program for unincorporated Clackamas County and select cities (via IGA). The county is mandated to maintain a building code program by ORS 455.020, with the program delegated to the County from the State Building Codes Division (State BCD) through OAR 918-020.

On August 30, 2019 the State BCD issued a notice of rulemaking that revises the administrative provisions of the residential code, in advance of the October 2019 adoption of a new commercial code with the same changes included in its scoping provisions.

The changes to this section of the building codes, referred to as *Chapter 1- Scope and Administration* (Chapter 1), are extensive and will require action at the local level to maintain current interdisciplinary coordination, business practices, and service levels.

As currently proposed, the changes to Chapter 1 fall into three categories:

- Technical items proposed to be excluded from the code (e.g.: regulation on construction of new communication towers, retaining walls, and tanks not supported by buildings)
- Changes that revise the authority of the building code when addressing code enforcement actions on building code violations; and
- Removal of the requirement to reference to "other ordinances of the municipality" when reviewing for issuance of permits or certificates of occupancy.

From conversations with the State BCD, the recommended course of action for municipalities who want to keep these critical elements as part of their building codes program is for them to adopt *Scope and Administration* provisions (language taken from the original Chapter 1), in their local codes. The locally adopted provisions will add back these important functions by

reinstating model code language into local code. The authority to adopt these provisions by the County is given in ORS 455.020(4).

This policy session provides a preview of these important changes for future adoption into County Code, with the main focus being on the most critical of these changes, reestablishing the tie between permit issuance and meeting requirements outlined in other county ordinances.

Tie between Permits, Occupancy Certificates and Other Ordinances

In previous versions of the residential and commercial codes, the sections governing the issuance of permits and certificates of occupancy have included language noting that issuance can be conditional based upon consideration of "other ordinances of the municipality."

The proposed revisions to Chapter 1 remove all references to these other requirements, making issuance of permits and occupancy certificates contingent only upon the requirements of the building code. This would decouple the current, long-standing process where approval of issuance is tied to a variety of reviews, including:

- Zoning and development code,
- Roadway standards governing site development and site access,
- Ensuring adequate connection to septic or sanitary systems,
- Health Department permitting and inspections; and
- Payment of SDC fees, and other requirements.

Implication if Changes are not Adopted into County Code

There are important implications if the review of other ordinances when issuing permits and occupancy is removed from the building codes. With the proposed Chapter 1 changes removing the ties to other ordinances, following the letter of the code and rule, staff could be forced to issue permits in violation of other important land use, zoning, access, roadway and health safety provisions. This could result in having to put properties that do not meet these other ordinances immediately into code enforcement action, in lieu of working with customers so they can come into compliance during the permitting and plan review phases of a project.

This forced path to code enforcement would increase costs, increase staff time, provide poor consultation and service to our customers, and could place properties in an expensive or dangerous position of having permits or certificates of occupancy issued when important land use, zoning, and other safety provisions are not included or provided in the project scope.

There could also be significant financial impacts, as outlined in the financial section of this worksheet.

Reestablishing Technical Items and Code Enforcement Authority

In addition to the impactful changes to permit and occupancy certificate issuance, the proposed Chapter 1 language amendments also change the scope of the building code's authority regarding technical items and code enforcement action.

The proposed changes are driven by a desire to have the building code focus specifically and only on buildings themselves, or elements that directly impact them. In doing this, the code removes important regulation of items like new communications towers, retaining walls, private access bridges, and exterior tanks holding industrial and other chemicals.

This desire to have building codes solely focused on buildings under construction also led to the removal of the right of entry provisions, and the clear authority to require that building code violations be abated. At this early date as staff analyzes this new language, these changes appear to weaken the ability to use the building codes to obtain compliance of building code violations.

The solution to reestablishing these technical and code enforcement provisions is to include them into locally adopted *Scope and Administration* provisions that mirror the language removed from Chapter 1, and this is the plan currently being pursued by staff.

Timing is Key

The notice of rulemaking was published by the State BCD on August 30, 2019, with the comment period closing on September 20, 2019. Both the residential and commercial codes go into effect on October 1, 2019, just seven business days after the close of the comment period.

The State BCD has enacted a “grace period” allowing the current Chapter 1 of each code to remain in effect, with the technical, code enforcement, and links to other ordinances still in tack, but this grace period closes on January 1, 2020. Due to the decreased length of notice from State BCD, and the limited window to make changes before the codes go into effect, staff will be working rapidly to pursue County Code changes following the typical course of action (policy session, first and second readings).

Future Action

Following the provisions ORS 455.020(4), and the building code, staff are drafting changes to mitigate the challenges resulting from the proposed code amendments by the State.

Staff will come back to the Board in an upcoming policy session to present complete *Scope and Administration* provisions for review and discussion, with the goal of adopting new provisions into County Code by January 1, 2020, that address all changes required to provide the tools needed for the Building Codes Division to maintain business and coordination levels.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? – The cost to Building Codes for this action will comprise primarily of administrative staff time for developing the revised *Scope and Administration* provisions.

If revised *Scope and Administration* provisions are not adopted into County Code, significant cost impacts could result:

- Because the permitting process is our mechanism for compliance, being unable to link permit and occupancy issuance to impact fees, like TSDCs, will limit funding of infrastructure projects due to the inability to collect the necessary development fees
- Separating building codes from all other permitting functions could challenge cost recovery in various county programs by increasing the coordination needed to ensure all laws and ordinances are upheld through enforcement actions in lieu of coordinating with customers and design teams as part of the permitting and plans review process
- If permitting is not coupled to important roadway and infrastructure improvements, costly damage could result from unpermitted access to developments and safety could be compromised if inadequate site maneuvering and parking impacts travel on county roadways.

What is the funding source? – The Building Code program is fully funded by fees for service and does not receive General Fund support.

STRATEGIC PLAN ALIGNMENT:

- **How does this item align with your Department’s Strategic Business Plan goals?**

Key in the purpose of the Land Use and Development line of business is providing “permitting services to residents, property owners, the development community and business so they can experience a safe, thriving and well-planned community, make informed decisions, invest and develop property.” To ensure that projects are safe and contribute to a thriving community, it is vital to ensure that all laws and ordinances are observed and enforced. By adopting *Scope and Administration* provisions into the County Code, staff will be able to continue to enforce these provisions and maintain the long-standing practice of coordinating with the development community during the permitting and plans review phase of development. Historically, this type of coordination has prevented possible litigation against the county.

- **How does this item align with the County’s Performance Clackamas goals?**

Ensuring that all laws and ordinances are observed and enforced during issuance of permits and certificates of occupancy allows the County to “ensure safe, healthy and secure communities,” and to “build a strong infrastructure.” By collaborating with customers during the permitting and plans review process, in lieu of going through code enforcement action if *Scope and Administration* provisions are not adopted into County Code, we are building “public trust through good government.”

LEGAL/POLICY REQUIREMENTS:

The county is mandated to maintain a building code program by ORS 455.020, with the program delegated to the County through OAR 918-020. Oregon Administrative Rule section 455.020(4) allows the County to adopt *Scope and Administration* provisions into the County Code.

PUBLIC/GOVERNMENTAL PARTICIPATION:

County Staff will coordinate with PGA to provide public notice, as required by law, for the proposed amendments to the County Code coming before the Board for consideration at a public hearing.

OPTIONS:

Not applicable. This is an informational only session.

RECOMMENDATION:

Not applicable. This is an informational only session.

ATTACHMENTS:

1. Copy of State of **Oregon Building Codes Division Notice of Rulemaking – Amendment to Oregon Residential Specialty Code**

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____



Notice of Rulemaking Hearing
Updated September 13, 2019

Amendment to Oregon Residential Specialty Code

Opportunity for public input:

Those who would like to provide testimony should attend a public hearing on September 17, 2019, at 11:30 a.m. The hearing will be located at the Building Codes Division; Conference Room A. Written comments may also be submitted to Shannon Flowers, Rules Coordinator, at Shannon.M.Flowers@Oregon.gov, or to the address below. The last day to submit written comments is 5:00 p.m. September 20, 2019.

Live broadcast via the internet:

To view the public hearing live, click on "[View live meeting](#)"

Purpose of the rule:

This proposed rule amends the Oregon Residential Specialty Code (ORSC) to align the cross referenced administrative scoping provisions of the 2017 ORSC with the administrative scoping provisions of the 2019 Oregon Structural Specialty Code (OSSC).

Note: A correction was made to the proposed amendments and posted September 13, 2019.

