

Wildfires Program Advisory Council Work Group #2
LAND USE - Draft of 10.18.22

I. Background and Overview

Senate Bill 762 directs the Department of Land Conservation and Development (DLCD) to “identify updates” to the statewide land use planning program and local land use plans and zoning codes that are “needed to incorporate wildfire risk maps and minimize wildfire risk, including the appropriate levels of state and local resources necessary for effective implementation.”

These recommended updates may include, but are not limited to, “provisions regarding sufficient defensible space, building codes, safe evacuation and development considerations in areas of extreme and high wildfire risk, allowing for regional differences.” Because SB 762 directs other agencies to develop and adopt some of the listed provisions, the bill also encourages DLCD to consult with the State Fire Marshall, State Forestry Department, and the Department of Consumer and Business Services in developing its own land use recommendations.

By October 1, 2022, DLCD must complete this assessment and provide a report to the appropriate legislative committees, the State Wildfire Programs Director, and the Wildfire Programs Advisory Council (WPAC), including any recommendations on how to incorporate the wildfire risk maps and minimize wildfire risk into state and local land use planning. SB 762 did not charge the Land Conservation and Development Commission (LCDC) with adopting any regulatory measures. These are recommendations only, which the legislature can chose to act on, or not.

The WPAC is charged with reviewing DLCD’s findings and recommendations and may make additional recommendations on potential updates to the state and local planning programs and zoning codes “to incorporate wildfire risk maps and minimize wildfire risk to people, public and private property, businesses, infrastructure and natural resources.”

II. Implementation

A. Process

DLCD undertook several efforts to fulfill its charge under SB 762:

- Hired a Natural Hazards Planner whose focus is on wildfire.
- Created a stakeholder group, consisting of 30 persons representing diverse communities, organizations, expertise, and experiences. The group met five times between May and August 2022. The group members were not expected to agree, but rather to share experiences and perspectives to inform the DLCD staff. Stakeholder

group meetings were live streamed with an online comment form available to the public.

- Conducted extensive community and stakeholder engagement between April and September 2022. Because of the short timeframe between the Oregon Department of Forestry's release of the wildfire risk map on June 31, followed by the rescinding of the wildfire risk map in early August, and the due date for DLCD's report of October 1, much of the outreach occurred without the public being able to view the actual map. In April 2022, DLCD held four Community Listening sessions (all virtual) in which 157 individuals participated. Additional outreach included a community survey and online open houses (available in English and Spanish).
- Formally invited Oregon's nine federally-recognized tribes to meet with the agency; two tribes engaged with the department.
- Provided three regular updates to the LCDC at public meetings, at which those interested could testify orally or in writing on any aspect of DLCD's SB 762 work.
- A Latino community focus group was held, hosted by Unete in Medford.

DLCD presented a draft report to its stakeholder group on August 12, and based on input from that group and others, DLCD released the public review draft on August 19. The agency solicited public input through September 16, including holding two Community Listening Sessions, through an online comment form, and through meetings with various stakeholders and organizations. [A local government survey and webinar were conducted to gather preliminary information about resources needed for implementation.](#) A summary of comments received on the draft report and proposed changes in response was presented to the LCDC on September 22-23, where verbal public comment was accepted. Finally, that draft went to the WPAC for review and initial input at the WPAC's September 26 meeting. Based on feedback from these activities, the report was revised and submitted to the Legislature [and the Council](#) on September 30, 2022.

B. DLCD Observations

DLCD summarized themes that emerged from its various engagement activities, including:

- Oregonians are concerned, eager, and motivated for action, individually and by all government levels.
- Equity is a core value.
- Need for better interagency and intergovernmental coordination, communication, and collaboration.
- Need across all agencies for accessible and reliable education and communications (e.g., language, broadband, digital literacy).
- Need to understand where consistency across jurisdictions and geographies makes sense, and where localized approaches are necessary.
- Consider potential impacts on rural and unincorporated communities.

