



STAFF REPORT

TO: Board of County Commissioners

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DATE: February 18, 2021

RE: Next Steps for Wildfire Mitigation Amendments

Staff is updating the Board of County Commissioners (Board) regarding possible code amendments related to wildfire hazard mitigation. This staff report is broadly grouped into the following categories:

- 1) Next Steps and Decisions: This section identifies the next steps the Board may take regarding this project over the near and medium term.
- 2) Amendments Discussion and Existing Standards: This section addresses background information for each proposed set of amendments, including exceptions, applicable geographic areas, a discussion of the County's current defensible space standards, and programmatic examples from other jurisdictions.

In addition, staff has created reference documents in conjunction with this report that provide context and detail regarding the Board's decision options. These documents include:

- 1) State Legislature and Implementation Challenges: This section describes possible examples of how the programs themselves might be implemented. Some major unknowns include which departments or agencies would be tasked with implementation, conflicts with other comprehensive plan priorities, and methodologies for selecting appropriate areas to apply the standards. This section also addresses a list of pending state-level legislative bills, which may affect local efforts to reduce wildfire hazard risks.
- 2) Background and Public Outreach: This section includes a brief summary of the actions taken to date regarding wildfire mitigation amendments and the public outreach efforts completed by the Community Development Department (CDD). Staff presented an initial draft of the

County's public outreach report to the Board on January 20, 2021. Some minor updates to the outreach report have been included based on comments from the Deschutes County Planning Commission and staff will apprise the Board of those changes¹.

I. Next Steps and Decisions

With the initial public outreach process complete, the Board may consider next steps at this meeting or a subsequent meeting regarding the future of any wildfire mitigation amendments. At this time, the Board's decision options fall broadly into the following categories:

- 1) Discuss initiating processes to:
 - a. Affirm or amend the Wildfire Hazard Zone;
 - b. Develop R327 text amendments, followed by public hearings and an adoption process; and
 - c. Develop Defensible Space Standard text amendments, followed by public hearings and an adoption process.
- 2) Monitor the Oregon State Legislature before proceeding
- 3) Direct staff to collect additional information on any outstanding questions

Each of the Board's decision options is described in the decision matrix below, which provides a general description of the approaches and a summary of the advantages and disadvantages of each. Following the matrix is a more thorough discussion of each decision option.

¹ A copy of Public Outreach Report is attached for reference

Options	Description	Pros	Cons
<p>Option 1:</p> <p>Monitor Oregon 2021 Legislative Session</p>	<p>The Oregon Legislature will consider a number of bills in 2021 addressing wildfire mitigation. Lawmakers are expected to examine how the state can reduce the impact of wildfire on its landscape and residents. Many of the same issues discussed in 2020 are expected to resurface.</p> <p>The governor’s 2020 proposal called for creating “defensible spaces” around homes to reduce the risk of wildfire damage.</p> <p>Bills introduced to date related to wildfire are summarized at the end of the matrix.</p>	<p>Administration: Waiting until the 2021 Legislative Session finishes allows Deschutes County to understand if the State of Oregon initiates a top-down approach related to fire-resistant building materials and defensible space.</p> <p>Cost: The State of Oregon may appropriate funding to help local governments with implementation.</p>	<p>Timing: Proposed wildfire mitigation legislation may not get adopted or provide local governments with adequate funding for implementation. State of Oregon may convene a working group to further evaluate wildfire mitigation measures and report back to the Legislature in 2022 or later.</p>
<p>Option 2-A:</p> <p>Fire Resistant Building Codes / Wildfire Hazard Zone County-Wide</p>	<p>Update the Deschutes County Building Code (in accordance with the 2019 Oregon Residential Specialty Code (ORSC) section R327 (Wildfire Hazard Mitigation)) which would require dwellings and their accessory structures in a Wildfire Hazard Zone (WHZ) to incorporate certain types of materials and requirements for roofing, ventilation, exterior wall coverings, overhanging projections, decking surfaces, and glazing in windows/skylights and doors.</p> <p>Staff can schedule a follow-up meeting with the Board to discuss in greater detail the number of rural vacant properties that would be affected, and the cost estimates for R327 including an updated breakdown based</p>	<p>Flexibility: Applying R327 to a countywide WHZ replaces or alters the County’s existing WHZ that currently prohibits wood-shake roofing material. R327 does have two mandatory exceptions:</p> <p><u>Infill exception:</u> Dwellings or accessory structures constructed on a lot in a subdivision, do not need to comply with Section R327.4 when at least 50 percent of the lots in the subdivision have existing dwellings that were not constructed in accordance with Section R327.4.</p> <p><u>Accessory structure exception.</u> Nonhabitable detached accessory structures, with an area of not greater than 400 square feet, located at</p>	<p>Timing: R327 does not apply to existing rural development for a period of 3 years from the date of adoption.</p> <p>Cost: Applying the new standards county-wide would potentially increase the cost of all new residential development moving forward. However, applying property or development specific exemptions may reduce certain costs.</p>

