

**DIVISION 20
DELEGATION OF PROGRAMS TO
LOCAL JURISDICTIONS**

918-020-0010**Relationship of Delegation Rules to Statute**

These rules establish standards for:

(1) A procedure for cooperation between local municipalities and the Oregon State Fire Marshal; and

(2) The notice of assumption of any portion of the plan review program, required by ORS 455.148 and 455.150, and shall include a procedure for cooperation with the State Fire Marshal or the State Fire Marshal's designee, to consider a uniform fire code in the plan review process.

Stat. Auth.: ORS 455.150

Stats. Implemented: ORS 455.150

Hist.: BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 16-2002, f. & cert. ef. 7-1-02

918-020-0015**Definitions**

For the purpose of these rules, "Full-service program" means a building inspection program that assumes administration and enforcement of all of the specialty code programs listed in ORS 455.148(1).

Stat. Auth.: ORS 455.148 & 455.150

Stats. Implemented: ORS 455.148 & 455.150

Hist.: BCD 16-2002, f. & cert. ef. 7-1-02

918-020-0020**Cooperation with Other Agencies**

(1) Each municipality assuming any portion of the plan review program shall, with the notice of program assumption, include a procedure for communication and cooperation with the State Fire Marshal or the Fire Marshal's certified designee. The procedure shall provide the Fire Marshal an opportunity to examine construction plans for those buildings that the Fire Marshal inspects for occupancy standards under ORS 476.030. If a procedure is not adopted and signed by both the building official and the State Fire Marshal or the Fire Marshal's certified designee, the request for program assumption shall include the following minimum provisions for notice to the Fire Marshal:

(a) The time and place where construction plans and specifications will be available;

(b) The proposed type of building construction and occupancy;

(c) Any changes from the fire and life safety standards of the applicable code proposed as alternate methods of construction; and

(d) Any procedure or agreement which may shorten or eliminate the time the construction plans and specifications may be available for examination.

(2) The procedure shall establish a reasonable time limit for comment by the Fire Marshal.

Stat. Auth.: ORS 455.150

Stats. Implemented: ORS 455.150

Hist.: BCD 4-1994, f. 2-25-94, cert. ef. 3-1-94; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98

918-020-0070**Purpose and Scope**

(1) OAR 918, division 020 interprets and applies ORS 455.148 to 455.210. ORS 455.148 and 455.150 provide that municipalities that administer and enforce building inspection programs may do so for a period of four years. A building inspection program is limited to the administration and enforcement of those specialty code programs assumed by a municipality under ORS 455.148, 455.150 and 479.855. 455.148 and 455.150 authorize the department to adopt rules to adjust time periods for administration of building inspection programs to allow for variations in the needs of the department and participants. ORS 455.148 and 455.150 authorize the department to adopt rules regulating municipal administration and enforcement of building inspection programs including, but not limited to:

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

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

(c) Reviewing procedures and program operations of municipalities;

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

(e) Creating standards for justifying building inspection program fees adopted by a municipality; and

(f) Creating standards to determine whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program or part of the program throughout the county, if another municipality is allowed to provide a building inspection program or part of a building inspection program within the same county.

(2) The purpose of these rules is to encourage municipalities to assume responsibility for the administration and enforcement of building inspection programs to the fullest possible extent. Each municipality is responsible for developing an independent operating plan that describes the manner in which the municipality will administer and enforce its building inspection program. Municipalities are encouraged to develop operating plans that meet the identified needs of their individual communities. The intent of the division is to cooperate with municipalities to obtain and maintain authority to administer and enforce efficient, effective, timely and acceptable building inspection programs.

(3) For the purpose of these rules, "reporting period" means a four-year period during which a municipality administers and enforces a building inspection program pursuant to an approved operating plan.

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 455.148, 455.150 & 455.210
 Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-96; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 11-2000, f. 6-23-00, cert. ef. 7-1-00; BCD 10-2002(Temp), f. 5-14-02, cert. ef. 5-15-02 thru 11-10-02; BCD 16-2002, f. & cert. ef. 7-1-02; BCD 29-2002, f. & cert. ef. 10-1-02

918-020-0080

Delegation of Building Inspection Programs

The division and every municipality that administers and enforces a building inspection program or desires to assume responsibility to administer and enforce a building inspection program shall prepare an operating plan describing the manner in which the municipality or the division will do so. The operating plan shall establish specific processes and goals, consistent with the program standards described in ORS 455.153 and OAR 918-020-0090.

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 455.150
 Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-96; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 16-2002, f. & cert. ef. 7-1-02

918-020-0090

Program Standards

The division and every municipality that administers and enforces a building inspection program shall establish and maintain the minimum standards, policies and procedures set forth in this section.

