

# ATTACHMENT 4



# ORANGE COUNTY FIRE AUTHORITY

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Brian Fennessy Fire Chief

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October 24, 2022

Mr. Adam Wood  
Vice President  
BIAOC – Orange County Chapter  
17192 Murphy Ave. #14445  
Irvine, Ca 92623

Re: Response to Proposed Revisions of the OCFA, B-01 & C-05 Guidelines Letter

Dear Mr. Wood,

I am in receipt of your letter dated October 19, 2023, regarding Proposed Revisions of the OCFA, B-01 & C-05 Guidelines. I am responding to your letter to provide clarification on several issues raised in the letter.

Since many of your comments and my responses crossover and blend in differing areas of the letter I have tried to capture the main themes. I look forward to a future meeting to drill down into the specifics.

My team has reviewed the letter and concur that the BIAOC is addressing four areas of concern. I will address each as concisely as possible:

1. Concerns about the changing regulatory landscape from the State causing continued loss of control at the local level, including commentary issued by the Attorney General.
2. Concerns about the Planning and Development processes at OCFA.
3. Specific concerns about proposed California Fire Code amendments to include amendments that point to OCFA Guidelines B-01 and C-05.
4. Specific concerns about the language proposed in Guideline B-01 – Fire Master Plans for Commercial and Residential Development and Guideline C-05 – Vegetation Management: Technical Design for New Construction Fuel Modification Plans and Maintenance Program.

Item #1 We share your concerns about the rapidly changing regulatory landscape. That said my team has tracked eleven legislative bills over the past five years; and we only focused on those that had the potential to effect code adoption as well as new regulations that identify us as Authority Having Jurisdiction. It is true through the State adoption of the California Fire Code (CFC) that there is a significant rewrite of Chapter 49 – *Requirements for Wildland-Urban Interface Fire Areas*. This has the potential to be more restrictive in building construction, vegetation management and subdivision review surveys. Most of the content in CFC Chapter 49 and Guideline C-05 are direct legislative actions. It is important to note that

the OCFA works under not only the California Fire Code but numerous mandates in the California Code of Regulations including the Government, Health and Safety, Public Resource and Civil codes. Our partner city and county agencies depend on us to understand and carry out the various codes and mandates as they pertain to fire life safety issues.

I have reviewed the Attorney General Ron Bonta's, *Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act*. Local city and county Planning and Development and land developers have reason for concern as this sets the stage for continued efforts to curb development in the Wildland Urban Interface.

The OCFA has little control over the results of State legislative actions. We do however have control over how we work with our partner agencies and development stakeholders to achieve the best outcomes within the parameters of code and alternate means and methods.

This is a good segue to Item #2, your concerns about our Planning and Development processes. Our relationship with your team has always been a healthy one. We have successfully worked through code adoptions and fee studies. While we may agree to disagree at times, this agency has developed internal programs that benefit the housing industry that include guaranteed sprinkler inspections next day and deferring our photovoltaic plan reviews and inspections to our partner building officials to expedite the process for new housing.

Thirteen of our partner cities and the county have some level of severity zone maps (VHSZ) recommended by CALFIRE and the Board of Forestry. In addition to the boundaries of those maps there are Wildland Risk Areas as defined in the CFC (see definition below) throughout the county. This code section is adopted by the State therefore by local. Prior to the Very High Severity Zone map creation (2007) the OC fire service used this definition to gauge next steps in fire life safety requirements. The 2007 CALFIRE VHSZ maps are not perfect and do not adequately define high or low risk areas. OCFA has maintained that some areas were left out and other should have not been included. We are hopeful that the upcoming maps will assist us with better definition and application of code. That said, it is never the intent of the OCFA to remove discretionary actions by our cities. It is our intent to protect buildings from exposure in the wildland interface.

*Wildland Risk Area – Land is covered with grass, grain, brush or forest, whether private or publicly owned, which is so situated or is in such inaccessible location that a fire originating upon it would present an abnormally difficult job of suppression or would result in great damage through fire or such areas designated by the fire code official.*

We respect that subdivision mapping is a city/county function. We are a participating partner as the jurisdiction's fire department, not an outside entity requesting review. The Subdivision Map Act does allow for us as part of the "city team" to request a viewing of tentative tract maps to ensure that the subdivision design includes Fuel Modification (if required) and can provide adequate ingress/egress for emergency response. We continually work with our partners to be way in front of each project to alleviate any conflicts.

