

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF COMMUNITY DEVELOPMENT

(agency name)

Administrative Order No. 85-09

(1) I, Chuck Clarke Deputy, director of the Department of Community Development

do promulgate and adopt at the Ninth and Columbia Building, Olympia, Washington (place)

the annexed rules relating to:

The collection of State Building Code Surcharges and Fees by cities and counties.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on. These rules shall take effect: [ ] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [ ] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, Chuck Clarke, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is: This order is necessary to carry out the directives of the state Legislature as expressed in Chapters 144 and 360, Laws of 1985 and Chapter 6, First Special Session, Laws of 1985.

The Legislature has provided that activities necessary to implement an update and amendment of the state Energy Code and the other codes of the State Building Code (see attached sheet) These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[X] (a) This rule is promulgated pursuant to RCW Chapters 144 and 360, Laws of 1985 and is intended to administratively implement that statute. and Chapter 6, First Special Session, Laws of 1985 [ ] (b) This rule is promulgated pursuant to RCW which directs that the

(agency) has authority to implement the provisions of

(name of act or RCW citation)

[X] (c) This rule is promulgated under the general rule-making authority of the Department of Community Development (agency)

as authorized in RCW 43.63A.060 and RCW 43.63A.065

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED July 16, 19 85 FILED

By Chuck Clarke

Deputy Director Title

[Form CR-7: Rev. 7/23/82]

JUL 16 1985

CODE REVISER'S OFFICE

WSR 85-15-051

(2) Alternative B (continued)

shall be funded through surcharges and fees on building permits issued by cities and counties. Chapter 144, Laws of 1985 which provides for implementation of new energy related standards was enacted with an emergency clause placing its provisions into effect immediately. The lack of federal assistance funding and the possibility of surcharges on Bonneville Power Administration electrical power sales ordered by the Northwest Power Planning Council (NWPPC) in those areas of the state which do not comply with the NWPPC model conservation standards by January 1, 1986 make it necessary that immediate action be taken to develop the funding necessary to implement the studies and meet the deadlines provided in Chapter 144, Laws of 1985. The Legislature has also provided for studies and deadlines for the update and amendment of the codes specified in Chapter 360, Laws of 1985 which will be effective July 28, 1985. The State Building Code Fee collected under these rules shall be used by the State Building Code Council to perform the purpose of the Council as defined by Chapter 360, Laws of 1985.

EMERGENCY RULES

Chapter 365 - 110 WAC

State Building Code

Building Permit Surcharges and Fees

NEW SECTION

WAC 365-110-010 AUTHORITY. These rules are adopted under the authority of RCW 43.63A.060 which provides that the Director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of Chapter 43.63A RCW. RCW 43-63A-065 (2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the Governor or the Legislature.

NEW SECTION

WAC 365-110-020 PURPOSE. The purpose of these rules is to implement Chapter 19.27 RCW as amended by Chapter 144, Laws of 1985 and Chapter 360, Laws of 1985, and Chapter 19.27A RCW, created by Chapter 360, Laws of 1985.

Chapter 144, Laws of 1985 provides for the amendment of the State Energy Code by the State Building Code Council and for certain energy studies to be conducted by the University of Washington College of Architecture and Department of Mechanical Engineering. The code amendment and energy studies are to be funded by a surcharge on building permit fees issued by local governments for new building construction.

Chapter 360, Section 4, Laws of 1985 provides that the activities of the State Building Code Council necessary to implement the purposes of the chapter shall be funded by a fee of \$1.50 to be imposed on each building permit issued by a city or county. The moneys collected under this fee will be deposited in the Building Code Council Account in the state treasury and must be used by the Building Code Council, after appropriation, to perform the purposes of the Council. Every four years the state treasurer must report to the Legislature on the balances in the account so that the Legislature may adjust the charges imposed.

NEW SECTION

WAC 365-110-030 SUFFICIENT FEDERAL FUNDS NOT AVAILABLE. As required by Chapter 144, Laws of 1985, the Department of Community Development has consulted with the Washington State Energy Office and has requested that the Washington State Energy Office determine if federal funds are available to implement the purposes of the chapter. The Bonneville Power Administration, the appropriate federal funding agency, has denied the state's request for funding for the energy conservation testing studies by the University of Washington provided for in Section 4 of Chapter 144, Laws of 1985. The appropriations provided in Chapter 6, First Special Session, Section 301(2), Laws of 1985 shall therefore be funded from the surcharge provided in Chapter 144, Laws of 1985.

The Bonneville Power Administration has approved partial funding in the amount of \$15,000 for activities of the State Building Code Council to implement the amendment of the State Energy Code. Pursuant to the provisions of Section 217 (6), Chapter 6, First Special Session, Laws of 1985, funding for this appropriation from the surcharge shall be reduced in the amount of \$15,000.

