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Via e-mail: haglu.exhibits@oregonlegislature.gov

House Committee on Agriculture and Land Use
900 Court Street NE
Salem, OR 97301

RE: HB 2225 (Forest Template Dwellings) Testimony

Dear Chair Clem and Honorable Members of the Committee:

Thank you for the opportunity to provide testimony on HB 2225. 1000 Friends is a non-profit organization focusing on land use, sustainable communities and farm and forestland protection across the state of Oregon, in both rural and urban areas. We are strongly in favor of HB 2225.

For almost 45 years 1000 Friends of Oregon has been at the forefront of ensuring that Oregon's renowned land use system operates to protect what makes Oregon special. One of the things that makes Oregon special is its 45 million acres of forests. Oregon's forests benefit Oregon in many ways: they creating living-wage jobs, they store carbon, they protect our water supply and they provide habitat for wildlife and big game. In light of increasing risks of catastrophic wildfire impacting Oregon's forests, we have become highly concerned about the increasing number of template dwellings fragmenting the forest landscape.

After extensive research and analysis as well as engagement with stakeholders in counties with forested lands, we determined that the reason for increasing numbers of template dwellings in productive forest areas is a lack of clarity in the template dwelling statute, ORS 215.750. This bill addresses the ambiguous areas of the statute as well as addressing wildfire risk associated with new dwellings in the WUI.

Cleaning up the Template Dwelling Statute

When they were created by the Legislature, template dwellings were likely viewed by the Legislature as a tool that would address an existing, fixed problem and then would sunset, as the parcelized areas of forestland were built out and valuable timberland was preserved by Goal 4. Thus, we believe it would be appropriate to statutorily sunset the

template dwelling provision altogether. In the interim, however, we propose HB 2225 to correct the deficiencies in the statute.

The most common abuse of the statute is conducted using a process known as “deed shuffling.” Often in combination with serial lot line adjustments, some owners and developers continue to succeed in obtaining multiple approvals for template dwellings for a given tract or parcel that as configured on January 1, 1993, would have allowed only a single template dwelling. This method is often used in combination with a process of combing through the property records to revive old, otherwise dormant parcels such as road right-of-ways or tiny remnant lots (“zombie lots”) in order to qualify for more template dwellings. These loopholes must be closed to prevent more and more abuse in circumventing the clear intent expressed in statute and rule. HB 2225 would close these loopholes.

Another loophole results from the lack of statutory clarity of exactly how to apply the template test. Although ORS 215.705 provides guidance for determining the “geographic center” of a “flaglot” in reference to an allowance for a single-family dwelling on high-value farmland, no such guidance is provided for conducting a template test on protected forestland. This loophole has allowed for the use of various “creative” applications of different template test methodologies for determining the “geographic center” of a tract or parcel, so that the subsequently overlaid 160-acre template will succeed in capturing the required numbers of parcels and dwellings existing on January 1, 1993. HB 2225 adds clarity to the process for determining the center of the lot.

Protecting Oregon from Catastrophic Wildfire

The vast majority of wildfires are human-caused. As a result, increased residential development in the WUI, combined with longer fire seasons resulting from climate change, can be expected to increase the frequency of wildfires in WUI areas.

Preventing and mitigating the risk of wildfires is made more challenging with increased fragmentation of forestlands and more residential development in WUI areas. Using the tools of prescribed burning and expanded strategic thinning based on topography and vegetation type becomes even more difficult, increasing the potential consequences of future wildfires. New homeowners will need to understand their role and responsibilities in reducing wildfire risk and the susceptibility of their own homes to wildfire loss. More new homeowners will need to be convinced to voluntarily implement Firewise risk mitigation measures.

Addressing and mitigating the risk of catastrophic wildfires to timber resources and other forest values, as well as to residents living in WUI areas, requires a comprehensive, multi-faceted approach. However, limiting the number of structures in the WUI by limiting the proliferation of template dwellings will be an important tool.