(1) Administrative Standards. A building inspection program shall:

(a) Provide adequate funds, equipment and other resources necessary to administer and enforce the building inspection program in conformance with an approved operating plan;

(b) Document in writing the authority and responsibilities of the building official, plan reviewers and inspectors based on an ordinance or resolution that authorizes the building official on behalf of the municipality to administer and enforce a building inspection program;

(c) Establish a local process to review appeals of technical and scientific determinations made by the building official regarding any provision of the specialty codes the municipality administers and enforces, to include a method to identify the local building official or designee and notify the aggrieved persons of the provisions of ORS 455.475;

(d) Account for all revenues collected and expenditures made relating to administration and enforcement of the building inspection program, and account for the electrical program revenues and expenditures separately when administered by the municipality.

(A) Prepare income and expense projections for each code program it will administer and enforce during the reporting period; and

(B) Describe how general administrative overhead costs and losses or surpluses, if any, will be allocated.

(e) Establish policies and procedures for the retention and retrieval of records relating to the administration and enforcement of the specialty codes it administers and enforces;

(f) Make its operating plan available to the public;

(g) Establish a process to receive public inquiries, comments and complaints;

(h) Adopt a process to receive and respond to customers' questions regarding permitting, plan review and inspections;

(i) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will receive and respond to customers' questions;

(j) Post its jurisdictional boundary, types of permits sold and hours of operation at each permit office it operates; and

(k) Identify all persons in addition to the building official to whom notices issued pursuant to these rules should be sent.

(2) Permitting Standards. A building inspection program shall:

(a) Provide at least one office within its jurisdictional boundary where permits may be purchased;

(b) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will make permits available for purchase;

(c) Establish policies and procedures for receiving permit applications, determining whether permit applications are complete and notifying applicants what information, if any, is required to complete an application;

(d) Set reasonable time periods within which the municipality will:

(A) Advise permit applicants whether an application is complete or requires additional information; and

(B) Generally issue a permit after an application has been submitted and approved.

(e) Establish policies and procedure for issuing permits not requiring plan review, emergency permits, temporary permits, master permits and minor labels;

(f) Provide a means to receive permit applications via facsimile; and

(g) Require proof of licensing, registration and certification of any person who proposes to engage in any activity regulated by ORS Chapters 446, 447, 455, 479, 693 and 701 prior to issuing any permit.

(3) Plan Review Standards. A building inspection program shall:

(a) Establish policies and procedures for its plan review process to:

(A) Assure compliance with the specialty codes it is responsible for administering and enforcing, including any

current interpretive rulings adopted pursuant to ORS 455.060 or 455.475;

(B) Make available checklists or other materials at each permitting office it operates that reasonably apprise persons of the information required to constitute a complete permit application or set of plans;

(C) Inform applicants within three working days of receiving an application, whether or not the application is complete and if it is for a simple residential plan. For the purposes of this rule and ORS 455.467, a "complete application" shall be defined by the division taking into consideration the regional procedures in OAR chapter 918, division 50. If deemed a simple residential plan, the jurisdiction shall also inform the applicant of the time period in which the plan review will generally be completed;

(D) Establish a process that includes phased permitting and deferred submittals for plan review of commercial projects for all assumed specialty codes, taking into consideration the regional procedures in OAR chapter 918, division 50. The process shall not allow a project to proceed beyond the level of approval authorized by the building official. The process shall:

(i) Require the building official to issue permits in accordance with the state building code as defined in ORS 455.010 provided that adequate information and detailed statements have been submitted and approved with pertinent requirements of the appropriate code. Permits may include, but not be limited to: excavation, shoring, grading and site utilities, construction of foundations, structural frame, shell or any other part of a building or structure.

(ii) Allow deferred submittals to be permitted within each phase with the approval of the building official; and

(iii) Require the applicant to be notified of the estimated timelines for phased plan reviews and that the applicant is proceeding without assurance that a permit for the entire structure will be granted when a phased permit is issued.

(E) Verify that all plans have been stamped by a registered design professional and licensed plan reviewer where required;

(F) Verify for those architects and engineers requesting the use of alternative one and two family dwelling plan review program that all plans have been stamped by a registered professional who is also a residential plans examiner certified under OAR 918-098-0240. This process shall require the building official to:

(i) Establish policies and procedures in their operating plan for this process;

(ii) Waive building inspection program plan review requirements for conventional light frame construction for detached one and two family dwellings; and

(iii) Establish an appropriate fee for processing plans submitted under this rule.

(b) Employ or contract with a person licensed, registered or certified to provide consultation and advice on plan reviews as deemed necessary by the building official based on the complexity and scope of its customers' needs;

(c) Maintain a list of all persons it employs or contracts with to provide plan review services including licenses, registrations and certifications held by each plan reviewer and evidence of compliance with all applicable statutory or professional continuing education requirements;

(d) Designate at least three licensed plan reviewers from whom the municipality will accept plan reviews when the time periods in subsection (e) of this section cannot be met; and

(e) Allow an applicant to use a plan reviewer licensed under OAR 918-090-0210 and approved by the building official when the time period for review of "simple one- or two-family dwelling plans" exceeds 10 days where the population served is less than 300,000, or 15 days where the population served is 300,000 or greater.

