



House Bill 2328-A
Senate Environment and Land Use Committee

The Northwest Propane Gas Association (NWPGA) asks for your support on HB 2328-A. This bill clarifies propane (liquefied petroleum gas, or LPG) tank regulation. The bill was heard in House Environment Committee where it received a number of letters in support and no one opposed it. It passed unanimously out of committee to the House floor, where it was approved unanimously.

Oregon has traditionally regulated the installation and replacement of propane tanks through the Oregon State Fire Marshal (OSFM) by statute. Piping, connections to buildings and inside appliances have been regulated under building codes through the Building Codes Division. Both agencies authorize certain local jurisdictions to carry out their mission within their area of authority. This system has been in place for over fifty years and has worked well.

Last year Lane County, Oregon began putting almost all propane tanks, regardless of tank size if attached to the house, for homes and businesses through a land use permitting process. This process has created dual regulation, high fees (in some zones fees have been as high as \$1,200 just for the permit, in addition to the State Fire Marshal fee), time-consuming plan reviews, comment and appeal periods, and processing delays that deter consumers from choosing propane for new homes. More importantly, it has impacted customers with existing tanks, many of whom are elderly and/or on a low or fixed income.

This process has deterred consumers who wanted to convert woodstoves to propane – a clean burning fuel and one that doesn't involve the physical tasks of dealing with wood, which is difficult for some elderly folks. Many customers with existing tanks have decided not to switch dealers for better prices or service due to the permitting process; competition has been stifled. All dealers in Lane County, both major and independent, have lost business to other fuels.

Most frustrating to dealers has been the county's lack of specialized knowledge of propane-specific state-adopted codes and the practical problems that have resulted.

The House committee discussed fire safety, which is the State Fire Marshal's primary responsibility. Insurance carriers do not place any special restrictions or premium surcharges on homes heated with propane as there is no actuarially sound reason for doing so, and do not consider houses with propane tanks on the property to be any more of a hazard due to the tank than those heated with electricity or natural gas (see included letters). We have also provided details of a recent study on the effects of thermal radiation on propane tanks.

The –A amendments were carefully drafted to clarify what local governments may or may not do in terms of propane tank regulation, and which tanks fall under land use provisions. The amendments resolved any issues that the Department of Land Conservation and Development (DLCD) had with the bill, and Director Lane Shetterly sent a memo to that effect (included in your notebooks).

Entangling in Oregon's cumbersome land use permitting system what should be simple choices about fuel sources as accessory uses for homes and small businesses has not been a good experiment. NWPGA believes HB 2328-A clarifies the law for everyone, and asks for your support. Thank you for your consideration!

Lana Butterfield, NWPGA Oregon Lobbyist
503/819-5800 cell phone
lanab@teleport.com

**Testimony of Allen L. Johnson
Before Senate Environment and Land Use Committee
on House Bill 2328
April 27, 2005**

Mr. Chair and members of the Committee, my name is Al Johnson. I'm an attorney with the firm of Johnson & Sherton, P.C., of Portland and Salem. Our practice is mainly in land use and we provide legal services to both public and private clients throughout Oregon.

The purpose of HB 2328 is to address a problem of "category creep" under the definition of "land use decision" in ORS Chapter 197. As the Land Board of Appeals has said on more than one occasion, that definition is clouded with an "unfortunate uncertainty." *Tirumali v. Portland*, 37 Or LUBA 859, Fn. 7 (2000). HB 2328 does not attempt to address the larger problem created by the definition. It takes a surgical approach to a discrete situation that has just arisen and does so in a way that is designed to keep separate regulatory regimes that should not and need not overlap.

As you know, the Oregon land use system imposes high transaction costs. It is comprehensive, complex, uncertain, time-consuming, and often prohibitively expensive. These transaction costs are least justifiable when, as is the case with small propane tank installations:

- the activity in question is already subject to existing layers of regulation;
- the existing regulatory framework has not been shown to be inadequate; and
- the regulated activity requires an economical, efficient, and speedy permitting process.

Your background materials include copies of statutes, rules, interpretive rulings, and attorney generals' opinions describing the existing allocation of authority to regulate the installation and replacement of propane tanks between the state fire marshal and local building code offices. Under that allocation, the state fire marshal regulates the installation and replacement of the propane tanks themselves and local building officials regulate the installation and replacement of everything from there to the building served by the tank.

HB 2328 does allow some "category creep": Under this bill, local governments will have express authority to regulate tank placements in flood plains through land use regulations if they so choose. Local governments will also have express authority to regulate large tanks and tanks that are part of primary uses, such as fuel storage or distribution. The result does change the status quo somewhat toward more regulation, but it does so as a result of conscious legislative choice, not of definitional sprawl.

Respectfully submitted,

Allen L. Johnson

April 27, 2005

Oregon State Legislature
Senate Environment and Land Use Committee
Re: **House Bill 2328-A**

Dear Mr. Chair and Committee Members:

My name is Ellen Mae Wilson. I live in Mapleton, Oregon. I am 80 years old and a widow on a small fixed income.

About a year ago I contacted a propane company in Springfield. I was using a woodstove fireplace insert to heat my home. But my hip has been bothering me and sometimes it's hard to walk. Lifting and carrying wood is heavy work for someone like me. The worst problem with burning wood, though, is my allergies. I could hardly breathe for the wood smoke. I wonder what that does to our air quality.

So I wanted to upgrade my woodstove to a propane heater, because I know that propane is a clean fuel. My propane company warned me that Lane County was charging fees for the propane tank installation that were quite high, in a way that other counties don't. The original quote just for the county fee was approximately \$1,175.00. That didn't include the extra engineering costs for mounting the tank on a high concrete pier, the installation, the permit from the State Fire Marshal, and the gas itself. I simply can't afford that. I understand that the county fee is lower now, but my dealer is unable to install the tank anyway because of the confusion over differing regulatory interpretations.

So now I heat with electricity, even though that's expensive. I'm using the electric heaters that were installed in 1962, and hope I don't have a fire. I am angry about this situation, and it has impacted my life. I'm asking you to approve House Bill 2328-A. Thank you for your consideration.

Sincerely,

Ellen Mae Wilson
11836 Hwy 36
Mapleton, OR 97453-9703
541/268-4306

April 27, 2005

HB 2328-A

Senate Committee on Environment and Land Use

Mr. Chair and Members of the Committee:

I am Bruce Engeman of R & D Propane, located in Goshen, Oregon. I serve customers throughout Lane County. My dad, Ray, started the business and now I run it. We are a small, independent propane dealership, and we are struggling to stay afloat under the regulations recently imposed by Lane County for installation of propane tanks.

To me, the most important issue here has to do with customer choice. Because the Lane County regulations have been so onerous, customers with existing tanks have been very reluctant to switch dealers. We call these "change-outs", and this used to be a thriving part of our business in Lane County. Most tanks belong to the propane dealer and we rent them to the customer on an annual basis, unless we bury a tank underground (the customer buys the tank then).

The change-out side of our business used to enable me as a small business owner to compete with the larger dealers on the basis of price and service. Now there are hardly any orders for change-outs of tanks, regardless of the propane company. This has really put a lid on competition. It's OK for the company on top that has the biggest market share, because it helps them stay on top. But it's been very difficult for independent dealers.

What is worse is that customers are being denied the ability to save money or get better service. A lot of propane customers are on low and/or fixed incomes. Many are elderly and live in rural parts of the county off the natural gas gridline. Many of these folks need to be able to pinch pennies, even if it's a few cents off a gallon of propane. Some of them are being forced into going with electricity, which is often more expensive. Please support HB 2328-A.

Sincerely,

Bruce Engeman

HB 2328-A

**Senate Environment and Land Use Committee
April 27, 2005**

Mr. Chair and Members of the Committee:

For the record, my name is Mark Amspoker. I am a propane salesman for Suburban Propane in Eugene, Oregon. I support House Bill 2328-A.

The consequences of the new permit process in Lane County have been numerous. I've lost many potential customers since the Lane County regulations went into effect in January of 2004. They are ready to go with propane as a fuel, but then I have to tell them about the county permit process, the cost, and the minimum of three trips to secure a tank permit. Once they hear this, they tell me they will get back to me after they think about it. They see the hassle ahead and go with electricity instead. This is essentially eliminating an alternative for the consumer in terms of heating choices.

I have heard contractors tell people that propane is too expensive to put in their home. When I approach the contractor and ask why, the answer is all too familiar. They really don't want to deal with the process in Lane County for a new propane tank. To avoid these regulations, customers can buy a tank (rather than rent it) and bury it underground, but that is very expensive.

These regulations are also being applied retroactively for tanks that have already been approved by the State Fire Marshal. I think the biggest problem with this duplication of regulatory authority is that it restricts people from having a choice of propane dealers. This is not fair to the consumer. They cannot simply call another propane dealer and have them provide a tank and fuel at a reduced cost as in other communities. This permit has cost over \$1,200 in some zones. It goes without saying that this will stop almost anybody from moving forward.

A customer recently called me. Ruth is over 80 years old. She wanted propane for a heat source. Her husband passed away, and she simply cannot move the woodstove pellets needed to heat her home. She opened an account, ordered the appliance, and signed a bid. Then when we got into the details of what was needed to fulfill county regulations, she said it is just too much trouble to proceed with the Lane County permitting process. While I offered to get the permit for her, she simply cannot get around well enough to provide me with the needed plot plans, property lines, drainage fields, locations of buildings, and underground lines, etc. that her husband may have buried. She is very frustrated.

Please vote yes on HB 2328-A. Thank you for listening.



April 27, 2005

Support for HB 2328-A

Committee on Environment
c/o Matt Shields, Committee Administrator
Oregon State Capitol
900 Court Street NE
Salem, OR 97301

Dear Mr. Chair and Members of the Committee:

I have worked for Ferrellgas (a propane retailer) for fifteen years, the last nine as Area Manager in Oregon. I strongly support House Bill 2328-A. The permit process on propane tanks that Lane County has been requiring has become very expensive, confusing and has deterred potential customers from choosing propane.

Currently, the excessive permit fees, time and effort involved in setting a basic propane tank has become cost prohibitive for retailers and customers. Without the bill, the Lane County process will continue to be a roadblock for customers from selecting propane while limiting existing customers the option to pursue the best value in the marketplace. Wood burning is a simplistic alternative for many future homeowners, and that's not good for the environment.

The propane retail environment can be a very competitive arena that typically allows customers the option to shop and compare values and various programs. The Lane County permit process and fee structure severely limits a customer's options in terms of changing to another dealer for price or service considerations. Moreover, in many cases, the retailer or the customer has already paid permit fees to the Oregon State Fire Marshal who regulates propane tanks under Oregon State law. Everyone is very confused as to why there are so many steps and fees surrounding a basic propane tank set.

HB 2328-A will provide customers with the freedom and flexibility to choose energy options without complicated permit regulations or potentially high fees dictating their final decisions. Please help to simplify the permit process in Lane County for establishing a basic propane tank set by approving House Bill 2328-A. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Randy Schott".

Randy Schott
Oregon/Washington Area Manager
Ferrellgas

25.005 or financially incapable as defined in ORS 125.005.

[(3)] (4) An action may *only* be brought under the provisions of this section *only* for physical abuse described in ORS 124.105 or for financial abuse described in ORS 124.110.

[(4)] (5) An action may be brought under this section against a person for permitting another person to engage in physical or financial abuse if the person knowingly acts or fails to act under circumstances in which a reasonable person should have known of the physical or financial abuse.

[(5)] (6) A person commencing an action under this section must serve a copy of the complaint on the Attorney General within 30 days after the action is commenced.

SECTION 2. The amendments to ORS 124.100 by section 1 of this 2005 Act apply to actions for injury, damage or death occurring before, on or after the effective date of this 2005 Act.

Approved by the Governor May 25, 2005
 Filed in the office of Secretary of State May 25, 2005
 Effective date January 1, 2006

CHAPTER 88

AN ACT

HB 2328

relating to standards for storage of liquid petroleum; creating new provisions; and amending ORS 197.015 and 476.060.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS 480.410 to 480.460.

