

Oregon Representatives and Senators concerning Covid-19 and 2020 Wildfire Response Legislative Committees

I oppose the language usage within SB 405 and 465 –

Section 1. "...nonconforming use..."

This is against all Oregon land use, building code and environmental laws that Oregon legislators have enacted since Massachusetts vs. EPA [1970] and our culture of a livable Oregon for all citizens.

To ignore 50+ years of legislation of this state under the new ideology “emergency” standards of law is against all ecological and environmental law in affect pre 2020 wildfires.

Section 1. "...interruption or abandonment..."

Interruption/Abandonment; concerning land use and building:

1. Pre wildfires uninhabitable abandoned property

2. Post wildfires (previously habitable occupied primary residence), made uninhabitable by natural disaster

Occupancy Interruption at the time of the emergency opposed to land that was not an occupied as a habitable residence pre emergency is ignoring the land use policy of this state. You cannot revive abandonment by ignoring the zoning where a structure could not be built otherwise pre-emergency because the structure was either not occupied by the owner as a primary residence and/or uninhabitable. Laws and Administrative Rules for minimum lot size for a sanitation system, construction setback and defensible spaces and LCDC zoning and rating of wildfire and flood land use.

LCDC response was to extend temporary “emergency” housing rules from 24 to 60 months for land sited recreational vehicles, yurts, temporary structures ... to allow time for property owners to navigate the land use planning and building departments. These rules can be found in publicly available library – LCDC Summary of Temporary Rules – LCDD 15-2020 Exclusion of land farm-forestry use protected in this state under the generality of abandonment language for residential construction is negating Oregon livability standards.

Section 3.b. "...Conferral of jurisdiction..."

Definitely a contradiction to having knowledgeable county planners and building codes professionals to confer jurisdiction under Oregon land use and permits departments legislation. Unless the community township or city was in good standing of Oregon oversight agencies and had a land use and permit departments previous to September 1, 2020.

Dismissal of rural lands mandated by the state under county authority in conjunction with Oregon Department of Forestry, Oregon Department of Agriculture, DEQ, land use and permit departments that support the laws, regulations and best practices of this state. This would be a mistake, and a ‘no’ to “conferral of jurisdiction”; See footnoteⁱ Oregon Administration Rules (OAR) – Building Codes Division. Further references are OAR 918-098-4002, 918-098-1015, 918-281-0020, and 918-695-0400, not intended to be an exhaustive range of temporary emergency rules for the 2020 wildfires

Note the above OAR’s altered county building codes departments to lessen workload and allow for contract with persons holding inspector certificates in this state and work in conjunction with county processes for plan review, building review, inspections... for structural, mechanical, electrical, plumbing....

Moreover, HB 405 and 465 is a **moot point**, due to Administrative Rules (OAR) for the Oregon emergency these two Bills purport to resolve.

Section 3.(6) "...or replacement..."

Replacement is the same basic principles as above, under abandonment/interruption. Would the landowner been approved for replacement of a structure pre September 1, 2020 and meet all the checkpoints of replacement under land use and permit standards of prior to the 2020 wildfires. A minimum lot size for a sanitation system, structural setbacks and defensible spaces according to zoning and rating of wildfire zone with best practices for defensible space....

1996 - 100 year flood, the Oregon Legislature did not turn a blind eye to the requisite land required for a sanitation system and the defensible space from a waterway. It would have been incomprehensible track for the State in 1996 to roll back laws, regulation and best practices. Flip this same ideology forward to wildfire or any natural disaster for that fact. The key word is "natural" and what experts and scientists have said and made no secret, history will keep repeating itself until its corrected – and people will continue to experience forest loss, erosion loss, home loss, and personal loss.

I oppose SB 405 and 465

Citizens Standards of Livability in Oregon

Is the Oregon Legislature actually asking its citizens' to roll back five decades of environmental and preservation laws under 'an emergency' to confer jurisdiction to communities and/or municipalities that are not equipped with knowledge and/or personnel to carry out. This scheme is ripe for inequality and corruption without checks and balances.

Oregon history of natural disaster of 1996 - the 100 year flood, the damage of 100 year flood of 1996 One (1) Billion Dollars; for inflation, in today's Dollars 1.67 Billion. Did the Oregon Legislature abandon their land use and permit principles in 1996? No.

Are Oregonians willing to let the legislature abandon land use, permit and best practices principles of this State to the major natural disaster of 2020? I hope not.

Was the 1996 disaster foreseeable? Yes, Flood Plain danger are Mapped.

Was the 2020 natural disaster foreseeable? Yes, Wildfire Danger are Mapped.