(4) For the purposes of these rules, "simple one- or two-family dwelling plans" shall:

(a) Comply with the requirements for prescriptive construction under the One-and Two-Family Dwelling Specialty Code; or

(b) Comply with the Oregon Manufactured Dwelling and Park Specialty Code; and

(c) Be a structure of three stories or less with an enclosed total floor space of 4,500 square feet or less, inclusive of multiple stories and garage(s).

(5) "Simple one- or two-family dwelling plans" may:

(a) Include pre-engineered systems listed and approved by nationally accredited agencies in accordance with the appropriate specialty code, or by state interpretive rulings approved by the appropriate specialty board, that require no additional analysis; and

(b) Be designed by an architect or engineer and be considered a simple one- and two-family dwelling if all other criteria in this rule are met.

(6) The following shall be considered "simple one- or two-family dwelling plans":

(a) Master plans approved by the authority having jurisdiction or under ORS 455.685, which require no additional analysis; and

(b) Plans that include an engineering soil report if the report allows prescriptive building construction and requires no special systems or additional analysis.

(7) A plan that does not meet the definition of "simple" in this rule shall be deemed "complex". In order to provide timely customer service, a building official may accept a plan review performed by a licensed plan reviewer for a complex one- or two-family dwelling.

(8) Inspection Standards. A building inspection program shall:

(a) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will provide inspection services or alternative inspection schedules agreed to by the municipality and permittee;

(b) Unless otherwise specified by statute or specialty code, establish reasonable time periods when inspection services will be provided following requests for inspections;

(c) Establish policies and procedures for inspection services;

(d) Leave a written copy of the inspection report on site;

(e) Make available any inspection checklists;

(f) Maintain a list of all persons it employs or contracts with to provide inspection services including licenses, registrations and certifications held by persons performing inspection services and evidence of compliance with all applicable statutory or professional continuing education requirements;

(g) Vest the building official with authority to issue stop work orders for failure to comply with the specialty codes the municipality is responsible for administering and enforcing; and

(h) Require inspectors to perform license enforcement inspections as part of routine installation inspections.

(i) Where a municipality investigates and enforces violations under ORS 455.156 or in accordance with the municipality's local compliance program, the municipality's inspectors shall require proof of compliance with the licensing, permitting, registration and certification requirements of persons engaged in any activity regulated by ORS Chapters 446, 447, 455, 479, 693 and 701. Inspectors shall report any violation of a licensing, permitting, registration or certification requirement to the appropriate enforcement agency.

(9) Compliance Programs. A municipality administering a building inspection program may enact local regulations to create its own enforcement program with local procedures and penalties; utilize the division's compliance program by submitting compliance reports to the division; elect to act as an agent of a division board pursuant to ORS 455.156; or develop a program that may include, but not be limited to, a combination thereof. A building inspection program shall establish in its operating plan:

(a) Procedures to respond to public complaints regarding work performed without a license or permit or in violation of the specialty codes the municipality is responsible for administering and enforcing;

(b) Procedures requiring proof of licensure for work being performed under the state building code utilizing the approved citation process and procedures in OAR 918-020-0091.

(c) Policies and procedures to implement their compliance program;

(d) Policies and procedures regarding investigation of complaints, where the municipality chooses to investigate and enforce violations pursuant to ORS 455.156; and

(e) Policies and procedures regarding issuance of notices of proposed assessments of civil penalties,

where the municipality chooses to act as an agent of a board pursuant to ORS 455.156. Penalties under such a program are subject to the limitations set in ORS 455.156 and 455.895.

(10) Electrical Programs. Municipalities that administer and enforce an electrical program shall demonstrate compliance with all applicable electrical rules adopted pursuant to ORS 479.855.

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

Stat. Auth.: ORS 455.030, 455.467, 455.469 & 455.156
Stats. Implemented: ORS 455.150, 455.467, 455.469 & 455.156

Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-96; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 11-2000, f. 6-23-00, cert. ef. 7-1-00; BCD 10-2002(Temp), f. 5-14-02, cert. ef. 5-15-02 thru 11-10-02; BCD 16-2002, f. & cert. ef. 7-1-02; BCD 27-2002, f. & cert. ef. 10-1-02; BCD 6-2004, f. 5-21-04, cert. ef. 7-1-04; BCD 11-2004, f. 8-13-04, cert. ef. 10-1-04; 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 31-2005, f. 12-30-05, cert. ef. 1-1-06

918-020-0091

Citation Process for Licensing Violations

Municipalities must use the forms and procedures approved by the division.

Stat. Auth.: ORS 455.030 & 455.156

Stats. Implemented: ORS 455.156

Hist.: BCD 6-2004, f. 5-21-04, cert. ef. 7-1-04

918-020-0094

Program Assumption for State-Administered Jurisdictions

A municipality that requests responsibility for the administration and enforcement of a building inspection program administered by the division must meet the requirements for assumption in ORS 455.148(7) and (11)(c).