SECTION 2. (1) The regulation of liquid petroleum gas containers or receptacles by the State Fire Marshal pursuant to ORS 480.410 to 480.460 is not a program affecting land use under ORS 197.180.

(2) A local government may not regulate the siting, installation, maintenance or removal of a liquid petroleum gas container or receptacle regulated by the State Fire Marshal pursuant to ORS 480.410 to 480.460, except as provided in subsection (3) of this section or ORS 480.450 (7).

(3) A local government may:

(a) Regulate the siting and installation of a liquid petroleum gas container or receptacle with a capacity of more than 1,200 gallons or a group of containers and receptacles with an aggregate capacity of more than 4,000 gallons to protect the public health and safety.

(b) Regulate the siting and installation of liquid petroleum gas containers or receptacles on a flood plain regulated by local ordinance.

(c) Regulate the siting and installation of liquid petroleum gas containers or receptacles

that are not accessory to an authorized or authorizable land use.

(d) Prohibit the siting and installation of liquid petroleum gas containers or receptacles of specified types or sizes in specific zones within an urban growth boundary to protect the public health and safety.

(e) Regulate, through the local government's assistant to the State Fire Marshal as described in ORS 476.060, the placement of liquid petroleum gas containers or receptacles for the purpose of fire prevention.

SECTION 3. ORS 197.015 is amended to read:

197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

(1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the statewide planning goals.

(2) "Board" means the Land Use Board of Appeals.

(3) "Commission" means the Land Conservation and Development Commission.

(4) "Committee" means the Joint Legislative Committee on Land Use.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Director" means the Director of the Department of Land Conservation and Development.

(8) "Goals" means the mandatory statewide planning standards adopted by the commission pursuant to ORS chapters 195, 196 and 197.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies

and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; or

(C) A decision of a county planning commission made under ORS 433.763;

(b) Does not include a decision of a local government:

(A) [Which] That is made under land use standards [which] that do not require interpretation or the exercise of policy or legal judgment;

(B) [Which] That approves or denies a building permit issued under clear and objective land use standards;

(C) [Which] That is a limited land use decision;

(D) [Which] That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility [which] that is otherwise authorized by and consistent with the comprehensive plan and land use regulations; [or]

(E) [Which] That is an expedited land division as described in ORS 197.360; or

(F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;

(c) Does not include a decision by a school district to close a school;

(d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

(e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179; or

(B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12) "Limited land use decision" is a final decision or determination made by a local government

pertaining to a site within an urban growth boundary which concerns:

(a) The approval or denial of a subdivision or partition, as described in ORS chapter 92.

(b) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(13) "Local government" means any city, county or metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

(15) "Metro planning goals and objectives" means the land use goals and objectives that a metropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designee is considered a person for purposes of appeal under ORS chapters 195 and 197.

(19) "Special district" means any unit of local government, other than a city, county, metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 195.025 authorized and regulated by statute and includes but is not limited to: Water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

(21) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 4. ORS 476.060 is amended to read:

476.060. (1) All fire marshals in those governmental subdivisions having such officers, and where no such officer exists, the chief of the fire department of every city or rural fire protection district in which a fire department is established, the marshal or chief of police, officer of any city in which no fire department exists, and constables, if any, shall be, by virtue of the offices held by them, assistants to the State Fire Marshal without additional recompense, subject to the duties and obligations imposed by law, and shall be subject to the direction of the State Fire Marshal in the execution of the provisions of this section and ORS 476.070, 476.090, 476.150 and 476.210 and section 2 of this 2005 Act.

(2) In addition to other duties under subsection (1) of this section, an individual designated as an assistant to the State Fire Marshal shall aid in the administration and enforcement of ORS 480.200 to 480.290 and 480.990 (6) upon the request of the State Fire Marshal.

Approved by the Governor May 25, 2005
 Filed in the office of Secretary of State May 25, 2005
 Effective date January 1, 2006

CHAPTER 89

AN ACT

HB 2352

Relating to recreational vehicles; amending ORS 446.155 and 446.170.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 446.155 is amended to read:

446.155. (1) [No] A person may not sell or offer for sale within this state a manufactured dwelling manufactured after January 1, 1962, that contains:

(a) Plumbing equipment, unless such equipment meets the requirements of the Department of Consumer and Business Services;

(b) Heating equipment, unless such equipment meets the requirements of the State Fire Marshal; or

(c) Electrical equipment, unless such equipment meets the requirements of the department.

(2) [No] A person may not rent, lease, sell or offer for rent, lease or sale within this state a manufactured structure manufactured after September 1, 1969, unless [it] the manufactured structure bears an insignia of compliance and contains:

(a) Plumbing, mechanical and electrical equipment or installations that meet the minimum safety standards of the department;

(b) Thermal, fire and life safety equipment, material and installations that meet the minimum safety standards of the department; or

(c) Structural and transportation equipment, materials, installations and construction that meet the minimum safety standards of the department.

[(3) No person may rent, lease or offer for rent or lease within this state a recreational vehicle built after

January 1, 1990, unless it bears an insignia of compliance and contains:]

[(a) Plumbing, mechanical and electrical equipment or installations that meet the minimum safety standards of the department; or]

[(b) Thermal, fire and life safety equipment, material and installations that meet the minimum safety standards of the department.]

[(4) No person may sell or offer for sale a recreational vehicle built within five years of the time the recreational vehicle is sold or offered for sale, unless it bears an insignia of compliance and contains:]

[(a) Plumbing, mechanical and electrical equipment or installations that meet the minimum safety standards of the department; or]

[(b) Thermal, fire and life safety equipment, material and installations that meet the minimum safety standards of the department.]

(3) A person may not rent, lease, sell or offer for rent, lease or sale within this state a recreational vehicle unless the recreational vehicle:

(a) Bears an insignia of compliance;

(b) Has previously been lawfully registered and titled within the United States;

(c) Has previously been issued an ownership document under ORS 446.571 or recorded under ORS 446.626; or

(d) Is exempt from registration, title or ownership document requirements because of United States government ownership.

[(5)] (4) Persons manufacturing, remanufacturing, converting, altering or repairing manufactured structures or equipment within the state or for use within the state shall comply with all applicable construction and safety rules of the department and the following:

(a) Alterations performed on a manufactured dwelling by the manufacturer or dealer before or at the time of sale to the first consumer shall be performed in conformance with the National Manufactured Housing Construction and Safety Standards Act.

(b) After the initial sale to a consumer by a manufacturer or dealer, all alterations to a manufactured dwelling, except as identified by the Director of the Department of Consumer and Business Services by rule, shall be in conformance with the specialty codes as described in ORS 455.010 to 455.740 and 479.855.

(c) Solid fuel burning appliances shall be in conformance with the National Manufactured Housing Construction and Safety Standards Act and standards adopted by the department.

(d) Notwithstanding subsections (1) and (2) of this section, a previously owned manufactured dwelling may be sold "as is" provided that the seller discloses in the bill of sale that the manufactured dwelling is being sold on an "as is" or "with all faults" basis, and that the entire risk as to the quality and performance of the manufactured dwelling is with the buyer. If the manufactured dwelling is found to be defective after purchase, the buyer shall assume the entire cost of all servicing and re-

INTERPRETATIONS

NUMBER: 96-14

ADOPTION DATE: March 22, 1996

REVISION DATE: November 29, 1999

TITLE: Licensing and Permits for Liquefied Petroleum Gas (LPG) installations at one and two family dwellings

RULE or CODE SECTION:

1991 Uniform Fire Code, State Of Oregon 1992 Amendments, Article 82.
ORS 480.410 through 480.990 and OAR 837-30-100 through 837-30-280.

The proponent noted the Oregon Mechanical Specialty Code, which may be referenced. However, the OUFCA Interpretations Committee will not attempt to interpret the Mechanical Code.

(See also) Building Codes Division's Interpretive Ruling No. 93-79

CONCERN or ISSUE:

- 1.) Are contractors and/or installers who install propane appliances or propane fuel piping within one and two family dwellings required to be licensed by the Office of State Fire Marshal? If so, is this a company license and an individual license?
- 2.) Please answer the same questions regarding propane appliances and propane fuel piping installed outdoors on residential (one and two family) property.
- 3.) Are permits and inspections required by a Fire Marshal or Fire Inspector for the installation of propane appliances or propane fuel piping installed within a one and two family dwelling?
- 4.) Please answer the same questions for propane appliances and propane fuel piping installed outdoors on residential (one and two family) property.
- 5.) Who enforces the propane licensing laws inside one and two family dwellings?
- 6.) Who enforces propane licensing laws outdoors on residential (one and two family) property?

OREGON
Interpretive Ruling No. 93-79
LIQUID PETROLEUM GAS, PERMITS AND INSPECTIONS
(revised 05/01/00, editorial only)

REQUESTED BY: PPPI Manual Review Committee

QUESTION: How are liquid petroleum gas (LPG) and related appliances regulated and who does the inspection?

APPLICABLE CODE SECTIONS: The Oregon Mechanical Specialty Code (OMSC), Chapter 13 and the Oregon One and Two Family Dwelling Specialty Code (Dwelling Code), Chapter 26.

BACKGROUND: Authority for regulating of LPG installations is held jointly by Building Codes Division (BCD) and the State Fire Marshal's Office (SFM). The SFM has authority for areas outside of one and two family dwellings, and the Dwelling Code regulates the dwelling.

The SFM has the authority to require:

1. Installation notices (permits) and inspection of the placement of all sizes of LPG tanks; and
2. A licensing program for gas installers. The SFM also has adopted the National Fire Protection Association (NFPA) 58 on LPG tanks and NFPA 54 National Fire Gas Code on piping. The administration of BCD has adopted Chapter 13 of the Mechanical Specialty Code (MSC) and Dwelling Code which regulates the LPG piping in the structure.

Some installations are also regulated by federal laws. Where LPG facilities supply ten or more customers, the system and operator is subject to the Code of Federal Regulations CFR 49, parts 191 and 192.

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 & CONCLUSION:

1. The Oregon State Fire Marshal's Regulations, NFPA 58 and NFPA 54, shall apply and be enforced by them or their designees in and around existing commercial, industrial and multi-family residential structures. New installations from the first stage regulator, in commercial, industrial and multi-family residential structures, shall be installed per the Mechanical Specialty Code. Tanks and piping to the first stage regulator, on the outside of one- and two-family dwellings, are regulated by the State Fire Marshal's Office.
2. The Dwelling Code shall apply to piping from the first stage regulator in one- and two-family dwellings. The Building Codes Division staff or local jurisdictions will issue permits and apply the code in these occupancies.
3. In addition to 1. and 2., systems supplying 10 or more customers are subject to federal laws and are applied through the Oregon Public Utility Commission.

(signed November 17, 1993)
John Talbott, Chairman
Structural Code Advisory Board

Date

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

(signed November 19, 1993)
Gary J. Wicks, Administrator
Building Codes Division

Date

HISTORY or BACKGROUND:

Customers, contractors, or LPG installers are not clear as to who the authority is regarding licenses and permits for LPG piping at one and two family residential occupancies.

CONCLUSION:

Multiple questions are within the concerns noted above. For the sake of clarity, we have taken the liberty of numbering the questions one through six. The responses of the interpretations committee will be aligned with the corresponding question.

- 1.) Contractors and/or installers who work with LPG are required to be licensed by the Office of State Fire Marshal regardless of the location where the work is performed. Both the company and any person within the company who perform LPG work are required to be licensed in accordance with ORS 480.432.
- 2.) The answer to number two is identical to answer number one.
- 3.) Permits or inspections are not required by the State Fire Marshal for the installation of propane appliances or propane fuel piping installed within a one and two family dwelling.
- 4.) The answer to number four is the same as number three with the following exception. Tank installations are regulated by the State Fire Marshal as required in ORS 480.450. When tanks are installed, notice is required to be given to the Office of State Fire Marshal (or the appropriate exempt jurisdiction). The notice and subsequent inspections apply to the tank and the first stage regulator only. The UFC Standards 82-1 section 82.101 (amended) 1-2.3.1(f) states in part: "For the purpose of application of this standard, the Mechanical and the Plumbing Codes are applicable to piping beyond the first stage of pressure regulation."
- 5.) and 6.) All licensing requirements for LPG are enforced by the Office of State Fire Marshal in accordance with ORS 480.432 through 480.436 and OAR 837-30-140 through 837-30-220.

