

## Chapter 1 Administration

**Section 101** is amended as follows:

**101.1 Title.** These regulations shall be known as the ***Oregon Mechanical Specialty Code*** of ~~[NAME OF JURISDICTION]~~, hereinafter referred to as this code.

**101.2 Scope.** This code shall regulate the design, installation, ~~maintenance~~, alteration and inspection of mechanical systems that are permanently installed, and **those systems** utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. **Mechanical equipment or systems not specifically addressed in this code shall be approved by the code official in accordance with Section 105.2.** The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems ~~shall be regulated by the *International Fuel Gas Code*.~~ **are found in Appendix C.**

**Exceptions: Structures regulated under the *Oregon Residential Specialty Code*.**

~~Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.~~

**ORS 455.020(1) is not part of this code but is reproduced here for the reader's convenience:**

**455.020 Purpose; scope of application. (1) This chapter is enacted to enable the Director of the Department of Consumer and Business Services to promulgate a state building code to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installation of mechanical devices and equipment therein, and to require the correction of unsafe conditions caused by earthquakes in existing buildings. The state building code shall establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of this state who are occupants and users of buildings, and will provide for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.**

**101.2.1 Appendices.** Provisions in the appendices shall not apply unless specifically adopted. **The State of Oregon does not adopt Appendices A and B. Appendix C is adopted.**

**101.3 Intent.** The purpose of this code is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction,

installation, ~~quality of materials~~ **and** ~~location operation and maintenance or use of mechanical systems.~~

**101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be ~~unconstitutional~~, **invalid**, such decision shall not affect the validity of the remaining portions of this code.

**Section 102** is amended as follows:

<p><b>Note:</b> Boilers and pressure vessels are also regulated by the State of Oregon Boiler and Pressure Law (ORS 480.510 to 480.665).</p>
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**102.2 Existing installations.** Except as otherwise provided for in this chapter, a provision in this code shall not require the removal, alteration or abandonment of, nor prevent the continued utilization and maintenance of **an existing** mechanical system lawfully in existence at the time of the adoption of this code.

**102.3 Maintenance. ~~Not adopted by the State of Oregon.~~** ~~Mechanical systems, both existing and new, and parts thereof shall be maintained in proper operating condition in accordance with the original design and in a safe and sanitary condition. Devices or safeguards which are required by this code shall be maintained in compliance with the code edition under which they were installed. The owner or the owner's designated agent shall be responsible for maintenance of mechanical systems. To determine compliance with this provision, the code official shall have the authority to require a mechanical system to be reinspected.~~

**102.5 Change in occupancy.** ~~It shall be unlawful to make a **No** change **shall be made** in the occupancy of any structure which will subject the structure to any special provision of this code applicable to the new occupancy without approval. The code official shall certify that such structure meets the intent of the provisions of law governing building construction for the proposed new occupancy and that such change of occupancy does not result in any hazard to the public health, safety or welfare. the Oregon Structural Specialty Code.~~

**102.7 Moved buildings.** Except as determined by Section 102.2, mechanical systems that are a part of buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code for new installations. **See ORS 455.410 for moved buildings.**

<p><b><u>ORS 455.410 is not a part of this code but is reproduced here for the reader's convenience:</u></b></p>
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<p><b><u>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.</u></b></p>
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<p><b><u>(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</u></b></p>
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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 with the appropriate building inspection authority and obtains all required permits.

#### 102.8 Referenced codes and standards.

102.8.1 Statutory References. This code is adopted pursuant to Oregon Revised Statutes. Where in any specific case this code and the statutes specify different requirements, the statute shall govern. Statutes related to this code are ORS 455.010 through 455.895 and ORS 447.210 through 447.310

102.8.2 Referenced Standards. The ~~codes and~~ standards referenced herein shall be those that are listed in Chapter 15 and such ~~codes and~~ standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

Statutes referenced may be obtained from the Building Codes Division, PO Box 14470, Salem OR 97309.-0404

~~102.9 Requirements not covered by this code.~~ Requirements necessary for the strength, stability or proper operation of an existing or proposed mechanical system, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

Section 103 is amended as follows:

~~103.1 General.~~ The department of mechanical inspection is hereby created and the executive official in charge thereof shall be known as the code official.

