

The Oregon Administrative Rules contain OARs filed through February 15, 2008

DEPARTMENT OF OREGON STATE POLICE, OFFICE OF STATE FIRE MARSHAL

DIVISION 41

FIRE PROTECTION REGULATIONS RELATING TO EXISTING NON-CONFORMING, HIGH LIFE HAZARD FACILITIES

Exitway Protection

837-041-0050

Exitway Protection -- General Provisions

(1) "High Life Hazard" definition: For the purpose of this rule, a "high life hazard" is any condition, or combination of conditions, where a reasonable adequate level of exiting safety has not been provided for the building occupants in the event of a fire or fire-related emergency.

(2) All existing buildings and structures (other than institutional, group care and single family dwelling occupancies) which constitute a high hazard to the occupants in the event of a fire or fire-related emergency shall provide a reasonable adequate level of exiting safety through substantial compliance with the requirements for new construction under the **1998 Edition of Oregon Structural Specialty Code**, or any of the following methods or combinations thereof which the State Fire Marshal or deputy approved for the building or structure:

(a) A partial automatic sprinkler system as specified in **N.F.P.A. Standard No. 13, 1999 Edition** or the **1998 Edition of Oregon Structural Specialty Code, Standard 9-1**, installed throughout the complete exit system and inside every unprotected opening into the exit system. The sprinkler system shall be fitted with a swing check valve on the supply side and a fire department connection, except that the fire department connection may be omitted when waived by the authority having jurisdiction. A water flow detection device shall be installed that sounds an alarm on the premises or when a building has a fire alarm system, it is connected into the building fire alarm system.

(b) An automatic smoke detection system engineered specifically for life safety and early warning, installed throughout the premises as specified in **N.F.P.A. Standard No. 72 1999 Edition**. Heat detectors may be installed in place of smoke detectors in mechanical service rooms, storage rooms, kitchens, custodial closets, and areas not normally occupied or traversed by people. Fire detection system(s) shall be interconnected with the building evacuation fire alarm system. **EXCEPTION:** In Group E Occupancies, detectors shall not be required in classrooms normally under the direct supervision of a staff member unless required by other Oregon Revised Statutes or Oregon Administrative Rules.

(c) An approved direct means of egress from each room opening to the outside at ground level. Windows may be accepted if they are easily openable, provide a clear opening with the least dimension of 24 inches, and have a minimum clear opening of not less than 5.7 square feet; the maximum sill to ground level not to exceed 4 feet and suitable means are provided for the occupants to use the opening.

EXCEPTION: In Group E Occupancies, direct exterior exits shall consist of doors, landings, and necessary stairs or ramps complying with the State Building Code, except that outswinging casement windows equipped with a latch or lock requiring no key, special effort, or knowledge may be allowed if the opening is a minimum of 24 inches in width, 5 feet in height and is provided with sill-height landings 30 inches square, and access from floor to landing and from landing to grade is by way of stairs which have a maximum rise of nine (9) inches and are equipped with code-complying handrails.

(d) Any other plan submitted by the owner, lessee, agent, or occupant and certified by a registered architect or engineer of the State of Oregon of reasonably adequate expertise in fire and life safety, which will provide a reasonable adequate level of exiting safety from the building or structure in the event of a fire or fire-related emergency.

(3) In determining whether a building or structure constitutes a high life hazard and in determining whether to approve a method of improvement, the State Fire Marshal or deputy shall determine whether the level of hazard is unreasonable by considering among other factors the following:

- (a) Type of construction;
- (b) Type of use;
- (c) Type and density of occupancy;
- (d) Type of contents and equipment;

- (e) Fire division walls creating horizontal exits;
- (f) Compartmentation;
- (g) Areas of refuge;
- (h) Ceiling height;
- (i) Corridor and stair construction;
- (j) Alarm, communication and detection systems;
- (k) Fire suppression systems;
- (l) Exit design and fire escapes;
- (m) Automatic smoke control; and
- (n) Fuel loading.

(4) The State Fire Marshal or deputy shall submit to the owner, lessee, agent or occupant written findings setting forth the facts supporting the determination that a high life hazard exists. Except as provided in ORS 479.170, the owner, lessee, agent or occupant shall have sixty (60) days after receipt of such findings to propose the method of improvement to the State Fire Marshal or deputy, who shall have sixty (60) days thereafter to approve or disapprove of the proposed method of improvement. If the proposed method of improvement is disapproved by the State Fire Marshal or deputy, a written statement of the reasons for disapproval shall be provided to the owner, lessee, agent or occupant within such sixty (60) day period.