The Mechanical Specialty Code carries authority for permits and inspections of LPG appliances and fuel piping. However, referring to the questions noted above, it would seem more appropriate to apply the One and Two Family Dwelling Code.

Approved by: _____

Robert T. Lawrence
State Fire Marshal

Date: _____

March 22, 1996

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post-construction use will not detract from the fire and life safety effectiveness of preconstruction review, or from the advisory role of the fire marshal in that review.

***2447 II. Second Question Presented**

The second question presented is whether permanent tanks used to store flammable liquids are 'structures' as that term is used in ORS 479.155.

Design or construction plans for such tanks are now reviewed by the State Fire Marshal because agency staff members have training and expertise in this highly dangerous area. See ORS 476.030(1)(b) (directing fire marshal to enforce all statutes and make rules relating to '[t]he storage and use of combustibles and explosives.') If the tanks are 'structures' within the meaning of ORS 479.155, plan review for these tanks should be performed by the administrator rather than by the State Fire Marshal.

ORS 479.155(2) provides, in pertinent part:

'Prior to construction or alteration of a hospital, public building as defined in ORS 479.010(1)(i), public garage, dry cleaning establishment, apartment house, hotel, bulk oil storage plant, school, institution as defined in ORS 479.210, or any other building or structure regulated by the State Fire Marshal for use and occupancy or requiring approval by the State Fire Marshal pursuant to statute, the owner shall submit to the administrator two copies of a plan Approval of such plans by the administrator shall be considered approval by the State Fire Marshal.' (Emphasis added.)

This statutory provision lists various buildings or structures, the plans for which the administrator reviews and approves. Storage tanks for flammable liquids do not fit within any of the specific structures enumerated in the statute.

ORS 479.155 also contains a general reference to 'any other building or structure [1] regulated by the State Fire Marshal for use and occupancy or [2] requiring approval of the State Fire Marshal pursuant to statute.' We believe that flammable liquid storage tanks do not fall within either of these categories, because a tank is not a 'building or structure' within the meaning of the statute. Although those terms are not defined, the specific enumeration of types of buildings and structures within the statute's reach

(hospitals, apartment houses, schools, institutions, etc.) limits the meaning of the general terms 'building' and 'structure' to things of the same type. See, e.g., *State of Oregon v. Brantley*, 201 Or 637, 271 P2d 668 (1954) (where general words follow the enumeration of particular classes of persons or things, the general words will be construed as applicable only to persons or things of the same general nature or class as those enumerated); *Skinner v. Keeley*, 47 Or App 751, 615 P2d 382 (1980) (same). The items specifically listed are large buildings or structures in which people live or work. Hence, the phrase 'any other building or structure' refers to buildings or structures of the same general type as those listed. Flammable liquid storage tanks do not fit within that class. Accordingly, those tanks are not within the administrator's authority to review under ORS 479.155(2). We believe that this result is consistent not only with the language of the statute and well-accepted principles of statutory construction, but with the legislature's sound policy leaving to the fire marshal the approval of storage of combustibles and explosives, a dangerous area requiring specific expertise.

Dave Frohmmayer

Attorney General

(FN1) ORS 479.155 reads as follows:

'(1) As used in this section:

'(a) 'Director' means the Director of Commerce.

'(b) 'Administrator' means the state building code administrator appointed pursuant to ORS 456.790(1).

'(2) Prior to construction or alteration of a hospital, public building as defined in ORS 479.010(1)(i), public garage, dry cleaning establishment, apartment house, hotel, bulk oil storage plant, school, institution as defined in ORS 479.210, or any other building or structure regulated by the State Fire Marshal for use and occupancy or requiring approval by the State Fire Marshal pursuant to statute, the owner shall submit to the administrator two copies of a plan or sketch showing the location of the building or structure with relation to the premises, distances, lengths and details of construction as the director shall require. Such filing shall not be required with respect to any such building or structure in any area exempted by order of the State Fire Marshal pursuant to ORS 476.030. Approval of such plans by the administrator shall be considered approval by the

LP-Gas Code Handbook

SIXTH EDITION

Edited by

Theodore C. Lemoff, P.E.
Principal Gases Engineer, NFPA

With the complete text of the 2001 edition of NFPA 58, *Liquefied Petroleum Gas Code*



National Fire Protection Association,
Quincy, Massachusetts

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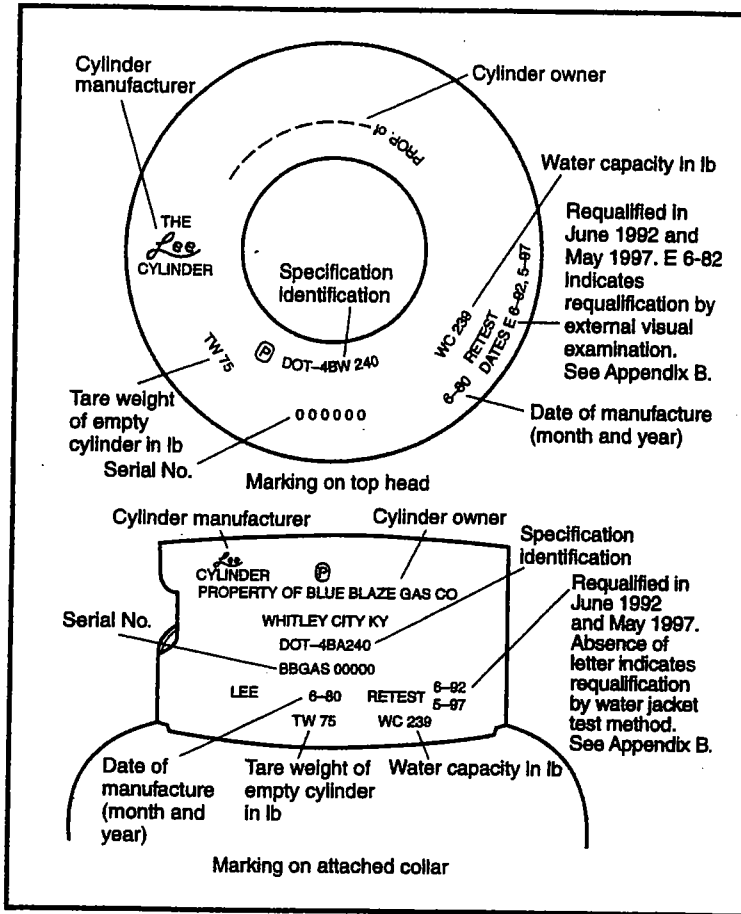


Exhibit 2.4 Typical DOT cylinder marking. (Courtesy of National Propane Gas Association.)

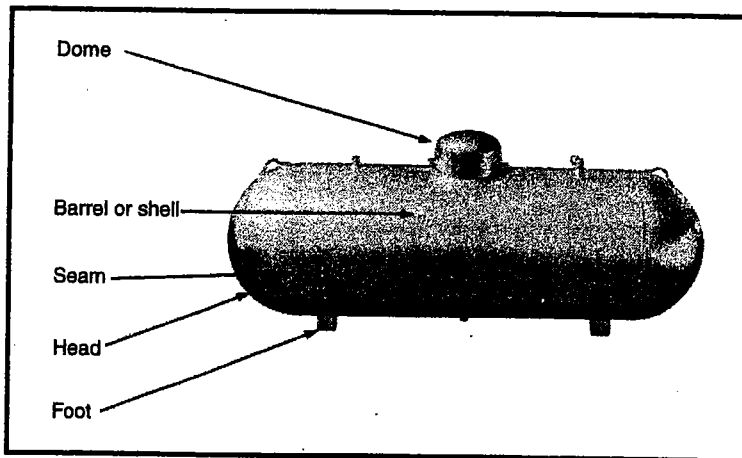


Exhibit 2.5 Small ASME container used commonly in residential and commercial applications. (Courtesy of American Welding and Tank Company.)

General Provisions

3.2.1 Installation of Containers.

The installation of LP-Gas containers shall be in accordance with this section.

3.2.2 Location of Containers.

3.2.2.1 LP-Gas containers shall be located outside of buildings.

Exception No. 1: Cylinders as specifically provided for in Section 3.4.

Exception No. 2: Containers of less than 125 gal (0.5 m³) water capacity for the purposes of being filled in buildings or structures complying with Chapter 7.

Exception No. 3: Containers on LP-Gas vehicles complying with, and parked or garaged in accordance with, Chapter 6.

Exception No. 4: Containers used with LP-Gas stationary or portable engine fuel systems complying with Chapter 8.

Exception No. 5: Containers used with LP-Gas fueled industrial trucks complying with 8.3.6.

Exception No. 6: Containers on LP-Gas fueled vehicles garaged in accordance with Section 8.6.

Exception No. 7: Cylinders awaiting use, resale, or exchange when stored in accordance with Chapter 5.

Since the code's inception in 1932, NFPA 58 has taken a basic position that LP-Gas containers must be located outdoors. A flammable gas leak outdoors has a much greater opportunity to dissipate before being ignited than does a leak indoors.

The seven exceptions to 3.2.2.1, which allow containers inside rooms, buildings, structures, and other enclosures, have evolved slowly but more or less at pace with the increasing wealth and technological complexity of industrialized nations. The Technical Committee on Liquefied Petroleum Gases has approached these applications with great caution. These exceptions are based on various safeguards to minimize the chances and severity of an explosion. The safeguards include limiting the size of the container, controlling the presence of ignition sources, relating operation of systems to the presence or absence of persons in the building, and even designing the room or building to control its reaction to explosion or fire. These safeguards are represented by the seven exceptions to the outdoor location cited in 3.2.2.1 and are addressed more fully in the specific exceptions.

The requirements of NFPA 58 apply in the United States and are the basis for regulations in Canada and in other countries. In many countries, however, it is common practice for LP-Gas containers to be connected directly to appliances within buildings. It should not be inferred that this practice is unsafe. Other countries have different construction practices and types of building contents, which can affect the use of LP-Gas.

3.2.2.2 Containers installed outside of buildings, whether of the portable type replaced on a cylinder exchange basis or permanently installed and refilled at the installation, shall be located with respect to the adjacent containers, important building, group of buildings, or line of adjoining property that can be built upon, in accordance with Tables 3.2.2.2, 3.2.2.4, and 3.2.2.6(f) and the following:

The requirement in 3.2.2.2 has been in NFPA 58 since the second edition. It is, in the editor's opinion, the most important part of the code and the most widely used. The most commonly asked question NFPA staff receives on the code is, "Where do I put my



tank in relation to . . . ?” This is not a simple question (note the length of commentary on this subject). Refer to the commentary following 3.2.2.2(g), Exception No. 2 for discussion of the terms *important building* and *line of adjoining property that can be built upon*.

Table 3.2.2.2 Separation Distances Between Containers, Important Buildings, and Other Properties

| Water Capacity per Container | | Minimum Distances | | | | | |
|------------------------------|-------------------|--|----|-------------------------------------|----------------|---------------------------------|-----|
| | | Mounded or Underground Containers ^a | | Aboveground Containers ^b | | Between Containers ^c | |
| gal | m ³ | ft | m | ft | m | ft | m |
| <125 ^d | <0.5 ^d | 10 | 3 | 0 ^e | 0 ^e | 0 | 0 |
| 125–250 | 0.5–1.0 | 10 | 3 | 10 | 3 | 0 | 0 |
| 251–500 | 1.0 ± 1.9 | 10 | 3 | 10 | 3 | 3 | 1 |
| 501–2000 | 1.9 ± 7.6 | 10 | 3 | 25 | 7.6 | 3 | 1 |
| 2001–30,000 | 7.6 ± 114 | 50 | 15 | 50 | 15 | 5 | 1.5 |
| 30,001–70,000 | 114 ± 265 | 50 | 15 | 75 | 23 | | |
| 70,001–90,000 | 265 ± 341 | 50 | 15 | 100 | 30 | | |
| 90,001–120,000 | 341 ± 454 | 50 | 15 | 125 | 38 | | |
| 120,001–200,000 | 454 ± 757 | 50 | 15 | 200 | 61 | | |
| 200,001–1,000,000 | 757 ± 3785 | 50 | 15 | 300 | 91 | | |
| >1,000,000 | >3785 | 50 | 15 | 400 | 122 | | |

^a See 3.2.2.2 Exception No. 2.