Stat. Auth.: ORS 455.148

Stats. Implemented: ORS 455.148

Hist.: BCD 11-2007(Temp), f. & cert. ef. 11-15-07 thru 4-1-08; BCD 12-2007, f. 12-28-07, cert. ef. 1-1-08

918-020-0095

Program Assumption Procedures

(1) Assumption of building inspection programs shall be approved only under ORS Chapters 455 and 479 and these rules, for municipalities meeting the following minimum standards. Municipalities requesting to assume new programs or additional parts of a program must provide a full-service program as described in ORS Chapter 455. The municipality shall prepare an assumption plan demonstrating its ability to:

(a) Administer the program for at least four years;

(b) Maintain or improve upon service levels presently provided to the area, including identifying proposed staffing, service contracts and intergovernmental agreements for at least the first two years;

(c) Operate a program that is financially feasible for at least two years without unduly increasing short-term and long-term costs of services to the public, in the areas administered by the municipality. Information showing how the program will be financially feasible shall include an estimate of anticipated revenues and expenditures, the assumptions on which the estimates are based, and an explanation of how losses, if any, will be funded; and

(d) Transition the program from the previous service provider including developing a method for:

(A) Transferring responsibility for existing buildings, open plan reviews, permits and inspections and corresponding revenues for completion of outstanding work;

(B) Transferring any pending enforcement actions;

(C) Informing contractors and others of the change of inspecting jurisdictions, jurisdictional boundaries and requirements for plan review, permits and inspections; and

(D) Transferring any affected employees consistent with ORS 236.605.

(2) A municipality requesting to administer and enforce a new full-service building inspection program under ORS 455.148, or part of a building inspection program to become full-service under ORS 455.148 and 455.150 shall, by October 1:

(a) Submit a completed division program request form describing the specialty codes the municipality intends to administer effective July 1 of the following year, and provide the following:

(A) An assumption plan as required in ORS 455.148 and Section (1) of this rule;

(B) An operating plan as described in OAR 918-020-0090;

(C) A schedule, including the date, time, place and subject matter, of any proposed meetings of public or advisory bodies, where public comments will be received concerning their proposal to assume a fullservice program or part of a program;

(D) Evidence of compliance with the notice and consultation requirements of this section; and

(E) When a municipality reapplies to assume administration of a program that was previously revoked, the application shall include an explanation of how past deficiencies were corrected and how they will be prevented in the future, and it shall meet the requirements of ORS 455.148 and 455.150 including timelines and full-service coverage.

(b) Consult with the jurisdiction from whom the program will be assumed, to:

(A) Notify them of the intent to assume the program;

(B) Discuss with them any impacts on their existing program;

(C) Attempt to resolve any negative impacts; and

(D) Attempt to reach agreement on the method of providing services in the area.

(3) Upon receipt of an application for program assumption from a municipality, the division shall, by October 15, notify in writing all persons on the division maintained interested party mailing list.

(4) Objections to proposed program assumptions, including or related to, claims of economic impairment by the division or the municipality potentially losing the program, shall be received within 30 days of notice and shall include:

(a) An explanation of the objection to the proposed program assumption;

(b) Identification of the required program standard that is believed not to be met; and

(c) When related to economic impairment, the information provided shall include projected impact on the existing building inspection program revenues, expenses, and staffing levels and the ability to continue carrying out remaining portions of the affected program.

(5) When reviewing the objections, the division shall consider the criteria established in ORS 455.152 and whether the objections relate to the ability of the municipality to effectively carry out the program and meet the required standards of applicable statutes and rules.

(6) The municipality requesting administration of a program shall confirm its intent to proceed with its application and submit final information to the division by January 1.

(7) By April 1 the division shall approve or deny the request. A request may be denied when the municipality failed to meet any of the standards and timelines for assumption set forth in ORS Chapters 455 and 479 and the rules adopted thereunder, or when a claim of economic impairment is not resolved to the satisfaction of the director.

(8) Municipalities approved to assume programs may do so effective July 1.

(9) By September 1, the municipality shall submit a final approved copy of all applicable ordinances and fee schedules.

Stat. Auth.: ORS 455.148, 455.150, 455.152 & 479.855

Stats. Implemented: ORS 455.148, 455.150, 455.152 & 479.855

Hist.: BCD 16-2002, f. & cert. ef. 7-1-02

918-020-0105

Renewal of Existing Programs

(1) Existing programs may continue to administer full-service or partial programs as permitted by ORS Chapter 455. Any municipality requesting to assume an additional program shall do so in accordance with ORS Chapter 455 and these rules.

(2) Depending on the respective reporting period outlined in OAR 918-020-0180 municipalities administering existing programs upon notification shall submit the following to the division by January 1:

(a) A completed division form describing the specialty codes the municipality will continue to administer and enforce beginning July 1 of the next reporting period;

(b) A list of current staff, including contract providers, and their applicable certifications;

(c) An updated copy of the municipality's operating plan as described in OAR 918-020-0090; and

(d) A narrative describing any changes to the plan.