Citation:

Amend OAR 918-480-0010

This proposed rule would become effective October 1, 2019.

History:

The division anticipates adoption of the 2019 OSSC on October 1, 2019. Due to changes in the scope of the upcoming 2019 OSSC there would be confusing and misaligned references between the 2019 OSSC and the 2017 ORSC. These issues need to be resolved to ensure a smooth adoption of the 2019 OSSC and require a code amendment before the next scheduled code change for the ORSC in 2020. Additional scoping changes for the 2020 ORSC will be made as necessary during the code change process for that code.

Contact:

If you have questions or need further information, contact Richard Rogers, Chief Building Official, at 503.378.4472, or Richard.Rogers@oregon.gov.



The purpose of this October 1, 2019 amendment to Chapter 1 of the 2017 Oregon Residential Specialty Code (ORSC) is to align with the adoption of the 2019 Oregon Structural Specialty Code (OSSC).

Consistent with the phase-in period for the OSSC, use of the unamended 2017 ORSC Chapter 1 or use of this 2019 amendment is permitted from October 1, 2019 to January 1, 2020.

Part I Administration

CHAPTER 1 SCOPE AND ADMINISTRATION

SECTION R101 GENERAL

R101.1 Title. These provisions shall be known as the *Oregon Residential Specialty Code* and shall be cited as such and will be referred to herein as “this code.” Nothing in this code limits a local *municipality’s* ability to require application of its own ordinances, or to enforce its own ordinances.

R101.2 Scope. The *Oregon Residential Specialty Code*, as adopted by the State of Oregon, Building Codes Division, includes portions of the *International Residential Code* and the *International Fire Code* pertaining to any construction, reconstruction, alteration, repair, and installation of materials and equipment in or part of building and structures covered under the *state building code*.

1. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use, occupancy and location of the following:
 - 1.1. Detached one- and two-family *dwelling*s and *townhouses* classified as Group R-3, and *accessory* Group U occupancies, not more than three stories above *grade plane* in height.
 2. ~~Detached one family residences used for family childcare home or foster care in accordance with ORS chapters 418, 443 and 657A.~~
 3. ~~Detached one family congregate living facilities (each accommodating 10 persons or less) and detached one-family lodging houses containing not more than five guest rooms.~~
 - 1.2. Detached owner-occupied *lodging houses* containing not more than five guest rooms.
 - 1.3. Residential aircraft hangars as defined in Section R202.
 - 1.4. Live/work units ~~located in townhouses and~~ complying with the requirements of Section 419 of the *Building Code* shall be permitted to be constructed in accordance with the *Residential Code*. Fire suppression required by Section 419.5 of the *Building Code* where constructed under this code shall conform to Section 903.3.1.3 of the *Building Code*.
2. Consistent with the purpose and scope of application of the *state building code* as authorized in ORS 455.020, this code shall not apply to the following:
 - 2.1. Public utility facilities owned and maintained by the serving utility.
 - 2.2. Agricultural buildings defined and regulated by ORS 455.315 and Appendix C in the *Building Code*.
 - 2.3. Abatement of nuisances and dangerous buildings.
 - 2.4. Demolition.
 - 2.5. Protection of adjoining property.
 - 2.6. Fences, other than required swimming pool barriers.
 - 2.7. Mechanical equipment not specifically regulated in this code.
 - 2.8. Retaining walls that do not provide safeguards for the users of the buildings; and do not support a regulated building; and do not retain material, which if not restrained, could impact a regulated building.
 - 2.9. Freestanding radio, television and other telecommunication antennae, and towers not attached to or supported by a regulated building.
 - 2.10. Ground-mounted photovoltaic arrays.
 - 2.11. Floating structures.
 - 2.12. Docks.
 - 2.13. Transitional housing accommodations.
 - 2.14. Administration and implementation of a National Flood Insurance Program (NFIP).
 - 2.15. Tanks that are located exterior to and not attached to or supported by a regulated building, and not serving a required automatic fire sprinkler system.
3. *Municipalities*, as defined in ORS 455.010(5), may establish administrative procedures in accordance with ORS 455.020(4), and may amend specific sections of Chapter 1, as identified throughout the chapter. *Municipalities* are permitted to enact local ordinances for the following:
 - 3.1. Abatement of nuisances and dangerous buildings.
 - 3.2. Demolition.
 - 3.3. Protection of adjoining property.
 - 3.4. Fences, other than required swimming pool barriers.
 - 3.5. Retaining walls that do not provide safeguards for the users of the buildings; and do not support a regulated building; and do not retain material, which if not restrained, could impact a regulated building.
 - 3.6. Freestanding radio, television and other telecommunication antennae, and towers not attached to or supported by a regulated building.
 - 3.7. Floating structures.
 - 3.8. Docks.
 - 3.9. Transitional housing accommodations.
 - 3.10. Administration and implementation of a National Flood Insurance Program (NFIP).
 - 3.11. Tanks that are located exterior to and not attached to or supported by a regulated building, and not serving a required automatic fire sprinkler system.

R101.3 Owner-built dwellings. For ~~exempt~~ owner-built dwellings and out-buildings ~~exemptions~~, see ORS 455.320.

SECTION R102 APPLICABILITY

ORS 455.320 is not part of this code but is reproduced here for the reader's convenience:

455.320 Owner-built dwellings exempt from certain structural code provisions; recording of exemption.

- (1) As used in this section, unless the context requires otherwise:
- "Owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll which person has not taken advantage of the exemptions under subsection (2) of this section during the five years prior to applying for an exemption under this section.
 - "Owner-built dwelling and outbuildings" means a single-family residence and adjacent auxiliary structures, the structural components of which are constructed entirely by the owner who intends to occupy the structures or by that owner and friends and relatives of the owner assisting on an unpaid basis.
- (2) Owner-built dwellings and outbuildings shall be exempt from any requirements of the structural code for ceiling heights, room sizes and the maintenance of specific temperature levels in those structures. The exemption shall apply to the new construction, renovation, remodeling or alteration of an owner-built dwelling or outbuilding.
- (3) A building permit issued for an owner-built dwelling or outbuilding shall note whether the owner-built dwelling or outbuilding complies with the requirements it is exempted from under subsection (2) of this section. If the dwelling or other structure does not comply with these requirements, the owner-builder shall file a copy of the building permit with the county clerk, who shall make the permit a part of the permanent deed record of the property.

The owner shall provide the county clerk with a description of the property sufficient if it were contained in a mortgage of the property to give constructive notice of the mortgage under the law of this state.

- (4) Noncompliance with subsection (3) of this section shall not affect, in any manner, any conveyance of interest in property subject to this section. [Formerly 456.920]

R101.4 Intent. The purpose of this code is to establish minimum requirements to safeguard the public safety, health and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

R101.5 Statutory references. This code is adopted pursuant to Oregon Revised Statutes (ORS). Where this code and the statutes specify different requirements, the statute shall govern. Statutes related to this code include, but are not limited to, ORS 455.010 through 455.895.

Statutes referenced may be obtained from the Building Codes Division, 1535 Edgewater St. NW, Salem, OR 97304 or P.O. Box 14470, Salem, OR 97309 at a nominal cost or read online at Oregon.gov/bcd.

R102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

R102.2 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

R102.3 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

R102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections R102.4.1 and R102.4.2.

Exception: Where enforcement of a code provision would violate the conditions of the *listing* of the *equipment* or *appliance*, the conditions of the *listing* and manufacturer's instructions shall apply.

102.4.1 ASCE Standard 24 Flood Resistant Design and Construction. The following ASCE Standard 24 Tables are not adopted by the State of Oregon as the subject matter encompasses Free Board, Base Flood Elevation and Design Flood Elevation. The authority to establish the same is reserved for local government:

- Table 2-1. "Elevation of Lowest Floor"
- Table 4-1. "Elevation of Bottom of Lowest Horizontal Structural Member"
- Table 5-1. "Elevation Below Which Flood-Damage-Resistant Materials Shall be Used"
- Table 6-1. "Elevation for Flood proofing"
- Table 7-1. "Minimum Elevation of Utilities and Equipment"

Informational Note:

Each local community participating in the National Flood Insurance Program (NFIP) designates a local Flood Plain Administrator who is responsible to make sure communities meet their insurance program obligations. Certain matters comprised within the NFIP program may conflict with or overlap with the State Building Code. Certain decisions such as sill plate height and other NFIP criteria fall under the authority and responsibility of the Flood Plain Administrator. Once decisions under the NFIP program are made, then the appropriate requirements of this code for the construction of the building are applied.