^b See 3.2.2.2(g).

^c See 3.2.2.2(f).

^d See 3.2.2.2(a).

^e See 3.2.2.2(b), (c), and (d).

The exceptions and supplemental rules in 3.2.2.2 were relocated and renumbered in the 1998 and 2001 editions to ensure their enforceability and proper location. In the 2001 edition, former 3.2.2.2(e) and (f) and 3.2.2.6 became exceptions to 3.2.2.2.

Exception No. 1: When the provisions of 3.11.2 are met, the minimum distance from a container to a building shall be reduced by one-half for ASME containers of 2001 gal through 30,000 gal (7.6 m³ through 114 m³) water capacity used in systems complying with Section 3.11.

Exception No. 1 recognizes the alternate installation requirements of Section 3.11 and provides a reference to them here in the paragraph that establishes distances. Section 3.11 applies only to mounded or buried tanks.

Exception No. 2: The 25-ft (7.6-m) distance from aboveground containers of 501 gal to 2000 gal (1.9 m³ to 7.6 m³) water capacity to buildings, a group of buildings, or the line of adjoining property that can be built upon shall be reduced to 10 ft (3 m) for a single container of 1200 gal (4.5 m³) or less water capacity where such container is at least 25 ft (7.6 m) from any other LP-Gas container of more than 125 gal (0.5 m³) water capacity.

Exception No. 2 was relocated from 3.2.2.2(e) in the 1998 edition because it is an exception to the distances established in Table 3.2.2.2 and not an additional distance requirement.

The 25-ft (7.6-m) spacing of a 1200-gal (4.5-m³) or less water capacity container is allowed if only one such container is installed and there are no other LP-Gas containers of 125 gal (0.5 m³) within 25 ft (7.6 m). The exception was created because of the

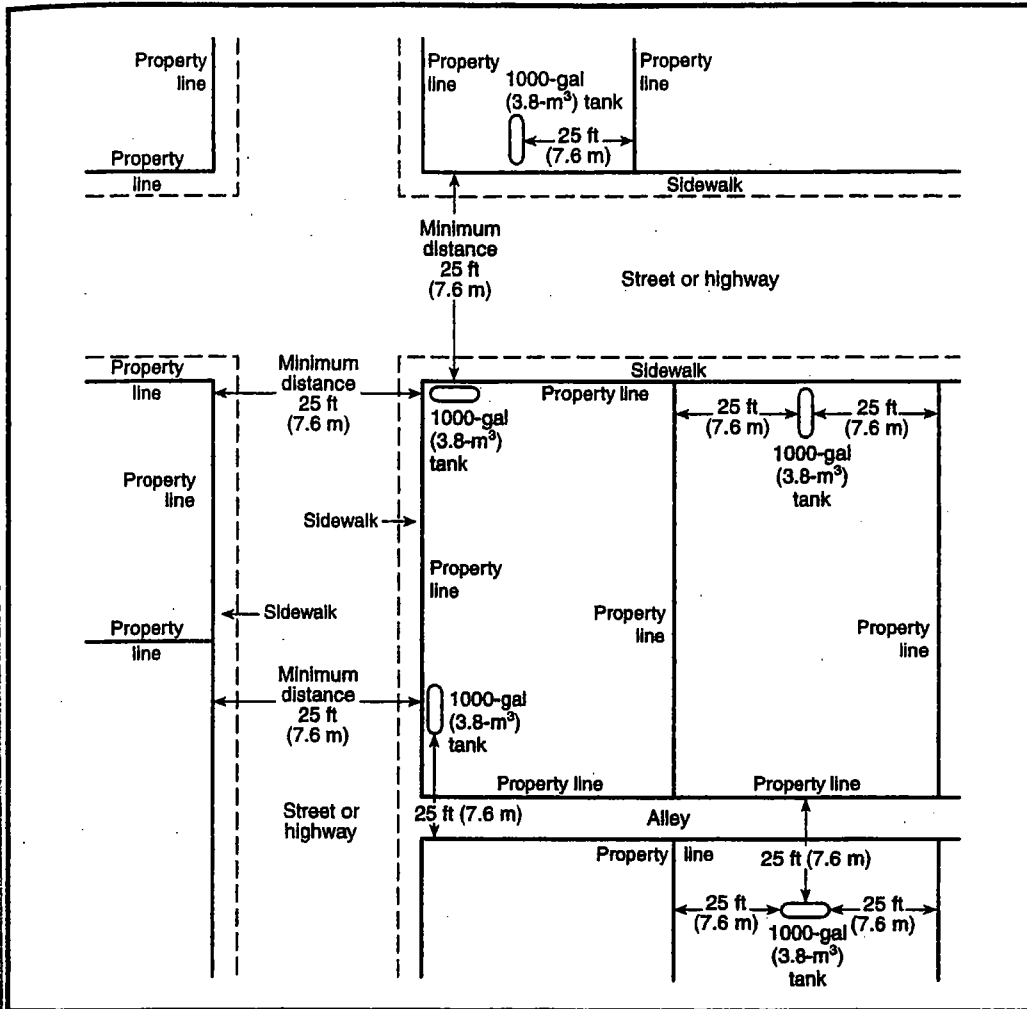


Exhibit 3.5 Illustration of separation distances from containers to the line of adjoining property that can be built upon.

The 5-ft (1.5-m) minimum building extension distance takes into account the minimum spacing of ASME containers from buildings of 10 ft (3 m).

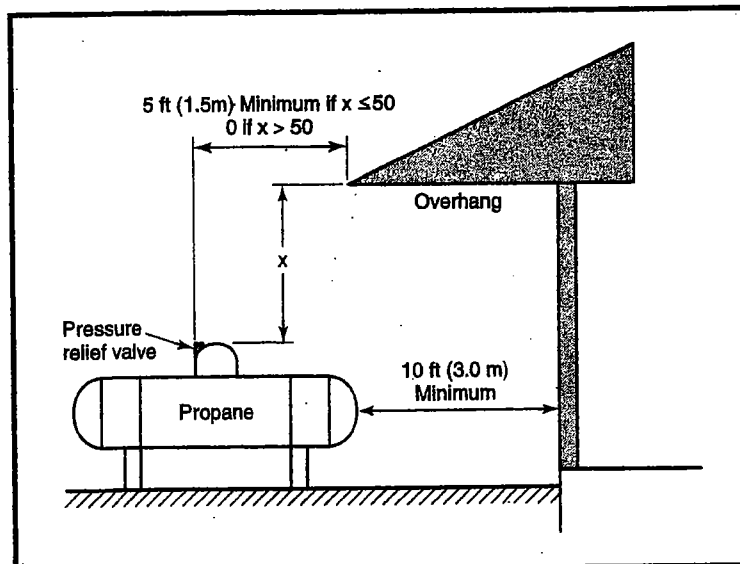
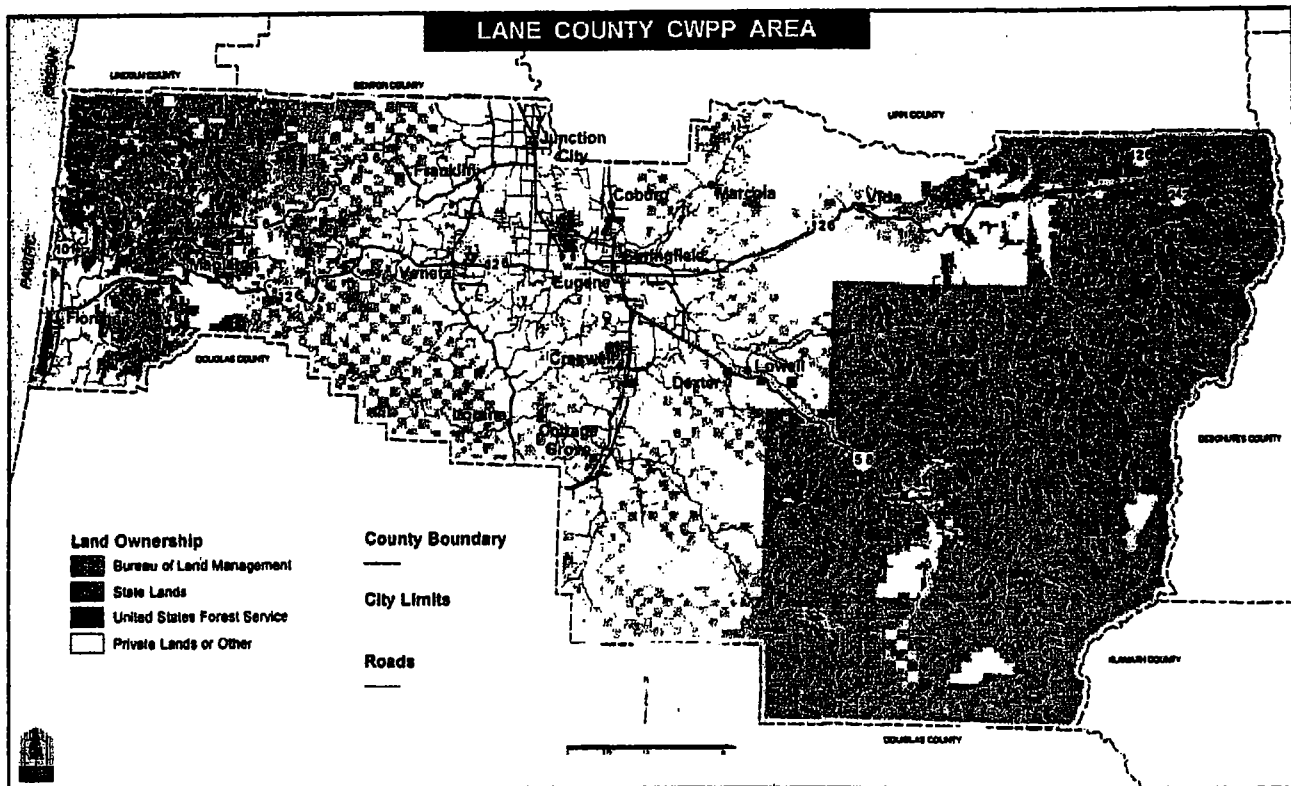


Exhibit 3.4 Distance from ASME tank pressure relief valve to building projections.

What area will the CWPP affect?

Lane County covers 2.9 million acres, stretching from the Pacific Ocean to the Crest of the Cascade Mountains. Nearly 90% of the County is forestlands. In a county this size, identifying high-risk areas and carrying out public outreach efforts on a meaningful scale is difficult. The Lane County CWPP addresses issues of scale and the County's diverse geography, population, and land management authorities by dividing the County into five assessment areas based roughly on watershed boundaries. The plan identifies general areas with high wildfire risk and provides a framework of technical support and guidance to assist local communities in developing and refining their own community wildfire protection plans and risk assessments. The CWPP does not have authority over incorporated communities within the County, but seeks to develop strategies for sharing information and resources between the county and local communities.

Figure 1.1: Lane County CWPP Area Map



Source: Lane County Public Works GIS, 2005

Statement to Lane County Planning Commission hearing on proposed
Wildland-Urban Interface Combining Zone (wildfire protection plan)
Feb 7, 2006

My name is Robert Haven, and my family and I live in Lane County, 4 miles south of Eugene city limits.

We moved to the woodlands of Lane County specifically to live among the beautiful trees here. With our four neighbors, we jointly own 35 acres of forest and meadows, just south of Spencer Butte. We view ourselves as stewards of the land, keeping our small patch of forest in a natural and clean state; and protecting it forever from bulldozers and chain saws.

