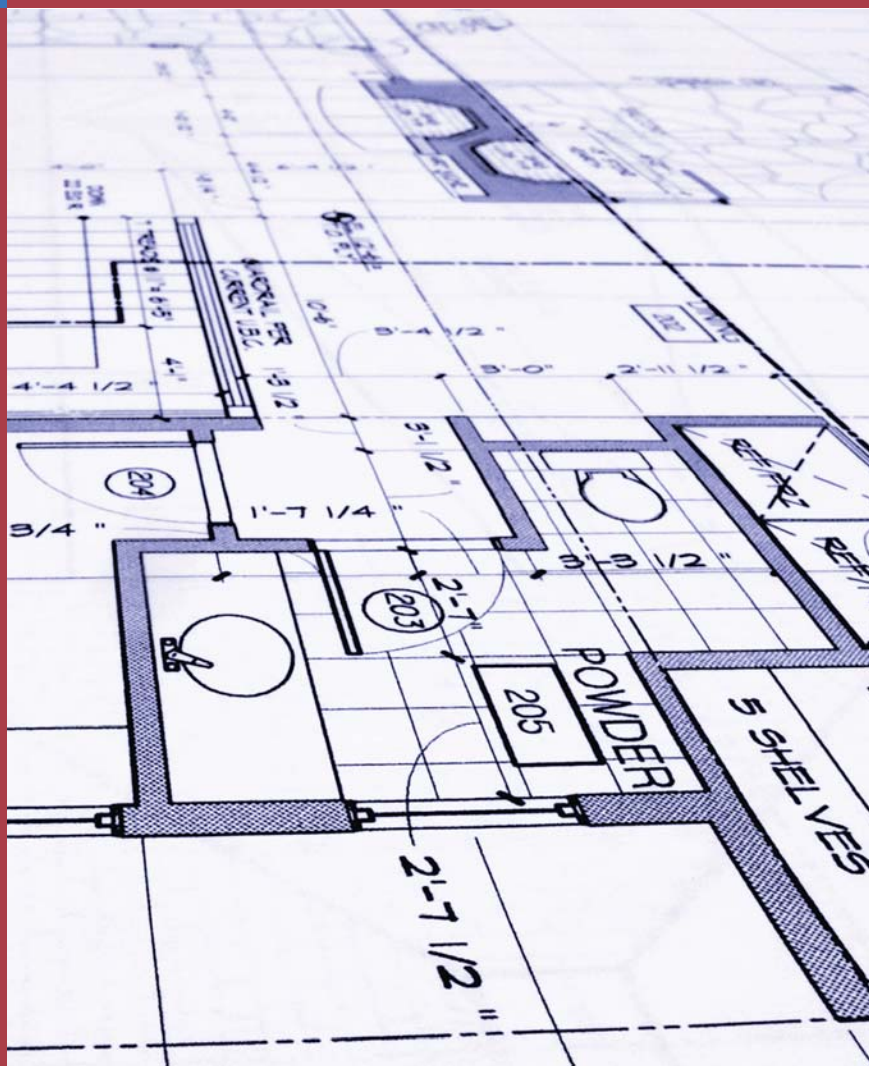


Reference Manual *for* Building Officials

The Architects' Law &
The Engineers' Law

Prepared by
The Oregon Board of
Architect Examiners
and
The Oregon State
Board of Examiners
for Engineering and
Land Surveying
Seventh Edition, 2010



Contents

- Foreword 3
- Introduction. 5
- 1 The Practices of Architecture and Engineering. 9
 - The Practice of Architecture 9
 - The Practice of Engineering 9
- 2 Considerations for Building Officials When Issuing Building Permits . . . 13
 - Is an architect or engineer required on a project? 13
 - Non-Exempt Buildings 13
 - Exempt Buildings 14
 - Significant Structures 16
- 3 Professional Stamp and Seal Requirements for
 - Architects and Engineers 17
 - Professional Stamp (Architect) 17
 - Professional Seal (Engineer). 18
 - Supervision (Documents). 19
 - Supervision (Construction). 21
 - The Implications of Design Build 21
- 4 Frequently Asked Questions and Commentaries 23
 - Appurtenances: 23
 - Exempt vs. Non-Exempt Structures: 23
- 5 The Complaint Process. 31
 - Oregon Board of Architect Examiners (OBAE) Complaint Process 31
 - Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) Complaint Process 32
- 6 Additional Resources 35

Foreword

This manual has been prepared and published jointly by the Oregon Board of Architect Examiners (OBAE) and the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) in consultation with Oregon Building Codes Division (BCD), in order to aid Oregon Building Officials and the general public in understanding the laws governing the practices of architecture and engineering in Oregon.

This information is provided as part of a continuing effort to safeguard health, safety, and property/welfare through proper enforcement of the legal requirements for design, supervision, construction, and inspection of buildings in Oregon.

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Introduction

The charge given to a building official through BCD is similar to that given to OBAE and OSBEELS: protecting the health, safety, welfare and property of Oregon citizens to promote safe building construction in this State. This is accomplished through the following: administration and interpretation of the building code; inspection of building construction to the building code requirements; plan review to the building code requirements; licensing for code enforcement; and permit services to the construction industry.

BCD has statutory authority for the enforcement and administration of:

- Oregon Structural Specialty Code (structures other than one-and-two family dwellings or townhouses of three stories or less)
- Oregon Residential Specialty Code
- Public Assembly structures
- Prefabricated structures
- Manufactured dwellings, structures, and parks
- Recreational Vehicle and recreational park trailer safety, and recreational vehicle parks
- Energy conservation codes and Green Building services
- The elimination of architectural barriers in buildings (ADA and accessibility requirements)
- The Mechanical Code
- The Plumbing Code
- The Electrical Code and Electrical Safety Law
- The Boilers and Pressure Vessels Code
- Elevators, Amusement Rides, and the Elevator Specialty Code
- Certification and training of inspectors
- Permits and permit requirements

It is important to clarify the roles of BCD, OBAE, and OSBEELS, as well as the individual practices of the architect and of the engineer.

BCD administration consists of several staff roles, of which three are highlighted here:

1. The building official is required to enforce the state building codes that govern the construction, reconstruction, alteration, and repair of buildings and other structures and the installation of mechanical devices and equipment, and require the correction of unsafe conditions caused in existing buildings. The state building codes establish uniform performance standards to provide reasonable safeguards for the health, safety, welfare, comfort, and security of the residents of this state. Part of the building official's review when issuing building permits includes ensuring that an architect and/or engineer created the construction documents when

THE CHARGE GIVEN TO BUILDING OFFICIALS IS TO ASSURE BUILDING CONSTRUCTION IN OREGON IS... PROTECTING THE SAFETY, HEALTH, AND PROPERTY/WELFARE OF OREGON CITIZENS

THE BUILDING OFFICIAL IS REQUIRED TO ENFORCE THE STATE BUILDING CODES

required by code and law, and to ensure that these documents comply with the minimum requirements of the state's adopted building codes.

