



# Senate Bill 762

## Wildland-Urban Interface Definition

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# Overview

- Requirement overview
- Rules Advisory Committee Process
- Staff Recommendation
- Next Steps



# Definition of Wildland-Urban Interface Requirement Review

- Significantly amends Oregon Revised Statutes (ORS) 477.015 to 477.064.
- **Directs the Board of Forestry to establish a definition of Wildland-Urban Interface (WUI).**
  - **The WUI definition must be adopted by rule within 100 days of the effective date of the bill.**
- Additionally, the rules must establish criteria to identify and classify the WUI.



**US Forest Service:** The wildland-urban interface qualitatively as a place where "humans and their development meet or intermix with wildland fuel."

**International WUI Code:** That geographical area where structures and other human development meets or intermingles with wildland vegetative fuels.

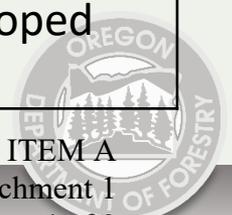
**National Fire Protection Association / Firewise:** An area where wildland fuels abut structures, with a clear line of demarcation between residential, business, and public structures and wildland fuels.

**National Wildfire Coordination Group:** The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetation fuels.

**Ready Set Go:** An area or zone where human development meets or mixes with natural vegetation.

**OR SB 360:** A geographic area of forestland inside a forest protection district where there exists a concentration of structures in an urban or suburban setting.

**Federal Register:** The area where houses meet or intermingle with undeveloped wildland vegetation.



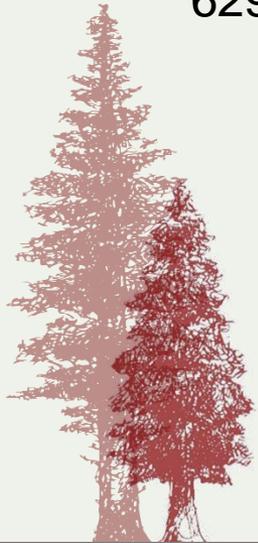
# Wildland-Urban Interface Rules Advisory Committee Process

- The Rules Advisory Committee (RAC) met 4 times between July 27 – August 17<sup>th</sup>.
- Department staff reviewed and presented seven definitions of “wildland-urban interface” that were consistent with national standards
- On August 10<sup>th</sup>, polling was conducted on three potential definitions with associated poll results.
- Additional polling on two definitions was conducted August 17, due to a clerical error.



# Staff Recommendation

- The Board adopts the following as the definition of wildland-urban interface:
  - “Wildland-Urban Interface means a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.”
- The Board directs the Department to proceed with the public hearing process and return in October 2021 with draft rule language for Chapter 629, Division 44 wildland urban interface definition.



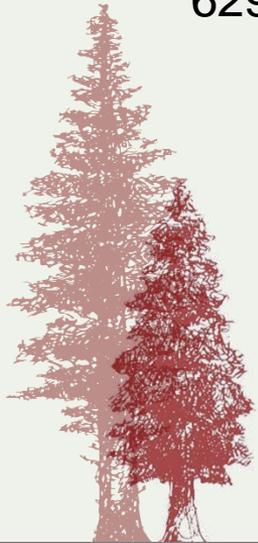
# Next Steps

- August 25, 2021 – Notice of Proposed Rulemaking and Fiscal Impact Statement sent to Secretary of State. Notify legislators and interested parties.
- September 22, 23, 24, 2021 – Conduct public hearings.
- October 18 - 22, 2021 – ODF submits final proposed rule with public comments to Board of Forestry for final consideration and approval.
- October 22, 2021 – Submit rule to Secretary of State and Legislative Counsel for filing. Effective date October 27, 2021.
- The Rules Advisory Committee will continue its work in criteria development, meeting bi-weekly starting September 7, 2021.



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# Questions?

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## OREGON HOUSE OF REPRESENTATIVES

August 23, 2021

Chair Jim Kelly  
Board Member Karla Chambers  
Board Member Ben Deumling  
Board Member Chandra Ferrari  
Board Member Joe Justice  
Board Member Brenda McComb

Dear Board of Forestry Members,

We are writing to clarify the record as you consider the recommendations and comments submitted by the Wildland-Urban Interface (WUI) rules advisory committee.