Local communities may choose to designate their local building official as the Flood Plain Administrator or may designate other staff. When a building official functioning in the capacity of Flood Plain Administrator exercises authority under the NFIP, such decisions are not part of this code nor subject to the building official duties and responsibilities as adopted by the Oregon Building Codes Division.

Per ORS 455.210(3)(c), local communities are prohibited from using building permit monies for any matter other than administration and enforcement of the State Building Code. Administration and implementation of NFIP requirements are not part of the State Building Code.

R102.4.2 Conflicts. Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

R102.4.3 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

R102.5 Appendices. Provisions in the appendices shall not apply unless specifically adopted as noted below.

R102.5.1 Appendices adopted. The following appendices are adopted as part of the *Oregon Residential Specialty Code*.

1. Appendix E (Manufactured Housing Used as Dwellings)
2. Appendix F (Radon Control Methods)
3. Appendix G (Swimming Pools, Spas and Hot Tubs)
4. Appendix H (Patio Covers)
5. Appendix K (Sound Transmission)
6. Appendix R (Light Straw-Clay Construction)
7. Appendix S (Strawbale Construction)
8. Appendix T (Dwelling Unit Fire Sprinkler Systems)

R102.5.2 Appendices available for municipal adoption. The following appendix is not adopted by the State of Oregon but may be adopted by local municipalities by local ordinance. Such adoptions shall comply with the requirements specified in the adopted appendix unless otherwise *approved* under the provisions of ORS 455.040.

1. Appendix J (Existing Building and Structures)

102.5.3 Appendices not available for municipal adoption. The following appendices are not adopted by the State of Oregon and municipalities may not adopt the same.

1. Appendix A (Sizing and Capacities of Gas Piping)
2. Appendix B (Sizing of Venting Systems Serving Appliances Equipped with Draft Hoods, Category 1 Appliances, and Appliances listed for use with Type B Vents)
3. Appendix C (Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems)
4. Appendix D (Recommended Procedure for Safety Inspection of an Existing Appliance Installation)
5. Appendix I (Private Sewage Disposal)
6. Appendix L (Permit Fees)
7. Appendix M (Home Day Care—R-3 Occupancy)
8. Appendix N (Venting Methods)
9. Appendix O (Automatic Vehicular Gates)
10. Appendix P (Sizing of Water Piping System)
11. Appendix Q (RESERVED)
12. Appendix U [Solar-Ready Provisions—Detached One- and Two-Family Dwellings, Multiple Single-Family Dwellings (Townhouses)]

OAR 918-008-0000 is not part of this code but is provided here for the readers' convenience:

918-008-0000 Purpose and Scope

- (1) The Department of Consumer and Business Services, Building Codes Division, adopts model building codes, standards and other publications by reference, as necessary, through administrative rule to create the State Building Code. When a matter is included in a specialty code or referenced publication that is in conflict with Oregon Revised Statutes or Oregon Administrative Rules, the statute or rule applies and the code or standard provision does not. All remaining parts or application of the code or standard remain in effect.
- (2) Unless required by law, matters generally not authorized for inclusion in a specialty code or referenced standard include, but are not limited to: licensing or certification requirements, or other qualifications and standards for businesses or workers; structures or equipment maintenance requirements; matters covered by federal or state law; and matters that conflict with other specialty codes or publications adopted by the department.
- (3) OAR 918-008-0000 to OAR 918-008-0070 provides the process for adopting and amending the State Building Code that is consistent across all program areas.
- (4) The State Building Code is derived from the most appropriate version of base model codes, which are updated periodically.
- (5) The Oregon specialty code amendment process begins approximately midway into a code cycle.
- (6) An appropriate advisory board approves or forwards the adoption of the Oregon specialty code and amendments to the Department for adoption.
- (7) Notwithstanding sections (3) through (6) of this rule, the division may adopt supplemental code amendments as authorized by OAR 918-008-0028.

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

Stat. Auth.: ORS 447.020, 455.030 & 479.730

Stats. Implemented: ORS 447.020, 455.030 & 479.730

Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. &

cert. ef. 4-1-97; BCD 3-2006(Temp), f. & cert. ef. 3-1-06 thru 827-06; BCD

9-2006, f. 6-30-06, cert. ef. 7-1-06; BCD 1-2014, f. 1-22-14, cert. ef. 4-1-14

R102.6 Partial invalidity. In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

R102.7 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, ~~unless an unsafe condition is identified by the building official.~~

R102.7.1 Additions, alterations or repairs. *Additions, alterations* or repairs (excluding ordinary repairs) to any structure shall conform to the requirements for a new structure without requiring the existing structure to comply with the requirements of this code, unless otherwise stated. *Additions, alterations, repairs and relocations* shall not cause an existing structure to become unsafe or adversely affect the performance of the building.

An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or structure to become structurally unsafe or overloaded; will not provide adequate egress in compliance with the provisions of this code or will obstruct existing exits; will create a fire hazard; will reduce required fire resistance; or will otherwise create

conditions dangerous to human life. Any building plus new additions shall not exceed the height and stories specified for new buildings in Section R101.2.

Exception: Structural changes which improve the resistance of the building to seismic forces may be made without complying with the current code requirements providing:

1. The strength of the existing structural elements is not reduced; and
2. An unsafe condition is not created.

R102.7.2 Conversions to permanent dwellings. As authorized by Enrolled House Bill 2333 of the 2019 Oregon Legislative session, recreational vehicles which are being converted to permanent *dwellings* shall be inspected by the local *municipality* and shall either conform to all applicable provisions of this code, or shall otherwise obtain necessary approvals as determined and authorized by the local *building official*.

SECTION R103 DEPARTMENT OF BUILDING SAFETY

(Not adopted by the State of Oregon, Building Codes Division, as part of the *state building code*.)

SECTION R104 DUTIES AND POWERS OF THE BUILDING OFFICIAL

The requirements of Sections R104.1 and R104.3 shall apply unless specifically amended by a local *municipality* under the authority of ORS 455.020.

R104.1 General. The *building official* is hereby authorized and directed to enforce the provisions of this code. The *building official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. ~~Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code, statewide alternate methods, or statewide code interpretations.~~

Consistent with discretionary decision-making powers granted to *building officials*, a *building official* may take any action including but not limited to waiving a requirement, modifying a requirement and/or accepting an alternate method to the requirements of this code. When waiving or accepting a modification, a *building official* shall not allow a provision that would create an imminent threat to public health or safety, and may not enforce requirements that are in addition to this code.

R104.2 Applications and permits. The *building official* shall receive applications, review *construction documents* and issue *permits* for the erection, *alteration* and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

R104.3 Notices and orders. The *building official* shall issue necessary notices or orders to ensure compliance with this code.

R104.4 Inspections. The *building official* shall make the required inspections, or the *building official* shall have the authority to accept reports of inspection by *approved agencies* or individuals.

Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved agency* or by the responsible individual. The *building official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

R104.5 Identification. Not adopted by the State of Oregon.

R104.6 Right of entry. Not adopted by the State of Oregon, Building Codes Division, as part of the *state building code*. ~~Where it is necessary to make an inspection to enforce the provisions of this code, or where the *building official* has reasonable cause to believe that there exists in a structure or upon a premises a condition that is contrary to or in violation of this code that makes the structure or premises unsafe, dangerous or hazardous, the *building official* or designee is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the *building official* shall first make a reasonable effort to locate the owner, the owner's authorized agent, or other person having charge or control of the structure or premises and request entry. If entry is refused, the *building official* shall have recourse to the remedies provided by law to secure entry.~~

R104.7 Department records. The *building official* shall keep official records, as dictated by OAR 166-150-0020 where a county has jurisdiction; OAR 166-200-0025 where a city has jurisdiction; and OAR 166 Division 300 et al., for the cities and counties where the State of Oregon has jurisdiction. Such records shall be retained in the official records for the period required for the retention of public records.

R104.8 Liability. See ORS 30.265 for regulations relating to liability.

ORS 30.265 is not a part of this code but is reproduced here for the reader's convenience:

ORS 30.265 Scope of liability of public body, officers, employees and agents; liability in nuclear incident.