Template dwellings add to the fastest-growing land use type in the US – residential development in the wildland-urban interface (WUI). Wildfires pose a greater risk to lives and homes located in the WUI, because of their close proximity to flammable vegetation. The expansion of homes into the WUI raises the costs and creates particular challenges for wildfire management by creating additional structures to be protected where firefighting is often more difficult and especially hazardous. Even when appropriate, it is virtually impossible politically to allow naturally caused fires near WUI areas of residential development to burn to reduce fuel loads and lessen the likelihood of a more catastrophic fire in the future. In 2017 almost 20,000 structures were threatened by wildfires across the state. In 2017, Oregon spent \$38 million fighting large wildfires. For each new dwelling in the WUI, costs of firefighting increase substantially. 1000 Friends of Oregon recently published a policy paper on the intersection of wildfire planning and land use planning. A copy of the executive summary is attached.

The proposed changes in HB 2225 limit dwellings in areas that have been identified as wildfire hazard zones or high-risk wildfire areas. Currently, there is no statewide wildfire risk map that was intended to inform land use planning but if this is remedied we would strongly urge that mapping to be incorporated in the HB 2225 bill. Forest template dwellings more than any other dwelling approval in resource land have the ability to worsen wildfire risk.

In conclusion, 1000 Friends believes HB 2225 is necessary to address both a lack of clarity in the current statute that is causing confusion and is contrary to original legislative intent and to reduce and mitigate wildfire risk in the face of climate change and more intense wildfire seasons. We are committed to working on this bill until we have a draft that works but strongly urge the committee to support the bill.

Thank you for your consideration.

Sincerely,

Meriel L. Darzen
Rural Lands Staff Attorney

Encl.

Reducing Wildfire Risk

Template Dwellings on Forestland HB 2225

1000
friends
of Oregon

What is a template dwelling?

Current law allows a house in a forest zone if a certain amount of development and smaller parcels existed on January 1, 1993, within an overlaid 160-acre square "template" centered on the subject parcel.



780

number of template dwellings approved on forest-protected lands from 2010–16

The Problem

The statute was originally intended to give families an opportunity to create a home on forestland that was historically parcelized. Because there was a fixed amount of forestland that was parcelized, the assumption was the number of template dwelling applications would decrease over time. However, because the statute is vague, we have seen an increase in the number of applications.

20,000

structures (mainly homes) threatened by wildfires in Oregon (2017)

\$38 million

spent by the State of Oregon on fighting wildfires in Oregon (2017)

The Solution

More dwellings in the wildland urban interface greatly increases wildfire risk and firefighting costs. Preventing and reducing the risk of wildfires is much more challenging with increased residential development in the wildland-urban interface (WUI) areas. For each new house built in the WUI, costs of firefighting increase substantially.

Reducing the risk of catastrophic wildfires to people, timber resources and other forest values requires a comprehensive, multifaceted approach.

We must begin by amending ORS 215.750 to prevent further abuses of the template dwelling provision, and limit further wildfire risk and loss of property.

People and forests are in jeopardy, but this small statutory fix will help Oregon's land use planning system protect people and forests from natural hazards like wildfires. But abuses of the current statute, which lacks clarity, result in too much fragmentation of our productive timberlands, while also putting people in harm's way. By clarifying **how and where** template dwellings are allowed, and prohibiting them in high-risk wildfire areas, we will substantially **reduce risk and hazard**, and help Oregon **avoid increasing costs** from fighting wildfires.



Legislative Background & Recommendations

HB 2225



When created by the Legislature, template dwellings were likely viewed as a tool to address an existing, fixed problem and then would sunset, as the smaller parcels of forestland were built on and valuable timberland was preserved. Instead, template dwellings have increased. The large number of template dwellings, particularly in Lane County, which has some of the state's most productive timberland, is due to the lack of clarity in the statute. These ambiguities have given rise to two types of abuse:

Deed shuffling and zombie lots: Some land owners and developers continue to obtain multiple approvals for template dwellings for a single parcel that, as configured on January 1, 1993, would have allowed for only one dwelling. Sometimes this is done by combing through property records to revive old, dormant parcels (such as road right-of-ways or tiny remnant lots) to qualify for more template dwellings.

