

**DIVISION 470  
ABATEMENT OF BUILDINGS  
DAMAGED BY EARTHQUAKE**

**918-470-0010****General**

(1) When a county or city government or another agency of the State of Oregon has concurrent jurisdiction with the division to inspect and abate unsafe buildings, and issues an order to vacate or to abate, the division will withhold action, unless the unsafe condition of the structure continues after the order issued by the other agency or jurisdiction has been withdrawn.

(2) If a building or structure damaged by earthquake is listed on the National Register of Historic Places, is determined by the State Historic Preservation Officer to be eligible for listing on the Register, or is otherwise included in the categories listed in ORS 455.449, the division or authority having jurisdiction shall, upon request of the State Historic Preservation Officer consult with the State Historic Preservation Office to review alternative methods as required by ORS 455.449. If the State Historic Preservation Officer has not requested review of the order within 45 days of the date required by OAR 918-470-0050 the order may be enforced.

Stat. Auth.: ORS 455.020 & 455.449

Stats. Implemented: ORS 455.449

Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98

**918-470-0020****Abatement of Earthquake Damaged Structures**

All structures or portions of structures which as a result of earthquake are determined by the division or delegated authority to be in unsafe conditions as defined in ORS 455.010 are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with ORS 455.449.

Stat. Auth.: ORS 455.020 & 455.449

Stats. Implemented: ORS 455.449

Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98

**918-470-0030****Inspection and Permits Required**

All work performed on buildings or structures subject to these rules for which a permit is required shall be subject to inspection in accordance with the applicable specialty code.

Stat. Auth.: ORS 401.539 & 455.020

Stats. Implemented: ORS 401.539

Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94

**918-470-0040****Identifying Unsafe Buildings and Structures**

Any building damaged by earthquake suffering from any or all of the following conditions or defects shall be determined to be unsafe as defined in ORS 455.010, if life, health, property or safety of the public or its occupants are endangered:

(1) The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one- and one-half times the working stress or stresses allowed in **Oregon Structural Specialty Code (OSSC)** or **One and Two Family Dwelling Specialty Code (Dwelling Code)** for new buildings of similar structure, purpose or location.

(2) Any portion of the building has been damaged to the extent the building's structural strength or stability is materially less than it was before the earthquake and is less than the minimum requirements of the **OSSC** or **Dwelling Code** for new buildings of similar structure, purpose or location.

(3) Any portion, member or appurtenance of the building is likely to fail, or become detached or dislodged, or collapse and injure persons or damage property.

(4) Any portion, member, appurtenance of the building or ornamentation on the exterior of the building is damaged to the point that it lacks sufficient strength or stability to resist a wind pressure of onehalf of that specified for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the **OSSC** or **Dwelling Code** for such buildings.

(5) Any portion of the building has racked, warped, buckled or settled so walls or other structural portions have materially less resistance to winds or continued earth movement than is required in the case of similar new construction.

(6) The building or structure, or any portion of the building is determined by an inspector employed or authorized by the division to be unsafe for the purpose for which it is being used.

(7) The exterior walls or other vertical structural members list, lean or buckle to the extent a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(8) The building or structure, exclusive of the foundation, shows 33 percent or more damage to its supporting member or members, or 50 percent damage to the non-supporting members, outside walls or coverings.

(9) The building or structure has been so damaged to become an attractive nuisance to children.

(10) Damage resulting in faulty electrical wiring, gas connections or heating apparatus, or other cause, is a fire hazard.

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

Stat. Auth.: ORS 455.020 & 455.449  
 Stats. Implemented: ORS 455.449  
 Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98

### **918-470-0050**

#### **Enforcement and Notice**

When the division or authority having jurisdiction determines a building to be unsafe, it shall begin proceedings to require the repair, vacation or demolition of the building.

(1) A notice and order shall contain:

(a) The street address and a legal description sufficient to identify the property upon which the building is located;

(b) A statement:

(A) That the building has been found to be unsafe and a brief, concise description of the conditions found to cause the building to be unsafe;

(B) Of the required action if the Division or municipality determines the building or structure must be:

(i) Repaired, the order shall require all necessary permits be secured and the work physically commenced within the time specified (not to exceed 180 days from the date of the order), and completed within the time stated in the order;

(ii) Vacated, the order shall require the building or structure be vacated within a time certain from the date of the order; or

(iii) Demolished, the order shall require the building be vacated within the period set out in the order (not to exceed 60 days from the date of the order), that all necessary permits be secured and the demolition be completed within the time stated in the order.

(C) Advising if any required repair or demolition work is not commenced within the time specified, the building will be ordered vacated and posted to prevent further occupancy until the work is completed;

(D) Advising any person having a legal interest in the building may request a hearing to review the order as provided by OAR 918-470-0090 and failure to appeal may be a waiver of all rights to an administrative hearing; and

(E) That the structure may be subject to the provisions of ORS 358.505 et seq. relating to special assessment of historic property if listed as an historic structure on the National Register of Historic Properties.

(2) An order and notice to vacate may be in addition to any other remedial action ordered or required by the division.

