

B-Engrossed
House Bill 2192

Ordered by the Senate May 30
Including House Amendments dated April 7 and Senate Amendments
dated May 30

Sponsored by Representatives SMITH DB, WRIGHT; Representatives CATE, HELM, LEVY B, MORGAN, OWENS,
SCHARF, STOUT, Senator PROZANSKI (Presession filed.)

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.

Aligns criteria for alteration, restoration or replacement of dwellings on lands zoned for forest use consistent with criteria applicable to dwellings on lands zoned for farm use.

Repeals temporary changes made in 2013 to laws authorizing alteration, restoration or replacement for dwellings on lands zoned for exclusive farm use and further amends those laws.

A BILL FOR AN ACT

1
2 Relating to existing dwellings on resource lands; amending ORS 92.176, 215.291 and 215.755; and
3 repealing section 4, chapter 440, Oregon Laws 2019.

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

5 **SECTION 1.** ORS 215.755 is amended to read:

6 215.755. Subject to the approval of the governing body or its designee, the following dwellings
7 may be established in any area zoned for forest use under a land use planning goal protecting
8 forestland, provided that the requirements of the acknowledged comprehensive plan, land use regu-
9 lations and other applicable provisions of law are met:

10 (1) Alteration, restoration or replacement of a lawfully established dwelling, **as described in**
11 **ORS 215.291.** [*that:*]

12 [(a) *Has intact exterior walls and roof structure;*]

13 [(b) *Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a*
14 *sanitary waste disposal system;*]

15 [(c) *Has interior wiring for interior lights;*]

16 [(d) *Has a heating system; and*]

17 [(e) *In the case of replacement, is removed, demolished or converted to an allowable nonresidential*
18 *use within three months of completion of the replacement dwelling.*]

19 (2) One manufactured dwelling or recreational vehicle, or the temporary use of an existing
20 building, in conjunction with an existing dwelling as a temporary use for the term of a hardship
21 suffered by the existing resident or a relative of the resident. Within three months of the end of the
22 hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in
23 the case of an existing building, the building shall be removed, demolished or returned to an allowed
24 nonresidential use. The governing body or its designee shall provide for periodic review of the
25 hardship claimed under this subsection. A temporary dwelling established under this section shall
26 not qualify for replacement under the provisions of subsection (1) of this section.

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 (3) Caretaker residences for public parks and public fish hatcheries.

2 **SECTION 2. Section 4, chapter 440, Oregon Laws 2019, is repealed.**

3 **SECTION 3.** ORS 215.291, as amended by section 5, chapter 440, Oregon Laws 2019, is amended
4 to read:

5 215.291. (1) A lawfully established dwelling may be altered, restored or replaced under ORS
6 215.213 (1)(q), [or] 215.283 (1)(p) **or 215.755 (1)** if the county determines that the dwelling to be al-
7 tered, restored or replaced [*has*]:

8 **(a) Has, or formerly had:**

9 [(a)] **(A)** Intact exterior walls and roof structure;

10 [(b)] **(B)** Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
11 a sanitary waste disposal system;

12 [(c)] **(C)** Interior wiring for interior lights; and

13 [(d)] **(D)** A heating system[.]; **and**

14 **(b)(A) Unless the value of the dwelling was eliminated as a result of destruction or**
15 **demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later**
16 **of:**

17 **(i) Five years before the date of the application; or**

18 **(ii) The date that the dwelling was erected upon or fixed to the land and became subject**
19 **to property tax assessment; or**

20 **(B) If the value of the dwelling was eliminated as a result of destruction or demolition,**
21 **was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or**
22 **demolition and since the later of:**

23 **(i) Five years before the date of the destruction or demolition; or**

24 **(ii) The date that the dwelling was erected upon or fixed to the land and became subject**
25 **to property tax assessment.**

26 (2) For replacement of a lawfully established dwelling under this section:

27 (a) The dwelling to be replaced must be removed, demolished or converted to an allowable
28 nonresidential use within three months after the date the replacement dwelling is certified for oc-
29 cupancy pursuant to ORS 455.055.

30 (b) The replacement dwelling:

31 (A) May be sited on any part of the same lot or parcel.