But now our property is threatened -- not by the machines of housing developers, but by the heavy hand of our local government, a government that is supposed to be FOR us. But rather than supporting our chosen lifestyle, this county is threatening our enjoyment of our property with extreme requirements and Draconian penalties.

To get a new building permit, or if the proposed regulations become effective for existing homes, we would have to cut down tens and tens of 80-foot tall Douglas firs, ponderosa pines, maple trees, large oak trees, and more. That is what it would take to widen our private road and driveways and to provide the mandatory fire breaks. For my neighbors and my family, that would be a disaster.

We are not reckless homeowners with dry fire hazards surrounding our homes. We are responsible landowners concerned for our own homes and the safety of our families. Two summers ago, we had a forestry and fire expert tour our land and evaluate our fire dangers. He determined our homes and property were quite safe from all but a crown fire raging through the treetops. The ground on our property and near our homes is moist and covered with grass and ferns and kept clean of dead wood. We even had the fire department visit our property last year to tell us if they had any problems with our road or with accessing our homes. There were no problems, even though our road does not conform to the proposals. There is no need for us to devastate the landscaping on our properties. Those of us that are responsible should not be punished with blanket regulations because a few homeowners allow their properties to become hazardous.

We can't speak for our neighbors, but we would rather opt out of home forest fire protection than have to cut down the rhododendrons, oaks, and maples that are close to our home. But we would not be given the opportunity to opt out. Nor can I see where any consideration was given to the role of private insurers in this matter, where high fire insurance costs could provide an effective incentive for homeowners to maintain defensible homes.

I urge the commission to reject these proposed rules in their entirety. They are overly intrusive and unwanted. Make them recommendations only, and allow us our freedom to choose our own balance between the natural beauty we live within and the always-present risk of wildfire.

RECEIVED AT HEARING

P.A. NO. _____

DATE 2/7/06 EXHIBIT NO. RH 76

Jim Baker
51013 McKenzie
Finn Rock Oregon 97488

2, 7, 2006

RECEIVED AT HEARING

P.A. NO. _____

DATE 2/7/06 EXHIBIT NO. P4-7

I am a Environmental activist
A Small wood lot owner
and a Rhododendron gardener

We need your HELP to change this at one time a good idea that has run amuck in bureaucracy, This has become a totally useless ridicules attack on the livability of our communities and the environment that we live in.

We need your help to make this plan legitimate instead of a massive overkill

I on my own will keep a irrigated wildfire defensible area around my home and other buildings it just makes good sense.
I am not going to destroy my Rhododendron Garden
I an not going to remove my fruit trees
I am not going to remove the only idea of seclusion from around my rentals

I refuse to denude any of my property to facillitate my neighbors fire protection defense zone. & if they do it I will charge them with timber theft and criminal trespass.

If I wanted to live in a 400 square foot DESERT I would have purchased property on the East side of Oregon

This plan will destroy the riparian areas leaving only a little strip of stream protection and denuding the rest of the property for many homes clear to the highway

Lane County already had a very workable plan before. About 10 years ago I relocated a Mobil Home on F2 land and it required our Fire Chief to inspect and approve the driveway, the emergency water storage and the Fire defense zone this was done on a legitimate case by case method addressing on site conditions. not mass confusion.

Once again I call on you for HELP save us from this overkill of bureaucracy

Thank you

PROPOSALS FOR BUFFER ZONE REQUIREMENTS
HEARING.

MEETING FEB.7,2006

RECEIVED AT HEARING
P.A. NO. _____

DATE 2/7/06 EXHIBIT NO. DH-E

THANK YOU FOR THE OPPORTUNITY TO COMMENT ON THESE PROPOSED LANDSCAPING CODE CHANGES.

IF THE PURPOSE OF THE CODE CHANGES ARE TO PROTECT STRUCTURES FROM FIRE, I DON'T BELIEVE THEY GO FAR ENOUGH,

I WOULD LIKE TO MAKE THE FOLLOWING PROPOSALS NOT ONLY FOR NEW CONSTRUCTION BUT FOR ALL RESIDENCES AND OTHER BUILDINGS WITHIN THE COUNTY.

- 1.) ALL VEGETATION OF ANY KIND MUST BE REMOVED FROM WITHIN 200 FT. OF ANY STRUCTURE. 200 FT. IS CHOSEN BECAUSE SOME DOUGLAS FIRS ARE THAT TALL AND COULD CATCH ON FIRE AND FALL ON THE STRUCTURE.
- 2.) ALL "WOODEN STRUCTURES", COMMERCIAL BUILDINGS, HOUSES AND ANY OUTBUILDINGS MUST BE DEMOLISHED AND REPLACED WITH CINDER BLOCK, ROCK, OR BRICK STRUCTURES WITH METAL ROOFS
- 3.) THE SURROUNDING AREA CLEARED OF VEGETATION MUST BE PAVED; PREFERABLY WITH CONCRETE AS IT IS LESS FLAMMABLE THAN ASPHALT. THIS PAVED AREA WOULD PROVIDE EASY ACCESS AND PARKING FOR FIRE TRUCKS, HOWEVER IF PROPOSALS 1 & 2 ARE IMPLEMENTED THERE PROBABLY WOULD NOT BE ANY NEED FOR THE FIRE TRUCKS. THESE PAVED AREAS COULD THEN BE USED AS EMERGENCY PARKING LOTS FOR WHATEVER REASON.
- 4.) IF THESE PROPOSALS ARE ACCEPTED THINK OF THE "BOON "TO THE LOCAL ECONOMY.
 - a.) THE LUMBER COMPANIES COULD BE HIRED TO CUT DOWN ALL THE TREES AND HAVE A READY SUPPLY FOR LUMBER.
 - b.) THE BUILDING INDUSTRY WOULD HAVE A TREMENDOUS BENEFIT FROM ALL THE BUILDING REPLACEMENTS. PARTICULARLY THE CONCRETE AND THE BUILDING MATERIALS INDUSTRIES.
 - c.) FURTHER BENEFITS WOULD ACCRUE TO THE MOVING COMPANIES AS THEY ARE CALLED ON TO ASSIST THE MASS EXODUS OF PEOPLE FROM LANE COUNTY TO THE DESERTS OF CALIFORNIA WHERE THE PEOPLE WOULD HAVE ALL THE BENEFITS OF NO VEGETATION WITHOUT HAVING TO EXPERIENCE THE RAIN.

d.) AN ADDITIONAL BENEFIT WOULD BE THE ELIMINATION OR
DRASTIC REDUCTION IN THE NEED FOR FIRE DEPARTMENTS

I WOULD LIKE TO MAKE JUST A FEW MORE COMMENTS, AND I DON'T
MEAN TO BE OFFENSIVE, ALTHOUGH I PROBABLY ALREADY HAVE
BEEN, BUT IT SEEMS LIKE OUR GOVERNMENT EMPLOYEES HAVE WAY
TOO MUCH TIME ON THEIR HANDS THUS ALLOWING THEM TIME TO SIT
AROUND AND COME UP WITH THESE SILLY PROPOSED CODE CHANGES
WE ARE ADDRESSING TODAY. *Heavy hand and intrusive*

JUST ASK YOURSELVES HOW MANY LANE COUNTY RESIDENCES IN THE
LAST 10 YEARS HAVE ACTUALLY BURNED DOWN BECAUSE
RHODODENDRONS WERE TOO CLOSE TO THE HOUSE.

THESE PROPOSALS REMIND ME OF THE RECENT FORESTRY SERVICE
PROPOSALS FOR PREVENTING FOREST FIRES."CUT DOWN ALL THE
TREES "

AND FINALLY I FOR ONE DON'T THINK THAT DENUDED LANDSCAPES
ARE QUOTE "NOTHING LESS THAN BEAUTIFUL"

THANK YOU FOR THIS OPPORTUNITY TO PRESENT MY COMMENTS.

Eugene Association of REALTORS®
Springfield Board of REALTORS®
Cottage Grove Board of REALTORS®
Central Oregon Coast Board of REALTORS®

RECEIVED AT HEARING

DATE: February 7, 2006

P.A. NO. _____

TO: Lane County Planning Commission

DATE 2-7-06 EXHIBIT NO. 11-9

RE: Wildland-Urban Interface Combining Zone (Lane County Periodic Review)

Background: State and National Influence

Realtors are aware that during the 1997 Legislative Session the Oregon Department of Forestry introduced SB 360, known then as "The Oregon Forestland-Urban Interface Fire Protection Act of 1997." As stated in ORS 477.017, "the Legislative purpose was to: (a) Provide a forestland-urban interface fire protection system in Oregon that minimizes cost and risk while maximizing effectiveness and efficiency for protection of the values at risk from fire. (b) Promote and encourage property owner efforts to minimize and mitigate fire hazards and risks within the forestland-urban interface. (c) Promote and encourage the involvement and interaction of all levels of government and the private sector that have a direct or indirect interest and role in the forestland-urban interface situation over the long term.

The Lane County Community Wildfire Protection Plan (CWPP, July 2005) is the hazard mitigation segment of the Lane County Rural Comprehensive Plan in response to state legislation, the Oregon Forestland-Urban Interface Fire Protection Act of 1997 (SB 360). The State of Oregon is also responding to the National Fire Plan and the Healthy Forest Initiative.

Plan Review

Planning for hazard mitigation is only one segment of the responsibility Lane County has for public safety. Most of the new proposed standards are common sense approaches to mitigating the catastrophic possibilities of wildfire in rural areas. Most of the proposed standards should be a part of planning for all new residences and residential accessory structures. There are a few standards that are questionable and should be revised to reflect the ability or decision of the property owner to mitigate on their terms. Regulating for any hazard, natural or manmade, can go beyond common sense and reason.

Many property owners establish "defensible space" around their residence and accessory structures without the requirement of government. Many property owners will be able to accept the catastrophic consequences of a fire with replacement valued insurance premiums. Many rural property owners are not within an established fire district or even close to one so their only option is to have a mitigation plan.

The following section by section comments will include concerns and recommendations for revisions to the proposed standards and the rationale associated with the recommendations: *(It must also be noted that the primary rationale for recommending revisions to the WUI Zone requirements, especially for west Lane County, is due to the high annual rainfall, mild temperatures, and seasonal prevailing winds which reduces the risk of catastrophic wild fire. In*

Lane County, in the last 50-100 years, we have only experienced one major wildfire that could be categorized as a catastrophic event and that was the Oxbow Fire in the 60's):

Sectional Concerns and Recommendations:

Section (4) Process and General Standards

Subsections (b) (ii) requiring that any building site with a proposed road or driveway having a slope in excess of 12% will require a prior approval of a modification pursuant to LC 16.266(9) (a). *State of Forestry rules indicate that a moderate slope classification for roads or driveways is 12% - 20%. Why is the county requiring a prior approval at the lower end of the classification at 12%?* Please consider revising this section to require a prior approval for roads with slopes greater than 20%.

Subsection (g) Fire Protection District. The requirement for new dwellings or manufactured dwellings to be located within a fire protection district or provided with fire protection through a long term contract from a fire protection district is good but requiring that it be recorded in Lane County Deeds and Records is excessive regulation. Please consider revising this section to require the fire protection district to report to Lane County any interruption of the long term contract between the property owner and the fire protection District. Evidence of a long term contract can be provided to all parties when upon interruption of the contract for any reason the fire protection district must submit a letter to Lane County indicating the contract is null.

Subsection (h) Fire Protection Plan. The implementation and maintenance in perpetuity of a 30, 50 or 75 foot wide defensible space surrounding the perimeter of the building should be all that is required in this section if practicable without rendering the property undevelopable. For low and medium hazard areas please consider deleting further requirements in subsections (i) and (ii). Please consider incremental standards within the three hazard categories. (One size plan does not fit all of Lane County). Please consider only requiring defensible space requirements in the low and medium fire hazard areas and secondary fuel break requirements in the high hazard areas. Also consider recommending, not requiring, to the property owner the installation of an external fire protection system. (The external fire protection system is an excellent idea, but this requirement is excessive and expensive especially in light of the requirements for defensible space and secondary fuel break).

Section (5) Setbacks

Subsection (i) will eliminate the possibility of construction on many properties with slopes greater than 40%. Please consider revising this requirement to allow construction on slopes greater than 40% with appropriate geological and engineering analysis..