In the materials before the Board titled “RAC 1 Member Feedback on WUI Definition and FIS Received Through 8-17-21,” several members inaccurately declared that the legislature rejected the International WUI definition by allowing the Board to define the term by rule. They imply that the Board of Forestry should not consider the definition as recommended by most members of the rules advisory committee.

The legislature as a body did not take the definition off the table for rulemaking.<sup>1</sup> Deferring a decision to a rules advisory group empowers a different process for deciding on details; the only constraints placed on the Board of Forestry are found in section 31 of Senate Bill 762.<sup>2</sup>

It is important to review the context of the actions taken by the legislature. It is true that at least one legislator expressed *direct* concern on the record about relying on the International Code Council as a reference for statewide regulation.<sup>3</sup> However, the majority of concerns raised regarding the bill’s proposed WUI definition concerned the lack of process to select a definition in statute and a conflation of the definition with application of the definition. For example, there was nervousness that “criteria remain undefined in the bill

<sup>1</sup> The legislature adopted the international WUI definition through the -A12 amendment in the Capital Construction Subcommittee of Joint Ways and Means and again through the Full Joint Ways and Means Committee, then removed this definition through the -B17 amendment in a special Joint committee, then authorizing the Board to adopt a definition by rule.

<sup>2</sup> When developing criteria after a WUI definition is chosen, section 33(1)(b) and (2) of SB 762 says classification and identification criteria “(a) must recognize differences across the state in fire hazard, fire risk and structural characteristics within the wildland-urban interface and (b) may not exclude a category of land from inclusion in the wildland-urban interface.” Section 31 also requires that the Board of Forestry consider national best practices when adopting a definition and criteria.

<sup>3</sup>Clip:<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2021061197&startStreamAt=3183&stopStreamAt=3257>

[...] what defines a structure? Is it a dwelling? Is it a barn? Is it a fence? What defines human development? Does that mean a trail or a paved bike path? A plowed field?"<sup>4</sup>

The WUI definition is to serve as a starting point from which other statutorily directed rulemaking will refine its application by developing criteria. The WUI definition should not be viewed independently of the process to define criteria.<sup>5</sup>

Legislators still had concerns about how properties within the WUI would be treated even after the final amendment to Senate Bill 762 was adopted. Legislators wanted “to make clear that when we implement these rules that we are not intending to scrape the ground clear from 35-50 feet, that we are going to use some common sense in that process and balance defensible space with livability and with property values” and that density or acreage be considered when developing criteria.<sup>6</sup> One could argue that not having a definition in statute creates more ambiguity until defined by rule, and that doesn’t eliminate the need to identify criteria. Nevertheless, the legislature adopted this path.

Lastly, some rules advisory committee members expressed concern that insignificant structures may be captured in implementation. They fear this would bring more properties into the regulatory footprint of the bill that otherwise would not be captured. These concerns should be considered in the context of the bill and through a review of the posted legislative materials. Specifically:

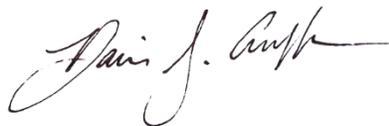
- The Oregon Department of Forestry and the Oregon State Fire Marshall have said trails, fences, and roads are not commonly relevant to the WUI criteria and defensible space requirements.<sup>7 8</sup>
- The law plainly reads that structures of interest concerning defensible space and building codes must be *both* in a high or extreme risk category *and* within the WUI as determined by refined criteria (sections 8a(3), 11(3), and 12(1)).

Thank you for your consideration of the legislative context. The goal of the new law is to protect lives, limit structural loss, and position Oregon to access all resources available to do this critical work. We want to thank the department’s staff for their professionalism during simultaneous rulemaking processes and acknowledge the long work ahead to fully implement the law.

Sincerely,



Speaker Tina Kotek



Representative Dacia Grayber



Representative Pam Marsh

<sup>4</sup>Clip:<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2021061190&startStreamAt=4712&stopStreamAt=4806>

<sup>5</sup>Clip:<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2021061190&startStreamAt=5146&stopStreamAt=5224>

<sup>6</sup>Clip:<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2021061185&startStreamAt=4388&stopStreamAt=4409>

<sup>7</sup>ODF and OSFM Joint Response concerning Defensible Space Applications <[246103 \(oregonlegislature.gov\)](https://olis.oregonlegislature.gov/liz/legislation/2021/03/246103)>