- Need for community-specific evacuation planning. Federal land managers need to be involved in assessing and addressing transportation access for safe evacuation and response, particularly in rural areas.
- Heard potential conflicting thoughts on development considerations in wildfire risky areas.
- Concern that there might be a lack of requirements, such as for defensible space, and lack of access to resources for areas that are not identified as extreme or high risk.
- Need for funding for local governments and for individuals to be wildfire resilient.
- Staff capacity at the local government level varies around the state and should be considered regarding implementation (e.g., timing, phasing, level of support).
- Critical infrastructure (e.g., water and electricity) must be wildfire resilient.
- Watersheds and community water supplies need to be protected and managed to reduce impacts from wildfires.

The Tribes with which DLCD ~~has met thus far~~ raised these issues of importance:

- Protecting and managing cultural resource sites, not only on Tribal lands but throughout ancestral land, especially in emergency situations and in planning processes. There is currently a lack of coordination and notification by emergency managers with the Tribes.
- Wildfire impacts to Tribal members living in the [wildland urban interface \(WUI\)](#).
- Access to resources for defensible space.
- Safe evacuation where transportation access is limited.
- Long-range land use planning impacts to Tribal fee lands.
- Impacts to Tribal trust lands from adjacent land use changes.
- Ensuring that lands that will be developed are planned to reduce risk.
- Desire for access to Geographic Information System data.

DLCD also specifically sought feedback on wildfire rebuilding and recovery for insights this could provide for recommendations on helping communities to be more proactively wildfire resilient and prepared going forward. Some takeaways DLCD found:

- People want to stay in their communities after a disaster, even if they have lost their home.
- Information sharing among agencies at every level must improve - before, during, and after a disaster, with specific attention to language and technology access needs
- When building back:
 - Ask rural communities what they need.
 - Rebuild equitably, ensure better access to affordable housing.
 - New/rebuilt homes should be cost effective, energy efficient, wildfire safe.
 - Use rebuilding to take into account all hazards, such as landslides and flooding.
 - Protect critical utilities.

- Recognize short-term revenue losses for cities and special districts due to property tax losses.
- Evaluate and update land use processes to better facilitate rebuilding.
- Update and strengthen WUI strategies and codes.
- Update natural hazard mitigation plans.
- Review/develop risk assessment and priorities for public safety, infrastructure mitigation actions, and recovery strategies for natural resources and cultural resources.
- Recognize the need for assistance to unincorporated communities in preparing for natural disasters and recovery, whether through grants, technical assistance, staff support, or otherwise.

C. DLCDC Recommendations

Based on the public engagement and consultation with elected and civic leaders and experts described above, DLCDC made six formal Recommendations to the Legislature, listed below. DLCDC's recommendations are focused on land use and transportation actions that are likely to provide the most protection at a community, subdivision, or neighborhood scale, in a way that compliments and supports other elements of SB 762 that are more focused at the building scale, such as home hardening and defensible space. DLCDC's recommendations are not generally applicable to individual single-family homes.

For each Recommendation, DLCDC provides three implementation options that the Legislature could choose among:

1. A voluntary approach, allowing local governments to develop local solutions at their own pace.
2. A mandatory approach that begins with agency rulemaking and is followed by compliance checks.
3. A phased hybrid approach, beginning with voluntary actions and adoption, including a timeline for assessment, followed by mandatory measures in communities that have not adopted legislatively identified wildfire protections.

To support the implementation of the Recommendations, DLCDC also describes various actions it could take, including but not limited to:

- Model policies, code, and guidance for establishing appropriate standards, community engagement best practices, and integrating planning processes.
- Grant funding for consultants, temporary local staff, technical expertise, and community engagement.

Finally, the report describes extensive outreach to cities and counties to assess the potential cost of implementing the Recommendations, recognizing that any cost to state agencies and local governments will depend upon, in large part, legislative direction and the statewide

wildfire risk map. Any implementation assigned to the department by the Legislature would not take place until the wildfire risk map is available, including development of strategies for incorporation of the risk map.

While DLCD's recommendations are available for any city or county to consider and adopt, the Oregon Legislature, when deciding on the best means of implementation, may need to prioritize resources. DLCD recommends the Legislature consider investing first in communities predominantly comprised of properties that are high and extreme risk inside the WUI. Regional differences should also be considered, with implementation timelines and applicability tailored to meet regional needs, community size, local capacity, and other factors. Whatever approach the Legislature takes, each recommendation requires substantial state funding and technical assistance to support local implementation, particularly for cities and counties with limited capacity.

