



December 18, 2007

**HB 2478 Residential Certificate of
Occupancy rule**

Opportunity for public input:

Those who would like to provide public testimony may attend a public hearing on December 18, 2007 at 11:00 a.m. at the 1225 Ferry Street SE, Salem, OR 97301, Mt. Neahkahnne Room. Written comments may also be submitted to the contact below.

Purpose of the rule:

This proposed rule implements a portion of House Bill 2478, passed during the 2007 legislative session, by establishing statewide residential certificate of occupancy requirements.

Effect of the rule:

This proposed rule frames the statewide residential “certificate of occupancy” requirements as follows:

- Outlines the building official’s responsibilities for issuing a certificate of occupancy and the process for revoking a certificate.
- Defines “residential dwelling” and “townhouse” in order to clarify residences covered by these certificate of occupancy rules.
- Prohibits occupancy of the structure before a certificate of occupancy is issued, unless a 60-day temporary certificate of occupancy is issued.
- Sets conditions that must be met before a certificate of occupancy or a temporary certificate may be issued.
- Provides the minimum information that must be contained in a certificate of occupancy.
- Clarifies that a “certificate of completion” is the mechanism for ensuring that the structure meets laws and rules, when alteration or reconstruction work does not change the use or occupancy of the residential structure.

Citation:

OAR 918-480-0140.

History:

HB 2478 (2007) authorized the division to establish uniform certificate of occupancy requirements.

On September 28 and October 15, 2007, a rulemaking advisory committee met to discuss and review draft rules prepared by division staff establishing statewide certificate of occupancy requirements for residential structures.

Contact:

If you have questions or need further information, please contact Richard Y. Blackwell at (503) 373-1227 or richard.y.blackwell@state.or.us.



Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services, Building Codes Division	918
Agency and Division	Administrative Rules Chapter Number
Nicole M. Jantz	(503) 378-4130
Rules Coordinator	Telephone

RULE CAPTION

Implements statewide certificate of occupancy requirements for residential structures (HB 2478)

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

December 18, 2007	11:00 am	1225 Ferry Street SE, Salem, OR 97301, Mt. Neahkahnne Room	Richard Blackwell
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: OAR 918-480-0140

AMEND:

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: Or Laws 2007, ch 549, §2 (HB 2478)

Other Auth.:

Stats. Implemented: Or Laws 2007, ch 549, §2 (HB 2478)

RULE SUMMARY

This proposed rule implements HB 2478, enacted by the 2007 legislature, by establishing statewide certificate of occupancy requirements for residential structures.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 18, 2007 5:00pm

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Mark Long		
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services, Building Codes Division

918

Agency and Division

Administrative Rules Chapter Number

In the Matter of: Adopting OAR 918-480-0140

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)
Implements statewide certificate of occupancy requirements for residential structures.

Statutory Authority: Or Laws 2007, ch 549, §2 (HB 2478)

Other Authority:

Stats. Implemented: Or Laws 2007, ch 549, §2 (HB 2478)

Need for the Rule(s):

This proposed rule implements HB 2478, enacted by the 2007 legislature by establishing statewide certificate of occupancy requirements for residential structures.

Documents Relied Upon, and where they are available: Rule advisory committee minutes of September 28, 2007 and October 15, 2007. Draft rules are available from the division rules coordinator located at 1535 Edgewater St. NW, Salem, OR 97309 and are posted on the division's Website.

Fiscal and Economic Impact, including Statement of Cost of Compliance: The Division is unable to determine the extent of the fiscal impact of this proposed rule. There is no foreseeable impact on state agencies. Local governments administering and enforcing the state building code who currently issue certificates of occupancy may need to revise current issuance processes but any fiscal impact should be minimal. Local governments that do not currently issue certificates of occupancy may see an impact due to increased administrative requirements in issuing certificates of occupancy to residential structures. All local governments administering and enforcing the state building code will be required to collect and store sub contractor lists. Members of the public will not likely see any fiscal impact due to this proposed rule.

