

Chapter 447

2003 EDITION

Plumbing; Access by Disabled Persons

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PLUMBING REGULATION**(Generally)**

447.010 Definitions for ORS 447.010 to 447.156 and 447.992. As used in ORS 447.010 to 447.156 and 447.992, unless the context requires otherwise:

(1) "Board" means the State Plumbing Board established under ORS 693.115.

(2) "Department" means the Department of Consumer and Business Services.

(3) "Director" means the Director of the Department of Consumer and Business Services.

(4) "Journeyman plumber" has the meaning given that term in ORS 693.010.

(5) "Ordinary minor repairs" means the repair, replacement or maintenance of existing plumbing fixtures, appliances, appurtenances and related water supply and drain attachments for the purpose of restoring a plumbing installation to a safe and sanitary operating condition.

(6) "Plumbing" is the art of installing, altering or repairing in or adjacent to or serving buildings:

(a) Pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes.

(b) Fixtures and fixture traps.

(c) Soil, waste and vent pipes.

(d) House drain and house sewer to the sewer service lateral at the curb, or in the street, or alley, or other disposal terminal holding human or domestic sewage.

(e) Storm water drainage, with their devices, appurtenances and connections.

(f) Pipes, fixtures and other apparatus for medical gas, anesthetic waste gas and vacuum systems.

(g) Solar heating and cooling systems. [Subsection (3) enacted as 1955 c.548 §2; 1957 c.300 §1; 1961 c.401 §1; 1973 c.734 §1; 1973 c.835 §221; 1981 c.438 §28; 1987 c.414 §26; 1993 c.520 §1; 1993 c.744 §65; 1999 c.723 §1; 2001 c.683 §25]

447.020 Plumbing to conform to state building code; rules; enforcement. (1) All installations of plumbing and drainage in buildings and structures in this state and all potable water supply, drainage, and waste installations, within or serving buildings or structures, except in temporary construction camps, and except as otherwise provided in ORS 447.010 to 447.156 and 447.992, shall be made in accordance with the requirements of ORS 447.010 to 447.156 and 447.992 and ORS chapter 455.

(2) The Director of the Department of Consumer and Business Services with the approval of the State Plumbing Board shall

make rules pursuant to ORS chapter 183 for the purpose of setting standards for plumbing and defining compliance with the provisions of ORS 447.010 to 447.156 and 447.992 particularly pertaining to installation of piping, protection and adequacy of the water supply, workmanship and materials, traps and cleanouts, domestic hot water storage tanks and devices, drinking fountains, solar heating and cooling systems, approval of devices, equipment and fixtures, hangers and supports, drainage and venting, house drains and house sewers, storm water drains, special wastes, light and ventilation of water closets and bathrooms, and excavation and grading.

(3) The director shall appoint an adequate staff experienced and trained to serve as plumbing inspectors to enforce rules adopted under this section. [Amended by 1957 c.300 §2; 1971 c.753 §48; 1973 c.734 §2; 1973 c.835 §222; 1981 c.438 §29; 1993 c.744 §66; 2001 c.683 §26]

447.023 Small restaurant requirements. Rules adopted under ORS 447.020 shall allow restaurants with an occupancy capacity of no more than 15 persons, including employees and patrons, to have only one toilet fixture and adjacent lavatory on the premises. [1979 c.390 §4; 1981 c.438 §30]

447.026 Identification on potable water pipe required. (1) All water pipe used to carry potable water sold in this state shall be clearly marked the entire length of pipe, at intervals of length set by the Director of the Department of Consumer and Business Services with the approval of the State Plumbing Board, with:

(a) Identification of the manufacturer and the plant of origin; and

(b) The manufacturing standard under which the pipe was made.

(2) A label, shield or coding system may be used to identify the manufacturer, origin and manufacturing standard under which the pipe was made if the manufacturer has on file with the Department of Consumer and Business Services a notice describing the identification system used. [1979 c.535 §3; 1981 c.438 §31; 1991 c.19 §1; 1993 c.744 §67]

447.030 Plumber registration; application; fee; issuance; expiration. (1) Every person, firm and corporation engaged in the business of furnishing labor and material, or labor only, to alter, renovate or install plumbing in this state shall, on or before July 1 of each year, file with the State Plumbing Board an application in writing for registration. The board may vary the dates of certificate of registration renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee.

(2) The application shall state:

(a) The name and address of the applicant.

(b) In case of firms, the names and post-office addresses of the individuals composing the firm.

(c) In case of corporations, the names of their managing officials.

(d) The location of the business of the applicant and the name under which the business is to be conducted.

(3) No registration shall be made or entered until the applicant has paid to the board the registration fee provided in ORS 693.135. The board shall issue to such person, firm or corporation a certificate of registration.

(4) All certificates shall bear the date of issue and date of expiration. [Amended by 1969 c.540 §1; 1973 c.734 §3; 1973 c.835 §223; 1975 c.429 §3; 1981 c.438 §32]

447.033 [1955 c.548 §§3,4; 1969 c.540 §2; repealed by 1973 c.835 §234]

447.034 [1973 c.427 §2; repealed by 1981 c.438 §46]

447.035 [1955 c.548 §5; repealed by 1973 c.835 §234]

447.040 Registration mandatory. No person shall engage in or follow the business or occupation of, or advertise or purport to be or act temporarily or otherwise as registered to conduct a plumbing business and no member or employee of a firm, partnership or corporation shall engage in the layout or superintending of plumbing installations without having secured the certificate of registration required by ORS 447.010 to 447.156 and 447.992. [Amended by 1955 c.548 §6; 1973 c.835 §224]

447.050 Grounds for denial, suspension or revocation of registration; hearing; notice. (1) The State Plumbing Board may revoke or suspend any certificate of registration if it is obtained through error or fraud or if the holder of the certificate has failed to comply with ORS 447.010 to 447.156 and 447.992 or the rules adopted thereunder or with ORS chapter 455 or the rules adopted thereunder or with ORS chapter 693.