~~103.2 Appointment.~~ The code official shall be appointed by the chief appointing authority of the jurisdiction; and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

~~103.3 Deputies.~~ In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees.

~~103.4 103.1 Liability. See ORS 30.265 for regulations relating to liability.~~ The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

~~Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of mechanical inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.~~

**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 action or suit 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. The sole cause of action for any tort of 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 shall be an action against the public body only. The remedy provided by ORS 30.260 to 30.300 is exclusive of any other action or suit 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 or suit. No other form of civil action or suit shall be permitted. If an action or suit is filed against an officer, employee or agent of a public body, on appropriate motion the public body shall be substituted as the only defendant.**

**(2) 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.**

**(3) 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 for injury to or death of any person covered by any workers' compensation law.**

**(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.**

**(4) Subsection (1) of 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.**

**(5) Subsection (3)(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]**

**Section 104** is amended as follows:

**NOTE: Unless amended by a municipality under authority of ORS 455.020, or other wise noted below, This Section shall apply.**

**104.1 General.** The code official shall enforce the provisions of this code and shall act on any question relative to the installation, alteration or repair ~~maintenance or operation~~ of mechanical systems, except as otherwise specifically provided for by statutory requirements. ~~or as provided for in Sections 104.2 through 104.8.~~

**Note: Section 104.2 is not adopted by the State of Oregon.**

**104.2 Rule-making authority.** The code official shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

~~**104.4 Inspections.** The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All 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 code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.~~

~~**104.6 Identification.** The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.~~

~~**104.7 104.6 Notices and orders.** The code official shall issue all necessary notices or orders to ensure compliance with this code.~~

~~**104.8 104.7 Department records.** The code 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 Division 166, Chapter 300 for the cities and counties where the State of Oregon has jurisdiction. of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations~~

**Section 105** is amended as follows:

**Note: ORS 455.060 provides for state rulings on acceptable materials, design and methods of construction. When a ruling has been issued, ORS 455.060(4) applies.**

**ORS 455.060(4) 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.**

**(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 requirement of all other local ordinances are satisfied.**

**Section 106** is amended as follows:

**Note: Unless amended by a municipality, under authority of ORS 455.020, the following shall apply.**

**106.1 When required.** The code official shall issue all necessary notices or orders to ensure compliance with this code.

**See ORS 455.020(2)**

**Note: Unless amended by a municipality, under authority of ORS 455.020, the following shall apply.**

**106.3 Application for permit.** Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or an authorized agent. The permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure and shall contain such other information required by the code official.

**Exception: For those inspecting jurisdictions that may have adopted a master permit and/or minor label program under OAR Chapter 918, Division 100, different requirements may also apply.**

**106.3.1 Construction documents.** Construction documents, engineering calculations, diagrams and other data shall be submitted in two or more sets with each application for a permit. The code official shall require construction documents, computations and specifications to be prepared and designed by a registered design professional when required by state law. ~~Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a registered design professional.~~ Construction documents shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the work conforms to the provisions of this code. Construction documents for buildings more than two stories in height shall indicate where penetrations will be made for mechanical systems, ~~and the materials and methods for maintaining required structural safety, fire resistance rating and fireblocking.~~

**106.3.2 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 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.**

**Note: Unless amended by a municipality, under authority of ORS 455.020, the following shall apply.**

**106.4 Permit issuance.** The application, construction documents and other data filed by an applicant for a permit shall be reviewed by the code official. If the code official finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, and that the fees specified in Section 106.5 have been paid, a permit shall be issued to the applicant.

**Note: For those inspecting jurisdictions that may have adopted a master permit and/or minor label program different requirements may also apply.**

**106.4.1 Approved construction documents.** When the code official issues the permit where construction documents are required, the construction documents shall be endorsed in writing and stamped “APPROVED”. Such approved construction documents shall not be changed, modified or altered without authorization from the code official. Work shall be done in accordance with the approved construction documents.

The code official shall have the authority to issue a permit for the construction of part of a mechanical system before the construction documents for the entire system have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of such permit shall proceed at his or her own risk without assurance that the permit for the entire mechanical system will be granted.