- (1) Subject to the limitations of ORS 30.260 to 30.300, every public body is subject to civil action for its torts and those of its officers, employees and agents acting within the scope of their employment or duties, whether arising out of a governmental or proprietary function or while operating a motor vehicle in a ridesharing arrangement authorized under ORS 276.598.
- (2) The sole cause of action for a tort committed by officers, employees or agents of a public body acting within the scope of their employment or duties and eligible for representation and indemnification under ORS 30.285 or 30.287 is an action under ORS 30.260 to 30.300. The remedy provided by ORS 30.260 to 30.300 is exclusive of any other action against any such officer, employee or agent of a public body whose act or omission within the scope of the officer's, employee's or agent's employment or duties gives rise to the action. No other form of civil action is permitted.
- (3) If an action under ORS 30.260 to 30.300 alleges damages in an amount equal to or less than the damages allowed under ORS 30.271, 30.272 or 30.273, the sole cause of action for a tort committed by officers, employees or agents of a public body acting within the scope of their employment or duties and eligible for representation and indemnification under ORS 30.285 or 30.287 is an action against the public body. If an

action is filed against an officer, employee or agent of a public body, and the plaintiff alleges damages in an amount equal to or less than the damages allowed under ORS 30.271, 30.272 or 30.273, the court upon motion shall substitute the public body as the defendant. Substitution of the public body as the defendant does not exempt the public body from making any report required under ORS 742.400.

- (4) If an action under ORS 30.260 to 30.300 alleges damages in an amount greater than the damages allowed under ORS 30.271, 30.272 or 30.273, the action may be brought and maintained against an officer, employee or agent of a public body, whether or not the public body is also named as a defendant. An action brought under this subsection is subject to the limitations on damages imposed under ORS 30.271, 30.272 or 30.273, and the total combined amount recovered in the action may not exceed those limitations for a single accident or occurrence without regard to the number or types of defendants named in the action.
- (5) Every public body is immune from liability for any claim for injury to or death of any person or injury to property resulting from an act or omission of an officer, employee or agent of a public body when such officer, employee or agent is immune from liability.
- (6) Every public body and its officers, employees and agents acting within the scope of their employment or duties, or while operating a motor vehicle in a ridesharing arrangement authorized under ORS 276.598, are immune from liability for:
 - (a) Any claim in connection with the assessment and collection of taxes.
 - (b) Any claim in connection with the assessment and collection of taxes.
 - (c) Any claim based upon the performance of or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused.
 - (d) Any claim that is limited or barred by the provisions of any other statute, including but not limited to any statute of ultimate repose.
 - (e) Any claim arising out of riot, civil commotion or mob action or out of any act or omission in connection with the prevention of any of the foregoing.
 - (f) Any claim arising out of an act done or omitted under apparent authority of a law, resolution, rule or regulation that is unconstitutional, invalid or inapplicable except to the extent that they would have been liable had the law, resolution, rule or regulation been constitutional, valid and applicable, unless such act was done or omitted in bad faith or with malice.
- (7) This section applies to any action of any officer, employee or agent of the state relating to a nuclear incident, whether or not the officer, employee or agent is acting within the scope of employment, and provided the nuclear incident is covered by an insurance or indemnity agreement under 42 U.S.C. 2210.
- (8) Subsection (6)(c) of this section does not apply to any discretionary act that is found to be the cause or partial cause of a nuclear incident covered by an insurance or indemnity agreement under the provisions of 42 U.S.C. 2210, including but not limited to road design and route selection. [1967 c.627 §§2,3,10; 1969 c.429 §1; 1975 c.609 §12; 1977 c.823 §2; 1981 c.490 §4; 1985 c.731 §31; 1987 c.705 §7; 1991 c.861 §1; 2005 c.22 §19; 2007 c.803 §4; 2011 c.270 §1]

R104.9 Approved materials and equipment. Materials, *equipment* and devices *approved* by the *building official* shall be constructed and installed in accordance with such approval.

R104.9.1 Used materials and equipment. Used materials, *equipment* and devices shall not be reused unless *approved* by the *building official*. Used or salvaged dimensional lumber shall be permitted to be used in accordance with all of the following:

1. Used or salvaged dimensional lumber shall be in generally good condition and free of any obvious areas of decay.
2. Where used or salvaged dimensional lumber is identified by a grade mark or where a certificate of inspection is provided from a lumber grading or inspection agency *approved* by an accreditation body that complies with DOC PS 20, structural properties for the used or salvaged lumber shall be as determined by the *approved* agency in accordance with the grade stamp or certificate provided.

Exception: In lieu of the grade mark or certificate described in Item 2, used or salvaged dimensional lumber not bearing a grade stamp or provided with a certificate shall be assumed to be Douglas Fir-Larch No. 2 grade and shall have structural properties assigned in accordance with current adopted standards.

R104.10 Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the *building official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the *municipality's* files.

R104.10.1 Flood hazard areas. Not adopted by the State of Oregon Building Codes Division as part of the *State Building Code*.

R104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *building official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Compliance with the specific performance-based provisions of the current editions of the *Oregon Specialty Codes* shall be an alternative to the specific requirements of this code. Where the alternative material, design or method of construction is not *approved*, the *building official* shall respond in writing, stating the reasons why the alternative was not *approved*. ~~For the process governing statewide alternate methods see ORS 455.060.~~

~~ORS 455.060 is not part of this code but is reproduced here for the reader's convenience:~~

~~**455.060 Rulings on acceptability of material, design or method of construction; effect of approval; fees.**~~

- ~~(1) Any person who desires to use or furnish any material, design or method of construction or installation in the state, or any building official, may request the Director of the Department of Consumer and Business Services to issue a ruling with respect to the acceptability of any material, design or method of construction about which there is a question under any provision of the state building code. Requests shall be in writing and, if made by anyone other than a building official, shall be made and the ruling issued prior to the use or attempted use of such questioned material, design or method.~~
- ~~(2) In making rulings, the director shall obtain the approval of the appropriate advisory board as to technical and scientific facts and shall consider the standards and interpretations published by the body that promulgated any nationally recognized model code adopted as a specialty code of this state.~~
- ~~(3) A copy of the ruling issued by the director shall be certified to the person making the request. Additional copies shall be transmitted to all building officials in the state. The director shall keep a permanent record of all such rulings and shall furnish copies thereof to any interested person upon payment of such fees as the director may prescribe.~~
- ~~(4) A building official or inspector shall approve the use of any material, design or method of construction approved by the director pursuant to this section if the requirements of all other local ordinances are satisfied. [Formerly 456.845]~~

R104.11.1 Tests. Where there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the *municipality*. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved* agency. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

SECTION R105 PERMITS

R105.1 Required. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, ~~demolish or~~ change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any mechanical ~~or plumbing~~ system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the *building official* and obtain the required *permit*. See ORS 455.020(2).

R105.2 Work exempt from permit. ~~Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this municipality.~~ *Permits* shall not be required for the following:

Building:

1. Nonhabitable one-story detached *accessory structures*, provided that the floor area does not exceed 200 square feet (18.58 m²) and a wall height of 10 feet (3048 mm)

measured from the finished floor level to the top of the top plate.

Exception: Where the structure is located on a parcel of 2.0 acres or greater in area, and the structure is located a minimum of 20 feet (6096 mm) from all property lines, floor area may be increased to 400 square feet (37.16 m²).

- ~~2. Except for barriers around swimming pools as required in Appendix G, fences not over 7 feet (2134 mm) high and typical field fencing not over 8 feet (2438 mm) high where constructed of woven wire or chain link.~~
- ~~3. Retaining walls that do not support a regulated building, do not retain material which, if not restrained, could impact a regulated building.~~
- ~~4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 927 L) and the ratio of height to diameter or width does not exceed 2 to 1.~~
2. Concrete sidewalks, slabs, platforms and driveways.
3. Painting, papering, tiling, carpeting, cabinets, counter tops, interior wall, floor or ceiling covering and similar finish work.
4. Prefabricated swimming pools accessory to a Group R-3 Occupancy where the pool walls are entirely above the adjacent grade. ~~Barrier requirements found in Appendix G are not exempt.~~
- ~~8. Swings and other playground equipment.~~
5. Patio covers, as defined in AH102, and porch covers not over 200 square feet (11 m²) and supported by an exterior building wall.
6. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
7. Nonbearing partitions, except when such partitions create habitable rooms.
8. Replacement or repair of siding not required to be fire resistive.
9. Retrofitted insulation.
10. Masonry repair.
11. Porches and decks, where the floor or deck is not more than 30 inches (762 mm) above adjacent grade measured at any point within 3 feet (914 mm) horizontally of the floor or deck, and where in the case of a covered porch, the covered portion of the porch does not come closer than 3 feet (914 mm) to property lines.
12. Gutters and downspouts
13. Door and window replacements (where no structural member is changed).
14. Re-roofing, where replacement or repair of roofing does not exceed 30 percent of the required live load design capacity and the roof is not required to be fire resistive

Exceptions:

1. Permits for re-roofing are required for structures in wildfire hazard zones as provided in Section R327; and

2. Structures falling within the scope of Section R302.2.
3. Permits for re-roofing are required where more than 15 percent of the existing space sheathing is removed to facilitate the installation of new sheathing.