(2) The board shall not deny any application for a certificate or revoke or suspend a certificate without first giving the applicant or certificate holder an opportunity for a hearing of the denial, suspension or revocation. Notice of a hearing shall be given in writing by receipted certificated mail or by personal service at least 10 days before the date of the hearing and shall state the place, date and hour of the hearing along with the grounds for the denial, suspension or revocation. [Amended by 1973 c.835 §225; 1981 c.438 §33]

447.060 Engaging in certain plumbing work not affected. (1) Nothing in ORS 447.010 to 447.156 and 447.992 prevents a person from:

(a) Engaging in plumbing work when not so engaged for hire.

(b) Using the services of regular employees in performing plumbing work for the benefit of property owned, leased or operated by such employer.

(c) Using the services of an employee or contractor of a utility company, energy service provider or water supplier to install an approved low-flow showerhead or faucet aerator in existing plumbing fixtures. The devices installed under this paragraph are exempt from the certification, permit and inspection requirements of this chapter and ORS chapter 693.

(2) For purposes of subsection (1) of this section, a "regular employee" means a person who is subject to the provisions of ORS 316.162 to 316.219 and who has completed a withholding exemptions certificate required by the provisions of ORS 316.162 to 316.219.

(3) A licensee under ORS 671.560 (2) is not required to be registered under ORS 447.010 to 447.156 and 447.992 to install backflow prevention devices for irrigation systems and ornamental water features if the installer is licensed as required by ORS 671.615. The exemptions established under this subsection do not exempt the person from the inspection and permit requirements of this chapter.

(4) This section applies to any person, including but not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, this state and any agencies thereof, and the federal government and any agencies thereof. [Amended by 1955 c.548 §7; 1973 c.835 §226; 1981 c.438 §34; 1987 c.561 §3; 1987 c.604 §15; 1993 c.293 §2; 2001 c.181 §1; 2003 c.14 §267]

Note: Sections 1 and 2, chapter 629, Oregon Laws 2001, provide:

Sec. 1. Medical gas systems. (1) Notwithstanding ORS 447.010 (6), a person who installs, maintains or repairs medical gas systems is not operating a plumbing business or engaging in the plumbing trade if the person operates or is employed by a business for which the installation, maintenance or repair of medical gas systems was a substantial business activity in Oregon during the period commencing October 23, 1997, and ending October 23, 1999.

(2) Subsection (1) of this section applies only if evidence is presented to the State Plumbing Board that demonstrates that the medical gas system installation, maintenance or repair activity of the business in Oregon was substantial during the two-year period specified in subsection (1) of this section. Evidence that medical gas system installation, maintenance or repair activity of the business was substantial consists only of evidence establishing the number of installations, maintenance visits or repairs of medical gas systems by a business or the number of hours that business personnel spent on medical gas system installation, maintenance or repair. Upon the receipt of satisfactory evidence that the medical gas system activity of the business in Oregon was substantial, the board shall issue a specialty regis-

tration for the business and special certificates to persons identified as employees of the business who are engaged in medical gas system installation, maintenance or repair. A registration or certificate issued under this subsection expires annually. The board may charge an annual fee for the registration and certificates issued to a business or employees of the business under this subsection, or for the renewal thereof, not to exceed \$50. A registration or certificate issued under this subsection is not valid after July 1, 2006.

(3) A specialty registration issued under this section authorizes a business to employ persons to install, maintain and repair medical gas systems. A special certificate issued under this section authorizes the certified person to install, maintain and repair medical gas systems while in the employ of a business holding a specialty registration.

(4) The installation of a medical gas system pursuant to this section is subject to the same permit and inspection requirements as a medical gas system installed by a registered journeyman plumber. [2001 c.629 §1]

Sec. 2. Section 1 of this 2001 Act is repealed July 1, 2006. The repeal of section 1 of this 2001 Act does not prevent the inspection and approval of a medical gas system installed prior to July 1, 2006, by a person described in section 1 of this 2001 Act. [2001 c.629 §2]

447.065 Solar heating and cooling systems. (1) Notwithstanding ORS 447.020, a person may not engage in the trade of installing solar heating and cooling systems unless the person possesses either a certificate of competency as a journeyman plumber issued under ORS chapter 693 or a specialty registration issued by the State Plumbing Board under ORS 693.111.

(2) A specialty registration issued under ORS 693.111 does not authorize a person to connect a solar heating and cooling system to a potable water source. The connection of a solar heating and cooling system to a potable water source must be made only by a journeyman plumber possessing a certificate of competency issued under ORS chapter 693. [2001 c.683 §22]

Note: 447.065 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 447 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

447.070 Registration prerequisite to maintenance of legal action. No person carrying on, conducting or transacting a plumbing business may maintain any suit or action in any of the courts of this state without alleging and proving that the person was duly registered under ORS 447.030 at the time of performing such work. [Amended by 1955 c.548 §8; 1973 c.835 §227]

447.072 Plumbing permit and inspection exemptions; rules. Notwithstanding ORS 455.610, the Department of Consumer and Business Services, with the approval of the State Plumbing Board, shall adopt rules to create an exemption from permit and inspection requirements for ordinary minor repairs in low-rise residential dwellings and

commercial structures when the board finds that the plumbing does not involve any changes or alterations of the existing plumbing system. The exemption from the permit:

(1) May not include new construction or replacement of water heaters or underground plumbing; and

(2) Shall be available only to registered plumbing contractors or persons exempt from certification under ORS 693.020. [1993 c.520 §3; 1995 c.228 §1; 2003 c.14 §268; 2003 c.675 §8]