Was-Is there publicly available written literature of the mapping dangers? Yes and this literature library are enormous. Does it explain the consequences and dangers of living in areas of flood and wildfire zones? Yes. People want to obviously be wishful thinkers- "never thought it would happen to me". Therefore they're not taking a defensible spacing seriously. Or unwittingly "oh so beautiful here" even beautiful landscapes have dangers of natural disaster. Natural disaster is foreseeable and should be "forethought" not an afterthought of communities.

Failure of:

2020 ODF Communities at Risk Report	Paragraph Heading:	Communities at Risk Result
	Lists:	Incorporated Communities
	Unlisted Block:	Unincorporated Areas of County – Rural Fire (RFPD's)

Finally on page 19 of 21 + cover contains Wildfire color coded State Risks Maps for wildfire. Makes little or no sense because the moderate or higher risks areas in Oregon for wildfire are the rural areas of this State and the most likely on the fringe of forest and grassland areas. Not listed in the wildfire rating in tables of this publication as Unincorporated Areas within County divisions. Thereby, giving a false narrative to anyone that looks up their county and their community is not listed. Will the public investigate further into the report to find locality information on page 19; is the legislature going to take a chance on the safety and/or life of Rural Oregonians with this report.

SB 405 and 465 is a public disservice to assume that tragedy won't be an issue in the future; if all law and best practices in this state are not followed, disparity or not. At no time in the history of Oregon has the legislature negated laws for tragedy of a natural disaster. The new "emergency standard doctrine" for proposed bill and/or enacted law for are a slippery slope.

Are landlords required to warn renters/lessors that they were entering into an agreement where there was/is a probability of a natural disaster occurrence and danger rating of such an occurrence according to the Situs of the property?

Did Electrical providers follow ODF best practices for de-energizing grid power for the predicted wind event and the possibility of wildfire turning into a firestorm, as a community partner with rate-payers? Almost none of them turned off

their power grid. Why? Too labor intensive to shut-down and turn back-on? Power companies weighted the risk of firestorm over profits? Legislature should investigate and release results to Oregonians. Open Government? When could Oregonians expect to know results of wildfire investigation?

I am a lifetime resident of Oregon, I live in a forested community, I take that seriously, wildfire (or any natural disaster) must be a consideration for anyone living in Oregon the fringe areas for natural disaster. Rural land communities land use and permitting should remain at the county level. New Oregon Laws should not reverse the environmental and ecological headway Oregon has made since 1970. Leave ORS 215.130, 215.215, 215.297 as is!

Use Federal resources as EPA Brown Field Grants & CERT programs which provide before, during and after community educational resources and community forums.

Will the Legislature quantify percent of wildfires caused by people by subcategory – general public, users of the power grid, the power grid corporations, logging, machinery operation, vehicles, definition of 'People' too encompassing. Where and what happened to fire watch lookouts, what were the warnings from those stations during the 2020 wildfire. Alternately, state-county road departments could post temporary signage "entering an active wildfire area" or "entering a controlled burn area" on major county and state throughways.

Wildfire and flood don't happen in 5 minutes, were the residents even aware of a wildfire so close to their community? Considering forest canopy and typography of Oregon, it's doubtful, may have assumed wildfire smoke was somewhere distant. Proactive steps use fewer resources than the reactive steps (devastation). Consider additional 911 technologies mirrored/added to amber alert system for natural disasters notifications.

Best Regards,

Tammie Murray
NW Oregon Coast Range



Notice of Permanent Rule
Dec. 30, 2020

**Flexibility after COVID-19 and the 2020 Wildfires
and in Anticipation of Future Emergencies**

Purpose of the rule:

The purpose of this rule is to provide greater flexibility to individuals, local governments, and building departments to meet demand and provide services without compromising safety throughout the impacts of COVID-19 and the 2020 wildfires in the State of Oregon, and in anticipation of future emergencies.

Citation:

The Building Codes Division has **adopted OAR 918-098-4002**.
This rule is effective January 1, 2021.

Background:

The Building Codes Division previously adopted temporary rules to allow for flexibility during the COVID-19 pandemic. The temporary rule expired on Dec. 28, 2020. In addition, the duration of the COVID-19 pandemic has resulted in budget shortfalls in local government. Wildfires also recently resulted in a large demand for repairs and damage correction. These events, and the potential for future emergencies, have created an ongoing need for flexibility and additional tools to help local building departments respond to these new challenges. A notice of rulemaking hearing was filed on Nov. 13, 2020, and it was published in the December 2020 *Oregon Bulletin*.

