



To: Land Conservation and Development Commission (LCDC)/DLCD

From: Oregon Fire Chiefs Association
Oregon Fire Marshals Association
Fire and EMS Chapter of the Special Districts Association of Oregon (SDAO)
Oregon Department of the State Fire Marshal

Date: August 1, 2026

Subject: Public comment on proposed Oregon Administrative Rules implementing the Oregon Homes Program established by House Bill 2258 (2025)

To whom it may concern,

The Oregon Fire Chief Association, the Oregon Fire Marshals Association, the Fire and EMS Chapter of the Special Districts Association of Oregon and the Oregon Department of State Fire Marshal, collectively representing Oregon's fire service, respectfully submit written comments to the proposed rulemaking regarding implementation of HB 2258 (2025). These comments reflect the fire service's concerns with the proposed rule and recommended language which supports the state's housing goals accord with essential fire protection requirements.

There are numerous potentially conflicting issues related to the authority of the Oregon State Fire Marshal, fire code officials, and the utilization of the statutory requirements set forth in the Oregon Fire Code. The proposed rules may create significant ambiguity in new developments with fire officials, planners, and developers. Any ambiguity affecting their authority directly impacts community safety and makes the development process more complex.

The fire service understands the critical need for available and affordable housing. As fires are currently burning uncontrolled across Oregon, we also need to be considerate of the significant impact of fire risk to Oregonians. A balanced approach is needed to provide available and affordable housing that is also *reasonably safe*. Victims of fire often face significant challenges including financial impacts, emotional effects of evacuation, losing sentimental items, and losing a sense of "home." New housing must be constructed in a way that is reasonably safe and resilient, especially in areas vulnerable to wildfire and urban conflagration.

Highlighted below are some of the issues raised by creating these siting standards. We urge you to minimize fire and life safety risk to Oregonians by evaluating the recommended language changes to the proposed rulemaking below. We believe this language change will help

eliminate potential confusion that fire and life safety requirements for new development, including fire apparatus access and firefighting water supply, continue to be applicable.

Areas of concern:

- The rules preserve some engineering and public facilities review but fail to expressly preserve independent fire code authority as outlined in Chapter 5 related to Fire Department Access and Water Supply. That ambiguity is likely to lead to inconsistent interpretation across jurisdictions and could invite challenges to local fire code officials or deputy state fire marshals when implementing Oregon Fire Code requirements for fire department access roads, hydrants, fire flow, and emergency access during the land use and planning process.
- Fire apparatus access roads are enforced under the Oregon Fire Code by the fire code officials. The proposed rules do not expressly preserve that authority of fire code officials enforce fire apparatus access, potentially leaving out the fire department in the land use and planning phase of a development.
- Some jurisdictions conduct Oregon Fire Code review separately from engineering review. These processes are distinct and should remain independently recognized.
- A developer may argue that because the rules limit review to the listed standards, a fire code official cannot require Oregon Fire Code provisions because they are not on the list.
- The rules preserve public facilities plans and final engineering plans, however, they never mention fire flow and water supply requirements of the Oregon Fire Code, despite their critical role in safe development.
- Only certain citing standards may be applied per Section 660-047-0040 which states “A local government may apply only the following siting standards.” The list of standards should include emergency vehicle provisions consistent with the Oregon Fire Code Chapter 5. A developer could argue that fire access is not an applicable siting standard.
- Section 660-047-0020 requires ministerial approval and limits review to objective standards. Many jurisdictions currently route developments through either the local fire agency or local deputy state fire marshal before land use approval. If a local planning official interprets these rules narrowly, fire review could be omitted until a building permit is issued which will create life safety problems related to subdivision layout, access roads, and hydrant locations which often cannot be fixed after plat approval.

Recommendations to consider adding to the rules related to fire code:

- Clarify that the Oregon Fire Code remains “*fully applicable*” at all stages of development review. This would substantially reduce ambiguity concerns while maintaining the housing objectives of the rule.
- Specifically preserve fire flow and water supply requirements of the Oregon Fire Code Appendix B, and OFC Appendix C, and any locally adopted fire flow standards (hydrant locations, sizing, spacing, etc.).
- Specifically preserve fire department access requirements in Oregon Fire Code and any locally adopted fire access standards.

- Affirm that fire department review of access and water supply must occur during land use and planning review (i.e., prior to the permit stage).

Additional issues for fire agencies:

- The minimum five-foot setback invites safety issues, including limited firefighter access for fire attack and rescue (including placing ladders at safe angles), increased fire exposure hazards, and utility conflicts.
- The rules allow for lots as small as 1,500 square feet, multiple housing types, up to 11-unit multifamily buildings, expedited approval. If Oregon Fire Code authority is not clearly preserved, this may result in insufficient hydrants, dead end access roads, inadequate turning radius, limited aerial apparatus access, and blocked emergency access.

Wildfire specific concerns:

- Five-foot setbacks and increased density increase structure-to-structure ignition risk and make compliance with the “five-foot non-combustible space zone” more difficult.
- In the proposed OAR, the tree standards prohibit removal of heritage trees, trees 20 inches diameter at breast height or larger, and require mitigation for removal of protected trees. In some circumstances, a tree that is protected under local defensible space code adoption may later require crown separation, ladder fuel removal, removal due to proximity to structures and the rule does not acknowledge this possibility. Although most defensible space treatments do not require removal of large healthy trees, there are circumstances where vegetation adjacent to structures must be modified for life safety.
- The rule limits local governments to certain design standards and if a jurisdiction later adopts the defensible space code, intended to support wildfire resilience, applicants could argue that those standards are preempted because only the listed design and siting standards may be applied.

Suggested language:

“Nothing in this OAR limits or supersedes the authority of the State Fire Marshal or fire code official to administer and enforce the Oregon Fire Code and the Oregon Defensible Space Model Code as defined in statute; including but not limited to requirements for fire apparatus access roads, emergency vehicle access, fire hydrants, fire flow, water supply, fire department connections, fire lanes, emergency access easements, vegetation management or other fire protection infrastructure or wildfire mitigation requirements adopted pursuant to state law.”

We appreciate the work DLCD is doing to improve housing availability. We value the partnership between the Oregon fire service and the land use planning community. By incorporating the recommended clarifying language, the rules can support housing goals, preserve critical fire and life safety protections for Oregonians, and streamline the plan review process. We respectfully request the adoption of changes to preserve the authority of the Oregon Fire Code and the Oregon Defensible Space Model Code and any amendments thereto.