

## Chapter 7 draft material provided by Workgroup #2 for June 30

This includes sections on 1) building codes (Bill section 12) and 2) defensible space (Bill section 8). Please see the full workgroup schedule for timeline of other sections to come.

### BUILDING CODES SECTION

#### I. Background and Overview

Oregon is unique to other states in that it has a science-based uniform statewide building code that helps ensure an equal level of protection for all Oregonians. At its core, our building code system is based on mitigating risk, so that reasonable safeguards are in place to encourage safe construction. In 2019, the state adopted a comprehensive wildfire-resilient building code. However, due to the absence of a statewide wildfire risk map, the 2019 standards were optional, requiring local action to implement.

Acknowledging a need for statewide protection, Section 12 of SB 762 built upon DCBS's 2019 code work and added a statewide mapping feature to ensure all Oregonians are adequately protected. SB 762 requires DCBS to:

- Adopt and enforce section R327 of the 2021 Oregon Residential Specialty Code ("R327") standard for all new dwellings and accessory structures on properties designated as high and extreme wildfire risk in the WUI.
- Amend section R327 to include standards for additions to existing dwellings and accessory structures, and for replacement of existing exterior elements covered in section R327.
- Within 60 days following development of the statewide wildfire risk map, develop an interactive mapping tool that displays, at the property level, these new wildfire mitigation standards to help make sure they are known and followed uniformly statewide. The tool must be free to the public, periodically updated when the relevant building code is updated, and support future inclusion of snow load, seismic and wind building code standards.

SB 762 did not change the overall state system of uniform codes, but did clarify which buildings are subject to hardening standards by DCBS: residential dwellings and regulated accessory structures. Commercial buildings, agricultural buildings on farms, manufactured housing, and certain temporary structures, such as RVs were not included. However, the legislature specifically directed DCBS to include exterior element hardening standards for additions and certain remodels of dwelling and accessory buildings.

#### II. Implementation to date

As SB 762 was adopted, the Legislature recognized that DCBS, local governments, and Oregonians would benefit from a predictable transition as R327 is implemented statewide. Under SB 762:

- DCBS completed the RAC process in June 2022, and will adopt the updated rules by October 1, 2022 with an effective date of April 1, 2023 as required by the bill.
- DCBS has until April 1, 2023, to educate building inspectors, contractors, and other officials before the hardening standards come into effect.
- Within two years DCBS must review R327 and make any “necessary adjustments to the applicability of the standards and permitting requirements in the code” as it relates to residential dwellings and accessory structures. This language was included to make sure that DCBS could implement the bill in an efficient manner.

DCBS is on track to meet these timelines. Additionally, DCBS will be joining OSFM in their public information campaign once the rules are adopted and the agencies work towards implementation. DCBS does not need additional resources, data, or information to implement Section 12 of SB 762.

### **III. Observations and Recommendations**

#### **A. Funding**

##### Observations

The estimated increased cost to a new home that is required to comply with the revised R327 building code (i.e., in the high or extreme risk category and in the WUI) could range from \$3,000 to \$12,000. For many Oregonians, this amount of increase will be unaffordable and may serve as a deterrent to appropriately hardening their homes. This may be particularly true in historically underserved communities. Resources will likely be needed to assist lower income property owners in meeting the standards of SB 762 and additional resources may be needed to incentivize voluntary hardening for properties and structures outside the scope of SB 762.

##### Recommendations

Given funding requests for various needs across the state, work group #2 does not have consensus that the state should fund home hardening to comply with R327. However, assuming some of these other funding needs can also be met, there is consensus that the state should subsidize compliance with R327, prioritizing investment based on need, location, and risk. The group had consensus to prioritize first properties are in High or or Extreme category, and in the WUI, and based on need, possibly up to 120%.

This is relatively easy to administer if the property is income-regulated and owned or managed by a nonprofit housing organization or agency. This might be expandable to Section 8 housing.

If funding is available, the work group would like to also include those properties owned by or for rent to those making 80-120% of area median income (AMI) located in the high or extreme

category and in the WUI, but most of that housing is likely to not be income-regulated, so we look to the Oregon Housing & Community Services department for guidance on how this median income group could be provided appropriate funding.