15. Plastic glazed storm windows.

16. Framed covered nonhabitable accessory buildings not more than 500 square feet (46.45 m²) in area, one story in height and not closer than 3 feet (914 mm) to a property line, where the structure is composed of a rigid framework that supports a fabric membrane.

~~21. Ground mounted flagpoles, antennae, and similar items that do not exceed 25 feet in height.~~

Unless otherwise exempted, separate plumbing, electrical and mechanical permits may be required for the above exempted items. In addition, all new construction and substantial improvements (including the placement of prefabricated buildings and certain building work exempt from permit under Section R105.2) shall be designed and constructed with methods, practices and materials that minimize flood damage in accordance with this code, FEMA regulations and ASCE 24.

Electrical: See the *Electrical Code*.

Mechanical:

1. Portable heating *appliances*, cooking or clothes drying appliances.
2. Portable ventilation *appliances*.
3. Portable cooling units.
4. Steam, hot- or chilled-water piping within any heating or cooling *equipment* regulated by this code.
5. Replacement of any minor part that does not alter approval of *equipment* or make such *equipment* unsafe.
6. Portable evaporative coolers.
7. Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.
8. Portable-fuel-cell *appliances* that are not connected to a fixed piping system and are not interconnected to a power grid.

Plumbing: See the *Plumbing Code*.

R105.2.1 Emergency repairs. Where mechanical *equipment* replacements and repairs must be performed in an emergency situation, the *permit* application shall be submitted to the *building official* within the next 5 working business days.

R105.2.1.1 Structural temporary repairs. For temporary (180 days) structural supports, structural replacement or repairs performed in an emergency on an existing structure, the *building official* shall be notified within 72 hours and permit application for the temporary work shall be submitted to the *building official* within the next 5 business days.

ORS 455.058 is not part of this code but is reprinted here for the reader's convenience:

455.058 Investigation fee for work commenced without permit; rules.

- (1) Except as provided in subsection (2) of this section, the Department of Consumer and Business Services, or a municipality administering and enforcing a building inspection program, may assess an investigation fee against a person that is required to obtain a permit for work on the electrical, gas, mechanical, elevator, boiler, plumbing or other systems of a building or structure if the work is commenced before the permit required for the work is obtained. The amount of the investigation fee shall be the average or actual additional cost of ensuring that a building, structure or system is in conformance with State Building Code requirements that results from the person not obtaining a required permit before work for which the permit is required commences.
- (2) This section does not apply to:
 - (a) An emergency repair required for health, safety, the prevention of property damage or the prevention of financial harm if the required building permit for the repair is obtained no later than five business days after commencement of the repair; or
 - (b) Any project for which construction, alteration, repair, maintenance or installation in a building or structure prior to obtaining a permit is expressly authorized by law.
- (3) The department may adopt rules and establish policies and procedures for use by the department or municipalities in assessing an investigation fee under this section. [2013 c.324 §2]

R105.2.2 Repairs. Application or notice to the *building official* is not required for ordinary repairs to structures.

Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include *addition to, alteration of, replacement or relocation of any water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical system* or other work affecting public health or general safety.

R105.2.3 Public service agencies. A *permit* shall not be required for the installation, *alteration* or repair of generation, transmission, distribution, metering or other related *equipment* that is under the ownership and control of public service agencies by established right.

R105.3 Application for permit. To obtain a *permit*, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the *permit* for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by *construction documents* and other information as required in Section R106.1.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the *building official*.

R105.3.1 Action on application. The *building official* shall examine or cause to be examined applications for *permits* and amendments thereto within a reasonable time after filing. If the application or the *construction documents* do not conform to the requirements of pertinent laws, the *building official* shall reject such application in writing stating the reasons therefor. If the *building official* is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the *building official* shall issue a *permit* therefor as soon as practicable. Nothing in this code provision limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances.

R105.3.1.1 Determination of substantially improved or substantially damaged existing buildings in flood hazard areas. Not adopted by the State of Oregon Building Codes Division as part of the *State Building Code*.

R105.3.2 Time limitation of application. An application for a *permit* for any proposed work shall be deemed to have been abandoned 180 days after the date of filing unless such application has been pursued in good faith or a *permit* has been issued; except that the *building official* is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

R105.4 Validity of permit. The issuance or granting of a *permit* shall not be construed to be a *permit* for, or an *approval* of, any violation of any of the provisions of this code or of any other laws or of any other ordinance of the municipality. *Permits* presuming to give authority to violate or cancel the provisions of this code or of any other laws or other ordinances of the municipality shall not be valid. The issuance of a *permit* based on *construction documents* and other data shall not prevent the *building official* from requiring the correction of errors in the *construction documents* and other data. The *building official* is authorized to prevent occupancy or use of a structure where in violation of this code. Nothing in this code provision limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances.

R105.5 Expiration. Every *permit* issued shall become invalid unless the work authorized by such *permit* is commenced within 180 days after its issuance, or if the work authorized by such *permit* is suspended or abandoned for a period of 180 days after the time the work is commenced. The *building official* is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

R105.6 Suspension or revocation. The *building official* is authorized to suspend or revoke a *permit* issued under the provisions of this code wherever the *permit* is issued in error or on the basis of incorrect, inaccurate or incomplete information, or

in violation of any ordinance or regulation or any of the provisions of this code. Nothing in this code provision limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances.

R105.7 Placement of permit. The building *permit* or a copy shall be kept on the site of the work until the completion of the project.

R105.8 Responsibility. It shall be the duty of every person who performs work for the installation or repair of building, structure, or mechanical systems, for which this code is applicable, to comply with this code.

R105.9 Preliminary inspection. Before issuing a *permit*, the *building official* is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

SECTION R106 CONSTRUCTION DOCUMENTS

R106.1 Submittal documents. Submittal documents consisting of *construction documents*, and other data shall be submitted in two or more sets with each *permit* application. The *construction documents* shall be prepared by a registered *design professional* where required by state law. Where special conditions exist, the *building official* is authorized to require additional *construction documents* to be prepared by a registered *design professional*.

Exception:

1. The *building official* is authorized to waive the submission of *construction documents* and other data not required to be prepared by a registered *design professional* if it is found that the nature of the work applied for is such that reviewing of *construction documents* is not necessary to obtain compliance with this code.
2. Plans, calculations and specifications, diagrams and other data prepared and designed by an architect or an engineer licensed by the state to practice as such are not required for the following work, provided the building official determines that the work is not of a highly technical nature or there is unreasonable potential risk to life and/or safety of the structure:
 - 2.1. The erection, enlargement or alteration of any building, or any appurtenance thereto, where the resulting building has a ground area of 4,000 square feet (372 m²) or less and is not more than 20 feet (6096 mm) in height from the top surface of the lowest floor to the highest interior overhead finish (ORS 671.030).
 - 2.2. A single-family dwelling, a farm agricultural building, nonfarm agricultural building, or accessory building to a single-family dwelling.
 - 2.2. Alterations or repairs that do not involve structural parts of the building.

ORS 672.107 is not part of this code but is reproduced here for the reader's convenience:

672.107 Structural engineer registration for performing engineering services on significant structures; rules.

- (1) For purposes of this section:
- (a) "Significant structure" means:
 - (A) Hazardous facilities and special occupancy structures, as defined in ORS 455.447;
 - (B) Essential facilities, as defined in ORS 455.447, that have a ground area of more than 4,000 square feet or are more than 20 feet in height;
 - (C) Structures that the Director of the Department of Consumer and Business Services determines to have irregular features; and
 - (D) Buildings that are customarily occupied by human beings and are more than four stories or 45 feet above average ground level.
 - (b) "Significant structure" does not mean:
 - (A) One-family and two-family dwellings and accompanying accessory structures;
 - (B) Agricultural buildings or equine facilities, both as defined in ORS 455.315; or
 - (C) Buildings located on lands exempt from Department of Consumer and Business Services enforcement of building code regulations.
- (2) Consistent with ORS 672.255, the State Board of Examiners for Engineering and Land Surveying shall adopt rules establishing standards of competence in structural engineering analysis and design relating to seismic influence.
- (3) An engineer may not provide engineering services for significant structures unless the engineer possesses a valid professional structural engineer certificate of registration issued by the board. [Formerly 672.129]

part of a building or structure before the *construction documents* for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such *permit* for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a *permit* for the entire structure will be granted.