<sup>8</sup> ODF and OSFM Joint Response to Legislator Inquiries <[246104 \(oregonlegislature.gov\)](https://olis.oregonlegislature.gov/liz/legislation/2021/04/246104)>



To: Oregon Board of Forestry  
From: Mary Kyle McCurdy, Deputy Director  
Date: August 23, 2021

Re: Board of Forestry meeting of August 24, 2021  
Senate Bill 762 - Wildland Urban Interface Definition

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1000 Friends of Oregon is a nonprofit, membership organization that has worked with Oregonians for more than 40 years to support livable urban and rural communities; protect family farms, forests and natural areas; and provide transportation and housing choice. We have focused on the tools the land use planning program can bring to creating and maintaining a wildfire prepared and resilient Oregon, including publishing a comprehensive report on this subject,<sup>1</sup> and being and an active participant in the development of Senate Bill 762.

1000 Friends currently serves on two of the Rules Advisory Committees (RAC) formed to advise the Department of Forestry on implementation of SB 762, including on the definition of the wildland urban interface, as called for in Sections 31-33 of the bill, and the accompanying fiscal impact statement.

#### WUI Definition

As 1000 Friends stated in the RAC meetings, we support the staff recommendation to use the International Wildland-Urban Interface definition (IWUI), without change:

*“That geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.”*

We support this definition for the following reasons:

- SB 762, Section 33, requires that in defining the WUI, the Board of Forestry “consider[] national best practices.” Use of the International WUI definition meets that criterion. As noted in ODF presentations and other examples provided, this definition is used by fire professionals, federal agencies, the Council of Western State Foresters, and scientists. It is also used by most western states, at the state or local level, as the basis for an array of

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<sup>1</sup> 1000 Friends of Oregon, *A New Vision for Wildfire Planning: A report on Land Use and Wildfires*, <https://friends.org/sites/default/files/2019-04/A%20New%20Vision%20for%20Wildfire%20Planning%202018.pdf>

voluntary programs, regulatory structures, preventative actions, public health interventions, incentives, and/or other actions.

- Oregon’s WUI definition should be consistent with this broadly relied upon definition. Among other things, this allows better coordination across various jurisdictional boundaries and better positions Oregon for federal funding and funding from other sources.
- It is appropriate at this stage – which is simply defining the WUI - to use an inclusive definition. Among other things, later stages of implementing SB 762 will include policy and investment decisions about how to ensure our communities are more wildfire resilient and all Oregonians are safer from wildfire. Interventions will not be only regulatory, but will also include investments, subsidies, determinations about where to place life-saving equipment and fire-fighting resources, actions by the Oregon Conservation Corps, placement of wildfire smoke shelters, location of evacuation routes, and more. We should not artificially exclude areas now, an action that could result in actually harming Oregonians. The SB 762 implementation process allows for taking specific characteristics into account later.

#### Fiscal Impact Analysis

1000 Friends of Oregon supports the recommendation of the Department of Forestry staff that the fiscal impact of this WUI definition is indeterminate. At this stage, only the WUI definition is being adopted. It carries with it no regulatory or investment impacts. Those actions and their positive and/or negative fiscal impact on a variety of interests will flow from later definitions and other decisions whose outcome we do not know and therefore that we should not speculate about. When those decisions are made would be the relevant time to assess the fiscal impact.



August 24, 2021

Members of the Oregon Department of Forestry Board,

On behalf of the Oregon Fire Chiefs Association, thank you for the opportunity to share our support for adopting the International Wildland Urban Interface Definition (WUI) for purposes of implementing SB 762. The passage of SB 762 was a historic action for Oregon's fire service and the communities we protect. This legislation provided drastically needed resources to identify and mitigate risk where it is most present in Oregon.

Wildland Urban Interfaces across our state present the most risk to the lives, property, and well-being of Oregonians. Fires that start inside of the WUI have the potential to spread to communities and wreak the kind of destruction and turmoil we've seen throughout this fire season and the last. The Oregon Fire Chiefs Association's goal throughout the passage of SB 762 and the following Rules Advisory Committee has been to accurately identify the Wildland Urban Interface in Oregon and focus science-based risk reduction efforts to those areas.

Defining the Wildland Urban Interface is critical in achieving that goal. Our association remains consistent in our advocacy for a definition driven by science and data to most accurately identify where risk of wildfire exists in Oregon. Without a definition focused on accurately identifying Oregon's WUI, the investments the state has recently made cannot be spent as efficiently to reduce risk, which Oregon taxpayers deserve. Assessing the wildfire risk for a community should not be catered to political or special interests. To do so would place Oregonians in high risk areas as most likely to face the repercussions.