To not belabor the readers time, I will leave the final planning and development topics that relate to internal OCFA processes for a future meeting with you.

To address your concerns about the “adoption” of Guidelines B-01 and C-05, please view the two amendments in Chapter 5 and Chapter 49 that point to these two guidelines. Our purpose for pointing to them in an amendment is for two reasons: full transparency of the requirements for fire access and water as well as fuel modification zones respectively. We are committing to these requirements for the three year duration of the code cycle sans any State regulations that supersede them. It is not nefarious in any way. All guidelines are subject to consideration of alternative means and methods just like all code sections. If legislation causes a significant addition or deletion, we will notify all stakeholders.

Concerning the CFC amendment comment for Chapter 1 Section 112.4 Violation Penalties; each jurisdiction has to make a decision about how they handle unabated violations. For the OCFA we have chosen a gentler approach of assessing penalty fees rather than a citation program that requires a filing in court. It is an effective tool that we rarely have to impose. The CFC has provisions for an appeal process.

Chapter 3 amendment comments concerning BBQ’s and pits are misguided.

The amendments for firepits/rings/places at R occupancies were created at the request of our Building Officials to provide guidance for approvals for installation of these devices in backyards as well as for their code enforcement personnel to address complaints. These requirements do not apply to BBQs, grills, smokers, and other devices used for cooking as expressly exempted by the amendment as well as the Fire Code.

These amendments do not significantly restrict placement of gas-fired devices in R-3 occupancies, which are the most common locations where these are found. The setback is only 3 feet, which is a typical minimum clearance specified in manufacturers’ guidelines for use and protects against ignition from radiant heat. The setback is 10’ for multifamily residential buildings due to the potential for an accidental fire to impact more people in larger structures. Smaller R-2s typically do not have this amenity installed in common areas for reasons other than available space (e.g., liability, maintenance, supervision). There is sufficient room for these devices on grade-level patios of most R-1s and roof-top amenity decks of R-1 and R-2 occupancies as evidenced by a multitude of approved projects that include an outdoor fireplace/pit.

The required setbacks of 25’/15’ for solid fuel-burning devices are derived directly from distances already specified in the Fire Code and are intended to prevent ignition of structures and other combustibles by sparks/embers coming from wood fires. This amendment allows placement of these devices *closer* to structures than normally permitted by the code when constructed in accordance with the building code as for a fireplace or when this hazard is mitigated by devices equipped with a spark arrester.

The restriction on solid-fuel fires in a fuel mod/wildfire risk area/wildland-urban interface provides a specific requirement for a recognized hazard based on similar restrictions already in the code that are intended to prevent unwanted ignition of fires. Fireplaces and other solid-fuel burning devices may be

permitted in areas outside of fuel-mod zones where the design or location of the device would reasonably prevent ignition of vegetation.

We can discuss your concerns about the verbiage or interpretation of B-01 and C-05 during our future meeting. Again, these are updated guidelines and were also in the 2019 code adoption. The C-05 added the State legislative law provisions and the B-01 updated various design standards, none of which circumvent city planning requirements or design standards. These documents serve as fire master planning for access, hydrants, water supply and fuel modification (where required). Our partner cities/county rely on us to provide these elements to each project.

Finally, I have a tremendous amount of respect for our City/County planning agencies and their charge. I also have the same respect for the development community that we engage with as we provide safe, adequate and sustaining neighborhoods. I am disappointed that the BIAOC is suggesting that the fire service should relinquish their legal charge and contribution to fire life safety planning. At your convenience please review the CFC Chapter 1 to better understand our charge.

Adam, we are not as far off as your membership may believe. The OCFA Community Risk Reduction department is acutely aware of the housing challenges that the cities/counties throughout the State are experiencing. We understand the housing shortage issues, zoning challenges, the ups and downs of financing, interest rates, property taxes and insurance rates. We are also sensitive to the needs of our communities and the needs of the housing industry as they collectively navigate State requirements.

I appreciate your feedback and look forward to further discussions.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Smith". The signature is fluid and cursive, with the first name "Lori" and last name "Smith" clearly distinguishable.

Lori Smith  
Assistant Chief Fire Marshal  
Orange County Fire Authority

Cc: Orange County Building Officials