## **B. Education**

### Observations

DCBS will need to undertake a public information campaign to wider more diverse audiences than ever before. Under SB 762, all property owners in the high and extreme risk zones within the WUI, must now become familiar with R327 so that they are aware of the requirements for additions and replacement of covered exterior elements, like roofs and siding. A comprehensive education campaign will also lead to voluntary compliance with the R327 building code, even if one's home or other structure is not required to be hardened under the bill.

DCBS should prioritize educational efforts to limit the potential use of materials not meeting R327 standards in new construction or remodeling projects. The agency will need to do substantial outreach to communities, particularly those in rural areas, and socially and economically vulnerable communities, to build trust, provide technical assistance, and generally inform Oregonians about hardening standards. Given the disparity of fire risk across the state, particularly between rural and more populated urban centers, DCBS will need to be focusing its efforts on specific geographic regions of highest risk.

### Recommendations

The State should invest in a broad R327 education campaign, utilizing a variety of media and methods, as many Oregonians do not have access to computers or the internet, or may struggle to successfully utilize the interactive mapping tool. This should include, but not be limited to, the following, by DCBS alone or in conjunction with OSFM:

- Use a direct-mail campaign to property owners.
- Work with local businesses, such as local hardware stores and home improvement stores, to assist in the education effort.
- Partner with community partners, such as community-based organizations, local tribes, service organizations, health care providers, senior centers, local schools, community colleges, OSU extension, and more to provide information.
- Provide different types of educational materials (written, video, social media, etc..) and in appropriate languages.
- WPAC members should be provided adequate materials to also engage in outreach and be a resource for questions from the public. This could include a website where all the SB 762 resources and information are readily accessible to the public.
- Develop a program to measure success of the education campaign with frequent review and analysis, and report back to WPAC at each council meeting on their efforts and additional needs.

## C. Policy Gaps

### Observations

SB 762 provides that residential dwellings and regulated accessory structures in high and extreme zones in the WUI are subject to the revised R327 wildfire resilient building code. Commercial buildings, manufactured housing, and certain temporary structures, such as RVs, were not included under SB 762. Triplexes, and perhaps other types of middle housing, are also not captured by the R327 building codes, which apply only to single dwellings and duplexes, while the commercial building code applies to buildings of 4 or more units.

Work group #2 also heard that some local governments have previously adopted R327 standards for dwellings throughout the jurisdiction, or in portions of the jurisdiction that may not be mapped as a high or extreme risk area within the WUI.

We understand that DCBS interprets SB 762 as creating a “minimum/maximum” structure for the applicability of the R327 code. That is, the R327 code, as revised under SB 762, applies only in the high and extreme wildfire risk areas that are also in the WUI, as mapped by the Oregon Dept. of Forestry. Under this interpretation, local jurisdictions are not allowed to require application of the code, or any part of the code, outside that area (although homeowners and developers could voluntarily comply with it).

Finally, we also discussed whether “accessory structures” was overbroad, in that if the goal of SB 762 and the R327 building codes is life safety of residents, should an accessory structure include, for example, a pole barn set away from the home.

Therefore, throughout the implementation process, numerous questions were raised about whether hardening standards should be created for other structures, whether the DCBS application of R327 standards to certain “accessory structures” was overbroad, and whether the requirements of SB 762 could be extended to areas not contemplated by SB 762.

### Recommendations

- Wildfire resilient standards should be developed for manufactured homes, both for new homes and for remodeling of existing ones.
- Triplexes should be covered by the revised R327 code, if in the WUI and in a high or extreme risk area.
- The work group had consensus that we should see how DCBS applies the R327 code to “accessory structures” and add this to items for the WPAC to monitor and revisit as this program rolls out.

Work group #2 did not have consensus on (1) whether local jurisdictions that have already adopted the R327 building code and applied it to a geography larger than would be required by

SB 762 (for example, to an area that is in the “moderate” risk category and the WUI) should be “grandfathered-in” and (2) whether DCBS or local jurisdictions should have the discretion in the future to apply the R327 code beyond the high and extreme WUI area.