447.076 Inspection of minor plumbing installations; rules. Notwithstanding ORS 455.610, the Department of Consumer and Business Services, with the approval of the State Plumbing Board, shall adopt rules to create a mandatory inspection program for minor plumbing installations made by registered plumbing contractors in low-rise residential dwellings. The rules adopted by the department shall:

(1) Define the term "minor plumbing installations" in a manner that does not include new construction;

(2) Designate which minor plumbing installations are under the inspection program; and

(3) Provide for random inspection of minor plumbing installations. [1993 c.520 §4; 1995 c.553 §2b; 2003 c.675 §9]

447.080 City and county plumbing regulations. No city or county shall enact or enforce any ordinances or building codes providing different requirements than those imposed by the state building code for the regulation of the business of master plumbing or the installation of drainage work unless authorized by the Director of the Department of Consumer and Business Services under ORS 455.040. [Amended by 1955 c.548 §9; 1963 c.47 §1; 1973 c.834 §31; 1973 c.835 §228; 1985 c.590 §1]

447.085 [1973 c.734 §7; 1977 c.748 §1; repealed by 1981 c.438 §46]

447.090 [Repealed by 1971 c.753 §74]

447.091 Contracts with sanitary districts and authorities and service districts for inspection of building sewers. The Department of Consumer and Business Services or local government administering the plumbing specialty code adopted under ORS 447.020 (2) may, upon request of any sanitary district formed pursuant to ORS 450.005 to 450.245, sanitary authority established under ORS 450.600 to 450.989, or county service district established under ORS 451.410 to 451.610, contract for the inspection of building sewers constructed to connect a district sewage system if inspectors employed by such district are certified for sewer inspections under ORS 455.715 to 455.740. [1977 c.828 §4]

447.095 Fee schedule; inspection agreements with governmental units.

(1) Rules adopted under ORS 447.020 shall provide a plumbing inspection fee schedule. The schedule shall establish inspection fees for inspections made by the Department of Consumer and Business Services under ORS 447.010 to 447.156, 447.992 and 455.610 to 455.630 based on the cost of making inspections as measured by the time required of the inspector.

(2) Plumbing inspections may be made for other governmental units, upon request, pursuant to agreements entered into under ORS 190.003 to 190.620. [1973 c.734 §8; 1981 c.438 §35; 1993 c.397 §1]

447.097 Disposition of moneys received under ORS 447.010 to 447.156 and 447.992.

All moneys received by the Department of Consumer and Business Services under ORS 447.010 to 447.156 and 447.992 shall be disposed of in accordance with ORS 693.165. [1981 c.438 §42]

(Fixture Installation Regulations)**447.100 Restriction on tank-type water closets in certain buildings.**

(1) No new hotel, motel, apartment house, dwelling, office building or other structure shall be constructed which employs a tank-type water closet that is not approved by the Director of the Department of Consumer and Business Services, with the approval of the State Plumbing Board, as meeting adequate standards of safety and sanitation.

(2) The director, with the approval of the board, shall cause to have adopted and published, pursuant to ORS chapter 183, a list of approved types of tank-type water closets meeting the requirements of this section. [1977 c.171 §2; 1981 c.438 §36; 1985 c.590 §2; 1993 c.744 §70]

447.105 [1977 c.171 §3; 1981 c.438 §37; repealed by 1987 c.453 §1]

447.110 [Amended by 1963 c.194 §1; 1969 c.443 §1; 1973 c.835 §229; repealed by 1973 c.834 §46]

447.115 "Compost toilet" defined.

As used in ORS 447.118 and 447.124, "compost toilet" means a permanent, sealed, water-impervious toilet receptacle screened from insects, used to receive and store only human wastes, urine and feces, toilet paper and biodegradable garbage, and ventilated to utilize aerobic composting for waste treatment. [1977 c.523 §2]

447.118 Standards for compost toilets; rules; security required of certain installers.

(1) Nothing in ORS 447.010 to 447.156 and 447.992 shall prohibit the installation of a compost toilet for a dwelling by the occupant of the dwelling if the compost toilet complies with the minimum requirements established under this section.

(2) Rules adopted under ORS 447.020 shall provide minimum requirements for the design, construction, installation and maintenance of compost toilets.

(3) The Director of the Department of Consumer and Business Services with the approval of the State Plumbing Board may require by rule that, in addition to any other requirements provided by law, any manufacturer or distributor of a compost toilet and any person other than the owner of the dwelling in which the compost toilet is to be installed who proposes to install a compost toilet file with the Department of Consumer and Business Services a satisfactory bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or other security in an amount to be fixed by the department with approval of the board but not to exceed \$5,000, conditioned that such bond, letter of credit or security shall be forfeited in whole or in part to the department for the purpose of carrying out the provisions of ORS 447.124 by failure of such manufacturer, distributor or person to comply with the rules adopted under this section. [1977 c.523 §3; 1981 c.438 §38; 1991 c.331 §62; 1993 c.744 §71; 1997 c.631 §472]

447.120 [Amended by 1963 c.194 §2; 1969 c.443 §2; 1973 c.835 §230; repealed by 1973 c.834 §46]

447.124 Inspection of compost toilets; orders to remedy violations; action against security bond; review of orders; costs as lien against dwelling. For the purpose of enforcing ORS 447.118 and the rules adopted thereunder, the Department of Consumer and Business Services, with the assistance of the Department of Human Services:

(1) May conduct periodic inspections of any compost toilet;

(2) Upon making a finding that a compost toilet is in violation of the rules adopted pursuant to ORS 447.118 (2), may issue an order requiring the owner of the dwelling served by the compost toilet to take action necessary to correct the violation; and