**106.4.4 Extensions.** A permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. A permit shall not be extended more than once. ~~The fee for an extension shall be one half the amount required for a new permit for such work.~~

**106.4.6 Retention of construction documents.** One set of construction documents shall be retained by the code 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 Division 166, Chapter 300 for the jurisdictions where the State of Oregon has jurisdiction.** ~~until final approval of the work covered therein.~~ One set of approved construction documents shall be returned to the applicant, and said set shall be kept on the site of the building or job at all times during which the work authorized thereby is in progress.

**Note: Unless amended by a municipality, under authority of ORS 455.020, the following shall apply.**

**106.5 Fees.** A permit shall not be issued until the fees prescribed in Section 106.5.2 have been paid, nor shall an amendment to a permit be released until the additional fee, if any, due to an increase of the mechanical system, has been paid.

**106.5.2 Fee schedule.** The fees for mechanical work shall be as indicated in the following schedule.

**Note: Mechanical permit fees are adopted as fees for the Building Codes Division as required by ORS 455.210. Oregon municipalities may adopt their own fees according to ORS 455.150 and 455.210.**

**Table 1-A**  
**MECHANICAL PERMIT FEES**

<b><u>PERMIT ISSUANCE</u></b>	
1. For the issuance of each permit	<u>\$13.00</u>
2. For issuing each supplemental permit	<u>3.90</u>
<b><u>UNIT FEE SCHEDULE</u></b>	
1. For the installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance, up to and including 100,000 Btu/h (29.3 kW)	<u>7.80</u>
2. For the installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance over 100,000 Btu/h (29.3 kW)	<u>9.75</u>
3. For the installation or relocation of each floor furnace, including vent	<u>7.80</u>
4. For the installation or relocation of each suspended heater, recessed wall heater or floor-mounted unit heater	<u>7.80</u>
5. For the installation, relocation or replacement of each appliance vent installed and not included in an appliance permit	<u>3.90</u>
6. For the repair of, alteration of, or addition to each heating appliance, refrigeration unit, cooling unit, absorption unit or each heating, cooling, absorption, or evaporative cooling system, including installation of controls regulated by this code	<u>7.80</u>
7. For the installation or relocation of each compressor to and including three horsepower (10.6 kW), or each absorption system to and including 100,000 Btu/h (29.3kW)	<u>7.80</u>
8. For the installation or relocation of each compressor over three horsepower (10.6 kW), to and including 15 horsepower (52.7 kW), or each absorption system over 100,000 Btu/h (29.3 kW) to and including 500,000 Btu/h (146.6 kW)	<u>14.30</u>
9. For the installation or relocation of each compressor over 15 horsepower (52.7 kW) to and including 30 horsepower (105.5 kW), or each absorption system over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW)	<u>19.50</u>
10. For the installation or relocation of each compressor over 30 horsepower (105.5 kW) to and including 50 horsepower (176 kW), or for each absorption system over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW)	<u>29.25</u>
11. For the installation or relocation of each refrigeration compressor over 50 horsepower (176 kW), or each absorption system over 1,750,000 Btu/h (512.9 kW)	<u>48.75</u>
12. For each air-handling unit to and including 10,000 cubic feet per minute (4720 L/s), including ducts attached thereto	<u>5.85</u>
<b><u>(Note: This fee shall not apply to an air-handling unit which is a portion of a factory-assembled appliance, cooling unit, evaporative cooler or absorption unit for which a permit is required elsewhere in this code.)</u></b>	
13. For each air-handling unit exceeding 10,000 cfm (4720 L/s)	<u>9.75</u>
14. For each evaporative cooler other than portable type	<u>5.85</u>
15. For each ventilation fan connected to a single duct	<u>3.90</u>
16. For each ventilation system which is not a portion of any heating or air-conditioning system authorized by a permit	<u>5.85</u>
17. For the installation of each hood which is served by mechanical exhaust,	<u>5.85</u>