**THE PLANS EXAMINER EXAMINES
THE PLANS FOR CODE COMPLIANCE**

2. The plans examiner examines the plans for code compliance. The plans examiner provides code interpretation guidance and council on technical issues, and examines plans and other documents for compliance of the codes listed above. However, the plans examiner does not perform architectural or engineering design.

**THE BUILDING INSPECTOR
OBSERVES CONSTRUCTION
TO ASSURE CODE COMPLIANCE**

3. The building inspector observes construction to assure code compliance.

For this manual, the term building official encompasses the global role of all three responsibilities.

OBAE and OSBEELS assure the public that only those individuals who have met minimum professional standards of education, experience, and examination may plan, design, and supervise the erection of non-exempt structures.

There may be confusion as to when to employ an architect or engineer on a particular project. The architect is educated in a broad scope of subjects covering both functional and aesthetic areas of building design. The registered architect is expected to understand, assemble, and coordinate all of the disciplines and specialties that a building comprises. The architect is concerned with the creation and adaptation of space primarily for use and occupancy by human beings. Often, the architect is expected to act in the capacity of a "generalist" in the design process.

The engineer is educated in subjects that focus on the technology of one specific functional system that the building and the site comprise. The engineer applies mathematics and principles of engineering to design components that include, but are not limited to, the civil, electrical, mechanical, and structural components of the building. In addition, the practice of engineering may include surveying to determine area or topography; surveying to establish lines, grades, or elevations, or to determine or estimate quantities of materials required, removed, in place; or surveying for the design and construction layout of engineering and architectural infrastructure; or performing photogrammetric mapping.

There is an area where the architect's practice may overlap the engineer's practice. The architect has been generally educated in the civil, mechanical, structural, and electrical technologies, and may practice in these areas to the extent that the architect is competent based on experience and knowledge in the area of work. However, an architect generally retains engineers on projects that are complex, or outside the architect's level of competence. The architect typically hires engineers, such as structural, civil, mechanical, electrical, etc., as consultants. Often this professional team works together to prepare contract documents consisting of drawings and technical specifications that detail how a project is to be built. The architect or respective engineer stamps only those sections of the construction documents over which they have responsible control.

In order to assure compliance with the state building codes, building officials sometimes have questions regarding the requirements for architects and engineers on projects, based on the laws governing the practice of architecture and engineering in Oregon. In addition to information provided by BCD, building officials rely on OBAE and OSBEELS as sources of information and support. This reference manual is provided as a source of ready information to assist the building officials around the state

**THE ARCHITECT IS EDUCATED IN
A BROAD SCOPE OF SUBJECTS
COVERING BOTH FUNCTIONAL AND
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DESIGN**

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SUBJECTS THAT FOCUS ON THE
TECHNOLOGY OF ONE SPECIFIC
FUNCTIONAL SYSTEM THAT THE
BUILDING AND THE SITE COMPRISE**

**THERE IS A GREY AREA WHERE THE
ARCHITECT'S PRACTICE MAY OVER-
LAP THE ENGINEER'S PRACTICE.**

and address some of their most frequently asked questions. It is not meant to supersede the building code requirements or the rules and laws regulating the practice of architecture and engineering in Oregon.

Note:

Text in this manual that is in italics is the actual wording from the Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR). Any references to the ORS, OAR, and Codes were accurate at the time this document was published (2010).

1

The Practices of Architecture and Engineering

The Practice of Architecture

ORS 671.020 states:

“In order to safeguard health, safety and welfare and to eliminate unnecessary loss and waste in this state, a person may not practice the profession of architecture ... without first qualifying before the State Board of Architect Examiners and obtaining a certificate of registration...”

The “practice of architecture” means any one or combination of the following practices by a person or firm:

- Planning
- Designing
- Supervising the erection, enlargement, or alteration of any building or of any appurtenance thereto other than for exempted buildings

ORS 671.010(6) defines the practice of architecture as:

“...the planning, designing or supervision of the erection, enlargement, or alteration of any building or of any appurtenance thereto other than exempted buildings.”

Commentary:

The architect is an individual who after education, practical experience, and examination has satisfied OBAE of proven competence, and is licensed to practice architecture in Oregon. The “practice of architecture” is defined in ORS 671.010(6) and OAR 806-010-0075, and relates to the professional activities of the registered architect. These activities include:

“...all analysis, calculations, research, graphic presentation, literary expression, and advice essential to the preparation of necessary documents for the design and construction of buildings, structures and their related environment whether interior or exterior.”

Only those architects who hold an active Oregon registration may practice architecture in this state.

The Practice of Engineering

ORS 672.020 states:

“In order to safeguard life, health, and property, no person shall practice or offer to practice engineering in this state unless the person is registered and has a valid certificate to practice engineering ...”

in Oregon.

The “practice of engineering” means any professional services requiring:

- Engineering education, training, and experience and

- Applying special knowledge of the mathematical, physical, and engineering sciences.

The following services may be offered by an Oregon registered engineer under ORS 672.005:

“consultation, investigation, testimony, evaluation, planning, design and services during construction, manufacture or fabrication for the purpose of ensuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects.”

Commentary:

In the state of Oregon, engineers may hold a certificate of registration in one or more of the following disciplines:

Acoustical	Manufacturing
Agricultural	Industrial
Chemical	Mechanical
Civil	Metallurgical
Control Systems	Mining
Electrical	Naval Architectural/Marine
Environmental	Nuclear
Fire Protection	Petroleum
Forest	Structural*
Geotechnical	Traffic

Oregon Administrative Rule (OAR 820-020-0020(1)) states that registrants shall perform only in their areas of competence. The item marked with (*) is a specialty discipline that requires unique experience and examination in addition to those mandated in any of the other disciplines of engineering. Refer to OAR 820-040-0020 for further details.

A 1983 opinion from the Assistant Attorney General states that a person must be registered in Oregon before they use the title “engineer” in the practice of engineering. ORS 672.002 to 672.325 address the concern for consumer protection and the public good, and permit only registered and certified personnel to practice engineering. Only those engineers who hold registration in Oregon, or are registered in another state and have obtained a temporary permit, may practice engineering in this state.

ORS 672.007 defines the acts constituting practice of engineering, as follows:

“(1) A person is practicing or offering to practice engineering if the person:
(a) By verbal claim, sign, advertisement, letterhead, card or in any other way implies that the person is or purports to be a registered professional engineer;
(b) Through the use of some other title implies that the person is an engineer or a registered professional engineer; or
(c) Purports to be able to perform, or who does perform, any service or work that is defined by ORS 672.005 as the practice of engineering.”

There has been confusion as to the extent to which the professional engineer may practice land surveying. Below are some examples that may apply to the practice of engineering or the responsibility of professional engineers. The descriptions below

provide general guidance and are not to be considered all-inclusive. For further detail refer to ORS 672.005 and ORS 672.007.

- Surveying to determine area or topography, to establish lines, grades, or elevations, or to determine or estimate quantities of materials required, removed, or in place.
- Surveying required for design and construction layout of engineering and architectural infrastructure.
- Photogrammetric mapping. Photogrammetric mapping is defined as *“evaluating and measuring land that is limited to the determination of topography, area, contours and location of planimetric features, by using photogrammetric methods or similar remote sensing technology, including but not limited to using existing ground control points incidental to the photogrammetric or remote sensing mapping process.”* ORS 672.002(7).