(3) Upon making a finding that a compost toilet presents or threatens to present a public health hazard creating an emergency requiring immediate action to protect the public health, safety or welfare, may issue an order requiring the owner of the dwelling served by the compost toilet to take any action necessary to remove such hazard or threat thereof. If such owner fails to take the actions required by such order, the Department of Consumer and Business Services shall take such action, itself or by contract with outside parties, as necessary to remove the hazard or threat thereof. The department shall keep a record of all necessary expenses incurred by the department in carrying out

such action, including a reasonable charge for costs incurred and equipment and materials utilized by the state. Any owner who fails to take action required by an order issued under this subsection shall be responsible for such necessary expenses incurred by the state. Based on the record compiled by the department, an owner responsible for expenses due to the failure of a manufacturer, distributor or person to comply with the rules adopted under ORS 447.118 (2) shall have a setoff against the bond or other security forfeited under ORS 447.118 (3) to the extent that such expenses are due to such failure of the manufacturer, distributor or person. The department shall make a finding and enter an order against the owner for the necessary expenses. Orders issued under this section may be appealed pursuant to ORS chapter 183 but not as a contested case. Any amount due the department under this subsection and not paid in full within 30 days after the order is entered, or, if the order is appealed, within 30 days after there is no further right to appeal, shall become a lien upon the dwelling of the owner. The department shall file a notice of the lien with the recording officer of the county in which the dwelling is located and the recording officer shall record the notice in a manner designed to appear in the mortgage records of the county.

(4) The department may contract with any state or local agency for the purpose of carrying out the provisions of this section. [1977 c.523 §4; 1983 c.740 §167]

447.130 [Repealed by 1973 c.834 §46]

447.135 [1967 c.308 §§2,3,4; 1983 c.676 §29; renumbered 480.557]

447.140 Waste water and sewage from plumbing fixtures; requirements; prohibitions. (1) All waste water and sewage from plumbing fixtures shall be discharged into a sewer system or alternate sewage disposal system approved by the Environmental Quality Commission or Department of Environmental Quality under ORS chapters 468, 468A and 468B.

(2) No plumbing fixture, device or equipment shall be installed, maintained or offered for sale which will provide a cross-connection between the distributing system of water for drinking and domestic purposes and any other water supply, or a drainage system, soil or waste pipe so as to permit or make possible the backflow of contaminated water, sewage or waste into the water supply system.

(3) No flush valve, vacuum breaker or syphon preventer shall be offered for sale or installed that has not been approved by the Department of Consumer and Business Ser-

vices with the approval of the State Plumbing Board.

(4) The use or installation of water-operated sump pumps or sewage ejectors, if connected to the potable water supply, is prohibited.

(5) No pan, plunger, offset washout, washout, long hopper, frost proof or other water closets having invisible seals or unventilated spaces, or walls not thoroughly washed at each flushing, shall be installed or sold for use in any building.

(6) No plumbing fixture, appurtenance or device, the installation of which would be in violation of the state plumbing specialty code and the rules of the department approved by the board shall be sold, offered for sale or installed. [Amended by 1955 c.548 §10; 1961 c.545 §1; 1973 c.835 §231; 1981 c.438 §39; 1993 c.744 §72]

447.145 Standards for fixtures; exemptions; rules. (1) All new fixtures approved for installation during construction, reconstruction, alteration and repair of buildings and other structures under ORS 447.020 shall comply with rules adopted by the Director of the Department of Consumer and Business Services. The rules shall be consistent with performance requirements and test procedures established by the American National Standards Institute, or other equivalent recognized North American standards and procedures. Except for used fixtures allowed under subsection (4) of this section, the average amount of water used by new or replacement fixtures under the applicable test procedures shall not exceed:

(a) 1.6 gallons or 6.06 liters per flush for toilets;

(b) 1.0 gallons or 3.785 liters per flush for urinals;

(c) 2.5 gallons or 9.46 liters per minute for shower heads; and

(d) 2.5 gallons or 9.46 liters per minute for interior faucets.

(2) Notwithstanding subsection (1) of this section, the director by rule shall provide for exemptions to the requirements under subsection (1) of this section if:

(a) The reconstruction, alteration or repair of a building does not include the installation of new or replacement toilets or urinals, shower heads or faucets within the building;

(b) Due to the capacity, design or installation of the plumbing or sewage system within an existing building, toilets or urinals required by subsection (1) of this section would, if installed in the building, be unable to meet the performance requirements of the American National Standards Institute or

other equivalent recognized North American standards as adopted by rule;

(c) The fixtures and fittings necessary to perform a specialized function, including but not limited to emergency showers and aspirator faucets, cannot meet the requirements;

(d) The installation of fixtures that do not comply with subsection (1) of this section is necessary to maintain the historic character of a structure listed under ORS 358.480 to 358.545; or

(e) The fixtures and fittings to be installed are specifically designed to withstand unusual abuse or installation in a penal institution or are located in an area with special needs, such as a laboratory, hospital, nursing home or other health care facility.

(3) No person shall sell or offer for sale any new toilet, urinal, shower head or faucet that has not been approved under ORS 447.020.

(4) On or after December 31, 1995, no person shall sell or offer for sale any used toilet, urinal, shower head or interior faucet that does not meet the conservation standards established in subsection (1) of this section.

(5) The director shall adopt rules and regulations for marking, labeling or otherwise identifying fixtures that meet the standards of this section. [1991 c.945 §§2,3,4,5; 1993 c.207 §1; 2001 c.104 §185; 2001 c.540 §23]

447.150 [1969 c.452 §1; repealed by 1979 c.57 §3]

(Plumbing Products Regulations)

447.152 Plumbing products rules; standards; certification. In compliance with ORS chapter 183, the Director of the Department of Consumer and Business Services, with the approval of the State Plumbing Board, shall adopt rules, including but not limited to:

(1) Governing minimum safety standards for design and construction of plumbing products to be sold or disposed of in this state.

(2) Establishing procedures for certification of plumbing products.