DLCD plans to submit a 2025-2027 agency budget request for local government implementation funding, pending that legislative direction. Strategically invested, state funding can be leveraged to access more federal funding for local governments. As noted in the recommendations, increased ability to access federal funding by local governments and the state could bolster implementation of local wildfire mitigation strategies, particularly related to recovery planning, the development of community wildfire protection plans and natural hazard mitigation plans, and implementation of identified [mitigation](#) projects. Local governments have expressed a desire to directly access additional federal dollars, but limited staff capacity to apply for and manage federal grants prevents many communities from availing themselves of these resources. Increased programmatic support from DLCD is one way of accessing federal dollars, pass through grants are another possibility.

Recommendation 1: Cities and counties prioritize robust and inclusive community information and engagement in planning efforts to create wildfire adapted communities.

This is not a stand-alone Recommendation, but rather applies to cities and counties engaging in Recommendations 2 through 6.

DLCD recommends use of best practices and meaningful participatory processes to engage community members, particularly those from traditionally under-served and under-represented populations, in planning wildfire adapted communities, including preparedness, evacuation, adaptation, mitigation, and recovery planning. Actions would include:

- a. Providing information to public officials about community vulnerabilities and the capabilities of community members to contribute to mitigation efforts, anticipate a wildfire event, and recover from natural hazards and disasters.
- b. Intentionally including community groups that have been traditionally under-served, under-represented, and excluded, including those with mobility challenges or disabilities, those with limited transportation options, and those with limited English proficiency.

- c. Ground truthing, using local expertise to increase ownership and legitimacy for wildfire mitigation planning efforts.
- d. Developing community education materials and events to effectively communicate with all community members.

Recommendation 2: Cities and counties assess and improve transportation networks for safe evacuation and firefighting response.

Recommends that cities, counties, emergency management entities, transportation agencies, and fire agencies work across jurisdictional boundaries with regional, state, and federal partners and Tribal governments to assess the existing transportation network and identify gaps or deficiencies that could hinder safe evacuation of residents and visitors and efficient access for firefighting response. The need for safe evacuation is present in all areas of wildfire risk. Addressing identified deficiencies in transportation infrastructure might require amending transportation plans, policies, and programs.

Recommendation 2 lists a variety of actions that could be taken to assess and improve transportation networks for safe evacuation and firefighting response.

Recommendation 3: Cities and counties review and amend local land use codes for new development to ensure safe evacuation and efficient firefighting response.

Recommends that local governments, in coordination with state and local emergency management and fire agencies, review and amend zoning and land division codes to increase street connectivity and site access for new development to support safe evacuation of residents and visitors and efficient firefighting and other emergency response. Because of changing landscape and wildfire conditions, communities should ensure that subdivisions, manufactured home parks, retail centers, and other areas with multiple structures are planned and built to have more than one access road in and out with sufficient grade and widths for firefighting equipment and personnel. Lists specific zoning codes and processes that should be reviewed and establishes a waiver or similar process for cases where geography, property configuration, lack of legal access, and other factors may prevent certain locations from complying.

Recommendation 4: Cities and counties review and amend comprehensive plan policies and implement land use codes to incorporate wildfire risk mitigation requirements for new development.

Recommends updating comprehensive plan policies and implementing land use codes for new development to reduce wildfire risk at the community, neighborhood, and/or subdivision scale, with standards or applications that may differ depending on the scale or type of development. These are intended to complement existing state building code and defensible space requirements, to reduce the threat of home-to-home ignitions in higher-density areas.

Includes recommendations that cities and counties review and amend local comprehensive plans, zoning, and land division codes to require land use wildfire mitigation standards for new development or substantially improved buildings, including rebuilding after natural disasters.

Describes policies and actions to consider, including those identified in adopted Natural Hazards Mitigation Plans and Community Wildfire Protection Plans; site and design standards; defensible space; public facilities; establishing a waiver or similar process for circumstances where geography, property configuration, legal access and other factors may prevent certain locations from complying; and more.

Recommendation 5: Cities and counties prepare for post-disaster recovery in local communities through recovery planning.