The **professional land surveyor** is uniquely qualified to practice surveying in order to, among other things:

“establish, reestablish or restore land boundaries, corners or monuments between lands not held in common ownership or intended for conveyance.” (ORS 672.025(3))

ORS 672.007 defines the acts that constitute the practice of land surveying as follows:

“(2) A person is practicing or offering to practice land surveying if the person:
(a) By verbal claim, sign, advertisement, letterhead, card or in any other way implies that the person is or purports to be a land surveyor;
(b) Through the use of some other title implies that the person is a land surveyor; or
(c) Purports to be able to perform, or who does perform, any land surveying service or work or any other service that is defined by ORS 672.005 as the practice of land surveying.”

Commentary:

Sometimes there is a question as to when it is appropriate for an architect, an engineer, or both to be involved on a project. The answer depends on the type of project. The following are a few examples:

Case A: A residential subdivision of detached single family residences is being constructed, where streets, storm water drainage systems, single family homes, etc. will be included in the scope of work. In this case, a land surveyor and an engineer would be required to prepare calculations/documents for the boundary and infrastructure of the subdivision, respectively. An architect or engineer would not be required to design the homes because single family residences are exempt from the architects' and engineers' laws. However, an architect or engineer who is hired to perform the work on such a residence is required to stamp/seal and sign the documents meant for construction/permit of the home.

Case B: A multi-unit residential apartment development is being constructed on a site where streets, storm water drainage systems, etc. have already been constructed. In this case, an architect or engineer would be required to prepare plans for the build-

ings. If the architect or engineer does not have the expertise in a particular area of building systems design, a qualified architect or engineer would be required.

Case C: A project consists of a large shopping mall with nine acres of parking. An architect would be required for the functional building design. The architect or engineer would be required to provide the design of the building systems, and engineers would be required where the systems are complex. The parking lot would be considered site development or “an appurtenance to the building” according to architects’ law, thus allowing architects by law to provide the design. However, many local jurisdiction storm water quality requirements are much more complex, and lend the need for engineering services.

2

Considerations for Building Officials When Issuing Building Permits

Is an architect or engineer required on a project?

One of the first assessments to be done by the building official when receiving plans for construction permits is a determination as to whether or not the project is required to be designed by an architect or engineer. Besides the Oregon Structural Specialty Code (OSSC), there are three important definitions that come from the architects' and engineers' laws and rules. The first two are "non-exempt" and "exempt" buildings as defined in both the architects' and engineers' laws. The third term, "significant structures," is found in the engineers' laws. Additionally, the one who possesses a professional registration should act in the capacity as the "Design Professional in Responsible Charge" as used in the OSSC.

Non-Exempt Buildings

Except for single family dwellings and farm/agriculture buildings, all buildings exceeding the exempt size limitation—ground area of over 4,000 square feet, or height limit of over 20 feet in height—are considered non-exempt buildings. The services of a registered professional are required if either limitation is exceeded.

Commentary:

Below are examples of determinations of non-exempt structures.

Case A: The interior of a 750-square-foot space within an existing 8,000-square-foot building will be remodeled. The scope of work includes structural modifications. Although the office being remodeled is less than 4,000 square feet, it is a non-exempt project because the square footage of the entire existing structure must be considered when determining whether the building meets the ground area limitations of an exempt structure. It would also be non-exempt because structural modifications are included in the scope of work.

Case B: A 4,050-square-foot structure is being remodeled. There will be no structural modifications, but the occupancy classification will change from a single family residence to a coffee house. Since this is a remodel involving interior space planning/renovations and there are no structural modifications, one might believe this to be an exempt building, but it is not because of the change in the occupancy classification. If the remodel had not changed the occupancy code classification, without any structural modifications, then this would be considered an exempt structure.

Case C: A 2,000-square-foot small office will be remodeled by adding a second story to the existing space. The renovations will cause the office to exceed 20 feet in height, and will also include a new stairway to the second floor. Due to the increased

height of the structure, and the structural modifications, this is now considered a non-exempt structure.

Case D: A one-story, 2,185-square-foot living unit is being remodeled to attach the roofline of an adjacent living unit of the same square footage. By attaching these structures, the building now becomes non-exempt as the ground floor square footage of the structure would exceed 4,000 square feet, whether or not there is a firewall between the units.

Exempt Buildings

The architects' and engineers' laws and rules provide an area where a person who is not registered as an architect or engineer may plan, design, and supervise the erection, enlargement, or alteration of a building. These buildings are considered exempt.

The following are exempt from the architects' and engineers' laws:

1. Single family residential dwellings.
2. Farm/agriculture buildings, as provided in ORS 455.315(2) as follows:

- (a) *"Agricultural building" means a structure located on a farm and used in the operation of the farm for:*
 - A) *Storage, maintenance or repair of farm machinery and equipment;*
 - B) *The raising, harvesting and selling of crops;*
 - C) *The feeding, breeding, management and sale of, or the produce of, live-stock, poultry, fur-bearing animals or honeybees;*
 - D) *Dairying and the sale of dairy products; or*
 - E) *Any other agricultural or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use and disposal by marketing or otherwise.*
- (b) *"Agricultural building" does not mean:*
 - A) *A dwelling;*
 - B) *A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;*
 - C) *A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;*
 - D) *A structure used by the public; or*
 - E) *A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated hereunder.*
- (c) *"Agricultural grading" means grading related to a farming practice as defined in ORS 30.930.*
- (d) *"Equine facility" means a building located on a farm and used by the farm owner or the public for:*
 - A) *Stabling or training equines; or*
 - B) *Riding lessons and training clinics.*
- (e) *"Equine facility" does not mean:*
 - A) *A dwelling;*
 - B) *A structure in which more than 10 persons are present at any one time;*

- (C) *A structure regulated by the State Fire Marshal pursuant to ORS chapter 476; or*
- (D) *A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.*
3. Structures used in connection with, or auxiliary to, single family dwellings or farm buildings. These include but are not limited to three-car garages, barns, sheds, or shelters used for housing of domestic animals, or livestock. (ORS 672.107).
 4. Any other building where the ground area is 4,000 square feet or less and is not more than 20 feet in height from the top surface of the lowest flooring to the highest overhead interior finish. The architects' rule OAR 806-010-0065 defines ground area and height limitations. The engineers' rule OAR 820-040-0005 defines ground area and height limitations slightly differently as shown in brackets.
 - (1) [As used in ORS 672.060(11) and 672.107(1)(a)(B),] *"Ground Area" shall mean [is defined as] any projected or suspended occupied areas above the ground level in combination with areas in contact with the ground. Measurements in determining the ground area shall be taken from outside wall to outside wall and shall include the sum of the areas of all additions and the area of the original structure. The ground area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.*
 - (2) [As used in ORS 672.060(11) and 672.107(1)(a)(B),] *"Height" shall be [is] measured from the top surface of the lowest flooring to the highest interior overhead finish of the structure in determining whether a building exceeds the 20 foot height limitation. A basement floor is considered the lowest flooring when useable (i.e., storage, garage, etc.).*
 5. Alterations or repairs to a building when the structural elements of a building are not involved, or when the occupancy or code-related classification of the building, or portion of the building, has not changed.