	<p>on the most recent building cost estimates.</p>	<p>least 50 feet from all other structures on the lot do not need to comply with R327.4.</p> <p><u>The County can apply additional exemptions:</u> [i.e. - additions (with or without a size limit), remodels, certain zoning designations, properties of a certain size, etc.]</p> <p>Administration: The Building and Safety Division can implement R327 without additional staffing.</p>	
<p>Option 2-B:</p> <p>Fire Resistant Building Codes / Customized Wildfire Hazard Zone</p>	<p>Update the Deschutes County Building Code (in accordance with the 2019 Oregon Residential Specialty Code (ORSC) section R327 (Wildfire Hazard Mitigation)) which would require dwellings and their accessory structures in a tailored Wildfire Hazard Zone (WHZ) to incorporate certain types of materials and requirements for roofing, ventilation, exterior wall coverings, overhanging projections, decking surfaces, and glazing in windows/skylights and doors.</p>	<p>Flexibility: Applying R327 to a customized WHZ can be justified as a pilot project.</p> <p>Applying R327 to a customized WHZ replaces or alters the County’s existing WHZ that currently prohibits wood-shake roofing material. R327 does have two mandatory exceptions:</p> <p><u>Infill exception:</u> Dwellings or accessory structures constructed on a lot in a subdivision, do not need to comply with Section R327.4 when at least 50 percent of the lots in the subdivision have existing dwellings that were not constructed in accordance with Section R327.4.</p> <p><u>Accessory structure exception:</u> Nonhabitable detached accessory structures, with an area of not greater than 400 square feet, located at</p>	<p>Risk: An amended WHZ may exclude large portions of Deschutes County. Additionally, the County could no longer prohibit untreated wood shake/shingle roofs outside of the WHZ.</p> <p>Timing: R327 does not apply to existing rural development for a period of 3 years from the date of adoption.</p> <p>Implementation: Selecting a more refined methodology for how to alter the WHZ may be a laborious process and could invite contention from various parties throughout the County. A large portion of community members are supportive of maintaining the WHZ as it currently exists.</p> <p>Cost: Applying the new standards to a customized WHZ would potentially</p>

		<p>least 50 feet from all other structures on the lot do not need to comply with R327.4.</p> <p><u>The County can apply additional exemptions:</u> [i.e. - additions (with or without a size limit), remodels, certain zoning designations, properties of a certain size, etc.]</p> <p>Administration: The Building and Safety Division can implement R327 without additional staffing.</p>	<p>increase the cost of all new residential development in those remaining areas moving forward. However, applying property or development specific exemptions may reduce certain costs.</p>
<p>Option 3-A: Defensible Space / New Development / County Zoning</p>	<p>Defensible space is the buffer created between a building and the grass, trees, shrubs, or any wildland areas that surround it. This space is needed to slow or stop the spread of wildfire and helps protect structures themselves from catching fire.</p> <p>Deschutes County’s zoning code can be amended to require new rural development and accessory structures to document prior to the issuance of building permit or prior to final inspection, that the rural fire protection district (or appropriate authority) has evaluated and approved any required defensible space.</p>	<p>Administration: Deschutes County Code in Forest Use Zones (F1 and F2) requires new residential development and accessory structures document prior to issuance of building permit that the rural fire protection district has approved the defense space.</p> <p>The Planning Division can implement this concept to other zones without additional staffing.</p>	<p>Risk: Defensible space would not apply to existing rural development.</p> <p>Administration: Including additional defensible space standards in the Deschutes County Zoning Code may significantly increase resources necessary to ensure compliance [i.e.- a possible increase in code enforcement proceedings].</p> <p>Cost: Additional costs and possible development review for affected community members implementing new standards.</p>