R106.3.4 Design professional in responsible charge.

R106.3.4.1 General. When it is required that documents be prepared by a registered *design professional*, the *building official* shall be authorized to require the owner to engage and designate on the building *permit* application a registered *design professional* who shall act as the registered *design professional* in responsible charge. If the circumstances require, the owner shall designate a substitute registered *design professional* in responsible charge who shall perform the duties required of the original registered *design professional* in responsible charge. The *building official* shall be notified in writing by the owner if the registered *design professional* in responsible charge is changed or is unable to continue to perform the duties.

The registered *design professional* in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

R106.4 Amended construction documents. Work shall be installed in accordance with the *approved construction documents*, and any changes made during construction that are not in compliance with the *approved construction documents* shall be resubmitted for approval as an amended set of *construction documents*.

R106.5 Retention of construction documents. One set of *approved construction documents* shall be retained by the *building official* for a period of not less than that dictated by OAR 166-150-0020 where a county has jurisdiction; OAR 166-200-0025 where a city has jurisdiction; and OAR 166300 et al., for the jurisdictions where the State of Oregon has jurisdiction. One set of *approved plans and specifications* shall be returned to the applicant and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress. The *building official* shall maintain a permanent record of all permits issued in flood hazard areas, including copies of inspection reports and certifications required in Section R109.1.3.

**SECTION R107
TEMPORARY STRUCTURES AND USES**

R107.1 General. The *building official* is authorized to issue a *permit* for temporary structures and temporary uses. Such *permits* shall be limited as to time of service but shall not be permitted for more than 180 days. The *building official* is authorized to grant extensions for demonstrated cause.

R107.2 Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

R106.3 Examination of documents. The *building official* shall examine or cause to be examined accompanying *construction documents* and shall ascertain by such examination whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws ~~or ordinances~~. *Nothing in this code provision limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances.*

R106.3.1 Approval of construction documents. Where the *building official* issues a *permit*, the *construction documents* shall be *approved* in writing or by a stamp that states "REVIEWED FOR CODE COMPLIANCE." One set of *construction documents* so reviewed shall be retained by the *building official*. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the *building official* or a duly authorized representative. *Construction documents* shall be *approved* in the timelines specified in ORS 455.467.

R106.3.2 Previous approvals. This code shall not require changes in the *construction documents*, construction or designated occupancy of a structure for which a lawful *permit* has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

R106.3.3 Phased approval. The *building official* is authorized to issue a *permit* for the construction of foundations or any other

R107.3 Temporary power. Refer to the *Electrical Code*.

R107.4 Termination of approval. The *building official* is authorized to terminate such *permit* for a temporary structure or use and to order the temporary structure or use to be discontinued.

SECTION R108 FEES

The requirements of Section R108 shall apply unless specifically amended by a *municipality* under the authority of ORS 455.020.

R108.1 Payment of fees. A *permit* shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a *permit* be released until the additional fee, if any, has been paid.

R108.2 Schedule of permit fees. Permit and plan review fees shall be as adopted by the *municipality*, except as otherwise limited by statute. On buildings, structures, and mechanical systems or *alterations* requiring a *permit*, a fee for each *permit* shall be paid as required, in accordance with the schedule as established by the *municipality* under authority of ORS 455.020 and 455.210, or set forth in OAR chapter 918, division 480 where the State of Oregon has jurisdiction.

ORS 455.020(2) is not a part of this code but is reprinted here for the reader's convenience:

455.020(2) Purpose: scope of application; exceptions; scope of rules; fees by rule.

- (2) The rules adopted pursuant to this chapter shall include structural standards; standards for the installation and use of mechanical, heating and ventilating devices and equipment; and standards for prefabricated structures; and shall, subject to ORS 455.210, prescribe reasonable fees for the issuance of building permits and similar documents, inspections and plan review services by the Department of Consumer and Business Services. The department may also establish, by rule, the amount of any fee pertaining to the State Building Code or any specialty code that is authorized by statute, but for which an amount is not specified by statute. [Formerly 456.755; 1991 c.227 §2; 1991 c.310 §2; 1995 c.304 §1; 1995 c.400 §5; 1999 c.1045 §13; 1999 c.1082 §11; 2001 c.710 §8]

ORS 455.210(3)(a) is not a part of this code but is reproduced for the reader's convenience:

455.210 Fees; appeal of fees; surcharge; reduced fees; rules.

- (3) (a) A *municipality* may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the *municipality* has assumed responsibility under ORS 455.148 or 455.150. A *municipality* shall give the director notice of the proposed adoption of a new or increased fee under this subsection. The *municipality* shall give the notice to the director at the time the *municipality* provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources, at the time notice of the last budget meeting is published under ORS 294.426. [Subsections (1) to (5) formerly 456.760; subsection (6) enacted as 1987 c.604 §6; 1997 c.856 §1; 1999 c.432 §1; 1999 c.1045 §24; 1999 c.1082 §9; 2001 c.573 §9; 2001 c.673 §1; 2005 c.193 §1; 2005 c.833 §3; 2007 c.69 §5; 2011 c.473 §29]

R108.2.1 Plan review fees. When *construction documents* are required by Section R106.1, a plan review fee shall be paid at the time of submitting the *construction documents* for plan review. Said plan review fee shall be a percentage of the building *permit* fee as established under Section R108.2. The plan review fees specified in this section are separate from the *permit* fees specified in Section R108.2 and are in addition to the *permit* fees. The state surcharge is not applied to plan review fees. When *construction documents* are incomplete or changed so as to require additional plans an additional plan review fee shall be charged according to the rate established by the *municipality*, or OAR chapter 918, division 480 where the State of Oregon has jurisdiction.

OR 918-050-0100 is not part of this code but is reproduced here for the reader's convenience.

918-050-0100 Statewide Fee Methodologies for Residential and Commercial Permits.

- (1) Residential construction permit fees shall be calculated using the following methodologies:
- (a) A plumbing permit fee for new construction includes one kitchen and is based on the number of bathrooms, from one to three, on a graduated scale. An additional set fee shall be assessed for each additional bath or kitchen.
 - (A) No additional fee shall be charged for the first 100 feet of water and sewer lines, hose bibbs, icemakers, underfloor low-point drains, and rain drain packages that include the piping, gutters, downspouts, and perimeter system.
 - (B) The plumbing permit fee described in this section does not include:
 - (i) Any storm water retention/detention facility;
 - (ii) Irrigation and fire suppression systems; or
 - (iii) Additional water, sewer and service piping or private storm drainage systems exceeding the first 100 feet.
 - (C) Permit fees for an addition, alteration, or repair shall be calculated based on the number of fixtures, appurtenances, and piping, with a set minimum fee.
 - (b) A mechanical permit fee shall be calculated per appliance and related equipment, with a set minimum fee.
 - (c) Effective January 1, 2009, a structural permit fee for new construction and additions shall be calculated using the ICC Building Valuation Data Table current as of April 1 of each year, multiplied by the square footage of the dwelling to determine the valuation. The valuation shall then be applied to the *municipality's* fee schedule to determine the permit fee. The plan review fee shall be based on a predetermined percentage of the permit fee set by the *municipality*.
 - (A) The square footage of a dwelling, addition, or garage shall be determined from outside exterior wall to outside exterior wall for each level.
 - (B) The square footage of a carport, covered porch, patio, or deck shall be calculated separately at fifty percent of the value of a private garage from the ICC Building Valuation Data Table current as of April 1.
 - (C) Permit fees for an alteration or repair shall be calculated based on the fair market value as determined by the building official, and then applying the valuation to the *municipality's* fee schedule.

- (2) Commercial construction permit fees shall be calculated using the following methodologies:
- (a) A plumbing permit fee shall be calculated based on the number of fixtures and footage of piping, with a set minimum fee.
 - (b) A mechanical permit fee shall be calculated based on the value of the mechanical equipment and installation costs and applied to the municipality's fee schedule with a set minimum fee.
 - (c) A structural permit fee shall be calculated by applying the valuation to the municipality's fee schedule with a minimum set fee. Valuation shall be the greater of either:
 - (A) The valuation based on the ICC Building Valuation Data Table current as of April 1 of each year, using the occupancy and construction type as determined by the building official, multiplied by the square footage of the structure; or
 - (B) The value as stated by the applicant.
 - (C) When the construction or occupancy type does not fit the ICC Building Valuation Data Table, the valuation shall be determined by the building official with input from the applicant.