Commentary:

For a building to be considered exempt under the height and ground area limitations it must be under both limitations; otherwise it would not qualify as an exempt building.

The definition of height in the architects' and engineers' rules and laws are used to determine whether a registered professional is required for the project. The definition of height in the OSSC is used to determine the need for sprinklers, building construction type, etc. There are two different definitions for height which serve two separate and distinct purposes.

Significant Structures

A registered structural engineer or a registered architect qualified by experience and knowledge in this area of work are the only professionals allowed to prepare plans, specifications, computations, or other structural engineering services involving the primary frame or load resisting system, including its elements or parts, on projects defined as **significant structures**.

The engineers' law ORS 672.107 defines significant structures as:

- “(A) Hazardous facilities and special occupancy structures, as defined in ORS 455.447;*
- (B) Essential facilities, as defined in ORS 455.447, that have a ground area of more than 4,000 square feet or are more than 20 feet in height;*
- (C) Structures that the Director of the Department of Consumer and Business Services determines to have irregular features; and*
- (D) Buildings that are customarily occupied by human beings and are more than four stories or 45 feet above average ground level.”*

Commentary:

Below is an example of a determination of an exempt structure.

Case A: A hospital is being designed in a small community. This building is non-exempt, and the structure will need to be designed by a licensed structural engineer or architect who is qualified in designing complicated structures. It is also considered to be a significant structure.

3

Professional Stamp and Seal Requirements for Architects and Engineers

The terms “stamp” and “seal,” as used in this manual and in the engineering laws and rules, are synonymous and thereby used interchangeably. The architect laws and rules refer to the term “stamp.”

Professional Stamp (Architect)

Every registered architect is required by law to obtain a stamp bearing his or her name only, together with the city and state in which the architect’s principal office is located. The stamp must bear the legend, “REGISTERED ARCHITECT, STATE OF OREGON.” The stamp may, but need not, include the architect’s license number. The following is a facsimile of the design and the lettering of the stamp:



ORS 671.020(5) states:

“All drawings and the title page of all specifications intended for use as construction documents in the practice of architecture must bear the stamp of a registered architect and be signed by the architect.”

OAR 806-010-0045(3) requires that the

“stamp with the registrant’s handwritten signature must appear on the original title page of specifications and on every sheet of the drawings intended for permit and construction, whether or not the project is exempt... The originals may be reproduced for permit and construction purposes.”

Modifications to construction documents, additional drawings, and specifications that become part of change orders and/or addenda to alter those documents must bear the stamp and signature of the registered architect or engineer responsible for the modifications (OAR 806-010-0115).

Registered architects are required to place their stamp and signature on all construction documents relating to architectural work that they perform, whether the building or structure in question is exempt or non-exempt (OAR 806-010-0045(3)). Preliminary drawings not intended to be used as construction documents are not

required by law to be stamped. Only those documents that are ready to be used for construction must be so stamped and signed.

Commentary:

Reviewing/Stamping:

The architect must exercise the requisite professional judgment about, and make the decisions upon, all matters embodied within the construction documents they have stamped and signed. According to ORS 671.020(5): the stamp and signature constitute *“certification that the architect has exercised the requisite professional judgment about and made the decisions upon all matters embodied within those construction documents, that the documents were prepared either by the architect or under the direct control and supervision of the architect and that the architect accepts responsibility for them.”*

Architects who are provided with a pre-existing set of construction documents may not simply review and sign them (OAR 806-010-0045(5)(a) and (b) and 806-010-0120).

All construction documents issued by an architectural firm, corporation, or partnership are required by law to bear the corporate or assumed business name, in addition to the stamp and handwritten signature of the responsible architect (ORS 671.041(3)).

Professional Seal (Engineer)

Each registered professional engineer shall, upon registration, obtain a seal of the design authorized by OSBEELS. Every final document, or the cover or closing page of a bound document—including but not limited to drawings, calculations, specifications, designs, reports, narratives, maps, and plans issued by a registrant—shall bear the seal and be signed by the registrant. ORS 672.020 states:

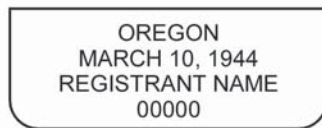
“The signature and stamp of a registrant constitute a certification that the document was prepared by the registrant or under the supervision and control of the registrant.”

“Final document” is defined by OSBEELS as any document presented to a client or public agency that is not clearly noted as being “preliminary.”

The following is a facsimile of the design and the lettering of the seals:



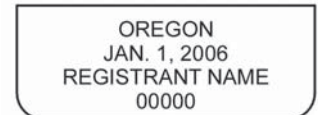
EXPIRES:



EXPIRES:



EXPIRES:



EXPIRES:

Commentary:

OSBEELS has determined the following with respect to seals:

- Seals may be computer-generated or stamped with ink. Registrants' signature shall either be handwritten in permanent ink or digital per OAR 820-010-0620.
- Original seals must be of the size as shown above within a ¼" tolerance. The term "renewal" may be substituted for the term "expires" at the discretion of the registrant. Reduced-size original seals are not permitted on an original plan set. However, copy reductions of an original document are permitted.
- It is not acceptable to use an out-of-state engineer's seal on Oregon projects unless a temporary permit has been issued by OSBEELS with approved verbiage as currently issued by OSBEELS.
- When a final document requires the expertise of more than one registrant, the document will contain seals and signatures on that portion for which the registrant maintained supervision and control of the work. In order to maintain clarity of responsibility, OAR 820-010-0623 provides
"no more than one registrant will seal documents unless it is clearly explained and denoted on the document by all registrants which portion of the work each registrant prepared and for which each registrant is responsible."

When possible, it is most appropriate for the registrant to prepare separate drawings and calculations indicating exactly what the registrant has designed and for what he or she is taking responsibility.

Supervision (Documents)

Architect:

In accordance with ORS 671.020(5), all work bearing the stamp and signature of an architect must have been prepared under the architect's direct control and supervision, which, according to OAR 806-010-0045(5), means that the architect "has exercised directing, guiding and restraining power over the preparation of the documents and... has exercised his or her professional judgment in all architectural matters embodied within the documents," and the architect accepts responsibility for them. The same rule states that these documents "were prepared under the responsible direction of the architect" and that the rule "is not intended to preclude the use of current technology or the use of standard details and product specifications in accomplishing the above objectives."

Engineer:

ORS 672.002. Definitions for ORS 672.002 to 672.325 discuss responsible charge of engineering work as follows:

- (9) "Responsible charge" means to have supervision and control of:
 - (a) The engineering design of works with responsibility for design decisions; or
 - (b) Land surveying work for the purpose of ensuring conformance to the relevant requirements of law and sound surveying practice.
- (10) "Supervision and control" means establishing the nature of, directing, and guiding the preparation of, and approving the work product and accepting responsibility that the work product is in conformance with standards of professional practice.