(3) Requests to extend the January 1 date as authorized in ORS 455.148(4) and 455.150(4) shall be filed with the division no later than December 21.

Stat. Auth.: ORS 455.148 & 455.150

Stats. Implemented: ORS 455.148 & 455.150

Hist.: BCD 16-2002, f. & cert. ef. 7-1-02

918-020-0180

Reporting Periods

(1) All municipalities administering and enforcing a building inspection program on July 1, 1997, shall have four-year reporting periods. The division shall divide the municipalities administering and enforcing building inspection programs into four separate reporting groups identified as Group One, Group Two, Group Three and Group Four. Each reporting group shall contain approximately one quarter (25 percent) of the municipalities administering and enforcing building inspection programs on July 1, 1997. Reporting periods for each group shall begin on July 1 of the first year and shall end on June 30 of the fourth year, except as provided by Sections (2) to (5) of this rule.

(2) The first reporting period for municipalities in Group One shall start on July 1, 1997, and end on June 30, 1998. All subsequent reporting periods shall be four years. Municipalities in Group One shall submit a program administration request form but not be required to submit a second operating plan until after the division has completed a general review of the municipal building inspection program following the conclusion of the first reporting period.

(3) The first reporting period for municipalities in Group Two shall start on July 1, 1997, and end on June 30, 1999. All subsequent reporting periods shall be for four years.

(4) The first reporting period for municipalities in Group Three shall start on July 1, 1997, and end on June 30, 2000. All subsequent reporting periods shall be for four years.

(5) The first reporting period for municipalities in Group Four shall start on July 1, 1997, and end on June 30, 2001. All subsequent reporting periods shall be for four years.

(6) The first reporting period for municipalities authorized to administer and enforce new building inspection programs shall start July 1 of the first year the municipality is authorized to administer and enforce a new building inspection program and shall end on June 30 of the fourth year. All subsequent reporting periods shall be for four years.

(7) A municipality that amends an existing building inspection program through the assumption of a new code program shall not alter its reporting period.

(8) All municipalities enforcing building inspection programs shall amend their operating plan within 30 days when changes occur and submit a copy of the amended operating plan to the division.

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 455.150

Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-96; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98

918-020-0190

Program Review

(1) General Review. The division may conduct a general review of a municipal building inspection program during a municipality's reporting period to verify that the municipality is operating in conformity with the specific goals contained in the municipality's operating plan. The division may also review building inspection programs to verify compliance with any correction plans submitted by a municipality where a municipality is not operating in conformity with the specific standards contained in its operating plan. The division shall notify a municipality at least 21 days prior to beginning a general review.

(2) Interim Review. The division may perform an interim review of a municipal building inspection program any time the division receives a complaint or other information that reasonably suggests a municipality is not operating in conformity with its operating plan or has failed to comply with the minimum standards for the administration and enforcement of building inspection programs described in these rules. Prior to beginning an interim review the division shall notify the building official in writing by certified or registered mail of the standards to which the municipality is alleged to have failed to comply. The building official shall have 30 days to respond to the notice. If the building official fails to respond or does not adequately address the issues raised by the division in the notice, the division may conduct an interim review.

(3) Building inspection programs administered and enforced by the division shall be subject to a general review in the same manner prescribed for municipal building inspection programs. The administrator shall prepare and deliver a final report to the director and interested persons for review.

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 455.150

Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-966; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98

918-020-0200

Review Procedures

(1) The administrator may appoint one active building official from a municipality similar in size to the municipality subject to review and one contractor from an area similar in size to the municipality subject to review to assist and advise division staff during a general or interim review. Prior to beginning any general or interim review the division shall conduct an initial interview with the building official.

(2) Review of Records. The division shall request that a municipality provide revenue and expense information prior to the actual site visit, and the opportunity to review documents and records, whether electronic or other media, regarding the administration and enforcement of a building inspection program.

(3) General Administration and Compliance Review. The division shall review and verify compliance with the general administration and compliance program requirements described in OAR 918-020-0090.

(4) Review of Prior Approved Construction Plans. The division may review a random selection of construction plans approved by the municipality during the subject reporting period and verify compliance with the minimum requirements of the applicable specialty codes.

(5) Review of Inspections. The division may review a random selection of inspections completed by the municipality during the subject reporting period and verify compliance with the applicable specialty codes.

(6) Post-Review Interview. At the completion of a general or interim review the division shall conduct a post-review interview with the building official or person designated by the building official. The reviewer shall describe the general results of the review, issue written notice regarding any failure to conform with an approved operating plan that requires immediate attention and generally respond to any questions.

(7) Final Report. The division shall prepare and deliver a final written report describing the results of the review to a municipality within 60 days of completing a review.

(8) The municipality being reviewed shall respond to the division's final report conclusions within 30 days after receipt of the report, or request an extension.