<p>Option 3-B: Defensible Space / Existing Development / County Zoning</p>	<p>Deschutes County’s zoning code can be amended to require new and existing rural development and accessory structures to document that the rural fire protection district (or appropriate authority) has evaluated and approved any required defensible space.</p>	<p>Risk: Ensures the maximum level of risk reduction if compliance can be maintained.</p>	<p>Administration: Likely to establish significant staffing resource needs. Code enforcement complaints are likely to experience a significant increase, particularly during the earlier phases of implementation. Implementation and compliance may take significantly more time to achieve given the very large number of parcels and structures in the rural County</p> <p>Costs: Additional costs and possible development review for affected community members.</p>
<p>Option 3-C: Defensible Space / Existing Development / Rural Fire Protection Districts</p>	<p>Explore applying defensible space to existing development based on Title 8 through a partnership with rural fire protection districts.</p> <p>Staff, based on direction from the Board can engage rural fire protection districts to discuss such a concept.</p>	<p>Administration: Would allow the Community Development Department to place some administrative duties with fire protection officials and experts in the field [i.e.- more likely to see compliance if enforcement comes from fire protection officials]</p> <p>More widespread monitoring to identify problematic areas and delinquent property owners.</p>	<p>Administration: Unclear if fire protection districts would have interest in administering these standards. If no partnership is established, implementation may fall exclusively on the Community Development Department or the County Forester, which already has limited resources.</p> <p>Costs: Additional costs and possible development review for affected community members.</p>
<p>Option 4: Additional Information</p>	<p>Direct staff to collect additional information regarding the proposed amendments, implementation scenarios, and/or costs.</p>	<p>Administration: The Planning Division can gather additional information without additional staffing.</p>	<p>Timing: Waiting may increase implementation challenges or costs in the future.</p>

Monitor the State Legislature

A number of bills are pending in the 2021 state legislative session relating to wildfire recovery and mitigation. Monitoring the Oregon Legislature has its advantages, as any statewide bills may supersede local efforts.

Waiting until the 2021 Legislative Session finishes allows Deschutes County to understand if the State of Oregon initiates a “top-down” approach related to fire-resistant building materials and defensible space and whether there is funding to help local governments with implementation.

Conversely, waiting for the Oregon Legislature to finish its regular session has disadvantages. Any proposed wildfire mitigation legislation may require subsequent State agency mapping, rulemaking, or staffing a committee, delaying local wildfire hazard mitigation measures for one or more years. For example, it is possible that the State of Oregon will convene a working group to further evaluate wildfire mitigation measures and report back to the Legislature in 2022 or later. In addition, legislation may not provide local governments with adequate funding for implementation. Additionally, in 2020, many Oregonians expressed frustration with a delayed response from the State. According to State Forester Peter Daugherty, waiting is not the best option:

“A lot of people would say, we’ve been waiting a number of years with fuel build ups and have known about the conditions for almost a decade and of the need for fuel reductions and restoration on federal lands”²

Adoption of R327

If the Board directs staff to initiate a process to develop and adopt R327 into DCC, staff will provide the Board with options to develop and initiate the text amendments.

Affirming or Altering the Wildfire Hazard Zone

The Board may affirm or consider updating the existing Deschutes County Wildfire Hazard Zone (WHZ). Altering the WHZ would affect implementation of R327 as well as the fire resistant roofing standards.