Stat. Auth.: ORS 455.048 & 455.055

Stats. Implemented: ORS 455.046 & 455.055

Hist.: BCD 9-2000, f. 6-15-00, cert. ef. 10-1-00; BCD 31-2005, f. 12-30-05, cert. ef. 1-1-06; BCD 5-2007, f. 5-11-07, cert. ef. 7-1-07; BCD 27-2008, f. ef. 12-12-08, cert. ef. 1-1-09; BCD 7-2009, f. 9-30-09, cert. ef. 10-1-09

R108.3 Building permit valuations. Structural and mechanical building *permit* valuations shall be based upon the Uniform Fee methodologies as established by OAR 918-050-0100.

R108.4 Related fees. The payment of the fee for the construction, or *alteration* for work done in connection to or concurrently with the work authorized by a building *permit* shall not relieve the applicant or holder of the *permit* from the payment of other fees that are prescribed by law.

R108.5 Refunds. The *building official* is authorized to establish a refund policy.

R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit on a building or before obtaining the necessary permits shall be subject to an investigation fee. The amount of the investigation fee shall be the average or actual additional cost of ensuring that a building, structure or system is in conformance with this code and shall be in addition to the required *permit* fees.

Exception: Work ~~as permitted~~ **exempted** in Section R105.2.

SECTION R109 INSPECTIONS

R109.1 General. Construction or work for which a permit is required shall be subject to inspection by the *building official* and such construction or work shall remain accessible and exposed for inspection purposes until *approved*. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other laws ~~or ordinances of the municipality~~. Inspections presuming to give authority to violate or cancel the provisions of this code or of other laws ~~or ordinances of the municipality~~ shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and

exposed for inspection purposes. Neither the *building official* nor the state shall be liable for expense entailed in the removal or replacement of any material required to allow inspection. **Nothing in this code provision limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances.**

R109.1.1 Foundation inspection. Inspection of the foundation shall be made after poles or piers are set or trenches or *basement* areas are excavated, and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or *equipment* and special requirements for wood foundations.

R109.1.1.1 Concrete slab or under-floor inspection. Concrete slab or under-floor inspection shall be made after in-slab or under-floor building service equipment, conduit, piping accessories and other ancillary equipment items are in place but before any concrete is placed or floor sheathing installed, including subfloor.

R109.1.2 Mechanical systems inspection. Rough inspection of mechanical systems shall be made prior to covering or concealment, before fixtures or *appliances* are set or installed, and prior to framing inspection.

Exception: Backfilling of ground-source heat pump loop systems tested in accordance with Section M2105.28 prior to inspection shall be permitted.

R109.1.3 Floodplain inspections. In flood hazard areas as established by the *Flood Plain Administrator*, upon placement of the lowest floor, including *basement*, and prior to further vertical construction, the *Flood Plain Administrator* shall require submission of documentation, prepared and sealed by a registered *design professional*, of the elevation of the lowest floor, including *basement*, required in Section R322.

R109.1.4 Frame and masonry inspection. Inspection of framing and masonry construction shall be made after the roof, masonry, framing, firestopping, draftstopping and bracing are in place and after the plumbing, mechanical and electrical rough inspections are *approved*.

R109.1.4.1 Moisture content. After the framing inspection and prior to the installation of interior finishes, the *building official* shall be notified in writing by the general contractor that all moisture-sensitive wood framing members used in construction have a moisture content of not more than 19 percent of the weight of dry wood framing members.

R109.1.5 Other inspections. In addition to inspections in Sections R109.1.1 through R109.1.4, the *building official* shall have the authority to make or require other inspections to ascertain compliance with this code and other laws ~~enforced by the building official~~. **Nothing in this code provision limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances.**

R109.1.5.1 Fire-resistance-rated construction inspection. Where fire-resistance-rated construction is required between *dwelling units* or due to location on property, the *building official* shall require an inspection of such construction after

lathing or gypsum board or gypsum panel products are in place, but before any plaster is applied, or before board or panel joints and fasteners are taped and finished.

R109.1.5.2 Insulation and vapor retarder inspection. Inspection shall be made after all insulation and required vapor retarders are in place, but before any lath or gypsum board interior wall covering is applied.

Exceptions:

1. Ceiling and floor insulation visible during final inspection.
2. The *building official* may allow the frame, insulation and vapor retarder inspections to be performed simultaneously.

R109.1.5.3 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection. Reinforced masonry walls, insulating concrete form (ICF) walls and conventionally formed concrete walls located in Seismic Design Categories D₁, D₂, and E shall be inspected after plumbing, mechanical, and electrical systems embedded within the walls, and reinforcing steel are in place and prior to placement of grout or concrete. Inspection shall verify the correct size, location, spacing, and lapping of reinforcing. For masonry walls, inspection shall also verify that the location of grout cleanouts and size of grout spaces comply with the requirements of this code.

R109.1.6 Final inspection. Final inspection shall be made after all work required by the building *permit* is completed.

R109.1.6.1 Elevation documentation. If located in a flood hazard area, the documentation of elevations required in Section R322.1.10 shall be submitted to the *building official* prior to the final inspection.

R109.2 Inspection agencies. The *building official* is authorized to accept reports of *approved* agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

R109.3 Inspection requests. It shall be the duty of the holder of the building *permit* or their duly authorized agent to notify the *building official* when work is ready for inspection. It shall be the duty of the *permit* holder to provide access to and means for inspection of such work that are required by this code.

OAR 918-098-1900 is not part of this code but is reproduced here for the reader's convenience.

918-098-1900 Corrective Notices—Cite-it Write-it Requirement.

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

Stat. Auth.: ORS 455.720 & 455.740

Stat. Implemented: ORS 455.720 & 455.740

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 1-2016(Temp), f. & cert. ef. 1-26-16 thru 7-23-16; BCD 6-2016, f. & cert. ef. 4-1-16

R109.4 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *building official*. The *building official* upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the *permit* holder or their duly authorized agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *building official*.

SECTION R110 CERTIFICATE OF OCCUPANCY

R110.1 Use and occupancy. A building or structure shall not be used or occupied, and a change in the existing character, use or occupancy classification of a building or structure or portion thereof shall not be made, until the *building official* has issued a certificate of occupancy for such change in character, use or occupancy as specified in OAR 918-480-0140. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code ~~or of other ordinances of the municipality~~. Nothing in this code provision limits a local *municipality's* ability to require application of its own ordinances, or to enforce its own ordinances.

Exceptions:

1. Certificates of occupancy are not required for work exempt from permits under Section R105.2.
2. Accessory buildings or structures.

OAR 918-480-0140 is not part of this code but is reproduced here for the reader's convenience:

OAR 918-480-0140 Residential Certificates of Occupancy.

- (1) Prior to occupancy of a new residential dwelling or townhouse the building official must issue a certificate of occupancy in the form and format established by the division, unless a temporary certificate of occupancy is issued by the building official.
- (2) This rule applies to a new residential dwelling or townhouse, if the structural permit for construction of the residential dwelling or townhouse was applied for on or after April 1, 2008.
- (3) For purposes of this rule, the terms "residential dwelling" and "townhouse" have the same meaning as in section R202 of the 2008 *Oregon Residential Specialty Code*.
- (4) Before the certificate of occupancy is issued, the general contractor or owner who was issued the structural permit for construction must provide to the building official the contact information and relevant license information for the general contractor, as well as any electrical contractor, HVAC contractor and plumbing contractor that performed work on the residential dwelling or townhouse.
- (5) A building official may revoke a certificate of occupancy or a temporary certificate of occupancy when the residential dwelling or townhouse is in violation of applicable law that poses a threat to health and safety. The revocation must be in writing and state the basis for the revocation of the certificate of occupancy.

R110.2 Change in use or occupancy. No change shall be made in the use or occupancy of any building that would place the building in a different division of the same group of occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of this code and [Section 3411](#)

**SECTION R111
SERVICE UTILITIES**

The requirements of Section R111 are not adopted by the State of Oregon, Building Codes Division, as part of the *state building code* but may be specifically adopted by a *local municipality*.

Chapter 34 of the *Building Code* for such division or group of occupancy, as applicable. Subject to the approval of the *building official*, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for purposes in other groups without conforming to all the requirements of this code for those groups, provided the new or proposed use is no more hazardous, based on life and fire risk, than the existing use.