(3) Establishing criteria for approval of plumbing product testing laboratories and listing agencies, including but not limited to:

(a) Independence from manufacturers, vendors and when applicable, testing laboratories;

(b) Ethical testing and business standards;

(c) Test quality control;

(d) Continuity of monitoring continuing product safety;

(e) Certification and listing procedures; and

(f) Record keeping.

(4) Providing for certified or listed product identification.

(5) Establishing criteria for approval of a plumbing product by a special deputy similar to those rules established for testing laboratories.

(6) Governing the internal organization and procedure for administering and enforcing ORS 447.152, 447.154 and 447.156 (1) and (2). [1993 c.396 §3]

447.154 Plumbing product exemption; rules; installation. (1) The State Plumbing Board may by rule, grant partial or complete exemptions from any of the provisions of ORS 447.010 to 447.156, 447.992 and 455.010 to 455.740 to any plumbing product if it is determined that the plumbing product does not present a danger to the health and safety of the people of this state.

(2) If the board grants an exemption pursuant to subsection (1) of this section the board may determine that the product may be installed by a person not certified under ORS 693.010 to 693.108. [1993 c.396 §4]

447.156 Sale of uncertified plumbing products prohibited; rules; remedy of purchaser. (1) Except as provided under ORS 447.154 and subsection (3) of this section, no person shall offer to sell, sell or dispose of, by gift or otherwise, in connection with the person's business an uncertified plumbing product.

(2) The provisions of ORS 447.152, 447.154 and 447.156 do not apply to products determined by rule not to be plumbing products.

(3) In addition to any other remedy provided by law, any person who purchases a plumbing product sold or disposed of in violation of ORS 447.152 may recover from a person violating subsections (1) and (2) of this section an amount equal to the purchase price of the plumbing product if the purchaser returns the plumbing product within 90 days from the date of purchase. [1993 c.396 §§2,5]

447.160 [1981 c.438 §44; 1999 c.846 §1; repealed by 2001 c.411 §31]

STANDARDS AND SPECIFICATIONS FOR ACCESS BY DISABLED PERSONS

447.210 Definitions for ORS 447.210 to 447.280. As used in ORS 447.210 to 447.280, unless the context requires otherwise:

(1) "Affected buildings" includes any place of public accommodations and commercial facilities designed, constructed and altered in compliance with the accessibility standards established by the Americans with

Disabilities Act. "Affected buildings" also includes any government building that is subject to Title II of the Americans with Disabilities Act. "Affected buildings" also includes private entities, private membership clubs and churches that have more than one floor level and more than 4,000 square feet in ground area or that are more than 20 feet in height, measured from the top surface of the lowest flooring to the highest interior overhead finish of the building.

(2) "Americans with Disabilities Act" means the Americans with Disabilities Act of 1990 found at 42 U.S.C. section 12101 et seq.

(3) "Architectural barriers" are physical design features that restrict the full use of affected buildings and their related facilities by persons with disabilities.

(4) "Commercial facilities" includes non-residential facilities, such as office buildings, factories and warehouses, whose operations affect commerce.

(5) "Covered multifamily dwellings" means buildings consisting of four or more dwelling units if such buildings have one or more elevators, and ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

(6) "Department" means the Department of Consumer and Business Services.

(7) "Director" means the Director of the Department of Consumer and Business Services.

(8) "Fair Housing Act" means the Fair Housing Act of 1968, as amended in 1988, found at 42 U.S.C. section 3604 et seq.

(9) "Municipality" means a city, county or other unit of local government otherwise authorized by law to enact building codes.

(10) "Private entities" means privately owned entities offering examinations or courses related to applications, licensing, certification or credentials for secondary or post-secondary education, professional or trade purposes.

(11) "Public accommodations" means a facility whose operations affect commerce and fall within at least one of the following categories:

- (a) Places of lodging not including owner-occupied establishments renting fewer than six rooms;
- (b) Establishments serving food or drink;
- (c) Places of exhibition or entertainment;
- (d) Places of public gathering;
- (e) Sales or rental establishments;

- (f) Service establishments;
 - (g) Public transportation terminals, depots or stations;
 - (h) Places of public display or collection;
 - (i) Places of recreation;
 - (j) Places of education;
 - (k) Social service center establishments;
- and
- (L) Places of exercise or recreation.

(12) "Related facilities" means building site improvements including, but not limited to, parking lots, passageways, roads or any other real or personal property located on the site.

(13) "Structural code" means the specialty code defined in ORS 455.010. [1971 c.230 §2; 1973 c.539 §1; 1975 c.675 §35; 1979 c.133 §1; 1987 c.414 §27; 1987 c.604 §12; 1989 c.224 §109; 1991 c.67 §122; 1993 c.503 §1; 1993 c.744 §74; 1995 c.307 §1]

447.220 Purpose. It is the purpose of ORS 447.210 to 447.280 to make affected buildings, including but not limited to commercial facilities, public accommodations, private entities, private membership clubs and churches, in the state accessible to and usable by persons with disabilities, as provided in the Americans with Disabilities Act, and to make covered multifamily dwellings in the state accessible to and usable by all persons with disabilities, as provided in the Fair Housing Act. In requiring that buildings and facilities be usable by persons with disabilities, it is not the intention of the Legislative Assembly to require that items of personal convenience such as rest rooms, telephones and drinking fountains be provided for members of the public who have disabilities if they are not otherwise provided for members of the public who do not have disabilities. However, pursuant to the Americans with Disabilities Act, the Director of the Department of Consumer and Business Services may provide greater protection to individuals with disabilities by adopting more stringent standards than prescribed by the Americans with Disabilities Act. [1971 c.320 §1; 1973 c.539 §2; 1979 c.133 §2; 1989 c.224 §110; 1993 c.503 §2]

447.230 Standards and specifications to eliminate architectural barriers. (1)

The Director of the Department of Consumer and Business Services shall, pursuant to ORS 455.030 and ORS chapter 183, establish standards and specifications in the structural code necessary to eliminate architectural barriers to entry to and use of affected buildings and their related facilities by persons who have disabilities.