Drafting and Adopting Defensible Space Requirements

The Board can amend sections of DCC to require new rural development and accessory structures to implement defensible space standards. The Board would need to determine if defensible space standards would apply to all development, or only new development. When applied only to new development (as with current County defensible space standards in the Forest Zone) these requirements would be evaluated prior to the issuance of building permit or prior to final inspection for any proposed development.

² <https://mailtribune.com/news/top-stories/some-oregon-legislators-want-to-wait-until-2021-to-consider-wildfire-bills>

If the Board directs staff to initiate a process to develop and adopt defensible space standards, staff will provide the Board with options to develop and initiate the text amendments.

Additional Information Collection

Beyond the outlines identified above, the Board may request staff to collect additional information regarding any outstanding concerns. Electing to gather additional information does not preclude the Board from moving forward with the other possible decision options described above.

II. Amendments Discussion and Existing Standards

The following section provides a greater level of detail for the proposed amendments, including outcomes for altering the Wildfire Hazard Zone, existing County defensible space programs, defensible space programs from other communities, and the level of local control possible in adopting building code amendments. The section consists of the following discussion categories:

- 1) R327: Exceptions and Administration
- 2) Wildfire Hazard Zones
- 3) Existing Defensible Programs: Deschutes County and Jackson County

R327: Exceptions

The State Building Codes Division (BCD) amended ORSC R327 – Wildfire Hazard Mitigation in January 2019³. Local governments now have the option of adopting R327 into their regulatory framework. Cities within Deschutes County's building jurisdiction, such as La Pine and Sisters, may locally adopt or opt-out of such rules independently from the County. For the purposes of this project, the focus will remain on unincorporated areas of the County.

The amendments require new residential construction in a Wildfire Hazard Zone to use certain types of materials and incorporate specific requirements for roofing, ventilation, exterior wall coverings, overhanging projections, decking surfaces, and glazing in windows/skylights and doors. No individual construction elements can be amended by local governments if R327 is adopted (i.e. – all R327 standards must be applied to relevant properties).

R327 includes the following mandatory exceptions that do not allow local control:

- Infill Exception: Dwellings or accessory structures constructed on a lot in a subdivision, do not need to comply with R327.4 when at least 50 percent of the lots in the subdivision have existing dwellings that were not constructed in accordance with Section R327.4.
- Accessory Structure Exception: Non-habitable detached accessory structures, with an area of not greater than 400 square feet, located at least 50 feet from all other structures on the

³ A copy of ORSC R327 is attached to this report for reference

lot do not need to comply with R327.4.R327 allows some flexibility in where new standards may be applied.

- Initial Exemption: Existing lots in the rural County would be broadly exempted from R327 for a period of three years from the date of adoption. This would establish a more phased-in approach to the new amendments, and would allow local residents and property owners a grace period to prepare for how R327 might affect any proposed development.

Perhaps most important, R327 includes the following language:

“Nothing in the code or adopting ordinance prevents a local municipality from waiving the requirements of Section R327.4 for any lot, property or dwelling, or the remodel, replacement or reconstruction of a dwelling within the jurisdiction”

As written, R327 could allow for exceptions on a property-by-property basis, (or development-by-development) basis. For example:

- Jurisdictions can exempt parcels which are over or under a certain size.
- Jurisdictions can exempt parcels which are located in certain zoning designations.
- Jurisdictions can determine whether additions (with or without size limitations) and remodels of existing structures would be subject to the proposed standards.
- Jurisdictions can elect whether to apply these standards to individual lots or subdivisions, etc.

If adopted and the Board elects to pursue a more targeted implementation of R327, it should outline a specific selection process and applicable criteria for property or development exceptions, such as zoning designations, parcel sizes, etc.

The code also requires that the local municipality include a process for resolving disputes related to the applicability of the local ordinance and R327 more broadly.

R327: Administration

If adopted, implementation of the R327 standards should likely have no major administrative challenges. The Building and Safety Division can implement R327 without additional staffing and these standards would be evaluated along with existing building requirements at the time of residential permit review, provided the exceptions summarized above are minimal and efficient to administer. Of course, the Board would ultimately need to address certain items before proceeding with implementation, such as residential additions and parcel exemptions.