<u>including the ducts for such hood</u>	
<u>18. For the installation or relocation of each domestic-type incinerator</u>	<u>9.75</u>
<u>19. For the installation or relocation of each commercial or industrial-type incinerator</u>	<u>39.00</u>
<u>20. For each appliance or piece of equipment regulated by this code, but not classed in other appliance categories or for which no other fee is listed in this code</u>	<u>5.85</u>
<u>21. Permit fees for fuel-gas piping shall be as follows:</u>	
<u>For each gas-piping system of one to four outlets</u>	<u>2.60</u>
<u>For each gas-piping system of five or more outlets, per outlet</u>	<u>0.65</u>
<b><u>OTHER INSPECTIONS AND FEES</u></b>	
<u>1. Inspections outside normal business hours (minimum charge 2 hours)</u>	<u>\$19.50 / hour</u>
<u>2. Reinspection fees assessed under provisions of Section 107.2.3</u>	<u>19.50 each</u>
<u>3. Inspections for which no fee is specifically indicated (minimum charge ½ hour)</u>	<u>19.50 / hour</u>
<u>4. Additional plan review required by changes, additions, or revisions to approved plans (minimum charge ½ hour)</u>	<u>19.50 / hour</u>

**Note: Section 105.3 is not adopted by the State of Oregon.**

**106.5.3 Fee refunds.** The code official shall authorize the refunding of fees as follows.

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than [SPECIFY PERCENTAGE] percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than [SPECIFY PERCENTAGE] percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

**106.5.4 Plan review fees. When a plan or other data is required to be submitted by Section 106.3.1, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fees for mechanical work shall be equal to 25 percent of the total permit fee as set forth in Table 1-A.**

**106.5.4.1 Separate fees for plan review. The plan review fees specified in this section are separate fees from the permit fees specified in Section 106.5.2 and are in addition to the permit fees.**

**106.5.4.2 Incomplete or changed plans. When plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged at the rate shown in Table 1-A.**

**Section 107** amend as follows:

~~**107.1.1 Approved inspection agencies.** The code official shall accept reports of approved agencies, provided that such agencies satisfy the requirements as to qualifications and reliability.~~

~~**107.1.2 Evaluation and follow-up inspection services.** Prior to the approval of a prefabricated construction assembly having concealed mechanical work and the issuance of a mechanical permit, the code official shall require the submittal of an evaluation report on each prefabricated construction assembly, indicating the complete details of the mechanical system, including a description of the system and its components, the basis upon which the system is being evaluated, test results and similar information, and other data as necessary for the code official to determine conformance to this code.~~

~~**107.1.2.1 Evaluation service.** The code official shall designate the evaluation service of an approved agency as the evaluation agency, and review such agency's evaluation report for adequacy and conformance to this code.~~

~~**107.1.2.2 Follow-up inspection.** Except where ready access is provided to mechanical systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the code official shall conduct the in-plant inspections as frequently as necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the code official with the follow up inspection manual and a report of inspections upon request, and the mechanical system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.~~

~~**107.1.2.3 Test and inspection records.** Required test and inspection records shall be available to the code official at all times during the fabrication of the mechanical system and the erection of the building; or such records as the code official designates shall be filed.~~

**107.3 Contractor responsibilities. It shall be the responsibility of every contractor who enters into contracts for the installation or repair of mechanical systems for which a permit is required to comply with adopted state and local rules and regulations concerning licensing and permits.**

**Section 108** amend as follows:

**108.1 Unlawful Prohibited acts are as described in ORS 455.450.** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a mechanical system, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

**ORS 455.450 is not part of this code but is reproduced here for the reader's convenience:**

**455.450 Prohibited acts. A person shall not:**

**(1) Violate or procure, aid or abet in the violation of any final order concerning the application of a provision of the state building code in a particular case made by the Director of the Department of Consumer and Business Services, an advisory board, a state administrative officer or any local appeals board, building official or inspector.**

**(2) Engage in or procure, aid or abet any other person to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by any specialty code or other regulation promulgated pursuant to this chapter without first having obtained such permit, certificate, label or other formal authorization.**

**108.2 Notice of violation.** The code official shall serve a notice of violation or order to the person responsible for the erection, installation, alteration, extension or repair, ~~removal or demolition~~ of mechanical work in violation of the provisions of this code, or in violation of a detail statement or the approved construction documents thereunder, or in violation of a permit or certificate issued under the provisions of this code. The code official shall serve a notice of violation or order to the person responsible for the erection, installation, alteration, extension or repair, ~~removal or demolition~~ of mechanical work in violation of the provisions of this code, or in violation of a detail statement or the approved construction documents 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.