History:

On June 23, 2020, the division adopted a temporary rule to address the immediate impacts of this change in school grades for current apprenticeship applicants. The division then approached the Electrical and Elevator Board at its July 23, 2020, meeting, and asked whether a permanent rule should be adopted, and whether it should have a narrower or wider scope. At that meeting, the board approved permanent rulemaking with a more narrow scope so that the rule only applies to individuals affected by COVID-19 school disruptions who could not receive letter grades. At the board's Sept. 24, 2020, meeting, it approved the revised rule for rulemaking and subsequent adoption. Rulemaking notice was published in the November 2020 *Oregon Bulletin*.

Effect and summary of changes:

The rule provides greater flexibility to individuals, local governments, and building departments to meet demand and provide services without compromising safety. The following is a summary of changes:

- A person with an Oregon Inspector Certification and a code certification issued by the Building Codes Division may perform inspections and review plans beyond the scope of work for their code certification if certain conditions are met. This is retroactive to Dec. 29, 2020.
- A person with an Oregon Inspector Certification and Oregon Code Certification may get paid to perform or manage work regulated by the state building code for a company engaged in construction or property development in Oregon when employed as an inspector, plans examiner, or building official if certain criteria are met.



Nothing in OAR Chapter 918 should be construed to limit the ability of building officials to employ creative solutions and technology in service delivery. Examples are provided.

Contact:

If you have questions or need further information, contact Anthony Rocco, Structural Program Chief, at 503-373-7529, or Anthony.J.Rocco@oregon.gov.

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PERMANENT ADMINISTRATIVE ORDER

BCD 25-2020

CHAPTER 918
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
BUILDING CODES DIVISION

FILED

12/30/2020 3:45 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Flexibility after COVID-19 and the 2020 Wildfires, and in Anticipation of Future Emergencies

EFFECTIVE DATE: 01/01/2021

AGENCY APPROVED DATE: 12/30/2020

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Filed By:
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Rules Coordinator

ADOPT: 918-098-4002

NOTICE FILED DATE: 11/13/2020

RULE SUMMARY: The rule provides greater flexibility to individuals, local governments, and building departments to meet demand and provide services without compromising safety. The following is a summary of changes:

- A person with an Oregon Inspector Certification and a code certification issued by the Building Codes Division may perform inspections and review plans beyond the scope of work for their code certification if certain conditions are met. This is retroactive to Dec. 29, 2020.
- A person with an Oregon Inspector Certification and Oregon Code Certification may get paid to perform or manage work regulated by the state building code for a company engaged in construction or property development in Oregon when employed as an inspector, plans examiner, or building official if certain criteria are met.

Nothing in OAR Chapter 918 should be construed to limit the ability of building officials to employ creative solutions and technology in service delivery. Examples are provided.

CHANGES TO RULE:

918-098-4002

Flexibility after COVID-19 and the 2020 Wildfires, and in Anticipation of Future Emergencies

(1) Purpose. The purpose of this rule is to provide greater flexibility to building departments to meet demand and provide services without compromising safety throughout the impacts of COVID-19 and the 2020 wildfires in the State of Oregon, and in anticipation of future emergencies.¶

(2) When the Governor declares a State of Emergency, the director may issue an order that the emergency may cause a workforce shortage among inspectors or plans examiners, and under such an order, notwithstanding OAR 918-098-1015, 918-281-0020, and 918-695-0400, a person with an Oregon Inspector Certification and a code certification issued by the Building Codes Division may perform inspections and review plans beyond the scope of work for their code certification if both of the following conditions are met:¶

(a) The relevant building official determines the person has the skills necessary to perform the specific inspection or plan review without compromising safety; and¶

(b) The relevant building official authorizes the person, in writing, to perform the inspection or plan review.¶