Wildfire Hazard Zones

If adopted, the provisions of R327 would only apply in designated Wildfire Hazard Zones (WHZs). The County may also elect to apply any new defensible space programs to those areas located in WHZs. Utilizing WHZs as the geographic basis for defensible space programs is an approach which

has been utilized by other jurisdictions such as Jackson County, Oregon, whose program is discussed in subsequent sections.

WHZs are defined in OAR Chapter 629, Division 44, and are determined by specific Oregon Department of Forestry (ODF) criteria. Those criteria are based on the following characteristics⁴:

- Weather
- Topography
- Vegetative Fuel Type
- Vegetative Fuel Distribution

Each factor is assigned a value from 0-3, with three (3) the most hazardous value. WHZs are those areas where the cumulative value of the hazard rating of all four factors is seven (7) or above. In the present case, all of Deschutes County has an aggregate hazard value of 7.27.

In 2001, Deschutes County adopted a WHZ based on these criteria to prohibit untreated wood shake-roofs⁵. The current WHZ, adopted in 2001, encompasses the entire rural County.

As discussed previously, during the Wildfire Mitigation Advisory Committee (WMAC) discussions, committee members fell broadly into two possible categories regarding adoption of R327 and Wildfire Hazard Zones⁶:

- 1) The Wildfire Hazard Zone should continue to apply to the entire rural County.
- 2) The Wildfire Hazard Zone should apply only to Community Wildfire Protection Plan (CWPP) sub-regions which met the applicable ODF wildfire hazard criteria.
 - a. In addition, these members recommended the following exemptions to R327:
 - i. Only apply the updated standards to properties within the Forest (F1 and F2) and Rural Residential (RR10) Zones.
 - ii. Only apply the updated standards to newly created lots in the WHZ.
 - b. In essence, these recommendations would not apply R327 standards until a new lot was created in F1, F2, or RR10 zoning districts, which are also located within a designated WHZ.

For WMAC members who supported maintaining the status quo, their rationale was:

- The current WHZ best depicts the actual hazard threat across the entire County based on the aggregate hazard value.

⁴ OAR 629-044-0220

⁵ Ordinance 2001-024 adopted a WHZ

⁶ A copy of the WMAC final report is attached for reference

- The other approaches are based on arbitrary standards (i.e. - no reasonable basis to exempt certain areas, such as CWPP sub-regions).
- Altering the existing WHZ would have cascading effects, losing one of the only wildfire mitigation code requirements in place today (i.e. - the prohibition of untreated wood shake-roofs).

For WMAC members who supported altering the WHZ, their rationale was:

- Increased costs to implement R327 across the entire County.
- Diminishing returns from requiring these standards in areas of the County that may have significantly lower wildfire risk than other more vulnerable regions (i.e. - agricultural parcels with irrigated pasture lands, versus heavily forested parcels).

As described in the Public Outreach Summary Report, a majority of the respondents in the online survey process favored maintaining the existing WHZ rather than limiting the district to only properties in the Forest and Rural Residential Zones. A plurality, but not a full majority, of the respondents through the phone survey process favored maintaining the existing WHZ rather than limiting the district to only properties in the Forest and Rural Residential Zones. These trends held true across both rural and urban residents; however, there was slightly less support for maintaining the current WHZ when only accounting for rural residents.

It should be noted that the public was not asked about the specific approach proposed by one subset of the WMAC, namely reducing the WHZ based on Community Wildfire Protection Plan (CWPP) sub-regions, and then further exempting all remaining properties not within the Forest or Rural Residential Zones from the standards of R327. Due to the complexity of that specific process and the risk of confusing respondents, staff opted to reframe the question into a simpler choice:

- 1) Maintain the current WHZ
- 2) Reduce the WHZ to include only Forest and Rural Residential Zones
- 3) Implement no additional wildfire related building standards

There are advantages and disadvantages to both possible approaches recommended by the WMAC. Maintaining the current WHZ would mitigate the need for further code amendments and the additional process that entails. Additionally, it would ensure the broadest possible wildfire mitigation. Altering the WHZ could possibly reduce the overall cost of implementation as a smaller number of parcels would ultimately be affected. However, as described above, altering the current WHZ would create some secondary consequences. The principal impact would be the loss of untreated wooden shake-roofing prohibitions which have been in place County-wide since 2001.

