

# House Bill 3544

Sponsored by Representative MORGAN, Senator SMITH DB; Senator FINDLEY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Removes requirement that State Forestry Department oversee development of statewide map of wildfire risk.

Prohibits department from using map of wildfire risk other than for certain purposes and from including properties outside wildland-urban interface in map of wildfire risk.

## A BILL FOR AN ACT

1  
2 Relating to wildfire; creating new provisions; amending ORS 215.495, 455.612, 476.392, 476.690,  
3 477.027 and 477.748 and sections 8c and 12d, chapter 592, Oregon Laws 2021; and repealing ORS  
4 477.490 and section 7a, chapter 592, Oregon Laws 2021.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. ORS 477.490 and section 7a, chapter 592, Oregon Laws 2021, are repealed.**

7 **SECTION 2.** ORS 215.495, as amended by section 5, chapter 85, Oregon Laws 2022, is amended  
8 to read:

9 215.495. (1) As used in this section:

10 (a) "Accessory dwelling unit" has the meaning given that term in ORS 215.501.

11 (b) "Area zoned for rural residential use" has the meaning given that term in ORS 215.501.

12 (c) "Single-family dwelling" has the meaning given that term in ORS 215.501.

13 (2) Consistent with a county's comprehensive plan, a county may allow an owner of a lot or  
14 parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the  
15 lot or parcel, provided:

16 (a) The lot or parcel is not located within an area designated as an urban reserve as defined in  
17 ORS 195.137;

18 (b) The lot or parcel is at least two acres in size;

19 (c) One single-family dwelling is sited on the lot or parcel;

20 (d) The existing single-family dwelling property on the lot or parcel is not subject to an order  
21 declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;

22 (e) The accessory dwelling unit will comply with all applicable laws and regulations relating to  
23 sanitation and wastewater disposal and treatment;

24 (f) The accessory dwelling unit will not include more than 900 square feet of usable floor area;

25 (g) The accessory dwelling unit will be located no farther than 100 feet from the existing  
26 single-family dwelling;

27 (h) If the water supply source for the accessory dwelling unit or associated lands or gardens  
28 will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within  
29 an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been re-  
30 stricted by the Water Resources Commission;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (i) No portion of the lot or parcel is within a designated area of critical state concern;

2 (j) The lot or parcel is served by a fire protection service provider with professionals who have  
3 received training or certification described in ORS 181A.410;

4 (k) If the lot or parcel is [*in an area identified on the statewide map of wildfire risk described in*  
5 *ORS 477.490 as*] within the wildland-urban interface, the lot or parcel and accessory dwelling unit  
6 comply with any applicable minimum defensible space requirements for wildfire risk reduction es-  
7 tablished by the State Fire Marshal under ORS 476.392 and any applicable local requirements for  
8 defensible space established by a local government pursuant to ORS 476.392;

9 (L) Statewide wildfire risk maps have been approved and the accessory dwelling unit complies  
10 with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped  
11 area; and

12 (m) The county has adopted land use regulations that ensure that:

13 (A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource  
14 use;

15 (B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation  
16 and staged evacuation areas; and

17 (C) If the accessory dwelling unit is not [*in an area identified on the statewide map of wildfire*  
18 *risk described in ORS 477.490 as*] within the wildland-urban interface, the accessory dwelling unit  
19 complies with the provisions of this section and any applicable local requirements for defensible  
20 space established by a local government pursuant to ORS 476.392.

21 (3) A county may not allow an accessory dwelling unit allowed under this section to be used for  
22 vacation occupancy, as defined in ORS 90.100.

23 (4) A county that allows construction of an accessory dwelling unit under this section may not  
24 approve:

25 (a) A subdivision, partition or other division of the lot or parcel so that the existing single-family  
26 dwelling is situated on a different lot or parcel than the accessory dwelling unit.

27 (b) Construction of an additional accessory dwelling unit on the same lot or parcel.

28 (5) A county may require that an accessory dwelling unit constructed under this section be  
29 served by the same water supply source or water supply system as the existing single-family dwell-  
30 ing, provided such use is allowed for the accessory dwelling unit by an existing water right or a use  
31 under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the ac-  
32 cessory dwelling unit shall maintain all setbacks from the well required by the Water Resources  
33 Commission or Water Resources Department.

34 (6) An existing single-family dwelling and an accessory dwelling unit allowed under this section  
35 are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).

