

SB 405 A STAFF MEASURE SUMMARY
House Special Committee On Wildfire Recovery

Carrier: Rep. Marsh, Rep. Cate

Action Date: 04/22/21

Action: Do Pass the A-Eng bill.

Vote: 10-0-0-0

Yeas: 10 - Cate, Clem, Evans, Gomberg, Grayber, Lewis, Marsh, Meek, Morgan, Post

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Laura Kentnesse, LPRO Analyst

Meeting Dates: 4/20, 4/22

WHAT THE MEASURE DOES:

Allows a nonconforming use to not be considered interrupted or abandoned by a city or county while a federal, state, or local emergency order issued on or after January 1, 2020 temporarily limits or prohibits the use, or the restoration or replacement of the use. Until September 30, 2025 requires cities and counties to allow commencement of restoration or replacement of nonconforming uses that were damaged or destroyed by the September 2020 wildfires, and sunsets that provision January 2, 2026. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Impact of emergency orders on permit use timing requirements for the Oregon Country Fair and other nonconforming businesses and organizations
- Challenges, steps, and timelines to rebuild dwellings post-wildfire
- Importance of advertising the extended timeline to commence rebuilding in fire-affected communities
- Proactive county actions to incentivize fast-paced rebuilding and to ease financial burden to homeowners
- Lack of clarity regarding prevalence of nonconforming uses

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A nonconforming use is a building, structure, or land that received the necessary land use approval(s) at the time of establishment or that was established prior to there being any applicable land use provisions, but that use no longer conforms to the regulations of the zoning district in which it is located. Oregon statutes allow for these nonconforming uses to be continued, and allow for their restoration and replacement due to fire, casualty, or natural disaster. However, ORS 215.130 states that the nonconforming use may not be resumed after a period of interruption or abandonment, and that restoration or replacement must be commenced within one year from the occurrence of the fire, casualty, or natural disaster.

Senate Bill 405 A would allow a nonconforming use to not be considered interrupted or abandoned by a city or county while a federal, state, or local emergency order issued on or after January 1, 2020 temporarily limits or prohibits the use, or the restoration or replacement of the use. The measure would also, until September 30, 2025, require cities and counties to allow commencement of restoration or replacement of nonconforming uses that were damaged or destroyed by the September 2020 wildfires.