Section (6) Defensible Space and Secondary Fuel Breaks

Subsection (a) (i) Please consider only requiring defensible space requirements in the low and medium fire hazard areas and secondary fuel break requirements in the high hazard areas. Also consider recommending, not requiring, to the property owner the installation of an external fire protection system. (The external fire protection system is an excellent idea, but this requirement is excessive and expensive especially in light of the requirements for defensible space and secondary fuel break).

Subsection (a)(ii)(A) and (B) requires a signed and dated certification from the appropriate fire protection district, fire chief or representative. *This requirement adds another layer of government needed before site approval.*

Section (7) Structural Standards

Subsections (a) through (i) are best required for new construction but are expensive and not needed and especially expensive requirements for existing residences.

Section (8) Road and Driveway Standards

Subsection (a) through (i) are best required for new construction but are expensive and sometimes not attainable, and especially expensive requirements for existing residences.

Section (9) Modifications and Alternatives

Subsection (a) provides some necessary flexibility needed to allow a property owner the opportunity to build on their property but there is more flexibility that should be required of the County and modification and alternatives allowed from the property owner.

Specific Concerns and Recommendations

Realtors understand the need for hazard mitigation and support the efforts to protect people and their homes and property. It is also important to protect as much as is physically possible and economically feasible the neighbors property and public resources.

1. It is very important to only apply these standards, with appropriate revisions, to new construction and development. It is just a "baby step" for the County to apply these same standards to the WUI Combining Zones for existing residences and structures which would be a very expensive and exhaustive requirement for many rural property owners within the 13 Zoning Districts.
2. The Wildland-Urban Interface Combining Zone standards need to be adjusted to take into consideration the annual rainfall and mild temperatures in Lane County, from the Willamette Valley with a lower annual rainfall east to the crest of the Cascade Mountains and from the Willamette Valley west to the Ocean. Much lower standards should be applied to the coastal lands especially the areas under considerable development and environmental regulation already.
3. The WUI Combining Zone standards are verging on regulatory takings if application of these standards by the County do not require flexibility, on the part of the County, and allowable hazard mitigation alternatives on the part of the property owner. With much of the present language included many property owners will deem their property unbuildable and their only recourse will be compensation for a regulatory taking. The County must not put itself into this predicament of justifying new regulations by claiming public health and safety reasons with the possibility of litigation and negative reaction from the voters in Lane County and Oregon.

4. The 1997 Legislature did not intend for the heavy hand of government to restrict a property owner from building on their property due to regulatory action taken by government. The 1997 Legislature intended only for those residents within the previous F-1 and F-2 Zones to be regulated by Wildland-Interface rules and regulation.
5. Please consider revising the requirement for prior approval for access road construction to slopes greater than 20% instead of slopes greater than 12%. *Oregon Department of Forestry rules indicate that a moderate slope classification for roads or driveways is 12% - 20%.*
6. Please consider incremental standards, within the three hazard categories (low, medium and high), for access road construction, setbacks, and structural standards. Very minimum regulation requirements should be applied to the low and medium hazard categories. *One size plan does not fit all hazard categories.*
7. Please consider only requiring defensible space requirements in the low and medium fire hazard areas and secondary fuel break requirements in the high hazard areas. Also consider recommending, not requiring, to the property owner the installation of an external fire protection system in the event that they are not within a fire protection district or able to obtain a contract with a fire protection district. *The external fire protection system is an excellent idea, but this requirement is excessive and expensive especially in light of the requirements for defensible space and secondary fuel break.*
8. Please consider revising the setback requirement to allow construction on slopes greater than 40% with appropriate geological and engineering analysis.
9. Individual property owners, with lots 5 acres or less within a rural subdivision, must be exempted from these regulations or different standards applied to take into consideration that the defensible space could possibly be complied with but the 100 foot secondary fuel break may not be attainable.
10. Where will Lane County get more workforce and workforce time to review proposed plans due to the proposed regulation, and who will be required to enforce the regulation, the County or the Fire Districts?

Contact: Jim Welsh, Government Affairs Director
EAR, SBOR, CGBR, and COCBR.
PO Box 458
Elmira, OR 97437
541-935-1504 Office
541-554-8043 Cell
jdwelshco@msn.com

Merle H. Weiner
930 E. 37th Ave.
Eugene, OR 97405

RECEIVED AT HEARING

P.A. NO. _____

DATE 2/7/06 EXHIBIT NO: 24-10

February 7, 2006

Re: In the matter of adopting proposed Lane Code 16.266

Dear Lane County Planning Commission:

I fully support the efforts of the Lane County Planning Department to implement fire safety standards for new development within the Wildland-Urban Interface of rural Lane County. I do, however, have some specific concerns with parts of the proposal that address road and driveway standards.

Within the last year, I purchased approximately 240 acres that will be impacted by the proposal, if adopted. I purchased the property with the intent of living on the property and managing the property in a sustainable way. The property does not have a residence on it at present. Because the road on the property is quite long and because my budget is very limited, prior to purchasing the property I had a representative from the Lane County Fire District #1 come out to inspect the road on the property and assess its adequacy for firefighting purposes. As you can see from the attached letter, the Prevention Coordinator made specific findings about what actions would need to be taken to make the road adequate for fire apparatus to reach the home site. The Coordinator also made recommendations, none of which, however, included anything like what is contained in the proposed Lane Code 16.266. In short, the Prevention Coordinator thought the road could be made adequate for fire apparatus so long as I complied with the existing Code.

Adoption of Lane Code 16.266 will require me to modify my driveway beyond what is necessary for fire safety on my particular property. The road and driveway provisions of proposed section 16.266 contain many changes from the existing Code. Among other things, the required driveway width has been widened from 12' to 16', turnarounds have been required every 500 feet for long driveways, and the maximum permissible grade has been reduced from 16% (with 20% allowable for spans of up to 100 feet) to 12% (with 16% allowable for spans not to exceed 100 feet).

While I was economically prepared to rectify any driveway deficiencies noted in the fire department's letter, the new Code will impose costs on me far in excess of what I had anticipated when I purchased the property because of the size of my driveway. It also lowers the value of my property if I were ever to resell it, even though the driveway could be made safe under existing standards.

Therefore, for reasons of fairness, I ask that section 16.266 contain a grandfather clause under section "(2) Applicability." I propose that the underlined portion be added to the language in the section: "These following fire protection standards shall apply to for all new dwellings, manufactured dwellings, structures, and alternations and additions to dwellings and structures within the Wildland-Urban Interface (WUI) designated for protection in the Rural

Comprehensive Plan, in the zoning districts identified in Table 1, except section 8 shall not apply to those property owners who owned land before the adoption of these standards, and who have a letter from the fire department predating the adoption of these standards indicating what actions would be required to make the driveway suitable for fire apparatus to meet the home site under the standard then existing, nor shall it apply to their successors in interest. In such a situation, the standards existing prior to the adoption of these fire protection standards shall continue to apply, except to the extent that the provisions in section 8 of 16.266 are more lenient than the prior Code in which case they shall apply."

This grandfather clause is necessary, even though section 16.266 includes a provision that permits the Building Official to grant a modification for individual cases where practical difficulties prohibit compliance with the new standards. See section (9)(a). Section 9(a) does not eliminate the need for a grandfather clause for three reasons.

First, the remedy in proposed section 9(a) is discretionary, whereas the grandfather clause recognizes at the outset that there are some situations for which a waiver of the road standards would be appropriate. The grandfather clause does not depend upon an ad hoc determination, with all of the uncertainty (and property owner anxiety) that attends such a process as well as the opportunity for inconsistent application.

Second, the test in proposed section 9(a) for a modification of the standard is "impracticability." This test, however defined, would probably not cover the fairness concern that was mentioned above. Nor would it necessarily give the Building Official sufficient discretion to address situations in which compliance was economically impracticable rather than physically impracticable, depending upon how the term was ultimately defined.

Finally, the remedy in proposed section 9(a) is the "minimum deviation from the required standard as is practicable under the circumstance." The remedy under the grandfather clause is that the land owner is permitted to comply with the Code that exists prior to the adoption of 16.266. These can be very different remedies. For example, a Building Official might grant a modification of section 16.266 and hold that a property owner needs to widen his or her driveway only to 15 feet, instead to 16 feet, even though the fire department had inspected the driveway, found the existing 12 foot width to be adequate for fire apparatus, and mentioned only that the landowner should add turnouts every 400 feet. See 15.706(4). Similarly, the Building Official may permit a modification of section 16.266 so that turnarounds were required on a long driveway only every 600 feet, instead of every 500 feet as required by 16.266, even though the fire department may have found the driveway acceptable despite the absence of frequent turnarounds.

The policy that justifies the grandfather clause is different from the justification for the section 9(a). Section 9(a) is justified because sometimes the best use of the property requires modification of a standard when it would otherwise be impracticable to comply with it. The grandfather clause, on the other hand, is justified on grounds of fairness: people purchased property relying on the standards in the prior code, assured themselves that fire safety could be achieved within the parameters of that Code, and now will be forced to incur unnecessary and perhaps onerous expense for no net gain in fire safety. It is for these individuals that a grandfather clause seems appropriate.

The recommended language does include a clause that would allow property owners subject to the grandfather clause to take advantage of any relaxation of the existing road/driveway standards that may be contained in 16.266. This seems justified because nothing is to be gained from holding anyone to standards that have proven obsolete for purposes of fire safety. For example, the prior Code required 8" of gravel (a driving surface of 2" and a sub-surface depth of 6"), but the new provision requires only 6" of gravel. Compare 15.706(7)(a) with 16.266(8)(d)(i). If only 6" of gravel is necessary for fire safety, it would serve no function to require more of some property owners.

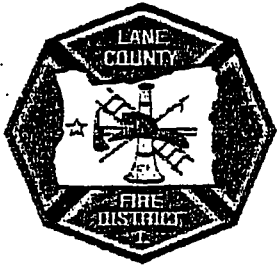
Finally, I recommend one small change to section 8 itself. Currently, subsection (a) states, "Private driveways, roads or bridges accessing only commercial forest or farm uses are not subject to compliance with these fire safety design standards for roads and driveways." The State and county have a new program whereby forest land can be put into a wildlife habitat conservation and management plan. See ORS 308A.400 et seq. Land put into this plan can be designated as "noncommercial." It would be consistent with the intent behind subsection 8(a), as well as necessary for the viability of the wildlife habitat conservation and management plans, to modify the first sentence so it reads as follows: "Private driveways, roads or bridges accessing only commercial forest, wildlife habitat conservation and management areas, or farm uses are not subject to compliance with these fire safety design standards for roads and driveways."

Thank you for considering my views.

Very truly yours,



Merle H. Weiner



Lane County Fire District #1

88050 Territorial Hwy. - P.O. Box 275 - Veneta, OR 97487

Fire - EMS (541) 935-2226 - Fax (541) 935-2390

November 10, 2004

Merle Weiner
930 E. 37th Ave.
Eugene, OR 97405

Dear Mrs. Weiner:

This letter is to attest that I performed an inspection for the driveway access for Tax Lots 1600 & 401 on Laughlin Road. The inspection was in reference to compliance with Lane Code 16.211 as it relates to the ability of fire apparatus to use the driveway and reach the home site.

The aforementioned site is within the boundaries of Lane County Fire District #1. The nearest fire station (station 18-3) is located on Spencer Creek Road, approximately 5 miles away. Our route of travel would be Spencer Creek Road, Lorane Highway, Peaceful Valley Drive, to Laughlin Road. The second nearest fire station (station 18-4) is located on Lorane Highway, approximately 6 miles away. Our route of travel would be Lorane Highway, Peaceful Valley Drive, to Laughlin Road. The apparatus at both stations includes one fire engine (pumper) with a pump capacity of 1,250 gallons per minute with a 750-gallon water tank and one water tender (tanker) with a pump capacity of 500 gallons per minute and a 3,000-gallon tank.