OAR 820-010-0010(5) “responsible charge” states that

“Responsible charge,’ as used in ORS 672.002(9), means to have supervision and control over engineering work as defined in 672.005(1), land surveying work, and photogrammetric mapping, as evidenced by performing substantially the following:

- (a) Establishing the manner or method by which services are rendered;*
- (b) Establishing quality controls for the services rendered;*
- (c) Communicating with clients;*
- (d) Reviewing designs, calculations, plans, surveys or maps;*
- (e) Supplying deficiencies found in or correcting errors contained in designs, calculations, plans, surveys or maps;*
- (f) Making changes to documents, including but not limited to, designs, plans, plats, surveys or maps; and*
- (g) With respect to land surveying, reviewing field evidence and making final decisions concerning the placement of survey monuments and surveyed lines.”*

OAR 820-010-0010(6) “supervision and control” states that

“Supervision and control,’ as used in ORS 672.002(10), means establishing the nature of, directing and guiding the preparation of, and approving the work product and accepting responsibility for the work product, as evidenced by performing the following:

- (a) Spending time directly supervising the work to assure that the person working under the licensee is familiar with the significant details of the work;*
- (b) Providing oversight, inspection, observation and direction regarding the work being performed;*
- (c) Providing adequate training for persons rendering services and working on projects under the licensee;*
- (d) Maintaining readily accessible contact with the person providing services or performing work by direct proximity or by frequent communication about the services provided or the work performed. Communications between the licensee and persons under the licensee’s supervision and control include face-to-face communications, electronic mail, and telephone communications and similar, other communications that are immediate and responsive; and*
- (e) Applying the licensee’s seal and signature to a document.”*

Commentary:

All drawings and the title page of specifications for exempt and non-exempt buildings must be stamped or sealed and signed by an Oregon registered professional, and each individual document must bear the stamp or seal of the professional responsible for its preparation. It is common for a set of construction documents to include individual drawings and specifications prepared and stamped or sealed by the appropriate professionals.

If the documents for an exempt structure are prepared by an architect, the documents must be stamped and signed according to ORS 671.025(2) and OAR 806-010-0045(3). If the documents for an exempt structure are prepared by an engineer, the documents must be sealed and signed according to ORS 672.020 and OAR 820-010-0620 & OAR 820-010-0621.

Supervision (Construction)

Architect:

OAR 806-010-0050 defines supervision of construction

“as related to the practice of architecture shall mean the administration of the construction contract which includes:

- (a) General administration of contracts and interpretation of construction documents during the construction phase;*
- (b) Observation of construction and evaluation of the work;*
- (c) Review of contractor’s submittals; and*
- (d) Determination of substantial completion, and such other services as may be required in accordance with the accepted practice of architecture in Oregon.”*

According to OAR 806-010-0050, supervision of the erection of non-exempt structures must be provided by an Oregon registered architect or engineer, or someone under their direct control, who is capable of rendering independent judgment on matters related to construction.

Oregon registered architects are charged with providing supervision of all work bearing their stamp and signature. If an architect will not be performing this supervision, they must notify all involved permit-issuing agencies and OBAE of this fact. Supervision performed by an owner, contractor, or any other person not registered as an Oregon architect or someone not under an architect’s direct control is in violation of the rule. Under the administrative rules of OBAE, the only exception is that architects are not required to provide supervision during the construction phase for single family residences.

Engineer:

The engineers’ laws and rules are silent on requirements for construction supervision by engineers.

Commentary:

The architects’ laws and rules require that OBAE and the building official be notified by the architect when the architect will not be providing supervision (OAR 806-010-0050(2)). The engineers’ laws and rules are silent on this issue.

If an architect’s or engineer’s professional judgment is overruled under circumstances where the health, safety, property, and welfare of the public may be endangered, they must inform the employer or client of the possible consequences and notify the appropriate building officials, according to OAR 806-010-0050(2), OAR 806-020-0020, and OAR 820-020-0015(1).

Please note that this section does not address any authorization or responsibilities under OSSC 106.3.4. For a building to be considered exempt under the height and ground area limitations it must be under both limitations; otherwise it would not qualify as an exempt building.

The Implications of Design Build

Within the construction industry the phrase “design build” is used most often when a construction contractor is offering architectural or engineering services as appurte-

nant to construction services. All of the laws and regulations regarding the practices of architecture and engineering still apply. OAR 806-010-0078 and OAR 820-010-0715 establish the conditions under which a construction contractor can offer architectural or engineering services. It is clear under these rules that the architectural and engineering services themselves are to be provided by an architect and engineer, not the contractor. For the building official, this means that all construction documents submitted for permit for non-exempt buildings must be sealed and signed by the appropriate professional.

4

Frequently Asked Questions and Commentaries

Appurtenances:

1. **What are considered appurtenances to a building/structure?**
Architect Rule OAR 806-010-0125 defines the term “appurtenances” as “those systems, equipment and/or elements, whether interior or exterior, which are necessary to the overall function of a building.”
2. **Does the design of appurtenances for non-exempt building/structures have to be done by a registered professional?**
Yes. Depending upon the level of expertise required, the appurtenances would require the services of an engineer and/or architect.

Exempt vs. Non-Exempt Structures:

3. **How do I measure the square footage of the ground area to determine whether the structure is exempt or non-exempt?**
OAR 806-010-0065(1) and OAR 820-040-0005(1) determines the ground area by measuring *“from outside wall to outside wall and shall include the sum of the areas of all additions and the area of the original structure.”*
This, in combination with the square footage of any projected or suspended usable area above ground, will give you the building ground area limitation set forth in ORS 671.030(2)(c) and ORS 672.060(11).
4. **How do I figure the ground area footage to determine whether a building is exempt or non-exempt if the building is divided by an open walkway (breezeway), but has one continuous roof?**
The common roof is over usable areas and creates the structural elements of a single building. The square footage would be the sum of the two segments of the structure and the breezeway.
5. **If a building has a ground area greater than 4,000 square feet but does not exceed 20 feet in height (or vice versa), is it an exempt structure?**
No. A building may not exceed either the ground area limitation or the height limitation to be exempt under the architectural and engineering laws. If only one limitation is exceeded, then the structure is not exempt and an architect or engineer would be required.
6. **Can a non-registrant prepare the plans if an addition is proposed to an exempt structure, bringing the total ground area to greater than 4,000 square feet?**
No, unless the building is a single family residence or agricultural building. The total ground area of the completed structure (the addition plus the

existing building) must be considered in determining whether the building is exempt or non-exempt.

7. Does separation by a four-hour fire wall make one structure into two separate buildings under the architects' law, and therefore an exempt structure, if each section is less than 4,000 square feet?

No. A four-hour fire wall does not make two separate buildings under the laws governing the practice of architecture. The structure may be considered as being comprised of two separate buildings for the purposes of fire and life safety plan review if allowed under the state adopted building code. For the purposes of architects' law, as long as the building is one continuous structure, it must be considered one building and therefore subject to the size limitations.

8. May an unregistered individual prepare plans and specifications for interior space planning and/or remodeling of non-exempt structures?