~~**108.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction 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 structure in violation of the provisions of this code or of the order or direction made pursuant thereto.~~

~~**108.4 108.3 Violation penalties.**~~

~~**108.3.1 General** Persons who shall violate a provision of this code or shall fails to comply with any of the requirements thereof or who shall erects, installs, alters or repairs mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall may be subject to penalties as prescribed by law. guilty of a ~~[SPECIFY OFFENSE]~~, punishable by a fine of not more than ~~[AMOUNT]~~ dollars or by imprisonment not exceeding ~~[NUMBER OF DAYS]~~, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.~~

**108.3.2 Penalties.** Penalties for violations are prescribed in ORS 455.895 or as adopted by the municipality having authority. Local authority to levy penalties is limited to violations of code application only, unless authorized as an agent under ORS 455.156.

ORS 455.895 and 455.156 are not part of this code but are reproduced here for the reader's convenience:

455.895 Civil penalties.

(1)(a) The State Plumbing Board may impose a civil penalty against a person as provided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS 693.165.

(b) The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

(c) The Board of Boiler Rules may impose a civil penalty against a person as provided under ORS 480.670. Amounts recovered under this paragraph shall be deposited to the General Fund.

(2) The Director of the Department of Consumer and Business Services, in consultation with the appropriate board, if any, may impose a civil penalty against any person who violates any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693, or any rule adopted or order issued for the administration and enforcement of those provisions. Except as provided in subsections (3) and (8) of this section or ORS 446.995, a civil penalty imposed under this section must be in an amount determined by the appropriate board or the director of not more than \$5,000 for each offense or, in the case of a continuing offense, not more than \$1,000 for each day of the offense.

(3) Each violation of ORS 446.003 to 446.200 or 446.225 to 446.285, or any rule or order issued thereunder, constitutes a separate violation with respect to each manufactured structure or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed \$1 million for any related series of violations occurring within one year from the date of the first violation.

(4) The maximum penalty established by this section for a violation may be imposed only upon a finding that the person has engaged in a pattern of violations. The Department of Consumer and Business Services, by rule, shall define what constitutes a pattern of violations. Except as provided in subsections (1) and (9) of this section, moneys received from any civil penalty under this section are appropriated continuously for and shall be used by the director for enforcement and administration of provisions and rules described in subsection (2) of this section.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(6) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the director or the appropriate board considers proper and consistent with the public health and safety. In any judicial review of a civil penalty imposed under this section, the court may, in its discretion, reduce the penalty.

(7) Any officer, director, shareholder or agent of a corporation, or member or agent of a partnership or association, who personally participates in or is an accessory to any violation by the partnership, association or corporation of a provision or rule described in subsection (2) of this section is subject to the penalties prescribed in this section.

(8) In addition to the civil penalty set forth in subsection (1) or (2) of this section, any person who violates a provision or rule described in subsection (2) of this section may be

required by the director or the appropriate board to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the director or board that shall not exceed five times the amount by which such person profited in any transaction that violates a provision or rule described in subsection (2) of this section.

455.156 Municipal investigation and enforcement of certain violations; notice of civil penalty; department to develop programs; defense for violation of building inspection program. (1) Notwithstanding any other provision of this chapter, ORS chapter 693 or ORS 447.010 to 447.156, 447.992, 479.510 to 479.945, 479.990 or 479.995, the Department of Consumer and Business Services shall carry out the provisions of this section.

(2)(a) A municipality that establishes a building inspection program under ORS 455.148 or a plumbing inspection program under ORS 455.150 covering installations under the plumbing specialty code or Low-Rise Residential Dwelling Code may act on behalf of the State Plumbing Board to investigate violations of and enforce ORS 447.040, 693.030 and 693.040 and to issue notices of proposed assessment of civil penalties for those violations.