Finally, the County may implement more refined WHZ standards than the two general options outlined above. However, the Board should be aware that electing to move forward in this manner will require the County to create a clear methodology for establishing the modified WHZ. A more targeted approach to the WHZ may also create uncertainty for community members regarding

whether their specific properties, or portions of their properties, are located within a designated hazard area. As local municipalities have broad exemption latitude under R327, the County may elect to maintain the WHZ as is, while citing property specific exemptions through the local building code adoption process.

Defensible Space Programs: Deschutes County Standards

Deschutes County currently has existing defensible space standards in place for properties located in Forest Zones (F1 and F2 zoning districts), outlined in Deschutes County Code (DCC) Chapters 18.36 and 18.40⁷. Under the current program, defensible space standards are required for all new dwellings and permanent structures developed within a Forest Use Zone, including replacement dwellings.

The specific standards include (DCC 18.36.070(B) and DCC 18.36.40.070(B)):

Firebreaks. The owners of dwellings and structures shall construct and maintain the following firebreaks on land surrounding the structures that is owned or controlled by the owner:

- 1) Primary Firebreak. Prior to use of the structure, a primary firebreak, not less than 10 feet wide, shall be constructed containing nonflammable materials. This may include lawn, walkways, driveways, gravel borders or other similar materials.
- 2) Secondary Firebreak. A secondary firebreak of not less than 20 feet shall be constructed outside the primary firebreak. This firebreak need not be bare ground, but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.
- 3) Fuel Break. A fuel break shall be maintained, extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to the beginning of the coming fire season.
- 4) No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.

Conformance with the firebreak standards is confirmed through a land use application and decision process. In practice, the applicable fire protection district or a certified fire protection consultant verifies the firebreak standards described above prior to the final inspection of the development by the Building and Safety Division. These same standards are generally upheld in perpetuity through the recording of a Conditions of Approval Agreement. Should the firebreak standards be violated at

⁷ Copies of DCC 18.36 and 18.40 are attached for reference

some point, the property owners may be subject to code enforcement proceedings in order to reestablish compliance.

Additionally, the Board adopted defensible space requirements for unprotected lands in 2011, pursuant to DCC Chapter 8.21⁸. Unprotected lands are defined as "...those privately owned wildlands in Deschutes County located outside the boundaries of any forestland protection district, fire protection district, city or the Oregon Department of Forestry."

DCC 8.21 requires that owners of unprotected lands shall comply with the applicable defensible space standards. However, certain property owners have discretion for whether or not to apply the defensible space standards:

- Developed lands classified as High, Extreme or High Density Extreme under ORS 477.015 to 477.061, which are subject to fire protection by the Oregon Department of Forestry
- Vacant lands classified as High Density Extreme under ORS 477.015 to 477.061, which are subject to fire protection by the Oregon Department of Forestry
- Lands within the city limits of Bend, Redmond, La Pine and Sisters
- Lands subject to fire protection from a rural fire protection district or from a county service district

Many of these unprotected lands also fall within the Forest Use Zone, and thus have a corresponding planning review component under DCC 18.36 or DCC 18.40. However, there are certain areas of the County outside of Forest Use Zones that also constitute "unprotected lands" as defined in DCC 8.21.

For properties that must comply with DCC 8.21, property owners shall provide primary and adjacent secondary fuel breaks for the following areas:

- 1) For driveways that are longer than 150 feet immediately adjacent to driveways, for a distance of at least 10 (ten) feet on each side of the centerline of the driveway, or to the property line, whichever is the shorter distance. The distance shall be measured along the slope. Including the driving surface, a fuel break shall result in an open area which is not less than 13.5 feet in height and 12 feet in width or to the property line, whichever is the shorter distance.
- 2) Adjacent to structures:
 - a. Remove any portion of a tree which extends to within 10 feet of the outlet of a structure chimney or a stove pipe.
 - b. Maintain the portion of any tree which overhangs a structure by removing substantially dead plant material.