For some work group members, whether local jurisdictions should be allowed to be grandfathered- in might depend on how many there are, in that if they are few in number that seems more manageable. We discussed that those jurisdictions have already had a community conversation on wildfire risk, and decided to adopt the code. However, they might also be expecting SB 762 to supersede the local code. We know that the cities of Ashland, Grants Pass, and Medford have adopted the existing R327 code. There might be a few more jurisdictions; Doug is going to check this out and report to the WPAC.

Some work group members were comfortable ensuring that in the future, all jurisdictions have the discretion to adopt the R327 code; some were not.

Therefore, we bring both these issues to the full WPAC:

1. Should local jurisdictions that have already adopted the R327 building code and applied it to a geography larger than would be required by SB 762 be “grandfathered-in”?
2. Should DCBS or local jurisdictions have the discretion in the future to apply the R327 code beyond the high and extreme WUI area?

## DEFENSIBLE SPACE SECTION

### I. **Background and overview**

The responsibilities of the Oregon State Fire Marshal under Senate Bill 762 are set forth in Sections 8, 8a, 8b, 8c, 9 and 10 of the bill.

Section 8 defines defensible space as “a natural or human made area in which material capable of supporting the spread of fire has been treated, cleared or modified to slow the rate and intensity of advancing wildfire and allow space for fire suppression operations to occur.” OSFM is responsible for establishing minimum defensible space requirements for wildfire risk reduction. The focus on risk reduction is for lands in areas identified on the statewide map of wildfire risk as within the wildland urban interface (WUI), and designated as extreme or high risk on the statewide map of wildfire risk.

The Oregon State Fire Marshal must consult with the Oregon Fire Code Advisory Board to establish the minimum requirements that are consistent with and do not exceed the standards pertaining to defensible space that are set forth in the International Wildland-Urban Interface

Code published by the International Code Council, sections 603 and 604 of the code and best practices specific to Oregon. These requirements will be established on or before December 31, 2022.

Upon enactment, OSFM is tasked with enforcement of the new defensible space rules. Local governments are authorized to administer, consult on and enforce the new OSFM rules, or designate a local fire district, fire department or fire agency to enforce the OSFM rules, but are not required to do so.

In addition to the creation, adoption, and enforcement of defensible space requirements, OSFM is also charged with administering a community risk reduction program emphasizing education and risk prevention with respect to wildfires, enforcement of the new defensible space rules, and response planning and community preparedness for wildfire.

To implement its community risk reduction program, OSFM is authorized to provide financial, administrative, technical and other assistance to local governments to assist local government wildfire efforts.

OSFM is required to report biannually to the Oregon legislature regarding the status of its activities under Section 8a of the bill.

## **II. Implementation to date**

OSFM has three overarching priorities based on Senate Bill 762: create and adopt the defensible space code; create the Community Risk Reduction Program; and modernize and bolster response. Overall, they are on track and on time to meet these priorities.

Create and adopt the defensible space code: OSFM is still developing the code and has not yet addressed enforcing the code, which will be guided by the statewide risk map. They expect the code development committee will have this completed by the fall of 2022, at which point the rulemaking will begin. The agency is on track to meet the December, 2022 deadline for establishment of defensible space rules. OSFM is hosting a focus group on vegetation management best practices. OSFM IS working on a robust educational campaign.

Community risk reduction: OSFM has created two new programs in response to the overarching priorities. The first program is Fire Adapted Oregon, which is designed to help local communities with community risk wildfire reduction and preparedness, with state support and funding to achieve these initiatives. The 2021 Oregon legislature allocated \$25 million into this program. SB 762 requires local governments to prioritize use of financial assistance provided by OSFM to create defensible space for vulnerable Oregonians, including schools, hospitals, critical or emergency infrastructure, places that serve seniors, and lands owned by members of socially and economically vulnerable communities, persons with limited English proficiency, and persons of lower income.