Yes. Under ORS 671.030(2)(d), nothing in the law would prevent *"a person from planning, designing, specifying or supervising the alterations or repairs to a building if: (A) the structural part of the building, including but not limited to the foundation, walls, floors, roof, footings, bearing partitions, beams, columns, and joists is not involved; (B) the building code classification by use or occupancy of the building is not changed; and (C) the building code classification by type of construction of the building is not changed."*

9. Who may issue change orders and addenda to construction documents for non-exempt structures?

Change orders, additional drawings, and/or addenda which alter construction documents for non-exempt structures must bear the seal and/or signature, as required, of the registered architect or engineer responsible for the modifications.

10. May anyone other than an architect or engineer prepare plans for submission to building officials?

Yes, but only when the building falls into the exempt status. However, even though the general public is allowed to prepare plans for submission on exempt structures, the building official has the authority to require drawings, calculations, and other related documents of an exempt structure to be prepared by a registered architect and/or engineer if the building official establishes that the work is of a highly technical nature or there is a potential risk to the life and/or safety of the structure. However, the building official can not dictate the actual design.

Significant Structures:

11. Can a professional engineer (civil, mechanical, electrical, etc.) do any design work on a significant structure?

Yes. Elements, components, etc., not part of the primary frame system, may be designed by a professional engineer who is not a structural engineer.

12. Can a registered architect perform any design work on a significant structure?

Yes.

13. How do you determine "average ground level" as used in ORS 672.107(1)(a)(D)?

OAR 820-040-0005(3) determines the average ground level as, *"the height of a structure is defined as the vertical dimension from the average ground level*

to the average roof height for sloped roofs or parapet height for flat roofs. In multi-level structures, utilize the upper roof only to determine the dimension."

Stamping:

14. If a designer or owner prepares plans for a non-exempt building and applies for a building permit, should the building official suggest that they contact an architect or engineer to have the plans and specifications reviewed and stamped?

No. Such action on the part of an architect or engineer would be contrary to the law and would put the professional's license in jeopardy. An Oregon registered professional may stamp and sign only that which was prepared under their direct control and supervision. The building official should deny the permit and advise the applicant that the plans and specifications are required to be prepared by a registered architect or engineer. The building official should also report this to OBAE and OSBEELS.

15. Are wet signatures required on plans?

Architect: The architects' laws do not specify the type of media to be used; they only require that the original specifications and drawings intended for permit and construction be stamped and hand signed by the architect. It is common practice that the architect retains the originals that have the wet signature and will make copies for the permit and construction processes from those originals.

Engineer: The signature of the registrant must be wet inked or digital; however, the seal can be produced by a rubber stamp, embossing seal, or by a computer program. "Peel and stick" seals are not permitted. In the case of a digital signature, the signature must be under the sole control of the registrant per OAR 820-010-0620.

16. What are the requirements for architects and engineers to stamp construction documents?

Architects and engineers may only stamp the plans and specifications within their area of competence and prepared under their direct supervision. If, during the building official's review, it appears that the design professional may be working outside their area of competence in any portion of the documents, the building official is encouraged to report it to both the OBAE and the OSBEELS.

17. Is the seal of the Certified Professional in Erosion and Sediment Control (CPESC) or the seal of the Certified Professional in Storm Water Quality (CPSWQ) an acceptable certification for a construction document?

There is a violation of law if the documents are sealed only by the CPESC or CPSWQ and the work involved engineering and the individual is not a registered professional engineer or architect qualified to perform this work.

18. Can a set of plans be stamped by a registered professional from another state?

Architect: No. Only Oregon registered architects have the authority to practice architecture in Oregon. A person registered as an architect in another state must first obtain registration in Oregon in order to practice architecture or solicit architecture work in the state.

Engineer: No. Only Oregon registered engineers have the authority to practice engineering in Oregon. A person registered as an engineer in another

state must obtain registration in Oregon in order to practice in this state, or must apply for a temporary permit per ORS 672.109.

19. What do the terms “Consulting Architect” and “Foreign Architect” mean and can these individuals stamp construction documents?

“Consulting Architect” is a title that may be used by those who do not have an Oregon architect registration, but do have an active architect license in another jurisdiction. “Foreign Architect” is a title that may be used by those who do not have an Oregon architect registration, but do have an active architect license in another country. Neither consulting nor foreign architects may practice architecture, sign plans, or take responsibility for projects. Consulting and foreign architects provide design input to an Oregon registered architect who takes responsibility for a project, and these titles are a way of acknowledging the individual’s consultation on the project. All documents used for construction and permit purposes require the stamp and signature of an Oregon registered architect. Neither the consulting architect nor the foreign architect can stamp the construction documents.

20. Who retains the original stamped set of construction documents with the wet signatures?

The architects’ and engineers’ rules and laws are silent.

21. If the construction documents are for non-exempt buildings, should they bear the stamp/seal and signature of an Oregon registered architect or professional engineer?

All drawings and the title page of specifications for non-exempt buildings must be stamped/sealed and signed by an Oregon registered architect or professional engineer who had responsible control for the documents.

22. If the construction documents are for exempt buildings are prepared by an architect or engineer, should they bear the stamp/seal and signature of an Oregon registered architect or professional engineer?

All construction documents and the title page of specifications for exempt buildings must be stamped/sealed and signed by an Oregon registered architect or professional engineer who had responsible control for the documents.

23. Can shop drawings be accepted in lieu of construction documents?

Drawings and descriptions of components or systems supplied by subcontractors or manufacturers for inclusion in the project or building are considered shop drawings. Shop drawings may not be accepted in lieu of construction documents, unless stamped by the registered architect or engineer under whose direction they were prepared. Unstamped documents may only be considered as support documents.

24. Do construction documents need to be stamped/sealed and signed when submitted for a building permit even though a plans examiner may cause changes to the documents?

Construction documents submitted for plan review are considered final and ready for construction and therefore need to be stamped/sealed and signed. Construction documents used only for preliminary discussions with the building department are not considered final documents and hence are to be marked as “preliminary.”

25. Can drawings of sprinkler systems be sealed by National Institute for Certification in Engineering Technologies (NICET)-certified people?

Sprinkler systems relate to life safety issues and therefore the construction drawings for sprinkler systems must be designed and sealed by an engineer or architect qualified by experience and knowledge in this area of work.

26. Do stamped construction documents expire?

The expiration date adjacent to the registrant's stamp or seal on the final plan set simply certifies that the registrant's license was current when the documents were signed, not when the documents expire. However, building permits issued by jurisdictions may expire and new construction documents may need to be submitted.

27. Does a fire protection system for a non-exempt structure need to be designed and stamped/sealed by a registered professional?

Yes, fire protection designs must bear the stamp or seal and be signed by the registered design professional who prepared the documents. However, OAR 918-261-0015 exempts certain electricians from this requirement when designing the electrical portion of these systems.

