

Enrolled
House Bill 2272

Sponsored by Representatives CLEM, HAYDEN; Representative WILDE (Presession filed.)

CHAPTER

AN ACT

Relating to use of land; creating new provisions; amending section 2, chapter ___, Oregon Laws 2021 (Enrolled House Bill 2289); and declaring an emergency.

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

SECTION 1. (1) Notwithstanding ORS chapter 195, 197, 197A, 215, 227 or 468B or any statewide plan, rule of the Land Conservation and Development Commission, Environmental Quality Commission or local land use regulation, zoning ordinance or comprehensive plan, Lane County shall approve a planning application for the development of a permanent recreational vehicle park or campground if the development:

(a) Is located on land that:

(A) Is within an unincorporated community and on lands from which a developed or committed exception has been adopted;

(B) Was identified as an area for providing transitional housing for wildfire victims under rules of the Land Conservation and Development Commission and under an agreement between the applicant and the Federal Emergency Management Agency;

(C) Is currently zoned to allow for a temporary recreational vehicle park or campground;

(D) Would not require a zone change to allow for a permanent recreational vehicle park or campground; and

(E) Is more than 1,000 feet from the McKenzie River; and

(b) Is conditioned upon the applicant demonstrating and agreeing that the park or campground:

(A) Will provide adequate electric, garbage and septic services to visitors;

(B) Will limit the number of campers and recreational vehicle residents to not exceed 50 percent of the total overnight accommodations that exist on the property on the date the applicant and the Federal Emergency Management Agency enter into the agreement described in paragraph (a)(B) of this subsection;

(C) Will not extend reservations for more than 29 consecutive days or more than 90 days in any calendar year or during any consecutive six-month period;

(D) Will provide adequate parking and access consistent with minimum local and state requirements;

(E) Will not require the existing septic system to receive wastes for which the system was not designed;

(F) Will implement appropriate groundwater quality protection requirements and compliance monitoring to prevent a measurable change in the water quality of the surface water that would be potentially affected by the proposed facility;

(G) Will provide an annual written certification of proper treatment and disposal system operation obtained from a qualified registered sanitarian, professional engineer or certified wastewater treatment system operator; and

(H) Will comply with conditions established by the county for:

- (i) The scope of the recreational vehicle park or campground proposed;
- (ii) The location of existing structures and the siting of proposed structures;
- (iii) The location of access and egress and of parking facilities;
- (iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads;
- (v) Sanitation and solid waste; and
- (vi) The presence of any natural hazard for which the county has adopted development standards.

(2) The approval of a recreational vehicle park or campgrounds under this section is not a land use decision and is subject to review only under ORS 34.010 to 34.100.

(3) Nothing in this section relieves the applicant of any fees, charges or assessments assessed by the county to process this application.

(4) Nothing in this section relieves the applicant of any requirement to obtain a necessary building or specialty permit.

SECTION 2. Section 1 of this 2021 Act is repealed on January 2, 2024.

SECTION 3. Section 2, chapter ____, Oregon Laws 2021 (Enrolled House Bill 2289), is amended to read:

Sec. 2. (1) This section applies only to owners of properties on which structures or uses were destroyed or interrupted by a wildfire that was identified in an executive order issued by the Governor in accordance with the Emergency Conflagration Act under ORS 476.510 to 476.610 between August 1 and September 30, 2020. The local government may alter, restore or replace such a use as provided in this section in lieu of another process.

(2) **Except as provided in subsection (4) of this section,** a property owner may alter, restore or replace a nonresidential use without further application with the local government if:

(a) The use was allowed outright as an accessory use, without regard to whether the primary use was destroyed or was or will be restored;

(b)(A) The use was subject to a land use process; and

(B) A permit, including a conditional permit, was issued for the use notwithstanding any expiration of the permit or any subsequent changes to the law or process; or

(c)(A) The use was established before a requirement that the use be subject to a land use process; and

(B) The replacement use conforms as nearly as practicable to records of the use with the county assessor, building permit information or other reliable records.

(3) The local government shall approve an application to alter, restore or replace a dwelling if the local government determines that the evidence in the record establishes that:

(a) The former dwelling:

(A) Had intact exterior walls and roof structure;

(B) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Had interior wiring for interior lights;

(D) Had a heating system; and

(E)(i) Was authorized by building permits or other regulatory approval process by the appropriate authority; or

(ii) Was assessed as a residential dwelling for purposes of ad valorem taxation for the tax year beginning July 1, 2001, and is not subject to unresolved enforcement proceedings questioning the lawfulness of the dwelling; and

(b) The proposed dwelling will:

(A) Not exceed the floor area of the destroyed dwelling by more than 10 percent;

(B) Be adequately served by water, sanitation and roads;
(C) Be located wholly or partially within the footprint of the destroyed dwelling unless the applicant chooses a different location within the same lot or parcel to comply with local flood regulations or to avoid a natural hazard area; and

(D) Comply with applicable building codes that were in effect on the later of:

(i) January 1, 2008; or

(ii) The date of the former dwelling's construction.

(4) A local government may not add conditions to the approval or siting of a dwelling under subsection (3) of this section except as necessary to maintain participation in the National Flood Insurance Program under 42 U.S.C. 4001 et seq. **A local government may require that the property owner submit an application for a permit for the approval or siting of a nonresidential use only for the purpose of establishing such conditions that are necessary to maintain participation in the National Flood Insurance Program.**

(5) A local government may delegate the approval of an application under subsection (3) of this section to:

(a) A hearing officer, as defined in ORS 215.402 or 227.160;

(b) A planning commission, as described in ORS 215.020; or

(c) A building official, as defined in ORS 455.715.

(6) The findings of the local government or its designee in approving an application under subsection (3) of this section is not a land use decision. The local government may not require an applicant give notice to any nonparty. The findings and conclusions of the local government are entitled to deference if there is any evidence to support the findings and are subject to review only under ORS 34.010 to 34.100.

(7) If a local government determines based on the evidence in the record that the use legally existed, the local government may, through a land use decision, approve an application to alter, restore or replace a use for which a land use application, building permit or other regulatory approval was required but record of the approval is unavailable for:

(a) A dwelling built after January 1, 2001, that complies with subsection (3)(a)(A) to (D) and (b) of this section; or

(b) A nonresidential use or structure.

(8) An application under this section must be filed on or before September 30, 2025.

(9) An approval of an application under this section expires only if the property owner has not commenced development of the structure or use on or before December 30, 2030.

SECTION 4. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House June 10, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 23, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State