(5) Except for governmental subdivisions exempt under ORS 476.030(3), the owner, lessee, agent or occupant aggrieved by the determination that the building or structure constitutes a high life hazard or by the disapproval of the proposed method of improvement (hereafter the order) and desires a hearing, the owner, lessee, agent or occupant may appeal in writing to the State Fire Marshal within (10) days from the service of the written findings of a high life hazard or the statement of reasons for disapproval of the proposed method of improvement. The appeal shall set forth the specific grounds of the appeal and no other grounds shall be considered thereafter. The appeal shall be accompanied by a fee of \$40 payable to the State Fire Marshal, and the State Fire Marshal may refer the appeal to the Regional Appeal Advisory Board established for that region by notifying the chairman of that board and sending a copy of the notice to the appellant. The Board shall fix a time for a hearing and notify the appellant of the time and place thereof which shall be within ten (10) days after such referral by the State Fire Marshal. If the State Fire Marshal does not refer the matter to a Regional Appeal Advisory Board, the State Fire Marshal shall fix a time and place, not less than five (5) and not more than ten (10) days thereafter, when and where the appeal will be heard by the State Fire Marshal. Within ten (10) days after receiving a recommendation from the Regional Appeal Advisory Board, or if no referral was made to such Board, within ten (10) days after the hearing before the State Fire Marshal, the State Fire Marshal may affirm, modify, revoke or vacate the order. If the State Fire Marshal affirms the order, the State Fire Marshal shall fix the time within which the owner, lessee, agent or occupant shall comply with the requirements of this rule. If the State Fire Marshal vacates or revokes the order, or modifies it in any particular other than extending time for compliance, the fee paid with the appeal shall be refunded. Otherwise, it shall be credited to appropriate state funds, and the State Fire Marshal shall so notify the State Treasurer.

(6) If the appellant under section (5) of this rule is aggrieved by the final order of the State Fire Marshal, the appellant may, within ten (10) days thereafter, appeal to the circuit court of the county in which the building or structures is situated, in the manner provided in ORS 479.180(2).

(7) In governmental subdivisions exempt under ORS 476.030(3), the owner, lessee, agent or occupant, aggrieved by the determination that the building or structure constitutes a high life hazard or by the disapproval of the proposed method of improvement, and desires a hearing, the owner, lessee, agent or occupant may appeal in writing to the Board of Appeals as provided by the ordinance and rules of the governmental subdivision.

(8) Commentary:

(a) Upgrading deficient exit facilities should always be of primary concern in any occupancy, but it must be recognized that there are degrees of deficiency from a very slight or negligible hazard to what is defined as a high life hazard under this rule. Fire officials should not equate the level of exiting safety required for new construction under the current building code with the reasonably adequate level of exiting safety required by this rule. The intent of this rule is to allow the continued use of existing buildings which provide a level of exit safety that substantially comply with the requirements for new construction under the current building code or use one of the alternatives to come within the range of reasonable safety that the public should be provided. Structural Changes shall not be required in buildings built, occupied and maintained in conformity with state building code regulations applicable at the time of construction, ORS 476.030(c).

Note: The state building code was first adopted in 1974.

(b) Rather than looking strictly to the current standard for new construction under the building code, fire officials must use their own judgement on a case-by-case basis as to reasonableness of the degree of hazard and adequacy of exit safety after evaluating all of the relevant factors stated in the rule and any other factors unique to the building or

structure (Historical structures ORS 476.035). The written findings required by this rule should list and analyze the relevant factors so that if the determination of the fire official is appealed, a written record of the reasons for the determination will be available for review.

(c) While fire and life safety must be given primary consideration, the determination of whether the existing level of hazard is unreasonable requires the fire official to consider the cost of the possible improvements in relation to the benefits provided by increased exiting safety from such improvements. The cost benefit analysis should be considered in deciding which method of improvement to approve once the determination of high life hazard has been made.

(d) The rule has been amended to provide greater flexibility in the method of improvement of deficient buildings. The fire official must not approve any proposed plan of improvement unless it will provide the reasonably adequate level of exiting safety required. While the fire official is not expected to plan the method of improvement for the building owner, much time will be saved if the fire official will actively assist the building owner or the owner's engineer in finding the least expensive method of improvement providing the reasonably adequate level of exiting safety.

(e) Substantial compliance with the requirements for new construction under the current building code will often be impossible or so expensive as to be impractical in existing buildings. The approval for one or more of the remaining three alternatives should always be given on a case-by-case basis after a consideration of all of the same factors considered in determining that the building constitutes a high life hazard and after balancing the costs against the benefits provided by the different methods. For example, in a hotel or apartment building the existence of a passive occupancy where cooking, portable space heaters, smoking in bed and other such activities create a significantly higher risk of undetected and/or uncontrolled fire incidents, the fire official might justifiably refuse to approve any plan that does not include significant use of automatic sprinklers. In contrast, where an active occupancy is involved such as in an office building, approval might be given for a plan of improvement consisting of horizontal exits and areas of refuge.

(f) In approving a plan of improvement, the fire official will require a commitment to a date of completion for the improvements, but will allow a sufficient period for completion.

(g) Once the improvement has been completed, unless there is a significant change in one or more of the factors considered in the determination of a high life hazard, no further improvements will be required under this rule.

[Publications: The publication(s) referenced in this rule is available from the agency.]

Stat. Auth.: ORS 476

Stats. Implemented: ORS 476.030(C)

Hist.: FM 68, f. 5-2-75, ef. 5-25-75; FM 7-1981, f. & ef. 11-5-81; OSFM 7-2001, f. 6-27-01, cert. ef. 7-1-01