Misuse of the template test: Lack of statutory clarity has allowed the use of various "creative" applications of template methodologies for determining the "geographic center" of a parcel. This has resulted in wasteful litigation.

These abuses were not intended by the drafters but have persisted and increased, leading to a proliferation of new rural subdivisions on productive timberland.

We propose amending ORS 215.750 to read:

A template dwelling is only allowed if:

- 1) It would have qualified for the siting of a dwelling on January 1, 1993, notwithstanding any reconfiguration or change in ownership of the lot, parcel or tract after that date.
- 2) The property is not in a high-risk wildfire area or an identified high or extreme wildfire risk area under ORS 477.027 to ORS 477.057 or a wildfire hazard zone under ORS 93.270.
- 3) The property is not in a groundwater limited area.

HB 2225 also clearly defines the center of the subject tract, which is currently undefined in existing statute, giving rise to ambiguity and abuse.

These changes will clarify the intent and application of the law, limit abuse and fragmentation of forestland and most importantly, limit additional dwellings in the highest risk wildfire areas, keeping Oregonians safe.

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Learn more:

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1000 Friends of Oregon Releases A New Vision for Wildfire Planning: A Report on Land Use and Wildfires



The report offers detailed policy recommendations to keep Oregonians safe

In recent years, Oregonians have experienced increased risks to their health and lives, damage to natural resources, and destruction of homes from longer and more severe wildfire seasons. This past year, Oregonians watched in despair as the Columbia River Gorge burned, and mourned the loss of life of those fighting and fleeing fires here. All Oregonians have felt the impacts of wildfire in their daily lives, activities and businesses due to air filled with smoke from fires ranging from British Columbia to northern California.

1000 Friends of Oregon aims to create a brighter future. More than 107,000 homes in Oregon, worth \$12.7 billion and representing 8% of the state's housing supply, face high or very high risk of wildfire according to 1000 Friends of Oregon's recently released report, *A New Vision for Wildfire Planning: A Report on Land Use and Wildfires*. Download the full report by visiting [friends.org/WildfireReport](https://www.friends.org/WildfireReport).

"In recent years, every wildfire season seems to break records," says Russ Hoeflich, 1000 Friends of Oregon's Executive Director. "We decided to delve into that. It will come as no surprise that there two main culprits: climate change and increasing development in wildfire-prone areas."

The comprehensive 70-page report offers specific policy recommendations that 1000 Friends of Oregon hopes to see implemented during the 2019 legislative session, including:

- Mapping wildfire risk across Oregon
- Avoiding development in high risk areas
- Minimizing structures in high risk areas to those necessary for farm and forest use
- Mitigating risks to existing and future developments where development cannot be avoided altogether
- Enforcing current laws and standards

Lawmakers are already beginning to take action, with Governor Kate Brown set to soon release an executive order for a wildfire study.

"We hope to guide policymakers and the Land Conservation and Development Commission as they endeavor to keep Oregonians safe and address growing concerns about wildfires in Oregon," says Hoeflich. "Federal, state, local budgets have been woefully inadequate to cover fire-fighting costs, not to mention the costs of lost lives, homes, and businesses. We hope to see that change in 2019."

Since 1974, 1000 Friends of Oregon has worked with Oregonians to enhance our quality of life by building livable urban and rural communities, protecting family farms and forests, and conserving natural areas. Learn more by visiting [friends.org](https://www.friends.org).

A New Vision for Wildfire Planning: Policy Recommendations

Map wildfire risk across Oregon.



Avoid development in high risk areas.

Minimize structures in high risk areas to those necessary for farm and forest use.



Mitigate risks to existing and future developments where development cannot be altogether avoided.

Enforce current laws and standards.



Don't delay in search of perfect information.

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