My findings are as follows: The grade of the driveway is within specifications of LC 16.211(8)(e)(iv). The driveway is mostly clear of overhead objects and meets the code requirements of a 12-foot width and an area for an emergency vehicle turn-around at the end of the drive. Turnouts will need to be constructed in areas of the road where visibility is limited and every 400 feet to allow for safe passage of vehicles. The surface of the road will need to be graded and re-graded in areas where the surface does not meet code standards.

Due to the length of the driveway, I would encourage you to explore the option of obtaining an access off of Fox Hollow Road. I would also like to encourage you to consider installing a residential fire sprinkler system in your home to provide the best chance of surviving a fire for your family and home. Your homeowners insurance may even provide a discounted rate.

Lane County Fire District #1 reserves final approval for this site pending completion of the driveway and home site area.

Sincerely,

Heather Hill
Prevention Coordinator
Lane County Fire District #1

RECEIVED AT HEARING

P.A. NO. _____

DATE 2/7/06 EXHIBIT NO. PH-11

Dear Mr. Sage,

I have a number of concerns regarding the proposed fire safety buffer zones in Lane County. I firmly believe that the measures I read about in the Register Guard (1/27/06) would address fire safety at the expense of opening the door to many other safety and environmental problems.

#1 Clearing for 130 foot perimeters around homes. Not many homes have 130-foot perimeters, therefore neighborhoods would essentially need to be clear-cut.

2 Plantings of grasses and flower beds to replace trees and shrubs would risk the depletion of our local water table for a well maintained buffer zone as well as increase the use of chemical fertilizers and herbicides, thereby poisoning our waterways.

3 These new regulations will wreak havoc on the Tree Preservation of the Planned Urban Development Criteria (developments between 501 to 900 feet). This will give a green light to clear-cutting the hillsides for development.

4 Loss of wildlife habitat and the demise of an ecosystem that relies on cooler shaded areas that trees and vegetation provide.

5 Loosing the shaded canopy around homes will create an increased reliance on summertime air conditioning and contribute to global warming.

6 Increasing driveway dimensions to 20 x 13 feet will also increase the impervious surfaces that will translate into higher volumes of storm water run-off into our already over taxed storm drain system.

If lawmakers and ODF are so concerned about our safety and/or the cost of wildfires then I suggest that they legislate to better regulate and control development in forested areas because to remove all of the trees and vegetation, with their roots anchoring in the soil, will create more landslides and erosion in hilly areas--an existing problem here in the Northwest due to clear-cut logging practices.

Lane County is a forested area and if we change that too drastically we are asking for trouble. We need to learn to co-exist with our surroundings instead of trying to alter and control them. We need to do everything we can to restore and revitalize our planet, as it is clearly in jeopardy. Global warming is real and a much bigger problem than local wildfires, and cutting down more trees is only going to contribute to global warming. I urge careful research and evaluation of all possible impacts to our environment with this new regulation scenario.

Sincerely,

Lisa Warnes

Representative for: VIEW

Vision for Intact Ecosystems & Watersheds

lisawarnes@efn.org

85355 S WARD RD LOY M. SPARKS
EUGENE OR DIRECTOR

97405

345-5616 H

LANE ELECTRIC
COOPERATIVE

787 BAILEY HILL ROAD
P.O. BOX 21410
EUGENE, OREGON 97402-0407

P | 541 484 1151

F | 541 484 7316

'OWNED BY THOSE WE SERVE'

loy.sparks@laneelectric.com

www.laneelectric.com

Section Four

Written testimony submitted into the record during the period between February 8, 2006 and March 7, 2006, during which the record was left open by the Lane County Planning Commission for submittal of written testimony.

SAGE Bill

From: Reid Hart [reid_hart@yahoo.com]
Sent: Tuesday, February 07, 2006 6:06 PM
To: MORRISON Anna M
Cc: SAGE Bill
Subject: Proposed Lane Code 16.266 - Wildland-Urban Interface Combining Zone

Commissioner Morrison,

I have some public comment for this evening's meeting on the proposed fire code.

1. In the matter of adopting proposed Lane Code 16.266 - Wildland-Urban Interface Combining Zone (WUI, RCP) for implementation of fire safety standards for new development within the Wildland-Urban Interface of rural Lane County. Staff: Bill Sage, Associate Planner, (541)682-3772

While I am in strong favor of improved fire safety, I believe the proposed ordinance goes too far as currently drafted. I cannot remember a major wildfire incident in the Willamette Valley, and I believe the ordinance imposes stringent requirements in the Valley that may be more appropriate at the east end of the county or in the sagebrush areas of eastern Oregon.

Items I am concerned about are:

1. Limiting shrubbery near the house to only two feet of fire-resistive shrubs is unreasonable. Eliminating high-flammability shrubs should be adequate in the valley. Allowing medium-flammability shrubs up to three feet and low flammability shrubs up to four feet should be acceptable as long as well irrigated. I believe the Coburg Fire District comments remove any shrubbery restrictions near the house.
2. Exemptions have been only partially defined. Accessory structures under 200 square feet should be exempt from all requirements when located at least 15 feet from habitable structures, not 50 feet. These structures currently have no permit requirements under state law. The ordinance has the impact of requiring fire planning and inspection fees that could rival the cost of a small shed that is exempt from permit requirements under state law.
3. Alternatives to hammerhead road turnouts such as reasonable "L" turnouts should be specified, rather than requiring the building official's approval and additional fee.

I support improved fire safety in our rural areas; however, it is not appropriate for a full planning process to be engaged in the case of small additions or accessory buildings. Let's make our planning process more reasonable in Lane County and pursue better education of rural fire dangers and their solution. I did appreciate receiving the pamphlet on fire safety.

If I have sent this to you in error (I could not tell exactly who my commissioner was from the county maps on the web site) then please pass it on to the appropriate commissioner.

Thank you for your consideration,

Reid Hart
85444 Appletree Ct
Eugene OR 97405

Yahoo! Mail - Helps protect you from nasty viruses.

SAGE BILL

From: Peter Dettmer [dettmerpeter@yahoo.com]
Sent: Wednesday, February 08, 2006 3:58 AM
To: SAGE BILL
Cc: coburgfire@nu-world.com; STEWART Faye H
Subject: Woodland Interface Fire Ordinance

Dear Sir,

Please note that, we do NOT support your January 23 draft proposal concerning new wild-fire rules. We however believe that, the revised / more practical LC 16.266 of Feb. 2, 2006, by Fire Chief Chad Minter and his staff would, with some minor fine tuning, be fully in line with SB 360.

Thank you and regards,
Peter and Joy Dettmer

Bring words and photos together (easily) with
[PhotoMail](#) - it's free and works with your Yahoo! Mail.

SAGE Bill

From: Geoletch@aol.com
Sent: Wednesday, February 08, 2006 2:29 PM
To: SAGE Bill
Cc: STEWART Faye H
Subject: Proposed Lane Code 16.266

Hello Bill I attended the hearing last night and would like to address a couple of points. Please include this in the record. Thanks

1. First, my local weekly paper the River Reflections brought the proposal to my attention. Ken Engelman is very accommodating about providing space for issues that impact our rural community. I would like to suggest that it would be helpful to contact him when you want a low cost and effective means to communicate with east Lane Co.

2. Second, I found it interesting that the hearing was held in Eugene since Eugene is exempt from the proposal. Many of us who attended drove 30-100+ miles round trip to attend the hearing. It would be prudent to hold meetings in the sections of rural Lane Co. that will be impacted. A number of us in the rural areas would be glad to work with you on setting up and advertising any meetings that would better inform the rural property owners who are major stakeholders in the proposal. As a side note, when I looked at some of your planning documents the property owners were not listed under stakeholders. I recommend that you list property owners as major stakeholders.

3. Third, My greatest concern is that I could not find a careful analysis of the problem in the planning process. I would very much appreciate where that written analysis is located. My understanding of problem solving was that most of the focus (about 80%) should be spent on "problem analysis" and about 20% on solution identification. If the problem analysis is well done then the solutions are often forthcoming. If the problem is not crisply set forth how can you evaluate the efficacy of a proposed solution? Bottom line is that the meeting appeared to be a great example of, "a solution in search of a problem". The solution that was proposed may require a good dose of "Occams Razor".

4. Fourth, It is my understanding that our state and county agencies are under funded and over-extended. If this is a correct premise then I would like to understand the motivation behind the current solution. Simply put who benefits and what are the benefits? What are the costs and who funds the costs? From the hearings last night I was struck by the property owners concerns about their costs as a class of stakeholders. In your Executive Summary the stakeholders on your steering committee were all governmental agencies so what are the benefits and costs for those groups? Can you refer me to a straight-forward answer that comes from the planning process or documents?

5. Fifth, I went online and read the Executive Summary and quickly read over "How is the Plan Organized" Section 3: Community Outreach and Collaboration. I then looked at some of your outreach efforts. The landowner survey that you used had a sample frame of RS N=1,500 and you had a 32% return. I taught graduate level research methods classes for 30+ years. It is my understanding that with a 32% return and no attempt to survey the other 68% then you would be advised to not use the data since it is biased. To use biased data on which to build policy is not advisable. Since I was not aware of the hearings until the last minute I had little time to examine the methodology utilized in other sections but will do so.

6. Sixth, when you are developing a proposed intervention "the devil is always in the details". I would like "operational definitions" of many of your key terms such as: stakeholder, wildland-urban interface, etc.

7. Seventh, if we have a major problem with wildfires in rural Lane county and the property owners are the major causal factor have we tried the most parsimonious solution of educating the public to the problem and possible solutions. Can you direct me to any evaluations of how a strong, community based, voluntary educational plan for wildfire protection was implemented in rural Lane Co. and was a failure? If we have not taken the step of educating our communities I suggest we do so and I believe there is strong support

for this step.

In summary, I am a strong supporter of our rural fire districts, the fire chiefs and the many volunteers that make the districts work and I am willing to support them financially and in other ways. I am also strongly supportive of plans that provide a cogent analysis of the problem and a parsimonious solution. I look forward to being supportive of any attempts to improve the quality of our rural life in Lane County.

If I can assist with setting up any meetings in HD 7 of Lane County to clarify a possible problem with wildfires please let me know and I would be glad to help out.

George A. Letchworth, Ph.D.

"You're neither right or wrong because others agree with you. You're right because your facts and reasoning are right" Warren Buffett

SAGE Bill

From: SAGE Bill
Sent: Thursday, February 09, 2006 10:47 AM
To: SORENSON Peter; TOWERY Jeffrey R; HOWE Kent
Subject: FW:

Peter, Jeff and Kent,

I responded to Mr. Biggs on January 26th. I also received his e-mail on that date and answered his questions. After that response, I discussed the mailing addresses and source of the list with Eugene Direct Mail Service who did the mailing of the "Living With Fire" information pamphlet and the Ballot Measure 56 notice as one "educate and inform" packet. From the responses we received from other people throughout the county, it appears a lot of people considered the mailing as "junk mail" and tossed it out without venturing inside the packet. It was not in an "official" envelope so for many it apparently was not effective in getting their attention. We mailed it through the Title III CWPP grant associated with the Lane County Fire Defense Board and Oregon Fire Marshall's information program funds. Sometimes good intentions do not achieve good results. Prior to the Board scheduling public hearings in late April-early May on the proposed Lane Code 16.266 fire safety standards, we will do a second Ballot Measure 56 mailing to the 34,000 +/- property owners without any educational materials and in a standard LMD 3 1/2 by 8 1/2 envelope. We have sufficient funds in the L04805 Title III implementing grant to cover the printing and mailing.

In short, we thought we could accomplish some good and also save duplication of costs for two mailings to the same parties. It didn't work out that way. We will use the saved funds after all and probably still hear from property owners that they didn't get notice. Hopefully few will be affected this time.

Bill

-----Original Message-----

From: SAGE Bill
Sent: Thursday, January 26, 2006 1:42 PM
To: 'Buck Biggs'
Subject: RE:

Buck,

Thank you for your comments. They have been placed in the written record.

Please send me a copy of the mailing label on your notice if you still have it. If not, please provide the address the mailing was delivered to and your regular mailing address.