28. What is the difference between an electronic signature and a digital signature?

The term *electronic signature* may include scanned images of handwritten signatures. The term *digital signature* describes a signature system applied to an electronic document that provides significant added security, authentication, and/or encryption. Please note that OAR 820-010-0620(5) allows for a digital signature as an **optional alternative** to a wet handwritten signature. For further information on the process, please visit the OSBEELS Web site. There you will find a document entitled *Digital Signatures for Engineering Documents* written by Ron Singh, PLS, and dated September 30, 2008. This document is located on the right side of OSBEELS homepage titled "Resources."

29. Can any registered professional provide electrical plans for complex structures?

No, although OAR 820-020-0020 allows a registered professional engineer to practice in any *field* in which they feel competent by education or experience, OAR 918-311-0040(4)(c)(G) requires "identification of the employer, identification and signature of person who prepared the plan, license number if the person is an electrical supervisor and professional registration number if the person is an architect or registered professional electrical engineer." It is not within the authority of OSBEELS to waive this requirement.

Other Topics:

30. Is an architect required to provide supervision during the construction phase of single family residences?

No. Architects are not required to provide supervision for single family residences.

31. Is a professional engineer required to provide supervision during construction?

There are no laws specifically requiring engineering supervision during construction.

32. When an unregistered individual prepares construction documents for a non-exempt structure, may the individual obtain a review and written certification of adequacy from an Oregon registered architect or engineer and, thereby, obtain a building permit?

No. The written certification cannot be accepted for permit issuance in lieu of construction documents which have been prepared and stamped/sealed by an Oregon registered architect or engineer (ORS 671.025 & ORS 672.020(2)).

33. May an engineer or architect bypass the plan review process?

ORS 455.628 states:

The Department of Consumer and Business Services or a municipality administering and enforcing a building inspection program under ORS 455.148 or 455.150 may not require a plan review for one and two family dwellings that are of conventional light frame construction, as defined by the department by rule, if:

(a) The plans for the dwelling are designed and stamped by a professional engineer registered under ORS 672.102 or an architect registered under ORS 671.060; and

(b) The engineer or architect is certified by the Director of the Department of Consumer and Business Services under ORS 455.720 as being qualified to examine one and two family dwelling plans.

(2) The department or municipality is exempt from liability for any damages arising from the nonperformance of a plan review pursuant to this section.

34. How do I address unprofessional work?

The complaint processes are outlined in the following section.

35. Is a professional engineering license required for the design of mechanical, sprinkler, and plumbing systems? Can an architect do this work too?

The design of mechanical, sprinkler, and plumbing systems is considered engineering. However, an architect may provide these services if they are qualified by experience and knowledge in this area of work.

36. May a building official/owner/builder/contractor make changes to an architect's or engineer's construction documents?

No. Only the engineer or architect responsible for the design may change the construction documents. The building official can approve submitted construction documents that include notes of items required by code identified by the building official as "red-lines;" however, the design professional must be made aware of those so that the original construction documents can be made to reflect those requirements.

37. May a building official make changes to an architect's or engineer's construction documents when the building official has the architect's or engineer's approval?

No. The architect or engineer is responsible for the changes to his or her construction documents.

38. Who may make changes on the construction documents when a building permit has been obtained, the building is under construction, and the architect or engineer who originally stamped or sealed the documents is no longer available?

The OSSC requires that the building owner notify the building official when the Design Professional in Responsible Charge is changed. Under the architects' laws and rules, the original architect is required to notify OBAE and the building official if the architect is no longer retained by the owner to do construction supervision. Since the architects' laws and rules require that construction supervision must be done by an architect, then the newly retained architect is required to stamp the changes. While the engineers' laws and rules are silent on the issue of requiring the engineer to do construction

supervision, any changes in design or construction documents are to be done and stamped by the appropriate design professional.

39. What is the difference between design documents and shop drawings for fire protection system designs?

The design documents must show the basic elements of the system, identify applicable codes used in the design, and ensure conformance with those codes and stamped/sealed by a registered professional. Shop drawings can be produced by technicians, designers, or contractors. However, shop drawings must be reviewed and approved by the design professional in responsible charge prior to submittal to a jurisdiction. This process is described in OSSC 106.1.1.1 "Fire Protection system shop drawings." For further information on the process, please visit the OSBEELS Web site. There you will find a document entitled *The Engineer and the Engineering Technician Designing Fire Protection Systems* produced by a joint committee of the Society of Fire Protection Engineers (SFPE), the National Society of Professional Engineers (NSPE) and the National Institute for Certification in Engineering Technologies (NICET) dated July 28, 2008. This document is located on the right side of OSBEELS homepage titled, "Resources."

40. Can a supervising electrician design, plan, or layout complex electrical installations?

Authorization under ORS 479.860 allows supervising electricians who holds a supervising electrician's license to design, plan or layout complex electrical installations for persons who will purchase their installation services. ORS 479.860 does not authorize an electrical supervisor to prepare complex electrical installation drawings for contractors, architects or developers where those persons will not be purchasing the electrical installation services, called for by the drawings, from the supervising electrician's employer-contractor.

5

The Complaint Process

The mission of both OBAE and OSBEELS is to protect the public health, safety, and welfare by assuring that only qualified individuals are permitted to practice architecture or engineering, and that those who are licensed maintain a high standard of practice and comply with applicable statutes, rules, and regulations. Below are the processes for each regulatory board:

Oregon Board of Architect Examiners (OBAE) Complaint Process

The authority of the Board is limited to investigating and enforcing only those Oregon laws and administrative rules concerned with the practice of architecture. You have the right to receive professional and qualified services from an architect. The first step is to be sure your architect is actively licensed to practice architecture in Oregon. You may do that by contacting the Architect Board office at 503-763-0662 or by clicking on its web site at www.orbae.com.

If your attempts at working the problems out with your architect fail, or if the individual you have hired is not an architect and should be, further action may be required. The Board does not have jurisdiction over fee disputes or other contractual issues or civil matters. The Board regularly addresses issues such as professional misconduct, negligence, incompetence using the "Architect" title without an Oregon registration, and/or practicing architecture without an Oregon registration.

1. How do I file a complaint with OBAE?

You may contact OBAE or visit the Board's web site for a copy of the form to be used to file a complaint. You may also simply send a letter to the Board.

2. What information should I provide in completing the complaint form?

When filing a complaint with OBAE, please include sufficient information for the Board to begin an investigation into the allegations. Provide as much information as possible, such as all contact information for you and the architect or designer, any contracts between the parties, the address/location of the building project, the project owner's name and contact information, the construction company name, the status of the project, the size and type of the building, building permit data, and why you believe a violation exists.

3. What is the investigation process?

OBAE investigates all complaints submitted, and may ask for further information. During a formal investigation, the parties involved are contacted, and the Board obtains necessary evidence and gathers the available facts for review and analysis to determine if any rule or law violations exist. The Board then determines appropriate action to take based on the circumstances of each case.

4. What authority does OBAE have?

OBAE has the authority to discipline individuals and firms. This discipline includes written reprimands, suspensions, revocations, and penalty assessments. However, the Board has no authority to award civil damages.