36 (7) Nothing in this section requires a county to allow any accessory dwelling units in areas  
37 zoned for rural residential use or prohibits a county from imposing any additional restrictions on  
38 accessory dwelling units in areas zoned for rural residential use, including restrictions on the con-  
39 struction of garages and outbuildings that support an accessory dwelling unit.

40 **SECTION 3.** ORS 455.612 is amended to read:

41 455.612. (1) For extreme and high wildfire risk [*classes in the wildland-urban interface that are*  
42 *identified pursuant to ORS 477.490*] **areas**, the Department of Consumer and Business Services shall  
43 adopt wildfire hazard mitigation building code standards that apply to new dwellings and the ac-  
44 cessory structures of dwellings, as described in section R327 of the 2021 Oregon Residential Spe-  
45 cialty Code.

1 (2) The department shall amend section R327 of the Oregon Residential Specialty Code to in-  
 2 clude standards for additions to existing dwellings and accessory structures and for replacement of  
 3 existing exterior elements covered in section R327 of the 2021 Oregon Residential Specialty Code.

4 (3) The department shall incorporate the standards described in subsections (1) and (2) of this  
 5 section into any updates to the Oregon Residential Specialty Code.

6 **SECTION 4.** Section 12d, chapter 592, Oregon Laws 2021, is amended to read:

7 **Sec. 12d.** [(1)] The Department of Consumer and Business Services shall develop the interactive  
 8 mapping tool described in [section 12c of this 2021 Act not more than 60 days after the statewide map  
 9 of wildfire risk described in section 7 of this 2021 Act is developed] **ORS 455.614 as soon as practi-**  
 10 **cable.**

11 [(2) Any delay in developing the tool may not affect a deadline concerning the map.]

12 **SECTION 5.** ORS 476.392 is amended to read:

13 476.392. (1) The State Fire Marshal shall establish minimum defensible space requirements for  
 14 wildfire risk reduction on lands [in areas identified on the statewide map of wildfire risk described in  
 15 ORS 477.490 as] within the wildland-urban interface.

16 (2) The State Fire Marshal:

17 (a) Shall consult with the Oregon Fire Code Advisory Board to establish the requirements.

18 (b) Shall establish requirements that are consistent with and do not exceed the standards per-  
 19 taining only to defensible space that are set forth in the International Wildland-Urban Interface  
 20 Code published by the International Code Council, including the standards pertaining only to  
 21 defensible space that are set forth in sections 603 and 604 of the code.

22 (c) May consider best practices specific to Oregon in order to establish the requirements.

23 (d) Shall periodically reexamine the standards set forth in the International Wildland-Urban  
 24 Interface Code and update the requirements to reflect current best practices, in consultation with  
 25 the Oregon Fire Code Advisory Board.

26 (e) Shall enforce the requirements that are applicable to lands within the jurisdiction of a local  
 27 government.

28 (f) Shall adopt rules governing administration of the requirements.

29 (g) May develop and apply a graduated fee structure for use in assessing penalties on property  
 30 owners for noncompliance with the requirements.

31 (h) Shall consult on implementation of the requirements.

32 (i) May adopt rules concerning reports by local governments described in subsection (4)(a) of  
 33 this section.

34 (3) Subject to additional local requirements, the requirements shall apply statewide for all lands  
 35 in the wildland-urban interface that [are designated as] **present** extreme or high risk[, as identified  
 36 on the map] **of wildfire.**

37 (4) Notwithstanding subsection (2) of this section, a local government may:

38 (a) Administer, consult on and enforce the requirements established by the State Fire Marshal,  
 39 within the jurisdiction of the local government. A local government that administers or enforces the  
 40 requirements established by the State Fire Marshal shall periodically report to the State Fire Mar-  
 41 shal regarding compliance with the requirements, including the extent of compliance for each prop-  
 42 erty within the jurisdiction of the local government, any change in the degree of compliance since  
 43 the last report and any other information required by the State Fire Marshal by rule.

44 (b) Adopt and enforce local requirements for defensible space that are greater than the re-  
 45 quirements established by the State Fire Marshal. Any local requirements that a local government

1 adopts for defensible space must be defensible space standards selected from the framework set forth  
2 in the International Wildland-Urban Interface Code or other best practices specific to Oregon.