⁸ A copy of DCC 8.21 is attached for reference

- c. Maintain the area under decks substantially free of firewood, stored flammable building material, leaves, needles, and other flammable material.
 - d. During times of the year when wildfire may be a threat, place firewood, flammable building material, and other similar flammable material at least 20 feet away from a structure or in a fully enclosed space.
- 3) On vacant lands less than five acres in size, the landowner shall provide fuel breaks which comply with the requirements of DCC 8.21.060 and which are immediately adjacent to all:
- a. Property lines, for a distance of at least twenty (20) feet or to the nearest adjacent property line, whichever is the shorter distance. The distance shall be measured along the slope.
 - b. Roads, for a distance of at least thirty (30) feet from the center of a road, or to the nearest adjacent property line, whichever is the shorter distance. The distance shall be measured along the slope.

The specific requirements for primary and secondary fuel breaks are defined in DCC 8.21.060.

For those property owners without discretion, all unprotected wildland which does not comply with the standards of DCC 8.21 can be declared to be a hazard and a public nuisance. Nuisance properties are those defined as having inadequate fire protection and the property owner's or occupant's failure to comply with the requirements of DCC 8.21 endangers life, forest resources, or property. If the County Forester learns of a nuisance property, the Forester shall advise the owner or occupant to take proper steps to correct the nuisance condition. If the owner or occupant fails or refuses to correct the nuisance condition within a specified time, then the Forester may undertake work necessary to abate and correct the nuisance condition. Additionally, the owner or occupant of property is liable for the cost of remediation work and any patrol rendered necessary by the failure of the owner or occupant to remedy the nuisance condition. Violations of DCC 8.21 constitutes a Class A violation. The County Forester is authorized to issue citations that charge a person with a violation of DCC 8.21. A person liable for prosecution for a violation of DCC 8.21 is subject to a civil penalty not to exceed \$720.00 per day the violation exists.

Finally, DCC 8.21 also grants the County Forester the authority to reduce or waive any standards or requirements if the Forester finds that specific conditions warrant that approach.

Defensible Space Programs: Jackson County Standards

To provide some context for how other jurisdictions have addressed defensible space standards, staff has outlined an example from Jackson County, Oregon. Jackson County currently maintains fuel reduction standards under a similar program as Deschutes County's Forest Zone defensible space requirements. Specifically, Section 8.7 of the Jackson County Land Development Ordinance⁹ outlines mandatory standards for all new and existing structures located in areas subject to wildfire hazard as identified on the County's "Hazardous Wildfire Area Map." While broadly similar

⁹ A copy of Jackson County Land Development Ordinance Chapter 8 is attached for reference

to Deschutes County's Forest Zone standards, the Jackson County program is tailored more directly to regions of the County most subject to wildfire hazards, regardless of the underlying zoning district.

The general standards of Jackson County's Land Development Ordinance dealing with defensible space include:

- A minimum 100-foot fuelbreak must be developed and maintained around all new structures in areas identified on the County's "Hazardous Wildfire Area Map."
- Any required fuelbreaks may be extended onto an adjoining property with a recorded fuelbreak easement.
- Fuelbreaks are not required on the side of a property that abuts a county, state or federally improved and maintained road right-of-way, but are required on all other sides.
- No riparian habitat may be removed in order to establish fuelbreak. If required fuelbreaks are located within a protected riparian area, a fuelbreak reduction is required for that portion of the required fuelbreak.
- Any required fuelbreaks are measured from a structure's outermost walls, combustible decks, or other combustible attachments.