The Ballot Measure 56 notice mailing list was compiled by Lane Council of Governments from the "legal owner" listing on Assessment & Taxation tax records. The notice was then mailed with the educational materials "Living With Fire" in conjunction with the Lane County Fire Defense Board's fire safety outreach program as a method of informing the 33,814 rural property owners about wildfire behavior and actions that property owners can take to protect their families, property and the surrounding resources from the treat of a wildfire. Our joint intent was to provide information about wildfires and notice of your opportunity to comment on the proposed fire safety standards Lane County is considering to implement for new residential development in the rural area.

Please feel free to call me if you want to discuss the code provisions or the notice mailing.

Bill
541 682-3772

-----Original Message-----

From: Buck Biggs [mailto:obbuck@hotmail.com]
Sent: Thursday, January 26, 2006 12:22 PM

To: SAGE Bill
Subject:

1/26/2006

Lane County Land Management Division
Mr. Sage

I'm writing you today concerning the proposed Lane Code 16.266. I found the required notice hidden inside a brochure entitled "Living With Fire". This brochure was addressed to "resident" and had no mention of the enclosed notice. It was also sent to my rural mailbox, which is not my regular mailing address. In my opinion this violates the provisions of measure 56. This notice should have been sent on its own and addressed to the owner of the property as an official notice. Many owners rent their property and may never see this notice. Many others, like some friends of mine, simply tossed the brochure away with other junk mail that was addressed to resident. I am not particularly opposed to the new law itself but am very displeased with the way the public was notified. I think this hearing should be postponed and the notice be properly mailed to all property owners at the mailing address on their tax statements.

A concerned Lane County property owner;
I don't have a fax machine, so can you please print this out and add it to the public comments. Thanks

Don't just search. Find. Check out the new MSN Search!
<http://search.msn.click-url.com/go/onm00200636ave/direct/01/>

Feb 7, 2006

Dear Mr. William Sage:

As you research fire danger in our urban interface zones, there are piles of kindling that stretch for miles through Eugene's South Hills under the BPA powerlines. It consists of scotch broom, blackberry bushes, poison oak, and other flammable shrubs.

Every year they grow, spread and become tinder dry each summer as daily afternoon winds blow.

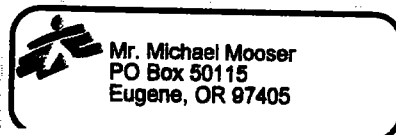
BPA maintenance makes the fire danger worse. Every seven to eight years they eliminate everything that may grow up toward the powerlines. The shrubs thrive, Nobody eliminates the shrubs.

There are many homes and future homes in danger.

Sincerely,

Michael Mooser
Michael Mooser
PO Box 50115
Eugene, OR 97405

c. Deputy Chief Randy Groves
Ms Allissa Hansen
President Rick Duncan



02-10-06P12:00 RCVD

SAGE Bill

From: Barbara Miner [barb_john_miner@msn.com]
Sent: Saturday, February 11, 2006 4:46 PM
To: SAGE Bill
Subject: Lane County Code change

I attended the public hearing on Tuesday, Feb. 7 and although I did not speak at it, I did want to voice my opposition to Lane County adopting the fire suppression code that it has proposed. I cannot support such a change, nor do I believe it is necessary. I would support the Coburg Fire District's proposal if that seemed warranted. Many of the statements made by the citizens of Lane County that spoke last Tuesday made many valid points that I believe the Planning Commission should take into serious consideration before adopting any such change.

Sincerely,

Barbara Miner
34199 Country View Drive
Eugene, OR

SAGE Bill

From: SAGE Bill
Sent: Monday, February 13, 2006 8:05 AM
To: 'polarexc@netzero.net'
Subject: RE: Proposed Lane code 16.266

Mr. Garber,

There are two drafts attached above. Each represents a policy choice. The first one identified as 2-02-06--1CFD addresses "structural defensible space" around a new residential structure and includes driveway or road standards in LC 16.266(7). The second identified as 1-25-06-1 addresses "defense against a wildfire" and the road standards are in LC 16.266(8).

I am also mailing the two drafts to the address below.

Please call me if you have questions or comments.

Bill
541 682-3772

-----Original Message-----

From: polarexc@netzero.net [mailto:polarexc@netzero.net]
Sent: Thursday, February 09, 2006 9:05 PM
To: SAGE Bill
Subject: Proposed Lane code 16.266

Mr. Sage,

Please mail a copy of the proposed Lane code 16.266 to
Nathan Garber
86506 Bailey Hill Loop
Eugene OR 97405

Please include any proposals concerning driveway/turn arounds/ access roads that would be related to the proposed code.

Thank you

Lane County Planning Department
125 E. 8th Avenue
Eugene, Or, 97401

30306 Fox Hollow Rd.
Eugene, Or, 97405
February 13, 2006

Dear Mr. Sage,

The proposed Wildland-Urban Interface Combining Zone in Lane Code 16.266 violates our rights as citizens and property owners. If implemented, it would devalue our property by many tens of thousands of dollars and perhaps result in the actual destabilization of our house and garage. Living as we do in a narrow steep valley with two creeks on the property, the six large old trees that stand between our house and our garage are the only things holding the soil as the creek rages between these two buildings in winter storms. Our two closest neighbors live in houses with very steep hillsides behind them. Creating a 130 foot barrier between their woodlands and houses would definitely lead to landslides and the destabilization and possible destruction of their homes. As the proposed code stands, the orchard and deer-fenced vegetable garden which provide us with organically grown food year around, would have to go, as would the tall heirloom roses in our garden. Adding to the expense of buying our food would be the cost of installing and running air conditioning, as our newly moonscaped landscape would bake [and be far more fire prone] in summer. Lane County is supposed to be encouraging energy conservation, not promoting huge energy use increases. Ours is an old house, one of the oldest in the valley. The large oaks and Douglas firs that surround it were standing when the Toll family pioneered the land in 1888. They are heritage trees, with thick fire resistant bark. In addition, they have been pruned to high above the level of our metal roof. They shade us most of the day, provide nesting areas for numerous species of birds including Western tanagers, and are used by both species of native squirrels. These trees are probably the loveliest thing about our property. If the new code is implemented, they would have to go, which is absolutely unthinkable. In addition, though most of our property is pastureland, it has many trees along the creek banks and on the periphery. As it is a small acreage, the new code would mandate the removal of almost all of the trees on the property, as these woods are only about 100 feet from our farm buildings.

Most household fires are caused by faulty wiring ,cigarettes, or chimney fires. The County should throw out its proposed new rural fire code and address the actual causes of fire hazards in rural homes. It could demand wiring inspections for older homes and annual proof of professional chimney cleaning for homes with wood burning stoves and fireplaces. If Lane County seriously wishes to lesson the threat of fires, the County should toughen its outdoor burning policies, especially those pertaining to logging operations. Burning is permitted far too early in the fall, and for too long in the spring. There should be strict enforcement of rules against outdoor cooking fires and cigarette use in the summer. Rules could demand that new rural homes have metal or other types of fireproof roofing and no shingle siding. Courses in SENSIBLE fire resistant landscaping should be available on the WEB or in the Register Guard.

In conclusion, the County must realize that its new code, with it uglification and desertification of rural properties and its insistence on changes to driveways and access roads which could add perhaps as much as a hundred thousand dollars to the cost of developing a new home site, will discourage people from buying or building in the county. Property values will plummet. And then where will the County find its revenue??

Reida Kimmel Charles Kimmel

Reida and Charles Kimmel

SAGE Bill

From: SAGE Bill
Sent: Wednesday, February 15, 2006 12:29 PM
To: 'Bill@oia.org'
Subject: Lane County proposed fire safety standards

Mr. Moshofsky,

In July, 2005, Lane County Board of Commissioners adopted by resolution, the Lane County Community Wildfire Protection Plan (CWPP). It was crafted through a coordinated effort with the Oregon Department of Forestry, Lane County Fire Defense Board, Oregon Fire Marshall Office, Lane County Sheriff - Emergency Management, US Forest Service and US Bureau of Land Management, Lane County Land Management Division, and the Oregon Natural Hazards Workgroup. In August 2005, an implementing Title III grant was allocated to begin work on 21 action items included in the CWPP. Two of the action items addressed the need for a review of Oregon Specialty Codes, and national and state land use standards. The latter includes the International Urban-Wildland Interface Code 2003 and the Oregon Forestland Urban-Interface Fire Protection Act of 1997 (SB360).

Leora Warner has been active in the review (and opposition to) of the proposed Wildland-Urban Interface Combining Zone standards for fuel breaks and driveway/roads and asked that I send you copies of the two drafts which are attached.

The two drafts represent two policy directions under review.

The draft on the left, below, addresses a "structural defensible space" that has been proposed by the Coburg Fire District. This policy would limit the protection standards to access by fire protection crews and an area around new residential structures to suppress a structural fire on the site.



LC 161.266 (draft)
2-02-06-1CF...



LC 16.266 (draft)
1-25-06-1.do...

Defensible space Wildfire Mitigation

The draft on the right, above, addresses the second policy direction, the effort to mitigate against the threat of a wildfire.

IN both instances, the proposed codes would only apply to "new" residential development. Neither is retroactive and neither is intended to require any actions by property owners of existing residential development. The proposed standards would be applicable to new residential accessory structures such as garages and shops and additions in excess of 50% of an existing floor area (square footage) of a residential structure. If a property owner proposed to add 1,400 square feet to an existing 2,800 square foot residence, the fuel breaks would apply around the addition only.

The Lane County Planning Commission (LCPC) held a public hearing last Tuesday (7th) and left the written record open for 30-days (till March 7th) for parties to submit written testimony. The LCPC will deliberate in late-March and send a recommendation to the Board of County Commissioner. The Board will hold a work session and a public hearing in April.

If you want to submit testimony, you may do so by e-mail, fax or post. The addresses are:

e-mail: bill.sage@co.lane.or.us
Fax: 541 682-3749
Post: Lane County
Land Management Division
Attn: Bill Sage
125 East 8th Avenue
Eugene, OR 97401

Please give me a call if you want to discuss the drafts or policy issues.

Bill Sage
541 682-3772

SAGE Bill

From: SAGE Bill
Sent: Thursday, February 16, 2006 1:49 PM
To: 'Les Blum'
Subject: RE: New fire codes



LC 161.266 (draft)
2-02-06-1CF...

Mr. Blum,

Thank you for your comments. They have been entered into the record and will be reviewed by the Planning Commission before they deliberated on a recommendation to the Board of Commissioners.

I am attaching a proposed draft I received on February 2nd from the Coburg Fire District. Please take a look at it and let me know your thoughts on it if you want to comment.

Bill
682-3772

-----Original Message-----

From: Les Blum [mailto:mckenzierun@earthlink.net]
Sent: Thursday, February 16, 2006 1:43 PM
To: Commissioner Stewart
Cc: SAGE Bill; MCKEN RIV REF (SMTP)
Subject: New fire codes

Commissioner Stewart,

I am writing you about the Planning Commission's proposed fire codes for rural Lane County. It appears that the bureaucrats are at it again. I say this because I went through the unnecessary meetings and hassle created when the Planning Commission tried to create a riparian set back ordinance several years ago. The main difference here is that you don't have to have a PhD degree to read this proposal (maybe just a masters).

It should be obvious that most of us rural dwellers live where we do because we enjoy having trees and vegetation around us. Otherwise we would live in down town Los Angeles. We are mindful of the threat of fire and most of us try to make reasonable adjustments in our landscape to deal with it. We do not want 100 feet bland green space around our homes. By the way, 100 foot area around a dwelling equal over 3/4 of an acre. For many people that could mean stripping their entire lot.

There are so many draconian elements to this proposed ordinance that I can not even begin to itemize my objections. I do not consider all of the proposal bad but the majority of the requirements are unreasonable. If I had to meet these requirements to build the addition I added to my home 10 years ago I could not do it. The costs would be prohibitive and the results an ugly blight in a beautiful setting.

I know that the ordinance is for 'new' buildings but how long will it be before it is required of existing buildings?

Please vote against this proposal.

Les Blum
42296 Holden Creek Lane
Springfield (Leaburg)