3 (c) Designate local fire districts, fire departments or fire agencies to enforce the requirements  
4 established by the State Fire Marshal or the local government pursuant to paragraph (b) of this  
5 subsection. A local government that designates enforcement must comply with the reporting re-  
6 quirements in paragraph (a) of this subsection.

7 (5) The State Fire Marshal shall administer a community risk reduction program that empha-  
8 sizes education and methods of prevention with respect to wildfire risk, enforcement of defensible  
9 space requirements, response planning and community preparedness for wildfires.

10 (6) The State Fire Marshal may provide financial, administrative, technical or other assistance  
11 to a local government to facilitate the administration and enforcement of requirements within the  
12 jurisdiction of the local government. A local government shall expend financial assistance provided  
13 by the State Fire Marshal under this subsection to give priority to the creation of defensible space:

14 (a) On lands owned by members of socially and economically vulnerable communities, persons  
15 with limited proficiency in English and persons of lower income as defined in ORS 456.055.

16 (b) For critical or emergency infrastructure.

17 (c) For schools, hospitals and facilities that serve seniors.

18 **SECTION 6.** Section 8c, chapter 592, Oregon Laws 2021, is amended to read:

19 **Sec. 8c.** The State Fire Marshal shall establish minimum defensible space requirements for  
20 wildfire risk reduction on lands [*in areas identified on the map described in section 7 of this 2021*  
21 *Act*] **within the wildland-urban interface** on or before December 31, 2022.

22 **SECTION 7.** ORS 476.690 is amended to read:

23 476.690. (1) As used in this section, “defensible space” has the meaning given that term in ORS  
24 476.390.

25 (2) There is established a Wildfire Programs Advisory Council to advise and assist the State  
26 Wildfire Programs Director by:

27 (a) Closely monitoring implementation of activities related to wildfire prevention and response,  
28 including receiving and evaluating agency reports related to wildfire prevention and response.

29 (b) Providing advice on potential changes to the activities in order to fulfill the goal of dra-  
30 matically reducing wildfire risk in this state and ensuring that regional defensible space, building  
31 codes and land use applications are appropriate.

32 (c) Strengthening intergovernmental and multiparty collaboration and enhancing collaboration  
33 between governments and stakeholders on an ongoing basis.

34 (d) Developing strategies to enhance collaboration among governmental bodies and the general  
35 public.

36 [*e*] *Assessing ways the statewide map of wildfire risk described in ORS 477.490 may inform de-*  
37 *velopment of building codes and land use laws, rules and decisions, in a regionally appropriate man-*  
38 *ner.*]

39 [*f*] (e) Assessing the application of defensible space requirements to vineyards, crops and other  
40 cultivated vegetation.

41 [*g*] (f) Reviewing Department of Land Conservation and Development findings and recommen-  
42 dations in the report required by section 11, chapter 592, Oregon Laws 2021, and making additional  
43 recommendations related to potential updates to the statewide land use planning program, local  
44 comprehensive plans and zoning codes to incorporate wildfire risk maps and minimize wildfire risk  
45 to people, public and private property, businesses, infrastructure and natural resources.

1 (3) The council is not a decision-making body but instead is established to provide advice, as-  
2 sistance, perspective, ideas and recommendations to the State Wildfire Programs Director.

3 (4) The President of the Senate and Speaker of the House of Representatives shall jointly ap-  
4 point 19 members to the council as follows:

5 (a) One member who represents county government.

6 (b) One member who is a land use planning director of a county that is wholly or partially  
7 within the wildland-urban interface.

8 (c) One member who represents city government.

9 (d) One member who is a land use planning director of a city that is wholly or partially within  
10 the wildland-urban interface.

11 (e) One member who represents fire chiefs and has experience with managing, fighting or pre-  
12 venting fire within the wildland-urban interface.

13 (f) One member who represents fire marshals and has experience with managing, fighting or  
14 preventing fire within the wildland-urban interface.

15 (g) One member who represents firefighters and has experience with managing, fighting or pre-  
16 venting fire within the wildland-urban interface.

17 (h) One member who represents rural residential property owners whose property is wholly or  
18 partially within the wildland-urban interface.

19 (i) One member who represents farming property owners whose property is wholly or partially  
20 within the wildland-urban interface.

21 (j) One member who represents ranching property owners whose property is wholly or partially  
22 within the wildland-urban interface.

23 (k) One member who represents forestland owners whose property is wholly or partially within  
24 the wildland-urban interface.

25 (L) One member who represents federally recognized Indian tribes with land wholly or partially  
26 within the wildland-urban interface.