(b) A municipality that establishes a building inspection program under ORS 455.148 or an electrical inspection program under ORS 455.150 covering installations under the electrical specialty code or Low-Rise Residential Dwelling Code may act on behalf of the Electrical and Elevator Board to investigate violations of and enforce ORS 479.550 (1) and 479.620 and to issue notices of proposed assessment of civil penalties for those violations.

(c) A municipality that establishes a building inspection program under ORS 455.148 or 455.150 may investigate violations and enforce any provisions of the program administered by the municipality.

(3) The department shall establish:

(a) Procedures, forms and standards to carry out the provisions of this section, including but not limited to creating preprinted notices of proposed assessment of penalties that can be completed and served by municipal inspectors;

(b) A program to provide that all of the moneys recovered by the department, less collection expenses, be paid to the municipality that initiated the charges when a person charged with a violation as provided in subsection (2) of this section, other than a violation of a licensing requirement, agrees to the entry of an assessment of civil penalty or does not request a hearing, and an order assessing a penalty is entered against the person;

(c) A uniform citation process to be used in all jurisdictions of the state for violation of a licensing requirement. The process may include but need not be limited to all program areas administered by a municipality under ORS 455.148 or 455.150 and may provide a uniform method for checking license status and issuing citations for violation of a licensing requirement, and a consistent basis for enforcement of licensing requirements and treatment of violations, including fine amounts;

(d) A program to provide a division of the moneys recovered by the department with the municipality that initiated the charges, when a person charged with a violation as provided in subsection (2) of this section, other than a violation of a licensing requirement, requests a hearing and is assessed a penalty. One-half of the amounts recovered shall be paid to the municipality. The department shall keep an amount equal to its costs of processing the proceeding and collection expenses out of the remaining one-half and remit the balance, if any, to the municipality; and

(e) A program to require municipalities to investigate violations of the department's

permit requirements for plumbing installations and services under the plumbing specialty code and for plumbing and electrical installations and services under the Low-Rise Residential Dwelling Code, and to:

(A) Initiate notices of proposed assessment of civil penalties as agents of the boards designated in subsection (2) of this section; and

(B) Pay the agents of the boards out of net civil penalty recoveries as if the recoveries were under paragraphs (b) and (d) of this subsection.

(4) The assessment of a civil penalty under this section by a municipality is subject to the amount limitations set forth in ORS 455.895.

(5)(a) It shall be a defense for any person charged with a penalty for violation of a building inspection program permit requirement covering plumbing installations under the plumbing specialty code, electrical permit requirements under ORS 479.550 or plumbing or electrical requirements under the Low-Rise Residential Dwelling Code that the person was previously penalized for the same occurrence.

(b) A building inspection program permit requirement is a requirement contained in a specialty code or municipal ordinance or rule requiring a permit before the particular installations covered by the codes are commenced.

(c) A penalty for the same occurrence includes a combination of two or more of the following that are based on the same plumbing or electrical installation:

(A)(i) An investigative or other fee added to an electrical permit fee when a permit was obtained after the electrical installation was started;

(ii) A civil penalty pursuant to ORS 479.995 for violation of ORS 479.550 for failure to obtain an electrical permit;

(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain an electrical permit under the Low-Rise Residential Dwelling Code; or

(iv) A municipal penalty, other than an investigative fee, for making an electrical installation under the electrical specialty code or the Low-Rise Residential Dwelling Code without a permit; or

(B)(i) An investigative or other fee added to a plumbing permit fee when a permit was obtained after the plumbing installation was started;

(ii) A civil penalty pursuant to ORS 447.992 for failure to obtain a plumbing permit as required under the plumbing specialty code;

(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain a plumbing permit under the Low-Rise Residential Dwelling Code; or

(iv) A municipal penalty, other than an investigative fee, for making a plumbing installation under the plumbing specialty code or the Low-Rise Residential Dwelling Code without a permit.