It is for these reasons we support the adoption of the International Wildland Urban Interface Definition. It is a science-based definition that has proven effective in states across the country. With a proper WUI definition and the map that will emerge from it, we can mitigate the risk of wildfires starting near our communities and have the necessary information to suppress them before they spread.

Thank you for the opportunity to share OFCA's position on this important topic and for your work to ensure healthy forests and communities in the State of Oregon.

Chief Roger Johnson, Sisters Camp Sherman Fire  
Chief Les Hallman, Tualatin Valley Fire & Rescue  
Chief Robert Horton, Jackson County Fire District 3

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**August 23, 2021**

**From: Phil Sollins**

**To: Oregon Department of Forestry**

**Wildland Urban Interface RAC**

By way of introduction, I'm a member of the Board of Directors of the Corvallis Rural Fire District and retired Professor of Forest Science in the College of Forestry, OSU. The following comments, however, reflect my own views, not necessarily those of either CRFPD or OSU CoF.

Of the various definitions offered to the RAC, I favor the IWUIC choice:

*Wildland-Urban Interface means a geographical area where structures and other human development meet or intermingle with wildland **or** vegetative fuels.*

The problem, however, is that the "or" greatly expands the WUI area. The "or" is needed because wildfire can originate in non-wildland. For example, most residential areas have more than enough vegetation to support wildfire ignition and spread. In fact, with strong wind and/or densely packed wood-frame structures, wildfire can spread house to house without involving any vegetative fuels. Moreover, many wildfires begin as structural fires, spread to planted trees and shrubs and then into forested areas.

The Alameda wildfire (Sept. 2020) is a good example of a wildfire that involved little or no wildland. The origin of that fire is apparently still uncertain, but its manner of spread is clear. The fire was carried by strong wind across a combination of residential "vegetative fuel" and structures, mainly wood-frame homes. Little if any "wildland" was involved.

The problem is then that the WUI may need to encompass most of the densely populated portions of OR. The strong winds accompanying the Eagle Creek fire sent firebrands across the Columbia, starting spot fires on the WA side. The Alameda fire involved little if any wildland. In fact, the most severe structural damage occurred in a densely packed residential neighborhood almost devoid of vegetation (see attached photos from Google Earth) The WUIC WUI definition would seem to include all wood-frame residential areas and even some urban areas, but it seems this expansive definition is necessary if we are to deal with the reality of wildfire under our already greatly changed climate.



BEFORE FIRE

AGENDA ITEM A  
Attachment 5  
Page 2 of 3





AFTER FIRE

AGENDA ITEM A  
Attachment 5  
Page 3 of 3



1000 ft

**Campaign Sponsor:** Associated Oregon Loggers,  
<https://www.votervoice.net/OregonLoggers/Campaigns/93856/Respond>

**Campaign Title:** Overly Broad WUI Definition Needs Modification

**Campaign Message:**

*Thank you for the opportunity to provide feedback on the development of a statewide wildfire urban interface (WUI) definition. This is a critical step for Oregon to address the growing wildfire risk across the state.*

*First, I want to remind the Board of Forestry that this is a regulatory definition. Those that fall within the designated WUI will have to follow new regulations, will incur costs and may find it harder to get insurance for a reasonable rate (if at all). The way WUI is defined will have adverse impacts that will be felt most intensely by those in the more rural parts of the state. This is why I feel the Board should focus the proposed definition further and layout the intended use of the definition more clearly.*

*Second, a broad definition doesn't help the state strategically focus taxpayer dollars at all! It truly is NOT in the best interest of the state to have a definition of WUI that does little to differentiate where it is and where it is not.*

*I suggest the Board uses clear and understandable language to help Oregonians best understand what is meant by WUI. A better WUI definition would be:*

*"The wildland urban interface is the geographic area where a concentration of dwellings meets unmanaged wildland fuels."*

*This definition does a much better job at clearly painting the picture for Oregonians about where the WUI is. Either way, the Board needs to consider the fact that this is a regulatory definition that will unduly impact some Oregonians and that a broad definition is unclear and lacks strategic focus for key state investments.*

**Submissions:** 8 emails as of 8:30 a.m. 8/23/2021