27 (m) One member who represents a utility company.

28 (n) One member who represents environmental interests.

29 (o) One member who represents forest resiliency interests.

30 (p) One member who represents state or regional land use planning organizations.

31 (q) One member who represents land and housing development interests or real estate industry  
32 interests.

33 (r) One member who represents public health professionals.

34 (s) One member who represents the environmental justice community.

35 (5) The presiding officers shall provide public notice of an opportunity for interested parties to  
36 submit names of interest for appointment to the council.

37 (6) At least 30 days before appointing a member, the presiding officers shall consult in good faith  
38 with the minority leaders of the Senate and House of Representatives on the appointment.

39 (7) The term of service for each member is four years.

40 (8) The members are eligible for reappointment.

41 (9) The council shall elect a chairperson and vice chairperson to serve for one-year terms.

42 (10) The members shall serve on the council as volunteers and are not entitled to reimbursement  
43 for expenses.

44 (11) The Department of Consumer and Business Services, Department of Land Conservation and  
45 Development, office of the State Fire Marshal and State Forestry Department shall each provide 15

1 percent of the time of a full-time equivalent employee to:

- 2 (a) Cooperatively staff the council.
- 3 (b) Attend council meetings as informational resources.
- 4 (c) Assist with drafting reports at the request of the council.
- 5 (d) Support the work of the State Wildfire Programs Director.

6 (12) The Oregon State University Extension Service shall designate a person to serve as staff  
7 for the council.

8 (13) Each October the council shall submit a report to the Governor and appropriate committees  
9 or interim committees of the Legislative Assembly that describes progress on implementing program  
10 activities related to defensible space, building codes, land use and community emergency  
11 preparedness and that recommends improvements.

12 **SECTION 8.** ORS 477.027 is amended to read:

13 477.027. (1) By rule, considering national best practices, the State Board of Forestry shall es-  
14 tablish:

- 15 (a) A definition of “wildland-urban interface.”
- 16 (b) Criteria by which the wildland-urban interface must be identified and classified.

17 (2) The criteria:

18 (a) Must recognize differences across the state in fire hazard, fire risk and structural charac-  
19 teristics within the wildland-urban interface.

20 (b) May not exclude a category of land from inclusion in the wildland-urban interface.

21 (3) Based on the criteria, the board shall establish five classes of wildland-urban interface.

22 *[(4) The classes must be integrated into the comprehensive statewide map described in ORS*  
23 *477.490.]*

24 **SECTION 9.** ORS 477.748 is amended to read:

25 477.748. (1) As used in this section, “small forestland owner” means an individual, group, feder-  
26 ally recognized Indian tribe in Oregon or association that owns:

27 (a) Up to 160 acres of nonindustrial private forestland west of the crest of the Cascade Moun-  
28 tains; or

29 (b) Up to 640 acres of nonindustrial private forestland east of the crest of the Cascade Moun-  
30 tains.

31 (2) The State Forestry Department shall establish a small forestland grant program for the  
32 purpose of providing grants, on a competitive basis, to support small forestland owners in reducing  
33 wildfire risk through the restoration of landscape resiliency and the reduction of hazardous fuels  
34 on the owners’ property.

35 (3) In consultation with partners and stakeholders, the department shall set criteria for assess-  
36 ing grant applications and awarding grants. The criteria may include, but need not be limited to:

37 (a) Prioritization of projects on forestland in **areas that present** extreme or high wildfire risk  
38 *[classes described in ORS 477.490].*

39 (b) Owner commitment to maintaining fuel reduction treatments.

40 (c) Owner possession of a forest management plan.

41 (d) Project proximity to current or past fuel mitigation efforts, supported by any owner or  
42 funding source, that would contribute to cross-boundary, landscape-scale forest resiliency.

43 (e) Whether the project addresses additional resource concerns, such as insect and disease  
44 management.

45 (f) Whether critical facilities and infrastructure may receive enhanced protection due to project

1 outcomes.

2 **SECTION 10. The State Forestry Department may not:**

3 **(1) Use a map of wildfire risk for a purpose other than to assist with determinations**  
4 **concerning the distribution of moneys available to the department or of other department**  
5 **resources.**

6 **(2) Include in a map of wildfire risk any properties that are not within the wildland-urban**  
7 **interface, as defined by rule by the State Board of Forestry pursuant to ORS 477.027.**

8

---