(2) The director shall, to assist in the identification of architectural barriers and in the development of the standards and specifications referred to in subsection (1) of this

section, be assisted by the Oregon Disabilities Commission or its designee. [1971 c.320 §3; 1973 c.539 §3; 1979 c.133 §3; 1983 c.740 §169; 1987 c.414 §27b; 1987 c.672 §1; 1989 c.224 §111; 1989 c.703 §1; 1993 c.503 §3; 1993 c.744 §75a]

447.231 Rules to eliminate architectural barriers. Notwithstanding any other provision of law and the authority of any board within the Department of Consumer and Business Services, the Director of the Department of Consumer and Business Services shall adopt rules to conform the state building code to the Americans with Disabilities Act and the Fair Housing Act and the regulations adopted thereunder. In addition, the director shall adopt rules to conform the state building code to the provisions of ORS 447.210 to 447.280, to the extent to which any statute is stricter than the Americans with Disabilities Act or the Fair Housing Act. [1991 c.691 §2; 1993 c.503 §4; 2003 c.14 §269]

447.233 Accessible parking space requirements; inspection of spaces; remedy for violation. (1) The Director of the Department of Consumer and Business Services shall include in the state building code, as defined in ORS 455.010, a requirement that the number of accessible parking spaces specified in subsection (2) of this section be provided for affected buildings subject to the state building code and that the spaces be signed as required by subsection (2) of this section. Spaces may also be marked in a manner specified in the state building code.

(2)(a) The number of accessible parking spaces shall be:

Total Parking In Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

(b) In addition, one in every eight accessible spaces, but not less than one, shall be van accessible. A van accessible parking space shall be at least nine feet wide and shall have an adjacent access aisle that is at least eight feet wide.

(c) Accessible parking spaces shall be at least nine feet wide and shall have an adjacent access aisle that is at least six feet wide.

(d) The access aisle shall be located on the passenger side of the parking space except that two adjacent accessible parking spaces may share a common access aisle.

(e) A sign shall be posted for each accessible parking space. The sign shall be clearly visible to a person parking in the space, shall be marked with the International Symbol of Access and shall indicate that the spaces are reserved for persons with disabled person parking permits. Van accessible parking spaces shall have an additional sign marked "Van Accessible" mounted below the sign.

(f) Accessible parking spaces and signs shall be designed in compliance with the standards set forth by the Oregon Transportation Commission in consultation with the Oregon Disabilities Commission.

(3) No ramp or obstacle may extend into the parking space or the aisle, and curb cuts and ramps may not be situated in such a way that they could be blocked by a legally parked vehicle.

(4) Parking spaces required by this section shall be maintained so as to meet the requirements of this section at all times and to meet the standards established by the state building code.

(5) The director is authorized to inspect parking spaces and facilities and buildings subject to the provisions of this section, and to do whatever is necessary to enforce the requirements, including the maintenance requirements, of this section. Municipalities and counties may administer and enforce the requirements of this section in the manner provided under ORS 455.148 or 455.150 for administration and enforcement of specialty codes. All plans for parking spaces subject to the provisions of this section must be approved by the director prior to the creation of the spaces.

(6) Requirements adopted under this section do not apply to long-term parking facilities at the Portland International Airport.

(7) Any reported violation of this section shall be investigated by the administrative authority. The administrative authority shall make a final decision and order correction, if necessary, within 30 days of notification. Any aggrieved person may appeal within 30 days of the decision by the administrative authority to the appropriate municipal appeals board or, at the option of the local jurisdiction, directly to the Building Codes Structures Board established under ORS 455.132. The appeal shall be acted upon within 60 days of filing. The decision of the municipal appeals board may be appealed to the board. The board shall act on the appeal within 60 days of filing. All appeals to the

board shall be filed in accordance with ORS 455.690. [1979 c.809 §2; 1981 c.275 §1; 1983 c.338 §930; 1987 c.187 §1; 1989 c.243 §15; 1991 c.741 §6; 1993 c.503 §8; 1993 c.744 §77; 2001 c.573 §5]

447.235 [1973 c.539 §11; 1989 c.224 §112; repealed by 1993 c.503 §14]

447.240 [1971 c.320 §4; 1973 c.539 §4; 1973 c.540 §1; 1974 c.36 §14; 1989 c.224 §113; repealed by 1993 c.503 §14]

447.241 Standards for renovating, altering or modifying certain buildings; barrier removal improvement plan. (1) Every project for renovation, alteration or modification to affected buildings and related facilities that affects or could affect the usability of or access to an area containing a primary function shall be made to insure that, to the maximum extent feasible, the paths of travel to the altered area and the rest rooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, unless such alterations are disproportionate to the overall alterations in terms of cost and scope.

(2) Alterations made to the path of travel to an altered area may be deemed disproportionate to the overall alteration when the cost exceeds 25 percent of the alteration to the primary function area.

(3) If the cost of alterations to make the paths of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the paths of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

(4) In choosing which accessible elements to provide under this section, priority shall be given to those elements that will provide the greatest access. Elements shall be provided in the following order:

- (a) Parking;
- (b) An accessible entrance;
- (c) An accessible route to the altered area;
- (d) At least one accessible rest room for each sex or a single unisex rest room;
- (e) Accessible telephones;
- (f) Accessible drinking fountains; and
- (g) When possible, additional accessible elements such as storage and alarms.

(5) A series of small alterations to an area served by a single path of travel does not satisfy the obligation to provide an accessible path of travel created under subsection (1) of this section.