5. How long does it take to resolve a complaint filed with OBAE?

It takes time to conduct a thorough investigation into the facts and allegations of each case. OBAE cannot resolve a case without obtaining facts and evidence. Each case has a separate set of facts and circumstances. The Board meets approximately seven times a year, and resolves complaints at each meeting. In addition, any disciplinary action proposed by the Board is subject to due process laws, which give any individual who disputes the facts the right to a contested case hearing before an administrative law judge.

Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) Complaint Process

General Information

Oregon law charges the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) with carefully investigating any complaints or information relating to violations of the Oregon Revised Statutes (ORS) 672.002 to 672.325 and the Oregon Administrative Rules (OAR, Chapter 820). The Regulation Department of OSBEELS receives, tracks, and investigates complaints and presents findings to the Law Enforcement Committee (LEC) for recommendations to the Board. In accordance with ORS 672.210; in particular subsection 1 and OAR 820-015-0010; in particular subsections 1 and 2, anyone (complainant) may submit a complaint against any individual, including a registrant. OSBEELS also accepts anonymous complaints. Additionally, ORS 672.210; in particular subsection 1 states that OSBEELS may initiate its own complaint against a person. The Board represents the public welfare as a whole, not the complainant as in an attorney client relationship.

Complaint Process

Upon receipt of a complaint form or other written information against an applicant, registrant or another person (respondent), the Regulation Department staff will conduct a preliminary review to establish that there is sufficient evidence to justify proceeding and whether the allegations against the respondent are such that, if proven, would result in a penalty or sanction.

The complainant's role is to provide OSBEELS with any relevant information or documentation pertaining to the complaint. Circumstances may arise when the anonymity of a complainant makes it difficult to proceed in a case due to insufficient evidence to support actions that may be in violation. Therefore, if filing an anonymous complaint, it is important for the complainant to provide clear and specific information in relation to the alleged violation(s) of the respondent.

If the complaint is considered valid, the respondent will be notified of the allegations by mail and written comments will be requested. As part of the investigation process, the Regulation Department staff may seek additional responses from the respondent, request a review of the matter by professionals with relevant experience (expert reviewer(s)), and/or ask for legal review from OSBEELS' Assistant Attorney General. All relevant information is compiled and presented to the LEC, during

a scheduled meeting, for determination. The determination results in an “action” or “no action.” An “action” consists of a notice of intent, additional investigation, or expert reviewer(s). A “no action” consists of closing the case.

Depending on the result of an investigation, a case may not be subject to a disciplinary action. However, if the LEC determines that there are sufficient facts and legal grounds to proceed, it will direct the Regulation Department staff or the OSBEELS' Assistant Attorney General to prepare a notice of intent for disciplinary action. Such notices are governed by the Oregon Administrative Procedures Act, namely the ORS 183.415. The notice of intent is a formal notice sent to the respondent, stating the actions that are in violation of OSBEELS regulatory authority, a proposed disciplinary action, and informs the respondent of their rights to a hearing. Additionally, complainants may be requested to provide testimony for the case.

6

Additional Resources

Construction Contractors Board

700 Summer Street NE, #300
Salem, OR 97309
Phone: (503) 378-4621
E-mail: ccb.info@state.or.us
Web site: www.oregon.gov/CCB/index.shtml

Board of Geologist Examiners

707 13th Street SE, Suite 260
Salem, OR 97301
Phone: (503) 566-2837
E-mail: osbge.info@state.or.us
Web site: www.oregon.gov/OSBGE/index.shtml

Landscape Architects Board

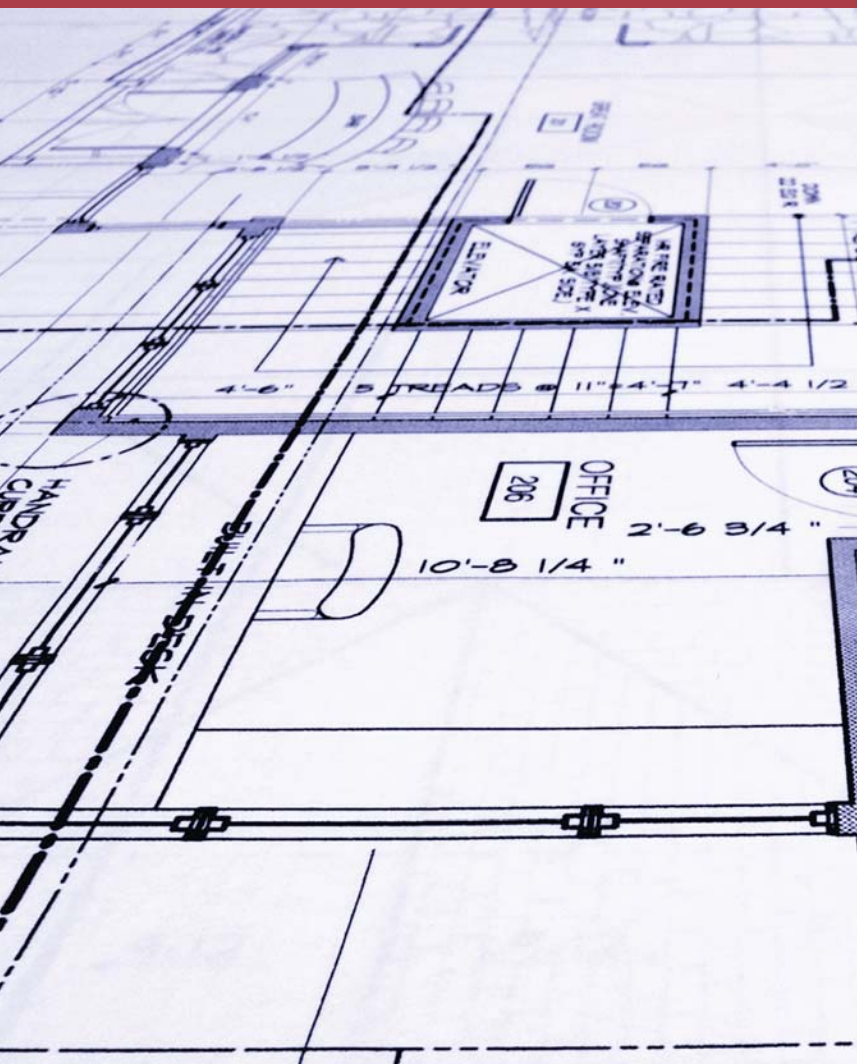
707 13th Street SE, Suite 261
Salem, OR 97301
Phone: (503) 589-0093
E-mail: oslab.info@state.or.us
Web site: www.oregon.gov/LANDARCH/index.shtml

Landscape Contractors Board

2111 Front St NE Ste 2-101
Salem, OR 97301
Phone: (503) 986-6561
E-mail: lcb.info@state.or.us
Web site: www.oregon.gov/LCB/index.shtml

To locate the building official of the city or county in which you may wish a permit, visit the Building Codes web site: www.cbs.state.or.us/external/bcd/jurisdictions.html

Reference Manual *for* Building Officials



Seventh Edition, revised 2010

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205 Liberty Street NE, Suite A
Salem, OR 97301
(503) 763-0662 phone
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architectboard@orbae.com
www.orbae.com

OREGON STATE BOARD *of*
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670 Hawthorne Avenue SE,
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