The CCB licenses 42,126 contractors, but an indeterminate number of those licensees are considered "small" business contractors licensed by the Construction Contractors Board. Contractors, including owner builders, will likely see increased reporting requirements as they will be submitting contractor lists to local governments for a certificate of occupancy. Additionally, some contractors may see a slight increase in record keeping requirements and retaining the information necessary to submit a contractor list to the local government. However, because contractors are directed to keep a list of sub contractors by ORS 701.055, the contractor list for the certificate of occupancy should amount to a minimal cost of compliance.

There are no foreseeable increases in equipment, supplies or labor necessary to meet the requirements of this proposed rule. Increased administration will occur through the contractor developing and submitting lists of contractors, as well as the local governments' responsibility to gather and store these lists for the length of time prescribed by the Secretary of State. Additional administration costs may be experienced by the state and units of local governments who do not currently issue certificates of occupancy.

How were small businesses involved in the development of this rule? A member of the committee represented the home builder association who's membership includes a number of small contractors.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

Mark Long

Signature

Printed name

Date

OAR 918-480-0140
Residential Certificates of Occupancy

(1) A building official must issue a certificate of occupancy for a residential dwelling or townhouse before occupancy, unless a temporary certificate is issued under subsection (3).

For purposes of this rule:

(a) “Residential dwelling” means any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or that are occupied for living purposes.

(b) “Townhouse” means a single-family dwelling unit constructed in a series of three or more horizontally-adjoining units with open space on at least two sides.

(2) Conditions that must be met before a certificate of occupancy for a residential dwelling or townhouse is issued follows:

(a) The building official or designee inspects the residential dwelling or townhouse;

(b) The building official or designee does not find a violation of applicable statute or administrative rule;

(c) The contractor or owner provides a division-approved form listing the subcontractors or other contractors performing work for that contractor or owner or provides a list required by ORS 701.055; and

(d) The residential dwelling or townhouse meets a condition on the construction of a residential dwelling or townhouse as authorized by local ordinance if a condition is clearly communicated to the contractor or owner prior to the start of construction.

(3) A building official may issue a temporary certificate of occupancy prior to the completion of work on the residential dwelling or townhouse if the building official determines that the residential dwelling or townhouse may be occupied safely. A temporary certificate of occupancy shall expire 60 days after issuance, unless extended by the building official on or before the date of expiration. A building official may renew a temporary certificate of occupancy on or before the expiration as circumstance merits.

(4) A building official may not require a certificate of occupancy for an alteration or reconstruction to a residential dwelling or townhouse that does not change the use or occupancy of the residential dwelling or townhouse. A building official shall issue a certificate of completion for alteration or reconstruction to a residential dwelling or townhouse if the building official or designee inspects the alteration or reconstruction to the residential dwelling or townhouse and does not find a violation of applicable statute or administrative rule.

(5) A certificate of occupancy must contain, at a minimum, the following information—

(a) The building permit number;

(b) The address of the structure;

(c) The name and address of the owner;

(d) A description of that portion of the structure for which the certificate is issued;

(e) A signed statement that all state building code inspections have been completed.

(f) A signed statement that all local ordinance conditions on the construction of a residential dwelling or town house, if any, have been met;

(g) The name of the building official;

(h) The edition of the code under which the permit was issued; and

(i) Any special stipulations and conditions on the building permit.

(6) A building official may revoke a certificate of occupancy or a temporary certificate of occupancy when the certificate is issued in error, issued on the basis of incorrect information, or where the building official determines that the residential dwelling or townhouse is in violation of applicable statute, administrative rule, or condition on residential dwellings or townhouses authorized by local ordinance. The revocation must be in writing, state the reasons why the certificate of occupancy should be revoked, and be communicated by any written form or by any means that can readily be converted to written form.

Stat. Auth.: Or Laws 2007, ch 549, §2

Stat. Implemented: Or Laws 2007, ch 549, §2

Hist.: New.