(6) If an area containing a primary function has been altered without providing an accessible path of travel to the area and subsequent alterations affecting the same

path of travel are undertaken within three years of the original alteration, the total cost of the alterations to the primary function area on the path of travel during the preceding three-year period shall be considered in determining whether the cost of making the path of travel accessible is disproportionate.

(7)(a) A barrier removal improvement plan may satisfy the requirements of subsection (1) of this section. The plan shall require an equivalent or greater level of barrier removal than required by subsection (1) of this section.

(b) The barrier removal improvement plan shall include:

(A) A letter of participation from the building owner;

(B) A building survey that identifies existing architectural barriers;

(C) An improvement plan and time schedule for removal of architectural barriers; and

(D) An implementation agreement.

(c) The barrier removal improvement plan may be reviewed and accepted through the waiver process under ORS 447.250. The plan shall be reviewed upon completion or every three years for compliance with the requirements of this section.

(8) For purposes of this section, "primary function" is a major activity for which the facility is intended. [1993 c.503 §7]

447.243 [1973 c.539 §6; 1989 c.224 §114; repealed by 1993 c.503 §14]

447.245 [1973 c.539 §17; 1973 c.540 §3; repealed by 1993 c.503 §14]

447.247 Elevators required; criteria. (1) Elevators are required:

(a) In all shopping centers, shopping malls, professional offices of health care providers and government buildings that are covered by Title II of the Americans with Disabilities Act;

(b) In all other commercial facilities, private entities and places of public accommodation covered by Title III of the Americans with Disabilities Act that have more than one floor level and more than 3,000 square feet in ground area or that are more than 20 feet in height, measured from the top surface of the lowest flooring to the highest interior overhead finish of the building; and

(c) In all private membership clubs and churches that have more than one floor level and more than 4,000 square feet in ground area or that are more than 20 feet in height, measured from the top surface of the lowest flooring to the highest interior overhead finish of the building.

(2) The Department of Consumer and Business Services may by rule create exceptions to the requirements of this section if this section would require an elevator in a building that would not be required to have an elevator under the provisions of the Americans with Disabilities Act or the Fair Housing Act. [1993 c.503 §6; 1995 c.307 §2]

447.250 Waiver or modification of standards and specifications; appeals board; procedures; fees. (1) When a person or governmental entity undertaking the construction, renovation, alteration or modification of an affected building or its related facilities determines that a particular standard or specification exceeds the standards or specifications imposed by the Americans with Disabilities Act and the Fair Housing Act, and that full compliance with the standard or specification is impractical in that it would defeat the purpose of the project proposed or in process, it may apply to the appeals board having jurisdiction over the project for a waiver or modification of such standard or specification, setting forth the reasons for its determination and a proposal for the work complying with the particular standard or specification to the maximum extent that it considers practical.

(2)(a) For projects involving a state correctional facility as defined in ORS 421.005 (2), or a local correctional facility, as defined in ORS 169.005, the appeals board referred to in subsection (1) of this section is the Building Codes Structures Board established under ORS 455.132.

(b) For all other projects, the appeals board referred to in subsection (1) of this section is the appeals board established under ORS 455.020 (4) by the municipality having jurisdiction over the project.

(3) The appeals board shall thereupon investigate the application. The board in its investigation shall be required to seek the advice of the Oregon Disabilities Commission or its designee in dealing with architectural barrier waivers. If the appeals board finds that the proposal submitted with the application would constitute a substantial compliance with, or an acceptable alternative to, the particular standard or specification in view of the objectives of ORS 447.210 to 447.280, the waiver shall be granted. If the board finds otherwise, the application shall be promptly denied with notice to the requesting person or governmental entity of the denial.

(4) The findings of the appeals board shall include the estimated building costs and the additional cost of construction to conform to the requirements of ORS 447.210 to 447.280 over the cost of a nonconforming feature or any other special reason or cir-

cumstance that, in the judgment of the board, justifies the decision.

(5) Any person aggrieved by the final decision of an appeals board may within 30 days of the decision appeal to the Director of the Department of Consumer and Business Services. In the case where no appeals board has been created the director shall have original jurisdiction of an application for a waiver. The applicant for a waiver or an appeal shall submit a fee of \$20 payable to the director with the request for waiver or appeal. In determining an appeal or an original application, the procedures and standards of subsections (1) to (4) of this section shall apply to the director. [1971 c.320 §5; 1973 c.539 §7; 1979 c.133 §4; 1987 c.672 §3; 1989 c.224 §115; 1989 c.703 §2; 1993 c.744 §78; 1995 c.307 §3; 2001 c.517 §6]

447.255 Access to lottery-funded facilities by persons with disabilities. (1) It is the intent of the Legislative Assembly that any affected buildings, the construction costs of which are paid for in whole or in part by lottery funds, shall be accessible to and usable by persons with disabilities in the manner prescribed in ORS 447.210 to 447.280.

(2) Promotional and marketing programs described by this section and ORS 285B.464 shall promote and identify lottery-funded facilities as accessible to and usable by persons with disabilities whenever appropriate. [1989 c.909 §49; formerly 461.730; 1993 c.503 §9]

447.260 Rulemaking. (1) The Director of the Department of Consumer and Business Services may promulgate rules reasonably necessary to implement and enforce ORS 447.210 to 447.280 as part of the structural code including, but not limited to, rules authorizing the director to waive or modify any standards and specifications with respect to work on affected buildings and their related facilities where the director determines, with respect to emergency or temporary construction, that compliance with such standards or specifications would not be necessary to fulfill the objectives of ORS 447.210 to 447.280 or would be impractical.