The development code contains the following fuelbreak characteristics:

- Primary Fuelbreaks:
 - A minimum 50- foot primary fuelbreak is required for all lands identified as a wildfire hazard.
 - Vegetation within the primary fuelbreak may include grass maintained at less than six (6) inches in height and low fuel volume, fire resistant shrubs. Highly combustible shrubbery, such as juniper, is prohibited.
 - Trees will be horizontally spaced with more than 15 feet between the trunks, and will be pruned to remove branches that are dead or that are less than 10 vertical feet above the ground.
 - A 10-foot clearance between branches and stove pipes or chimney outlets must be maintained. Deciduous tree branches must be no closer than 10 feet from the roof; evergreen branches must be no closer the 25 feet from the roof. Accumulated leaves, needles, limbs and other dead vegetation must be removed.
 - Flammable groundcover materials (i.e. - bark mulch) may not be used in landscaping within 12 inches of buildings.

- Firewood piles, slash piles, and woodsheds will be placed at least 30 feet from all structures.
- Secondary Fuelbreaks:
 - A minimum 50 foot secondary fuelbreak is required which extends in all directions around the primary fuelbreak.
 - An additional 50 feet, for a total of 100 feet, will be added to the secondary fuelbreak when the natural slope of the area within 100 feet of the proposed structure exceeds 20 percent. This additional 50 feet is added to the area below and to each side of the proposed structure.
 - Trees will be spaced with more than 15 horizontal feet between the trunks, and will be pruned to remove branches that are dead or that are less than 10 vertical feet above the ground. Ornamental and fruit trees are excluded from the spacing standards, provided they are kept green and free of dead material. Small trees and brush growing underneath larger trees should be removed.
 - Dead plant material must be removed, which includes pruning dead branches from trees and shrubs. Understory vegetation may include grass or groundcover maintained at less than 12 inches in height and low fuel volume, fire resistant shrubs.

Compliance of all fuelbreak standards are verified through a Fire Safety Inspection as coordinated through Jackson County Development Services and occurs prior to issuance of building permits for a proposed development.

Jackson County has specific exemptions to the standards outlined above. Those exemptions include:

- Interior remodels are exempt from the wildfire safety requirements.
- Existing structures that have been lawfully constructed and were in compliance with the permit and regulations in effect at the time of construction are exempt from the fuelbreak distance requirements, and may be expanded or replaced within a lawful nonconforming fuelbreak if:
 - The expansion/replacement is less than 50% of the square footage of the existing originally approved and constructed building floor plan or 1,000 square feet whichever is less.
 - Any expansion/replacement is not placed further inside a lawful non-conforming fuelbreak than what currently exists.

- Non-habitable structures less than 400 square feet in size, which are not located in a forest zoning district, are exempt from the wildfire safety requirements.
- Transmission and Utility Towers, which are not located in a forest zoning district, are exempt from the wildfire safety requirements.
- The fire district having jurisdiction or the Oregon Department of Forestry (ODF) if not in a fire district may authorize or make the determination that existing trees can remain if it is found that they do not pose a significant wildfire hazard.

Beyond these exemptions, Jackson County allows reductions to the fuelbreak standards outlined above in certain scenarios, such as when fuelbreaks are required in a designated riparian habitat area. The County, upon receipt of a written authorization from a designated fire protection district, or the Oregon Department of Forestry, shall approve a reduction in the width of the fuelbreak as prescribed by the controlling agency.

While not comprehensive, the summary of the Jackson County standards above illustrates how an Oregon jurisdiction has adapted defensible space requirements into its local development program. Numerous other examples exist from Colorado counties and around the country. This summary may provide useful to the Board when discussing how a Deschutes County defensible space program may be implemented and how certain conflicts and administrative challenges could be addressed.

Reference Document Attachments:

Document	Item No.
Jackson County Land Development Ordinance - Chapter 8	10
Deschutes County Code (DCC) – Chapter 8.21	9
Deschutes County Code (DCC) – Chapter 18.40	8
Deschutes County Code (DCC) – Chapter 18.36	7
Wildfire Hazard Zone Maps	6
Oregon Residential Specialty Code (ORSC) R327 – Wildfire Hazard Mitigation	5
Wildfire Hazard Mitigation: Public Outreach Report	4
Wildfire Mitigation Advisory Committee (WMAC) Final Report	3
Background and Public Outreach Reference Document	2
State Legislature and Implementation Reference Document	1