32 (B) Must comply with applicable siting standards. However, the standards may not be applied
33 in a manner that prohibits the siting of the replacement dwelling.

34 **(C) Must comply with the construction provisions of section R327 of the Oregon Resi-**
35 **dential Specialty Code, if:**

36 **(i) The dwelling is in an area identified as extreme or high wildfire risk on the statewide**
37 **map of wildfire risk described in ORS 477.490; or**

38 **(ii) No statewide map of wildfire risk has been adopted.**

39 (c) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot
40 or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be re-
41 corded in the deed records of the county in which the property is located a deed restriction pro-
42 hibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed
43 is irrevocable unless the county planning director, or the director's designee, places a statement of
44 release in the deed records of the county to the effect that the provisions of this section and either
45 ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of

1 another dwelling.

2 (3) The county planning director, or the director's designee, shall maintain a record of the lots
3 and parcels that do not qualify for the siting of a new dwelling under subsection (2) of this section,
4 including a copy of the deed restrictions filed under subsection (2)(c) of this section.

5 (4) If an applicant is granted a deferred replacement permit under this section:

6 (a) The deferred replacement permit:

7 (A) Does not expire but the permit becomes void unless the dwelling to be replaced is removed
8 or demolished within three months after the deferred replacement permit is issued; and

9 (B) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a
10 child of the applicant.

11 (b) The replacement dwelling must comply with applicable building codes, plumbing codes, san-
12 itation codes and other requirements relating to health and safety or to siting at the time of con-
13 struction. *[However, the standards may not be applied in a manner that prohibits the siting of the*
14 *replacement dwelling.]*

15 **(5) An application under this section must be filed within three years following the date**
16 **that the dwelling last possessed all the features listed under subsection (1)(a) of this section.**

17 **(6) Construction of a replacement dwelling approved under this section must commence**
18 **no later than four years after the approval of the application under this section becomes**
19 **final.**

20 **SECTION 4.** ORS 92.176 is amended to read:

21 92.176. (1) A county or city may approve an application to validate a unit of land that was
22 created by a sale that did not comply with the applicable criteria for creation of a unit of land if
23 the unit of land:

24 (a) Is not a lawfully established unit of land; and

25 (b) Could have complied with the applicable criteria for the creation of a lawfully established
26 unit of land in effect when the unit of land was sold.

27 (2) Notwithstanding subsection (1)(b) of this section, a county or city may approve an application
28 to validate a unit of land under this section if the county or city approved a permit, as defined in
29 ORS 215.402 or 227.160, respectively, for the construction or placement of a dwelling or other
30 building on the unit of land after the sale. If the permit was approved for a dwelling, the county or
31 city must determine that the dwelling *[qualifies for replacement under the criteria set forth in ORS*
32 *215.755 (1)(a) to (e).]* **has:**

33 **(a) Intact exterior walls and roof structure;**

34 **(b) Indoor plumbing consisting of a kitchen sink, a toilet and bathing facilities connected**
35 **to a sanitary waste disposal system;**

36 **(c) Interior wiring for interior lights; and**

37 **(d) A heating system.**

38 (3) A county or city may approve an application for a permit, as defined in ORS 215.402 or
39 227.160, respectively, or a permit under the applicable state or local building code for the continued
40 use of a dwelling or other building on a unit of land that was not lawfully established if:

41 (a) The dwelling or other building was lawfully established prior to January 1, 2007; and

42 (b) The permit does not change or intensify the use of the dwelling or other building.

43 (4) An application to validate a unit of land under this section is an application for a permit,
44 as defined in ORS 215.402 or 227.160. An application to a county under this section is not subject
45 to the minimum lot or parcel sizes established by ORS 215.780.

1 (5) A unit of land becomes a lawfully established parcel when the county or city validates the
2 unit of land under this section if the owner of the unit of land causes a partition plat to be recorded
3 within 365 days after the date the county or city validates the unit of land.

4 (6) A county or city may not approve an application to validate a unit of land under this section
5 if the unit of land was unlawfully created on or after January 1, 2007.

6 (7) Development or improvement of a parcel created under subsection (5) of this section must
7 comply with the applicable laws in effect when a complete application for the development or im-
8 provement is submitted as described in ORS 215.427 (3)(a) or 227.178 (3)(a).

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