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 455.150

Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-96; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98

918-020-0210

Nonconformance Notice and Program Revocation

(1) Nonconformance Notice:

(a) Where required, the division shall issue a nonconformance notice to the building official and chief executive officer concurrently with the written report. A nonconformance notice shall be served on the building official and chief executive officer by certified or registered mail. A nonconformance notice shall only be issued following a review where a municipality fails to comply with any of the general standards for the administration and enforcement of a building inspection program contained in these rules;

(b) Within 30 days of receiving a nonconformance notice a municipality shall file a proposed written correction plan with the division containing a detailed description of the actions and timeline the municipality proposes to correct each nonconformance noted in the final report;

(c) The division shall:

(A) Accept or deny a proposed correction plan within 30 days of receiving any plan;

(B) Advise a municipality in writing of the portions of the plan which do not adequately address any nonconformance noted. A municipality must submit a final correction plan within 30 days of receiving the division's response to a proposed correction plan; and

(C) Advise a municipality of any matters that require immediate attention where a review reveals an imminent risk of personal injury or threat to health and safety.

(2) Program Revocation. The division may revoke a municipality's authority to administer and enforce a building inspection program or part of a program following a review if the municipality fails to:

(a) Submit a proposed correction plan after receiving a nonconformance notice;

(b) Submit an acceptable final correction plan after receiving comments from the division regarding a proposed correction plan; or

(c) Comply with the specific correction requirements contained in an approved final correction plan.

(3) Review of Proposed Revocation.

(a) The administrator may appoint a five-person panel to review a recommendation to revoke a municipal building inspection program. The panel shall consist of two building officials from jurisdictions similar in size to the municipality subject to the proposed revocation, two contractors from areas similar in size and character to the municipality subject to the proposed revocation and one person to be determined by the administrator;

(b) The panel shall:

(A) Review the final report delivered to the building official together with any correction plans submitted by the municipality subject to the proposed revocation but may allow the municipality subject to the proposed revocation to submit additional materials in response to the proposed revocation; and

(B) Submit final recommendations to the administrator within 45 days of its program review.

(4) Final Decision. The administrator shall issue a written decision revoking a municipality's authority to administer and enforce a building inspection program. The decision shall be based on the final report delivered to the building official, any correction plans submitted by the municipality and recommendations, if any, submitted by a review panel appointed by the administrator. Judicial review of the decision will be available as provided for in statute.

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 455.150

Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-96; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98

918-020-0220

Fee Adoption Standards

(1) In addition to the standards set forth in ORS 455.210 and 479.845, a municipality intending to adopt building inspection program fees for any specialty code administered and enforced by the municipality shall comply with all of the following standards:

(a) The municipality shall notify the division of such adoptions 45 days prior to the adoptive date. The notification shall include a summary of the following:

(A) The affected specialty code or program areas;

(B) A description of the proposed building inspection program fees including the approximate percentage increase when applicable;

(C) The proposed effective date;

(D) The date of the last fee increase in the specialty code or program area if applicable;

(E) The anticipated date, time and location of the local municipal hearing scheduled pursuant to ORS 294.160;

(F) The name, phone number and title of a contact person; and

(G) A narrative explaining the purpose of the proposed fee adoption.

(b) Upon notification from the division that an appeal request has been received under ORS 455.210 or 479.845, the municipality shall submit further documentation to be received by the division within 15 days following notification. This documentation shall include, but not be limited to:

(A) A narrative explaining why the building inspection program fees are necessary at the level proposed;

(B) The municipality's newly adopted fee schedule and, if applicable, the prior fee schedule;

(C) Revenue and expense information for the building inspection program including the current fiscal year, including a minimum of 12 months actual and 12 months projected revenues and expenses;

(D) An explanation of the municipality's cost allocation method(s) for expenses;

(E) An explanation of all reserve and ending fund balances;

(F) A determination of whether the fee is reasonable, including an analysis of whether the fee is:

(i) Comparable to fees charged by other municipalities of similar size and geographic location for the same level of service;

(ii) Established through the same or similar calculation methods used by other municipalities; and

(iii) The same type as those charged by other municipalities for similar services; and

(G) The identification of any potential building inspection program changes that are anticipated as a result of the proposed fee.

(c) The municipality shall update its operating plan on file with the division within 30 days of the adoption of a new building inspection program fee schedule including sufficient information for the division to determine the fee revenue will be used within the building inspection program.

(2) The division shall establish and maintain a list of all interested persons who wish to receive notice of all planned fee adoptions for building inspection programs. The division shall notify in writing all interested persons on the division's mailing list within 15 days of receiving a municipal notice of intent to adopt building inspection program fees.

(3) Upon a determination that the municipality failed to meet any of the fee adoption standards, the director may deny a fee adoption or require a municipality to rescind that portion of a local ordinance or regulation and readopt building inspection program fees. A municipality shall refund all building inspection program fees collected under the rescinded ordinance that exceed the prior building inspection program fee schedule, unless a waiver is approved by the director upon written request from the municipality. Copies of the waiver request shall be forwarded by the division to the interested parties list.

