

**Local code amendment request**

Opportunity for public input:

Those who would like to provide public testimony may attend a public hearing on November 18, 2008 at 10:30 a.m. The hearing will be located at the Building Codes Division, Conference Room A. Written comments may also be submitted to the contact below. The last day to submit written comments is 5:00 p.m. November 21, 2008.

Purpose of the rule:

This proposed rule implements ORS 455.040 by establishing a process municipalities must follow when adopting code requirements as local amendments.

This proposed rule would be effective January 1, 2009.

Citation:

Adopt: OAR 918-020-0370.

History:

The division needs to have a consistent process in place to accommodate municipalities seeking local amendments relating to the same matters covered by the state building code. Examples of such local amendments include energy efficiency, sustainability (green buildings), historic renovations, fire sprinklers and other code matters..

The division has been working on a consistent process for municipalities to follow when they request a local amendment. ORS 455.040 gives the director the authority to authorize municipalities to regulate matters related to the state building code by local amendment. A local amendment is applicable only in that municipality and not considered a statewide amendment to the state building code.

Live broadcast via the Internet:

This public hearing is being broadcast live at <http://bcd.oregon.gov/boards.html>

Contact:

If you have questions or need further information, please contact Hearing Officer Aeron Teverbaugh at 503-373-1354, or Aeron.Teverbaugh@state.or.us .



Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services, Building Codes Division	918	
Agency and Division	Administrative Rules Chapter Number	
Shauna M. Parker	PO Box 14470, Salem, OR 97309	(503) 373-7438
Rules Coordinator	Address	Telephone

RULE CAPTION

Outlines procedures for local municipalities requesting a local amendment to the state building code.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

November 18, 2008	10:30 a.m.	1535 Edgewater Street NW, Salem, OR 97304	Aeron Teverbaugh
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 918-020-0370

AMEND:

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 455.030

Other Auth.:

Stats. Implemented: ORS 455.040

RULE SUMMARY

Under ORS 455.040, the division may approve requests from municipalities for ordinances that represent local amendments to the state building code. These proposed rules establish a procedure for submission and approval of local municipal amendment requests.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Friday, November 21, 2008 by 5:00 p.m.

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Signature	Mark Long	Date
	Printed name	

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services, Building Codes Division

918

Agency and Division

Administrative Rules Chapter Number

Outlines procedures for local municipalities requesting a local amendment to the state building code.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Adopting 918-020-0370

Statutory Authority: ORS 455.030

Other Authority:

Stats. Implemented: ORS 455.040

Need for the Rule(s): Under ORS 455.040 the director of the Department of Consumer and Business Services may approve municipal ordinances that represent local amendments to the state building code. These proposed rules establish a procedure for submission and approval of local municipal amendment requests.

Documents Relied Upon, and where they are available: Residential Structures Board minutes from October 1, 2008; and draft rules are available from the division's rules coordinator located at 1535 Edgewater St. NW, Salem, Oregon, 97304 and are available on the division's web site: www.bcd.oregon.gov.

Fiscal and Economic Impact:

The department has determined this proposed rule will not have a fiscal or economic impact on state agencies, members of the public, or small businesses. There is the potential for minimum impact to local governments as they follow the procedures these proposed rules establish.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

These proposed rules implement a formal process where it was previously an informal one. There is a potential for local jurisdictions to incur costs drafting a proposed ordinance, holding a public hearing and drafting a report of the process. However, local amendment requests are optional and local jurisdictions would be required to prepare some type of request, at some potential cost, even without this proposed rule. There is no foreseeable impact on state agencies or members of the public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
The department has determined this proposed rule will not have a fiscal or economic impact on small businesses.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

These proposed rules impose no reporting, recordkeeping, administrative or other requirements on small businesses.

c. Equipment, supplies, labor and increased administration required for compliance:

The department has determined that there is no equipment, supplies or labor required of small business as a result of these rules.

How were small businesses involved in the development of this rule?

Small businesses are represented on the Residential Structures Board that reviewed the rules.

Administrative Rule Advisory Committee consulted?: No

If not, why?: The Residential Structures Board that reviewed the proposed rules represents a wide segment of industry.

Signature	Mark Long Printed name	Date
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Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Local Amendment Request Rules
Draft: 10-15-08

918-020-0370

Local Amendment Requests

(1) A local municipality may request under ORS 455.040 a local amendment relating to matters covered under the building code, by submitting to the director, in writing, a local amendment application. The application must include:

(a) The reason for the request;

(b) The name of, and contact information for, the building official responsible for submitting the request and enforcing and interpreting the local amendment if approved;

(c) A copy of the municipality's proposed local ordinance; and

(d) A copy of the report required by section (2)(c) of this rule.

(2) Prior to submitting a request for a local amendment under ORS 455.040, a municipality must:

(a) Provide for a public hearing or public meeting in the manner required by applicable municipal or state law;

(b) Address any substantive issues raised during the public input process; and

(c) Draft a report to the division. The report must:

(A) Summarize comments received;

(B) Outline the impacts of the local amendment; and

(C) Explain how the municipality responded to the concerns and issues raised during the public input period.

(3) Local amendments shall not contain clauses that would retain the remainder of the municipality's ordinance if one provision is disapproved by the director or is declared invalid by the court.

(4) Once the local amendment request is received, the director will review the request and municipality's proposed amendment, and either approve the proposed local amendment in whole or in part, or deny the request.

(5) Once the local amendment's provisions are approved by the director they cannot be changed. If a municipality wishes to change the provisions they must submit a new amendment request for the director's approval.

(6) Local amendments may be reviewed every three (3) years from the date of the director's approval.

(7) The building official for the municipality requesting the local amendment will be responsible for enforcing and interpreting the amendment once it is approved.

(8) The director may, upon written request, issue a directive to the building official to ensure that the local amendment is being administered according to the terms and conditions of the approval.

(9) The director reserves the right to terminate approval of the local amendment based on new information, including but not limited to, changes in technology, conflicts with model codes, changes in accepted practices under the applicable model codes, and failure of the building official to uphold the terms, conditions, or any directives related to the local amendment.

Stat. Auth. ORS 455.030

Stat. Implemented: ORS 455.040

Hist.: New