~~108.5 108.4 Stop work orders. .... Any person who shall continue any work on the system 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 **may** be liable for a fine. ~~of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.~~~~

~~108.6 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent~~

~~unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the mechanical system on or about any premises.~~

~~**108.7 Unsafe mechanical systems.** A mechanical system that is unsafe, constitutes a fire or health hazard, or is otherwise dangerous to human life, as regulated by this code, is hereby declared as an unsafe mechanical system. Use of a mechanical system regulated by this code constituting a hazard to health, safety or welfare by reason of inadequate maintenance, dilapidation, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Such unsafe equipment and appliances are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.~~

~~**108.7.1 Authority to condemn mechanical systems.** Whenever the code official determines that any mechanical system, or portion thereof, regulated by this code has become hazardous to life, health, property, or has become insanitary, the code official shall order in writing that such system either be removed or restored to a safe condition. A time limit for compliance with such order shall be specified in the written notice. A person shall not use or maintain a defective mechanical system after receiving such notice.~~

~~When such mechanical system is to be disconnected, written notice as prescribed in Section 108.2 shall be given. In cases of immediate danger to life or property, such disconnection shall be made immediately without such notice.~~

~~**108.7.2 Authority to order disconnection of energy sources.** The code official shall have the authority to order disconnection of energy sources supplied to a building, structure or mechanical system regulated by this code, when it is determined that the mechanical system or any portion thereof has become hazardous or unsafe. Written notice of such order to disconnect service and the causes therefor shall be given within 24 hours to the owner and occupant of such building, structure or premises, provided, however, that in cases of immediate danger to life or property, such disconnection shall be made immediately without such notice. Where energy sources are provided by a public utility, the code official shall immediately notify the serving utility in writing of the issuance of such order to disconnect.~~

~~**108.7.3 Connection after order to disconnect.** A person shall not make energy source connections to mechanical systems regulated by this code which have been disconnected or ordered to be disconnected by the code official, or the use of which has been ordered to be discontinued by the code official until the code official authorizes the reconnection and use of such mechanical systems.~~

~~When a mechanical system is maintained in violation of this code, and in violation of a notice issued pursuant to the provisions of this section, the code official shall institute appropriate action to prevent, restrain, correct or abate the violation.~~

**Section 109** amend as follows:

**109.1 General. Application for appeal.** A person shall have the right to appeal a decision of the code official to the board of appeals. 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 application shall be filed on a form obtained from the code official within 20 days after the notice was served. **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 local jurisdiction shall establish an appeals procedure.**

**109.2.1.1 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. An appeals board,** The board of appeals **when appointed,** shall have no authority relative to interpretation of the administration of this code nor shall such board be empowered to waive requirements of this code.

**109.3 Appeal of decision of Building Official.** **ORS 455.475 provides an alternative appeals process to that set forth by the local municipality.**

**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.**

**109.2 Membership of board.** The board of appeals shall consist of five members appointed by the chief appointing authority as follows: one for five years; one for four years; one for three years; one for two years; and one for one year. Thereafter, each new member shall serve for five years or until a successor has been appointed.

**109.2.1 Qualifications.** The board of appeals shall consist of five individuals, one from each of the following professions or disciplines:

- ~~1. Registered design professional who is a registered architect; or a builder or superintendent of building construction with at least ten years' experience, five of which shall have been in responsible charge of work.~~
- ~~2. Registered design professional with structural engineering or architectural experience.~~
- ~~3. Registered design professional with mechanical and plumbing engineering experience; or a mechanical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.~~

~~4. Registered design professional with electrical engineering experience; or an electrical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.~~

~~5. Registered design professional with fire protection engineering experience; or a fire protection contractor with at least ten years' experience, five of which shall have been in responsible charge of work.~~

~~**109.2.2 Alternate members.** The chief appointing authority shall appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.~~

~~**109.2.3 Chairman.** The board shall annually select one of its members to serve as chairman.~~

~~**109.2.4 Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.~~

~~**109.2.5 Secretary.** The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.~~

~~**109.2.6 Compensation of members.** Compensation of members shall be determined by law.~~

~~**109.3 Notice of meeting.** The board shall meet upon notice from the chairman, within ten days of the filing of an appeal, or at stated periodic meetings.~~

~~**109.4 Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.~~

~~**109.4.1 Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.~~

~~**109.5 Postponed hearing.** When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~

~~**109.6 Board decision.** The board shall modify or reverse the decision of the code official by a concurring vote of three members.~~

~~**109.6.1 Resolution.** The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official.~~

~~**109.6.2 Administration.** The code official shall take immediate action in accordance with the decision of the board.~~

~~**109.7 Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.~~