Stat. Auth.: ORS 455.030, 455.148 & 455.150

Stats. Implemented: ORS 455.148, 455.150, 455.210 & 479.845

Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-96; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 15-2002, f. & cert. ef. 7-1-02

Statewide Master Builder Program

918-020-0400

Application, Scope and Purpose

The purpose of OAR 918-020-0400 to 918-020-0490 is to allow building officials to delegate plan review and verification authority to qualified builders. The division shall set statewide criteria to approve applications and administer testing for a master builder certification.

Stat. Auth.: ORS 455.805 & 455.810

Stats. Implemented: ORS 455.805 & 455.810

Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0410**Definitions**

For the purpose of these rules, the following definitions apply:

(1) "Building trade committee" means a group, including, but not limited to, two local general contractors, one local building official and any other persons having substantial expertise in various aspects of one and two family dwelling construction.

(2) "General contractor" has the meaning given in ORS 701.005.

(3) "Master builder" means a person certified under the provisions of OAR 918-020-0420.

(4) "Qualified Construction Company" means a company that has been continuously licensed by the Construction Contractors Board during:

(a) The preceding five years as a general contractor; or

(b) At least the preceding two years as a general contractor and by one or more other states during the balance of the preceding five years in an occupation equivalent to that of a general contractor.

(5) "Regular employee" is someone who:

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

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

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

- (A) Drywall;
- (B) Electrical systems;
- (C) Footings;
- (D) Foundations;
- (E) Framing;
- (F) Insulation;
- (G) Mechanical systems;
- (H) Plumbing systems; and
- (I) Stairs.

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

- (a) Footings;
- (b) Foundations;
- (c) Framing;
- (d) Work that includes the installation of plumbing, electrical and mechanical systems;
- (e) Insulation; and
- (f) Drywall.

Stat. Auth.: ORS 455.805 & 455.810

Stats. Implemented: ORS 455.805 & 455.810

Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0420**Training and Experience Required of an Individual**

(1) An individual desiring to obtain or renew a master builder certificate shall have the following prerequisites prior to applying to the division:

(a) Be an owner or regular employee of a qualified construction company and be authorized by the company to provide assurance to the division that all state and local code requirements are met;

(b) In each of the five preceding calendar years, have either performed or supervised dwelling construction or whole dwelling remodel. In at least two of the five years, the construction or remodel shall have occurred in a geographic area that has or implements a master builder program; and

(c) Provide verification of completion of an approved training program on the current adopted **One- and Two-Family Dwelling Specialty Code**.

(2) An approved program shall include, but need not be limited to, 36 hours of instruction in:

- (a) Administration;
- (b) Chimneys and fireplaces;
- (c) Decay and termite protections;
- (d) Energy conservation;
- (e) Footings and foundations;
- (f) Roof-ceiling construction;
- (g) Roof coverings;
- (h) Site inspections or conditions;
- (i) Wall construction, assemblies and coverings; and
- (j) Wood and metal framing.

(3) Individuals desiring to be a master builder shall apply to the division using division supplied forms and pay an application fee of \$150. Examinations are approved and administered by the division and cover the provisions of the **One- and Two-Family Dwelling Specialty Code**, excluding electrical, plumbing and mechanical. Individuals must score a minimum of 75 percent to successfully pass the exam.

(4) Individual applications shall be denied if:

(a) The applicant is the subject of an adverse final order issued by the Construction Contractors Board or the division based upon acts committed within the 36 months preceding the application date that:

(A) Violated a specialty code, licensing or permit requirement; or

(B) Resulted in a claim being filed with the board or the division against the individual.

(b) If the individual is an owner of a qualified construction company, an adverse final order issued against the company is an adverse order issued against the individual;

(A) Completion of an approved training program cannot be verified; or

(B) The applicant fails to pass the division-approved examination.

(5) Upon determining that the applicant has successfully met all requirements for certification as a master builder, the division shall issue a certificate to the individual applicant.

(6) The division shall maintain a list of master builders.

(7) The division may deny, refuse to renew, suspend or revoke certification as a master builder if the individual fails or ceases to meet the criteria for certification set forth in OAR 918-020-0420 or engages in actions resulting in a waiver revocation under OAR 918-020-0480. Pursuant to ORS Chapter 183, an applicant may request a contested case hearing upon a denial or refusal to renew or prior to a suspension or revocation of certification.

(8) Certification as a master builder expires on April 1 no later than three years after the date of issuance unless suspended or revoked. An individual may renew a certificate that is in good standing by:

(a) Providing evidence that the person continues to meet the requirements of subsections (1)(a) and (b) of this rule;

(b) Providing evidence of continuing education as required by attending a division-approved class covering recent code changes in the **One- and Two-Family Dwelling Specialty Code**, excluding electrical, plumbing and mechanical, no later than 12 months after the code effective date; and

(c) Paying a \$50 renewal fee.