This proposes a programmatic approach to support cities and counties after wildfire or other disasters, including:

- a. DLCD assistance with pre-disaster recovery planning to minimize the impact of future fires and associated natural hazard risks and to develop more wildfire resilient communities.
- b. Preparations to support local staff post-disaster.
- c. Delivery of post-disaster professional services, including processing land use approvals to expedite rebuilding of wildfire-impacted communities.

This recommendation provides support to cities and counties regardless of wildfire risk level.

Recommendation 6: Cities, counties, special districts, and Tribes to increase the effectiveness of natural hazards planning through coordination of Community Wildfire Protection Plan and Natural Hazard Mitigation Plan processes and adoption of policies and actions into comprehensive plans and codes.

Recommends a programmatic approach to update and integrate Community Wildfire Protection Plans (CWPP) into Natural Hazard Mitigation Plans (NHMP) into local comprehensive plans and land use regulations, including additional natural hazard planning technical assistance.

III. Work Group Observations & Recommendations

An expanded Work Group #2 met on October 4th to discuss DLCD’s report to the legislature and see whether there was consensus on observations and/or recommendations. This initial discussion will be continued at, and likely after, the October 14 meeting of the full WPAC. The final set of WPAC Observations and Recommendations on DLCD’s report should be completed before the 2023 legislative session.

The Work Group had consensus on the following points:

- Support for Recommendations 1, 2, 5, and 6.
- The Recommendations should encourage communities in high and extreme wildfire risk areas to be diligent in designing and implementing wildfire protection plans related to fuel modeling.
- Support that most aspects of all the Recommendations apply to developments at a larger scale than an individual property; i.e., they apply at the scale of subdivisions, neighborhoods, large multi-structure developments, etc. While the Executive Summary of DLCD’s report is clear on this (it says “These recommendations are not generally applicable to individual single-family homes.”), there might be places in the Recommendations where that could be made more clear.
- Agreement that implementation - when the revised wildfire risk map is complete - should generally prioritize the areas of high and extreme wildfire risk, except where systems that cross risk boundaries are involved, such as evacuation route planning and community infrastructure protection planning.
- Appreciation that DLCD’s report offers the legislature three choices of paths (rulemaking, voluntary, hybrid/phased).
- A local government implementing a DLCD recommendation(s) may need assistance to ensure the implemented recommendation is successful and tailored to local conditions. Therefore, we support the following:
 - DLCD providing model policies, codes, and guidance for establishing standards, community engagement best practices, integration of planning processes, and similar tools; and
 - Grant funding for consultants, temporary local staff, technical expertise, and community engagement.
- Appreciation that Recommendation #1 emphasizes outreach; local governments will be able to tailor to their community.
- Understanding that without the revised wildfire risk map, it can be challenging to evaluate these Recommendations; ~~they are purposefully written to refer generally to “highest risk areas,” etc. and not to specific risk categories.~~ Work Group is appreciative that DLCD wants legislative direction and a complete risk map before DLDC develops programs and/or requirements.

The Work Group did not have consensus on these issues, and/or these issues could use further discussion:

- Whether Recommendation 4 (and possibly Recommendation 3) should be limited to the high and extreme wildfire risk WUI areas.
- Whether under SB 762 DLCD legally may, or if legal should, make Recommendations beyond the high and extreme wildfire risk areas.
- While as noted above there is consensus to prioritize most Recommendations to the high and extreme WUI risk categories, there is a difference of opinion on whether

Recommendations 3 and 4 should apply to other risk categories (when the map is released).

- Some Work Group members believe the Recommendations go too far; some believe they do not go far enough.
- Some questions about whether the Recommendations impact urban growth boundary evaluations and expansions; DLCD stated the Recommendations do not impact UGBs, but this needs to be made clear.
- Concerns raised about how Recommendations 3 and 4 might impact the ability to zone and build more densely in new subdivisions if the Recommendations apply beyond the high and extreme WUI. And related to this is the need for clarity – such as through examples - on how Recommendations 3 and 4 would apply if the new development is in the high and extreme WUI. (Concerns raised about possible connected street network and firebreak requirements, as examples.)
- Discussion on possible increased cost at property level v. increased community safety.
- How should the WPAC reflect, in its Addendum on the DLCD report, where there is not consensus?

10.18.22