(2) The Director of the Department of Consumer and Business Services shall by rule establish criteria for determining the lowest flooring of a building for the purposes of the definition of "affected buildings" provided by ORS 447.210 and for the purposes of ORS 447.247. [1971 c.320 §6; 1973 c.539 §8; 1979 c.133 §5; 1993 c.503 §10; 1993 c.744 §76; 1995 c.307 §4]

447.270 Cooperation with public officials and agencies required. The Director of the Department of Consumer and Business Services or the designated representative of the director shall cooperate with and receive the assistance of all persons, all appropriate elective or appointive public officials and all state or governmental agencies in carrying

out the responsibilities of the director under ORS 447.210 to 447.280. [1971 c.320 §7; 1973 c.539 §9]

447.275 Nonliability for emergency exit deficiencies. Architects, engineers or other persons designing buildings; contractors and other persons erecting buildings; building officials, plans examiners, inspectors, the Director of the Department of Consumer and Business Services, the State Fire Marshal, State Fire Marshal deputies, municipal fire marshals or municipal deputies inspecting buildings; or a municipal appeals board shall be relieved of any personal or financial liability from persons suffering injury or death or those persons' heirs as the result of exiting deficiencies during emergencies resulting from access for persons with disabilities required by ORS 447.210 to 447.280 or standards adopted under them. [1979 c.133 §8; 1989 c.224 §116; 1991 c.67 §123]

447.280 Enforcement powers. The provisions of ORS 447.210 to 447.280 and rules adopted under them shall be considered part of the state building code and violations shall be subject to the provisions of ORS 455.450. [1971 c.320 §8; 1973 c.539 §10; 1979 c.133 §6]

447.310 Standards for curbing. (1) The standard for construction of curbs on each side of any city street, county road or state highway, or any connecting street, road or highway for which curbs and sidewalks have been prescribed by the governing body of the city or county or Department of Transportation having jurisdiction thereover, shall require not less than two curb cuts or ramps per lineal block to be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least 48 inches wide, where possible, and a minimum of 36 inches wide where a 48-inch width will not fit, at a slope not to exceed one-inch rise per 12-inch run. If a slope of 1:12 will not fit, a slope between 1:10 and 1:12 is allowed for a maximum rise of six inches and a slope between 1:8 and 1:10 is allowed for a maximum rise of three inches. In no case shall the slope exceed 1:8.

(2) Standards set for curb cuts and ramps under subsection (1) of this section shall apply whenever a curb or sidewalk is constructed or replaced at any point in a block which gives reasonable access to a crosswalk. [1973 c.176 §1; 1975 c.468 §1; 1989 c.224 §117; 1993 c.503 §13]

447.610 [1957 c.278 §1; repealed by 1979 c.57 §3]

447.620 [1957 c.278 §§2,13,22; repealed by 1979 c.57 §3]

447.630 [1957 c.278 §3; repealed by 1979 c.57 §3]

447.640 [1957 c.278 §4; repealed by 1979 c.57 §3]

447.650 [1957 c.278 §6; repealed by 1979 c.57 §3]

447.660 [1957 c.278 §§5,7,9,10; repealed by 1979 c.57 §3]

447.670 [1957 c.278 §8; repealed by 1979 c.57 §3]

447.680 [1957 c.278 §§11,12; repealed by 1979 c.57 §3]

447.690 [1957 c.278 §§14,15,16; repealed by 1979 c.57 §3]

447.700 [1957 c.278 §§17,18; repealed by 1979 c.57 §3]

447.710 [1957 c.278 §19; repealed by 1979 c.57 §3]

447.720 [1957 c.278 §17; repealed by 1979 c.57 §3]

447.730 [1957 c.278 §20; repealed by 1979 c.57 §3]

447.800 [1975 c.677 §1; 1977 c.58 §1; 1981 s.s. c.10 §1; 1983 c.42 §1; renumbered 284.800 in 1987]

447.805 [1975 c.677 §2; 1981 c.754 §1; renumbered 284.805 in 1987]

447.810 [1975 c.677 §2a; renumbered 284.810 in 1987]

447.815 [1975 c.677 §2b; 1981 c.754 §2; renumbered 284.815 in 1987]

447.820 [1975 c.677 §3; 1983 c.573 §1; renumbered 284.820 in 1987]

447.825 [1975 c.677 §4; 1977 c.58 §2; renumbered 284.825 in 1987]

447.830 [1975 c.677 §5; repealed by 1977 c.58 §3; (447.831 and 447.834 enacted in lieu of 447.830)]

447.831 [1977 c.58 §4 (enacted in lieu of 447.830); renumbered 284.831 in 1987]

447.834 [1977 c.58 §5 (enacted in lieu of 447.830); renumbered 284.834 in 1987]

447.835 [1975 c.677 §6; 1977 c.58 §6; renumbered 284.835 in 1987]

447.840 [1975 c.677 §7; 1977 c.58 §7; renumbered 284.840 in 1987]

447.845 [1975 c.677 §8; 1981 c.754 §3; renumbered 284.845 in 1987]

447.850 [1975 c.677 §9; 1977 c.58 §8; renumbered 284.850 in 1987]

447.855 [1975 c.677 §9a; renumbered 284.855 in 1987]

447.860 [1975 c.677 §10; renumbered 284.860 in 1987]

447.865 [1975 c.677 §11; 1977 c.58 §9; renumbered 284.865 in 1987]

447.875 [1977 c.319 §1; renumbered 284.875 in 1987]

447.880 [1977 c.319 §2; renumbered 284.880 in 1987]

447.990 [Subsection (2) enacted as 1957 c.278 §21; 1973 c.734 §4; 1973 c.835 §232; 1979 c.57 §2; repealed by 1981 c.438 §46]

PENALTIES

447.992 Civil penalties. The State Plumbing Board may impose a civil penalty for a violation of ORS 447.010 to 447.156 and 447.992 or rules adopted for the administration and enforcement of those sections. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895. [2001 c.411 §6]