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

Stat. Auth.: ORS 455.805 & 455.810

Stats. Implemented: ORS 455.805 & 455.810

Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0430

Voluntary Establishment of a Master Builder Program

(1) Local jurisdiction establishment of a master builder program is voluntary. A local jurisdiction electing to establish a program shall notify the division through their operating plan. If terminating a program, the local jurisdiction shall give notice to the division 180 days prior to terminating the program.

(2) The division may implement a master builder program in one or more geographic areas for which the division provides plan review or inspection services.

(3) A jurisdiction may not allow an individual to perform the duties of a master builder unless the jurisdiction has a master builder program.

(4) The division shall maintain a list of jurisdictions that are participating in the statewide master builder program.

Stat. Auth.: ORS 455.805 & 455.810

Stats. Implemented: ORS 455.805 & 455.810

Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0440

Inspection Requirements that May Be Waived

(1) Subject to OAR 918-020-0430 and 918-020-0450, a building official may waive certain jurisdictional responsibilities to a master builder on a project by project basis for the following inspections:

- (a) Drywall;
- (b) Footings and setbacks;
- (c) Foundation walls, concrete encased electrode;
- (d) Insulation;
- (e) Masonry fireplace pre-cover;
- (f) Masonry rebar;
- (g) Gutters, downspouts and foundation drains;
- (h) Roof sheathing nailing;
- (i) Suspended ceiling;
- (j) Underfloor structural; and
- (k) Wall sheathing nailing.

(2) A building official for a jurisdiction that has a master builder program shall conduct inspections of at least 10 percent of projects built under a master builder program.

Stat. Auth.: ORS 455.805 & 455.810

Stats. Implemented: ORS 455.805 & 455.810

Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0450

Criteria to Waive Inspections or Plan Review

(1) Under a master builder program, a building official may waive on a project-by-project basis some plan review elements and one or more of the required inspections identified in OAR 918-020-0330, if:

(a) A master builder submits construction plans regulated by the **One- and Two-Family Dwelling Specialty Code**; and

(b) The building official determines that:

- (A) The work is not of a highly technical nature; and
- (B) There is no unreasonable potential risk to safety of the structure.

(2) A building official may not waive jurisdictional performance of plan review or required inspections for:

(a) Special design applications that are complex and highly technical engineered systems; or

(b) Unique building sites including, but not limited to, sites containing geologic hazards such as landslide hazard areas, floodplains and wetlands.

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

Stat. Auth.: ORS 455.805 & 455.810

Stats. Implemented: ORS 455.805 & 455.810

Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0460

Verification Requirements

A master builder shall:

(1) Perform all plan review and required verifications that the building official has waived; and

(2) Maintain copies of all documents and reports required by the local jurisdiction granting the waiver and provide those copies to the building official upon request.

Stat. Auth.: ORS 455.805 & 455.810
 Stats. Implemented: ORS 455.805 & 455.810
 Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0470

Assumption of Responsibility

(1) When waiving government performance of plan review or required inspections, a building official shall require the master builder to sign a form that specifically identifies each waiver and that states that the master builder accepts the duty of performing the review and verifications.

(2) A master builder who accepts the duty of performing a review or verification remains responsible for that duty unless released by written and signed permission of the building official. A building official may release a master builder from a review or verification by a written and signed assumption of the review or inspection duty by the building official or written and signed assumption of the review and verification duty by another master builder.

Stat. Auth.: ORS 455.805 & 455.810
 Stats. Implemented: ORS 455.805 & 455.810
 Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0480

Revocation of Waiver

A building official who has a master builder program:

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

(2) Shall, within 90 days, notify the division when the building official revokes a waiver.

Stat. Auth.: ORS 455.805 & 455.810
 Stats. Implemented: ORS 455.805 & 455.810
 Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02

918-020-0490

Effective Dates

(1) If an individual applies on or before January 1, 2006, to be a master builder, and the individual has performed or supervised a dwelling construction or whole dwelling remodel in each of the five preceding calendar years, the division may waive the geographical requirement of OAR 918-020-0420(b);

(2) Section (1) of this rule is repealed July 1, 2007. The repeal does not invalidate any certification granted prior to July 1, 2007.

(3) If an individual was certified under a master builder pilot program, the division may waive any requirement of OAR 918-020-0420(1)(b) and (c), in granting master builder certification to that individual. If an individual was certified under a pilot program and is in good standing under that pilot program, the division may grant the individual temporary certification that allows the individual to act as a master builder in accordance with these rules for the purpose of completing a project commenced under the pilot program. The temporary certification shall expire 90 days following December 31, 2001. Notwithstanding OAR 918-020-0450, a waiver under a pilot program granted by a building official to a master builder on or before December 31, 2001, shall continue to be valid for an individual with a temporary certification under this section.

Stat. Auth.: ORS 455.805 & 455.810
 Stats. Implemented: ORS 455.805 & 455.810
 Hist.: BCD 6-2002, f. 3-25-02, cert. ef. 4-1-02