R110.2 Change in use or occupancy. No change shall be made in the use or occupancy of any building that would place the building in a different division of the same group of occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of this code and Section 3411 of the *Building Code* for such division or group of occupancy. Subject to the approval of the *building official*, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for purposes in other groups without conforming to all the requirements of this code for those groups, provided the new or proposed use is no more hazardous, based on life and fire risk, than the existing use.

R110.3 Certificate issued. After the *building official* inspects the building or structure and does not find violations of the provisions of this code or other laws that are enforced by the department of building safety, the *building official* shall issue a certificate of occupancy containing the following:

1. The building *permit* number.
2. The address of the structure.
3. The name and address of the owner or the owner's authorized agent.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code.
6. The name of the *building official*.
7. The edition of the code under which the *permit* was issued.
8. If an automatic sprinkler system is provided and whether the sprinkler system is required.
9. Any special stipulations and conditions of the building *permit*.

R110.4 Temporary occupancy. The *building official* is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the *permit*, provided that such portion or portions shall be occupied safely. The *building official* shall set a time period during which the temporary certificate of occupancy is valid.

R110.5 Revocation. The *building official* is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any of the provisions of this code.

R111.1 Connection of service utilities. A person shall not make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a *permit* is required, until *approved* by the *building official*.

R111.2 Temporary connection. The *building official* shall have the authority to authorize the temporary connection of the building or system to the utility, source of energy, fuel or power.

R111.3 Authority to disconnect service utilities. The *building official* shall have the authority to authorize disconnection of a fuel supply or appliance that does not conform to this code. The *building official* shall also have the authority to order disconnected a gas utility service, or energy supplies to a building, structure, premises or equipment in case of emergency when necessary to eliminate an immediate hazard to life or property. A notice shall be attached to the energy supply or appliances stating the reason for disconnection. Such notices shall not be removed, nor shall the system or appliance be reconnected until authorized by the *building official*. The owner, the owner's authorized agent or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.

**SECTION R112
BOARD OF APPEALS**

R112.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the *building official* relative to the application and interpretation of this code, the *municipality* shall establish an appeals procedure.

R112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

~~ORS 455.690 is not part of this code but is reproduced here for the reader's convenience:~~

~~455.690 Appeal to advisory boards. Any person aggrieved by the final decision of a municipal appeals board or a subordinate officer of the Department of Consumer and Business Services as to the application of any provision of a specialty code may, within 30 days after the date of the decision, appeal to the appropriate advisory board. The appellant shall submit a fee of \$20, payable to the department, with the request for appeal. The final decision of the involved municipality or state officer shall be subject to review and final determination by the appropriate advisory board as to technical and scientific determinations related to the application of the specialty code involved.~~

R112.2.1 Alternative appeals process. ORS 455.475 provides an alternative appeals process to that set forth by the local *municipality*.

Note: Forms for appeals under ~~ORS 455.690~~ and ORS 455.475 are available online at www.oregon.gov/bcd.

R112.3 Qualifications. An appeals board shall consist of members who are qualified by experience and training to pass judgement on matters pertaining to building construction.

R112.4 Administration. Not adopted by the State of Oregon as part of the *Building Code*.

ORS 455.475 is not part of this code but is reproduced here for the reader's convenience.

455.475 Appeal of decision of building official. A person aggrieved by a decision made by a building official under authority established pursuant to ORS 455.148, 455.150 or 455.467 may appeal the decision. The following apply to an appeal under this section:

- (1) An appeal under this section shall be made first to the appropriate specialty code chief inspector of the Department of Consumer and Business Services. The decision of the department chief inspector may be appealed to the appropriate advisory board. The decision of the advisory board may only be appealed to the Director of the Department of Consumer and Business Services if codes in addition to the applicable specialty code are at issue.
- (2) If the appropriate advisory board determines that a decision by the department chief inspector is a major code interpretation, then the inspector shall distribute the decision in writing to all applicable specialty code public and private inspection authorities in the state. The decision shall be distributed within 60 days after the board's determination, and there shall be no charge for the distribution of the decision. As used in this subsection, a "major code interpretation" means a code interpretation decision that affects or may affect more than one job site or more than one inspection jurisdiction.
- (3) If an appeal is made under this section, an inspection authority shall extend the plan review deadline by the number of days it takes for a final decision to be issued for the appeal.

SECTION R113 VIOLATIONS

R113.3 Prosecution of violation. If the notice of violation is not complied with in the time prescribed by such notice, the *building official* is authorized to request the legal counsel of the *municipality* to institute the appropriate proceeding at law ~~or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.~~

R113.2 Notice of violation. The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, *alteration*, extension, repair, moving, or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan *approved* thereunder, or in violation of a *permit* or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

R113.3 Prosecution of violation. If the notice of violation is not complied with in the time prescribed by such notice, the *building official* is authorized to request the legal counsel of the *municipality* to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

R113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the *approved construction documents* or directive

of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

R113.5 Penalties. Penalty amounts other than those described in Section R108.6 are limited by ORS 455.895. Local authority to levy penalties is limited to violations of code application only.

SECTION R114 STOP WORK ORDER

R114.1 Authority. Whenever the *building official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *building official* is authorized to issue a stop work order.

R114.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

R114.3 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

SECTION R115 REFABRICATED CONSTRUCTION

R115.1 General. See ORS 455.010 and OAR chapter 918, division 674.

ORS 455.010(6) is not part of this code but is reproduced here for the reader's convenience:

ORS 455.010(6) "Prefabricated structure" means a building or subassembly that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site. "Prefabricated structure" does not include a manufactured dwelling, recreational structure or recreational vehicle, as those terms are defined in ORS 446.003.

SECTION R116 SWIMMING POOLS, SPAS AND HOT TUBS

R116.1 General. Barrier provisions for swimming pools, spas and hot tubs are contained in Appendix G as amended.

R116.2 In-ground pools. In-ground pools shall be designed and constructed in accordance with ANSI/NSPI-5 as listed in Appendix G, ~~Section AG103.1.~~

SECTION R117 INSPECTION CARD

R117.1 Record required. The *permit* holder or *permit* holder's agent shall post the inspection record on the job site in an accessible and conspicuous place to allow the *building official* to make the required entries. The record shall be maintained by the *permit* holder until the final inspection has been made and *approved*. The *building official* may approve alternate inspection record policies.

SECTION R118 MOVED BUILDINGS

R118.1 Moved buildings. See ORS 455.410.

ORS 455.410 is not part of this code but is reproduced here for the reader's convenience:

455.410 Relocated buildings; substantial compliance required; permits.

- (1) Existing buildings or structures which are removed from their foundation and relocated to another site within this state shall be in substantial compliance as defined in subsections (2) and (3) of this section.
- (2) "Substantial compliance" means compliance with local construction codes in effect as of the original permit date of the building or structure, or where there was no permitting required at the time of original construction, with basic health and safety standards, as described in the closest dated *Uniform Housing Code*, as published by the International Conference of Building Officials as of the date of construction. Only the insulation, overhead and underneath the structure, shall be upgraded to the current insulation requirements of the state building code, or to the maximum extent possible subject to the design of the structure. Nothing in this statute shall be construed to mean that all heating, plumbing and electrical systems shall be replaced with systems meeting current standards for new construction, except that any life-threatening deficiencies in those systems shall be repaired, notwithstanding that the cost of rehabilitation may exceed 50 percent of the value of the structure before rehabilitation.
- (3) All foundation and basement construction on the structure and any remodeling at the new location shall be constructed subject to all applicable local current building and safety codes, or where none exist, with the applicable standards as described in the *Uniform Housing Code* described in subsection (2) of this section.
- (4) All moved houses shall be provided with either battery-operated or hard-wired smoke detection devices located in accordance with the provisions of the state building code.
- (5) Nothing in this section is intended to permit any person to move a structure unless the person first consults the appropriate building inspection authority and obtains all required permits.

SECTION R119 HISTORIC BUILDINGS

R119.1 Repairs, alterations and additions. Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of an historical building may be made without conforming to all of the requirements of this code when authorized by the *building official*, provided:

1. The building has been officially designated an historic building.
2. Unsafe conditions are corrected.
3. The restored building will be no more hazardous based on life, fire safety and sanitation than the existing building.
4. The *building official* seeks the advice of the State of Oregon Historic Preservation Office.

In the case of appeals related to historic buildings, the local appeals board or the appropriate state appeals board shall seek the advice of the state historic preservation officer.