The Department of Community Development finds that federal funds are not available in sufficient amounts to implement the provisions of Chapter 144, Laws of 1985, therefore the department is, through Chapter 365-110 WAC, implementing the surcharge as required by Chapter 144, Section 4. (5), Laws of 1985.

NEW SECTION

WAC 365-110-035 DEFINITIONS.

1. DEPARTMENT shall mean the Department of Community Development.
2. ENERGY CODE STUDIES SURCHARGE, shall mean a surcharge which is required to be collected by cities and counties pursuant to Chapter 144, Laws of 1985 and subject to appropriations as provided in Chapter 6, First Special Session, Laws of 1985. Funds collected shall be used exclusively to implement the provisions of Chapter 144, Laws of 1985.
3. STATE BUILDING CODE FEE, shall mean a fee which is required to be collected by cities and counties pursuant to Chapter 360, Laws of 1985. Funds collected shall be used exclusively to implement the provisions of Chapter 360, Laws of 1985.
4. BUILDING PERMIT, shall mean a permit issued by a city or a county to construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure regulated by the Uniform Building Code as set forth in the Uniform Building Code, Section 301. This definition shall be subject to the exemptions contained in Section 301 of the Uniform Building Code. Building permits shall not include plumbing, electrical, mechanical permits, or permits issued pursuant to the Uniform Fire Code.
5. NEW BUILDING CONSTRUCTION PERMIT, shall mean a permit which is issued by a city or a county for the construction of a new building and shall not include remodeling, renovation, demolition, or addition to an existing building. A new building construction permit shall include a permit to relocate an existing building but shall not include a permit for a manufactured home.

NEW SECTION

WAC 365-110-040 COLLECTION OF ENERGY STUDIES SURCHARGE. Every city or county shall collect an Energy Code Studies Surcharge on all building permits issued for new construction within its jurisdiction. The Energy Code Studies Surcharge shall be collected by the appropriate city or county official at the time the building permit is issued. Separate records shall be kept by cities and counties of funds collected under the Energy Code Studies Surcharge from those funds collected under the State Building Code Fee provided for in WAC 365-110-050.

The surcharge on new building construction permits shall be in the following amounts:

New construction multiple-family residential building permits: (Group R Division 1 permits as defined by Chapter 12 of the Uniform Building Code.) \$10.00 for each building permit

New construction single-family and duplex residential building permits: (Group R Division 3 permits as defined by Chapter 12 of the Uniform Building Code.) \$15.00 for each building permit

New construction building permits for other new buildings: (All occupancies except Group R and Group M occupancies as defined by the Uniform Building Code.) \$15.00 for each building permit

The other new buildings classification shall include commercial or industrial buildings which are designed to be heated and occupied by humans. Agricultural buildings, industrial storage, or other structures designed to be unheated or not occupied by humans shall be exempt from the Energy Studies Surcharge.

#### NEW SECTION

WAC 365-110-050 COLLECTION OF STATE BUILDING CODE FEE. Pursuant to Chapter 360, Laws of 1985, Section 4. Every city or county shall collect a State Building Code Fee of one dollar and fifty cents on each building permit issued within its jurisdiction. The fee shall be collected by appropriate city or county officials at the time the building permit is issued. Separate records shall be kept of funds collected under the State Building Code Fee.

#### NEW SECTION

WAC 365-110-060 TRANSMITTAL OF FUNDS. On the 20th working day after the end of each quarter, each county or city shall remit all funds collected pursuant to WAC 365-110-040 and WAC 365-110-050 to the state treasurer. At their option, cities and counties may remit funds monthly. The funds shall be identified as funds for the State Building Code Council Account. The funds shall be further identified as those funds remitted pursuant to WAC 365-110-040 (State Energy Code Studies Surcharge) and those remitted pursuant to WAC 365-110-050 (State Building Code Fee).

No remittance of funds collected pursuant to WAC 365-110-050 shall be required to be made until the total of the accumulated funds collected reaches a minimum of fifty dollars.

NEW SECTION

WAC 365-110-070 EFFECTIVE DATES. The effective dates for local governments to begin collecting the Energy Code Studies Surcharge established by WAC 365-110-040 shall be August 1, 1985 and the effective date to begin collecting the State Building Code Fee established under WAC 365-110-050 shall be August 1, 1985.

NEW SECTION

WAC 365-110-080 TERMINATION. The surcharges established under WAC 365-110-040 (State Energy Code Studies Surcharge) shall terminate on June 30, 1989 unless terminated earlier upon a finding that the general fund has been reimbursed for the cost of the studies pursuant to Chapter 144, Laws of 1985.

The fees established under WAC-365-110-050 (State Building Code Fee) shall continue in effect until repealed or modified by legislative action.