

Dedicated Fees

Why is the building inspection fee revenue dedicated?

Permit fees are an important part of the Oregon State Building Code. These fees are set by the local building departments that administer the inspection program but are required to follow the state fee calculation methodology. This system ensures that contractors and builders are able to anticipate what projects require permits throughout the state while providing the required flexibility to local jurisdictions to set reasonable fees necessary to support their building inspection activities.

Local permit fees are required to be dedicated and used only for building inspection administration and enforcement. In this context, the use of the term dedicated means that the funds are only allowed to be used for the building inspection program. The dedicated fee requirement is intended to keep permit fees as low as possible while ensuring an efficient and effective local building department. Dedicated fees also help provide stable funding for local building departments that need to maintain a stable workforce through economic ups and downs. The construction industry tends to not follow broader economic trends, typically experiencing downturns before the rest of the economy. Economic downturns can also create an increase in building inspection program work as more people do smaller projects themselves, raising demand for inspections while lowering overall permit fee revenue. Overall the dedicated fee system not only helps to keep permit fees low, but ensures those funds are being used to pay for staff to be available to issue permits, perform plan reviews, inspect job sites, and administer and enforce the building code in a timely and efficient manner regardless of the broader economic environment.

Building departments are an important part of local economic development and affordable housing. Keeping fees dedicated ensures fees are low and reasonably calculated to support only building department services, which in turn supports safe, affordable buildings and timely, value-added plan reviews and inspections.

What is the legal authority for dedicated fees?

State building code fees collected by a local building inspection department are required to be dedicated to the administration and enforcement of the state building code. Additionally, electrical program fees are required to be dedicated to the administration and enforcement of the electrical inspection program. These requirements are based on Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR). This dedication of fees is present throughout the state building code statutes and is evidenced by restrictions on the fees collected by the division as well as those collected by local inspection programs.

Statutory authority: ORS 455.210(3)(a) provides authority for a municipality to adopt “fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.148 or 455.150.” Additionally ORS 455.210(3)(c) states that fees collected by the municipality “shall be used for the administration and enforcement of a building inspection program for which the municipality has assumed responsibility under ORS 455.148 or 455.150.” The legislature’s use of the word “shall” requires that the funds only be used for the building inspection program and does not allow them to be used for any other purpose.

The requirements for assuming a building inspection program under ORS 455.148 or ORS 455.150 are contained, in part, in OAR Chapter 918, division 20. These rules require a municipality to provide adequate funds to administer and enforce the building inspection program (OAR 918-020-0090(1)(a)). A municipality must also account for all revenues collected and expenditures made relating to the administration and enforcement of the building inspection program (OAR 918-020-0090(1)(d)).

FAST FACTS

Local permit fees are required to be dedicated and used only for building inspection administration and enforcement.

Fees are set by the local building departments using the state fee calculation methodology.

Dedicated fees provide stable funding for local building departments; provide timely, value-added plan reviews and inspections; and support safe, affordable buildings.

*Statutory authority:
ORS 455.210
ORS 479.845*

Separately in ORS 479.845, the legislature has further restricted the use of fees collected under an electrical inspection program to the administration and enforcement of the electrical specialty code. “Fees collected by a city or county for the enforcement or administration of the electrical specialty code and rules adopted under ORS 479.730 (1) shall be used only for the enforcement and administration of those laws.”

Rules adopted by the division in OAR 918-020-0090(1) also require a local municipality to

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

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

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

In keeping with OAR 918-020-0090(1), a best accounting practice is to segregate building department funds from other municipal fund categories or accounts.

OAR 918-020-0220 also requires that when adopting new or increased fees a municipality include information showing that the fees are necessary and reasonable, revenue and expense information, and cost allocation methods for expenses, among other requirements.

These statutes and rules form the basis for the legal requirement that local building inspection programs have dedicated fees and only use the revenue generated by the building inspection program to support and pay for the costs associated with providing building inspection services. Additionally, revenue generated by an electrical program needs to be dedicated to the expenses associated with the electrical program.

Common questions

Q: Can building inspection fee revenue be used for shared administrative or other overhead costs?

A: Yes, building inspection revenue can be used to pay for the portion of shared administrative overhead costs that can be attributed to the use by the building inspection program. The charged rate of these costs should be appropriate for the actual use and in line with what other users are being charged for those shared costs.

Q: Can building inspection fee revenue be used to cover the complete cost of a shared employee or other shared equipment, supplies, or offices?

A: No, the building inspection fee revenue must remain dedicated to the building inspection services being provided. If an employee’s time is split between building inspection duties and other tasks, only the proportion of the employee’s time spent on building inspection duties can be paid for with inspection fee revenue. This is also true for other shared equipment, supplies, office space, or services.

Q: Can an ending fund balance be “swept” or otherwise reallocated to another purpose?

A: No, ending fund balances must remain with the building department. Part of fee dedication and program delegation is that fee revenue must be sufficient to fund a building department for multiple years. The construction industry does not always follow the broader economic cycles. Building inspection revenue must stay allocated to the building inspection program. This includes reserves that may be held to ensure adequate and timely services over multiple budget cycles and economic conditions. The program delegation standard is funding for 24 months without unduly increasing short or long-term costs of services to the public.

Q: Can a building inspection program waive fees?

A: Yes, a building official has the authority to waive fees. This is a discretionary decision of the building official and is not regulated by the Building Codes Division. The division does recommend having criteria or other objective standards to apply when making a determination to waive fees for a specific project. This will help avoid any potential inadvertent bias or discrimination. A common example is waiving fees for a charitable organization building housing. A building official would want to avoid treating one charitable organization more favorably than another. Additionally, the state surcharge does not need to be collected if the permit fee is completely waived.