

**Oregon**  
**Interpretive Ruling No. 93-84**  
**CODE REQUIREMENTS BY LENDING AGENCIES**

**Requested By:** PPPI MANUAL REVIEW COMMITTEE

**QUESTION**

How may deviation from the state building code be justified by agencies authorized to enforce a building code?

**APPLICABLE CODE SECTIONS**

ORS 455.040

**BACKGROUND**

There is no legal reason a government lending agency or unit, or private lending business may not specify higher specification for buildings than the building code.

ORS 455.040 reads in part: "The state building code shall be applicable ... and no municipality shall enact or enforce any ordinance, rule, or regulation ... which conflict with the building code."

Compliance with specifications other than those within the building code may be a condition of the loan. The loan agreement is a contract. The value of property is determined in the market place. Though the property may meet the code requirements, it may not be saleable due to the lack of facilities to make the property more saleable. These facilities are not demanded by life, health, and safety, but are included only to secure and guarantee sale.

Government agencies or units and private businesses are not by definition municipalities, and therefore have no authority to adopt or enforce building codes. It is necessary to distinguish the roles between those enforcing the building code and those specifications to protect the owner's interest, whether it be government agencies, private lenders, the owner's agent (i.e. architects, engineers) or the owner.

**FINDINGS**

This interpretation is authorized by ORS 455.060, Rulings on Acceptability of Materials, Designs or Methods of Construction and Attorney General's Opinion OP-5208 issued October 1, 1981, which advised the statute permits authoritative interpretations of existing code requirements.

**DISCUSSION AND CONCLUSION**

The Structural Code Advisory Board has ruled that it is proper for organizations other than municipalities to establish standards higher than the state building code for conditions of its loans. No one may, however, establish construction standards lower than the state building code. Interpretive Ruling 93-84 replaces PPPI-2009.

(signed January 26 1994)

John Talbott, Chairman  
Structural Code Advisory Board

The recommendations and findings of the Structural Code Advisory Board are accepted and the conclusions are adopted.

(signed January 26. 1994)

Gary Wicks, Administrator  
Building Codes Division