(3) The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property. One copy

shall be served on each of the following as disclosed from official public records:

(a) The holder of any mortgage or deed of trust or other lien or encumbrance of record;

(b) The owner or holder of any lease of record; and

(c) The holder of any other estate or legal interest of record in or to the building or the land on which it is located.

(4) Failure to serve any person required shall not invalidate any proceedings as to any other person duly served or relieve any person from any duty or obligation imposed by the provisions of these rules.

(5) If the building or structure is listed as an historic structure on the National Register, or is otherwise included in the categories listed in ORS 455.449, notice shall be served upon the Oregon State Historic Preservation Officer. If the building or structure is protected by an authority having jurisdiction pursuant to OAR 660-016-0000 et seq., notice shall be served upon the municipal agency charged with compliance in OAR 660-016-0000. Notice pursuant to this section shall be served concurrently to other notice made pursuant to section (3) of this rule.

(6) Service of the notice and order shall be made upon all persons either personally or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, at the address appearing on the last equalized assessment roll of the county. If the address is unknown, a copy of the notice and order shall be mailed, addressed to the person, at the address of the building involved in the proceedings. Failure of any person to receive notice shall not affect the validity of any proceedings taken under this section. Service by certified mail shall be effective on the date of mailing.

(7) Proof of service of the notice and order shall be certified at the time of service by a written declaration, by the persons effecting service. The proof of service shall contain the time, date and manner service was made. The declaration, and any receipt card returned acknowledging receipt by certified mail shall be attached to the copy of the notice and order retained by the division or authority having jurisdiction.

Stat. Auth.: ORS 455.020 & 455.449

Stats. Implemented: ORS 455.449

Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98

### **918-470-0060**

#### **Recording Notice and Order**

If the person to whom the order is directed does not comply with the order within the time specified, and no appeal has been filed, the division or authority having jurisdiction shall file with the county recorder a certificate describing the property, certifying that the structure is unsafe and the record owner has been notified. When the corrections ordered are completed or the structure demolished and no longer exists as unsafe, a new certificate shall be filed with the county recorder certifying the building

has been demolished or all required corrections have been made and the structure is no longer unsafe.

Stat. Auth.: ORS 455.020 & 455.449  
Stats. Implemented: ORS 455.449  
Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98

**918-470-0070  
Notice to Vacate**

(1) Every notice to vacate shall, in addition to being served as provided in OAR 918-470-0050, be posted at or upon each entrance to the building in substantially the following form:

**UNSAFE DO NOT ENTER OR OCCUPY WARNING:** This structure has been seriously damaged and is unsafe. Entry may result in death or injury.

(Enforcement Authority)  
By \_\_\_\_\_  
Date:  
Facility name and address:

**DO NOT REMOVE THIS NOTICE UNTIL AUTHORIZED BY GOVERNING AUTHORITY**

(2) Any notice and order to vacate shall include a statement of the emergency and the conditions that necessitate the order. Except as necessary to comply with an order to repair or demolish, no person shall remain in, enter or occupy any building that has been posted to vacate. The notice shall not be removed or defaced until the required repairs, demolition or removal have been completed and if required, a Certificate of Occupancy issued according to the provisions of **OSSC** or **Dwelling Code**.

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

Stat. Auth.: ORS 455.020 & 455.449  
Stats. Implemented: ORS 455.449  
Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98

**918-470-0080  
Appeals**

(1) Appeals from a decision of a person acting under authority of the division shall be heard as a contested case under the provisions of ORS 183.413 through 183.464.

(2) Appeals from an order of an authority having jurisdiction shall be heard by the local appeals board and any appeal from a decision of a local appeals board shall proceed under the provisions of ORS 455.690.

Stat. Auth.: ORS 455.020 & 455.449  
Stats. Implemented: ORS 455.449  
Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98

**918-470-0100  
Staying of Order Under Appeal**

Except for vacation orders according to OAR 918-470-0070, enforcement of any order issued under these rules shall be stayed while the appeal is pending.

Stat. Auth.: ORS 401.539 & 455.020  
Stats. Implemented: ORS 401.539  
Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94

**918-470-0110  
Extension of Time to Perform Work or Pay Fees**

(1) Upon determination that an extension of time will not create or perpetuate an imminent danger to life or property, the division or authority having jurisdiction may grant an extension of time to complete any repair, rehabilitation or demolition. Any extension is limited to the physical repair, rehabilitation or demolition of the building or structure and will not extend the time to appeal the notice or order.

(2) If emergency funding through Federal or State grants or loans is available to assist in payment of repairs or reconstruction, the division or authority having jurisdiction may proceed with any required plan review and allow an extension of time to pay required permit fees until the funds are available. Payment of all required fees, or arrangement for payment of fees satisfactory to the jurisdiction providing inspections, shall occur prior to actual issuance of permits.

Stat. Auth.: ORS 455.020 & 455.449  
Stats. Implemented: ORS 455.449  
Hist.: BCD 9-1994, f. 3-30-94, cert. ef. 5-1-94; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98