OSFM started by focusing on schools and hospitals, creating funding opportunities that are open until July. Schools and hospitals were chosen by OSFM to receive funding first because of the life safety potential and because this was a manageable set of institutions to roll out the program. Five hospitals and 227 schools have applied and received funds thus far, with \$233,000 awarded. OSFM expects this could double by the end of the grant period. The focus of these grants is vegetation management.

OSFM has also created a Community Risk Reduction Unit. This Unit is broken into seven districts/zones across the state. Each Unit is now staffed with a OSFM representative, and a program coordinator has been hired to help each Unit director educate and initiate programs. The vision is to connect with local communities, engage with fire and local government entities to assist with the technical application of fire prevention actions, assist in community risk reduction, and connect local entities to grants, resources and other funding streams. OSFM identified and developed a process for social and economically vulnerable communities based on the Center for Disease Control & Prevention model, and are using census tracts to target areas of most risk, in addition to the areas currently being mapped by ODF and OSU.

Modernize and bolster response: OSFM created Response Ready Oregon to focus on reducing risk through effective and modern response and establishing a proactive approach to keep fires out of our communities. OSFM received a one-time allocation of \$55 million from the 2021 Oregon Legislature to fund the program. OSFM created three strategies to implement the program and utilize the legislatively authorized funds. The three strategies are Oregon Fire Mutual Aid System (OFMAS), Capacity Building, and Pre-Conflagration Response Programs. OSFM also created an engine program, staffing grants, and defensible space grants to modernize and bolster capacity in the Oregon Fire Mutual Aid System and to help with conflagration response.

### **III. Observations and recommendations**

Discussion focused on the purpose of the defensible space code: life safety, where people live, eat, and work. OSFM sought guidance from the workgroup on SB 762, Section 36(2)(f), which asks WPAC to assist in assessing the application of defensible space requirements to vineyards, crops, and other cultivated vegetation.

- Fire professionals advised OSFM that if vineyards, crops, and other cultivated vegetation are irrigated and maintained, or non-irrigated but maintained, throughout the year they have much less concern about fire risk in those areas and do not see a need for action in the defensible space code. Rather, the emphasis should be on education on vegetative choice/ modification, spacing, and undergrowth maintenance for those within the WUI High and Extreme Risk. This item will be further discussed at the full council meeting in July. The work group discussed giving local agencies the ability to exceed the code to address these types of situations but it would need to be in an established clear framework, and may be addressed in other existing sections of SB 762.

OSFM has made significant progress in the Fire Adapted Oregon and Response Ready Oregon programs under SB 762, thanks to one time funding. Unfortunately, this progress and the programs created will not be sustainable if funding does not continue. Risk reduction will go backwards. Momentum and effectiveness will be lost without a funding stream for these programs.

- Work Group 2 has concern over one time funding. The group appreciates and agrees with the approach of these programs but advises that sustainable permanent funding streams be identified and allocated to ensure the forward progress of these programs are not lost.

The Work Group discussed the relationship between state and local governments regarding the defensible space code. The defensible state code is a minimum code that OSFM must enforce throughout the state, unless a local government chooses to accept enforcement responsibilities in their jurisdiction.

- Work group members discussed local governments having the ability to supersede the OSFM rules within an established clear framework, much like what was discussed with the summer fallow hay discussion from Section 36(2)(f). Doing so would give the local experts the ability to address local jurisdiction threats that might not be a statewide issue.

We observed the need for a statewide educational initiative to help the public understand the goals of defensible space requirements, including for homes not in the high or extreme category and in the WUI. Doing so will ensure that in the event of fire, people will be able to evacuate safely and create defensible space to protect life and property, especially for the firefighters who are coming in to save lives, homes, and property. If we can educate the public this will aid in decreasing the risk to life and property. There is a lot of concern in the work group in ensuring delivery of information to the public.

- The work group had consensus of the importance of creating an internet dashboard where all Oregonians can type in their street address and have access to educational resources, the WUI and risk classification status for their property, OSFM and local government defensible space requirements, DCBS R327 requirements, and wildfire related programs, resources, and grants that may be available to them. This kind of “one-stop shop” would be a tremendous asset to Oregonians, and is recommended by the workgroup.