- (3) If a municipality adopts an ordinance that allows for unpaid leave, or broadened unpaid leave, due to the COVID-19 pandemic, notwithstanding OAR 918-098-1475(1):
- (a) A person with an Oregon Inspector Certification and an Oregon Code Certification may get paid to perform or manage work regulated by the state building code for a company engaged in construction or property development in Oregon when employed as an inspector, plans examiner, or building official by a municipality under ORS 455.457, if the following is met at the time the work is performed or managed:
- (A) The person is on unpaid leave from their employment as an inspector, plans examiner, or building official, and the unpaid leave relates to the passage of the municipality's ordinance referenced in this section;
- (B) The period of time for the unpaid leave in paragraph (A) of this subsection is expected to last not less than 30 consecutive days;
- (C) The person does not engage in any conflicts of interest;
- (D) The person submits written notice to the jurisdiction where they are taking their unpaid leave to inform them of their intent to engage in outside work and details the nature of that outside work;
- (E) The jurisdiction where the person is taking unpaid leave consents in writing to the outside work;
- (F) The jurisdiction where the person is taking unpaid leave agrees in writing that this work is not expected to create a conflict of interest; and
- (G) As applicable, the person holds the appropriate licensure to perform or manage the outside work.
- (b) For the purposes of subsection (a) of this section, "unpaid leave" means the person is not receiving wages or a salary. A person may still receive benefits, such as healthcare benefits, while on "unpaid leave."
- (4) Consistent with ORS 455.020 and the discretion granted to building officials, nothing in OAR Chapter 918 should be construed to limit the ability of building officials to employ flexible and creative solutions in service delivery, which may include but is not limited to:
- (a) The use of virtual inspections, including videos, pictures, and the use of drones;
- (b) The use of electronic signatures;
- (c) The granting of written requests to reconnect an electrical installation pursuant to ORS 479.570 and OAR 918-311-0070;
- (d) Waiving a code requirement, modifying a code requirement, or accepting an alternate method, so long as it would not create an unsafe or dangerous condition regarding fire and life safety;
- (e) Entering into agreements with other jurisdictions to provide plan reviews or inspections;
- (f) Waiving all or part of plan review fees and inspection fees; and
- (g) Accepting the use of master plans.
- (5) Section (2) of this rule is retroactive to December 29, 2020.
- Statutory/Other Authority: ORS 446.250, ORS 455.020, ORS 455.030, ORS 455.055, ORS 455.465, ORS 455.720
Statutes/Other Implemented: ORS 446.250, ORS 455.055, ORS 455.720



Firewise Construction Checklist



Firewise Construction

When constructing, renovating, or adding to a firewise home, consider the following:

- Choose a firewise location.
- Design and build a firewise structure.
- Employ firewise landscaping and maintenance.

To select a firewise location, observe the following:

- Slope of terrain; since fire spreads more rapidly on even minor slopes, be sure to build on the most level portion of the land.
- Set your single-story structure at least 30 feet back from any ridge or cliff; increase distance if your home will be higher than one story.

In designing and building your firewise structure, remember that the primary goals are fuel and exposure reduction. To this end:

- Use construction materials that are fire-resistant or non-combustible whenever possible.
- For roof construction, consider using materials such as Class-A asphalt shingles, slate or clay tile, metal, cement and concrete products, or terra-cotta tiles.
- Constructing a fire-resistant sub-roof can add protection as well.
- On exterior wall cladding, fire resistive materials such as stucco or masonry are much better choices than vinyl which can soften and melt.
- Window materials and size are important. Smaller panes hold up better in their frames than larger ones. Double pane glass and tempered glass are more reliable and effective heat barriers than single pane glass. Plastic skylights can melt.
- Install non-flammable shutters on windows and skylights.
- To prevent sparks from entering your home through vents, cover exterior attic and under-floor vents with wire mesh no larger than 1/8 of an inch. Make sure under-eave and soffit vents are as close as possible to the roof line. Box in eaves, but be sure to provide adequate ventilation to prevent condensation.
- Include a driveway that is wide enough to provide easy access for fire engines (12 feet wide with a vertical clearance of 15 feet and a slope that is less than 5 percent). The driveway and access roads should be well-maintained, clearly marked, and include ample turnaround space near the house. Also provide easy access to fire service water supplies, whenever possible.
- Provide at least two ground level doors for easy and safe exit and at least two means of escape (i.e., doors or windows) in each room so that everyone has a way out.
- Keep gutters, eaves, and roofs clear of leaves and other debris.
- Make periodic inspections of your home, looking for deterioration such as breaks and spaces between roof tiles, warping wood, or cracks and crevices in the structure.
- Periodically inspect your property, clearing dead wood and dense vegetation at a distance of at least 30 feet from your house. Move firewood away from the house or attachments like fences or decks.

Any structures attached to the house, such as decks, porches, fences, and outbuildings should be considered part of the house. These structures can act as fuel bridges, particularly if constructed from flammable materials. Therefore, consider the following:

- If you wish to attach an all-wood fence to your house, use masonry or metal as a protective barrier between the fence and house.
- Use metal when constructing a trellis and cover it with high-moisture, low flammability vegetation.
- Prevent combustible materials and debris from accumulating beneath patio decks or elevated porches. Screen or box in areas below patios and decks with wire mesh no larger than 1/8 inch.
- Make sure an elevated wooden deck is not located at the top of a hill where it will be in direct line of a fire moving up slope. Consider a terrace instead.

Access additional information on the Firewise home page: www.firewise.org

Please see the other side of this sheet for the *Firewise Landscaping Checklist*.