

918-020-0090

Program Standards

Every municipality that administers and enforces an approved building inspection program must establish and maintain the minimum standards, policies, and procedures set forth in this section.

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

(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;

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

(l) Return a completed data request form to and as provided by the division annually; and

(m) Execute a memorandum of agreement with and as approved by the division for initial building inspection program approval and assumption, for building program expansion approval and assumption, and thereafter when seeking approval to renew a program under OAR 918-020-0105.

(n) Directly employ the individual appointed as the building official pursuant to ORS 455.148(3) or 455.150(3) as follows:

(A) The individual employed pursuant to this section must be certified by the division as a building official under OAR chapter 918, division 98; and

(B) For the purposes of this section, to be directly employed the person must be subject to the provisions of ORS 316.162 to 316.221 and have completed a withholding exemptions certificate required by ORS 316.162 to 316.221.

(o) Notwithstanding section (1)(n) of this rule, two or more municipalities may combine in the appointment of a single building official for the purposes of administering a building inspection program within their communities.

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

(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 must:

(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 appraises 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" is defined by the division, taking into consideration the regional procedures in OAR chapter 918, division 50. If deemed a simple residential plan, the jurisdiction must 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 may not allow a project to proceed beyond the level of approval authorized by the building official. The process must:

(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. This process must 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.

(G) Establish a process for plan review if non-certified individuals review permit applications under OAR 918-098-1010.

(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" must:

(a) Comply with the requirements for prescriptive construction under the Oregon Residential Specialty Code; or

(b) Comply with the Oregon Manufactured Dwelling Installation Specialty Code and the requirements in OAR chapter 918, division 500; 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 are considered "simple one- or two-family dwelling plans":

(a) Master plans approved by the division or municipality 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 is 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 must:

(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 must 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 must 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 must 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 455.156 and 455.895.

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

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

Stat. Auth.: ORS 183.355, 455.030, 455.062, 455.148, 455.150, 455.156, 455.467 & 455.469

Stats. Implemented: ORS 455.062, 455.148, 455.150, 455.156, 455.467 & 455.469

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; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 7-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; BCD 9-2013, f. 12-16-13, cert. ef. 1-1-14; BCD 13-2014(Temp), f. & cert. ef. 11-14-14 thru 5-12-15; BCD 4-2015(Temp), f. & cert. ef. 5-12-15 thru 11-1-15; BCD 9-2015(Temp), f. 10-30-15, cert. ef. 11-1-15 thru 1-1-16; BCD 11-2015, f. 12-11-15, cert. ef. 1-1-16; BCD 8-2018(Temp), f. & cert. ef. 4-23-18 thru 10-19-18

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.

(e) Directly employ the individual appointed as the building official pursuant to ORS 455.148(3) or 455.150(3) as follows:

(A) The individual employed pursuant to this section must be certified by the division as a building official under OAR chapter 918, division 98; and

(B) For the purposes of this section, to be directly employed the person must be subject

to the provisions of ORS 316.162 to 316.221 and have completed a withholding exemptions certificate required by ORS 316.162 to 316.221.

(f) Notwithstanding section (1)(e) of this rule, two or more municipalities may combine in the appointment of a single building official for the purposes of administering a building inspection program within their communities.

(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 full-service 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; BCD 12-2016(Temp), f. & cert. ef. 9-29-16 thru 3-27-17; Administrative correction, 6-5-17; BCD 8-2018(Temp), f. & cert. ef. 4-23-18 thru 10-19-18

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.

(4) Notwithstanding OAR 918-020-0180, all building programs shall apply for renewal of their building program for a new reporting period beginning July 1, 2019.

(a) Municipalities that submitted applications for a reporting period that would have begun July 1, 2018 will have their reporting period extended and shall apply for renewal for the reporting period beginning July 1, 2019;

(b) All municipalities shall follow the schedule under this rule to apply for renewal of their building program by January 1, 2019, for renewal effective July 1, 2019.

(c) Renewal applications submitted pursuant to this section shall identify how the municipality complies with OAR 918-020-0090(1)(n) and OAR 918-020-0095(1)(e).

Stat. Auth.: ORS 455.148 & 455.150

Stats. Implemented: ORS 455.148 & 455.150

Hist.: BCD 16-2002, f. & cert. ef. 7-1-02; BCD 8-2018(Temp), f. & cert. ef. 4-23-18 thru 10-19-18

