

DRAFT

SUMMARY

Digest: The Act updates wildfire hazard language for rural homes. (Flesch Readability Score: 66.1).

Defines “high wildfire hazard area” for purposes of developing an accessory dwelling unit on lands zoned for rural residential uses or a replacement dwelling on lands zoned for resource uses.

A BILL FOR AN ACT

1
2 Relating to wildfire hazard requirements for nonurban dwellings; amending
3 ORS 215.291 and 215.495.

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

5 **SECTION 1.** ORS 215.495 is amended to read:

6 215.495. (1) As used in this section:

7 (a) “Accessory dwelling unit” has the meaning given that term in ORS
8 215.501.

9 (b) “Area zoned for rural residential use” has the meaning given that term
10 in ORS 215.501.

11 **(c) “High wildfire hazard area” means an area identified as a high**
12 **wildfire hazard zone and within the wildland-urban interface on the**
13 **statewide wildfire hazard map described in ORS 477.490.**

14 *[(c)]* **(d)** “Single-family dwelling” has the meaning given that term in ORS
15 215.501.

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

19 (a) The lot or parcel is not located within an area designated as an urban

1 reserve as defined in ORS 197A.230;

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

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

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

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

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

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

13 (h) If the water supply source for the accessory dwelling unit or associ-
14 ated lands or gardens will be a well using water under ORS 537.545 (1)(b)
15 or (d), no portion of the lot or parcel is within an area in which new or ex-
16 isting ground water uses under ORS 537.545 (1)(b) or (d) have been restricted
17 by the Water Resources Commission;

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

20 (j) The lot or parcel is served by a fire protection service provider with
21 professionals who have received training or certification described in ORS
22 181A.410;

23 (k) If the lot or parcel is in [*an area identified on the statewide wildfire*
24 *hazard map described in ORS 477.490 as within the wildland-urban*
25 *interface*] **a high wildfire hazard area**, the lot or parcel and accessory
26 dwelling unit comply with any applicable minimum defensible space re-
27 quirements for wildfire risk reduction established by the State Fire Marshal
28 under ORS 476.392 and any applicable local requirements for defensible space
29 established by a local government pursuant to ORS 476.392;

30 (L) The accessory dwelling unit complies with the construction provisions
31 of section R327 of the Oregon Residential Specialty Code, if[.]

1 [(A)] the lot or parcel is in [*an area identified as a high wildfire hazard*
2 *zone on the statewide wildfire hazard map described in ORS 477.490; or*] a
3 **high wildfire hazard area; and**

4 [(B) *No statewide wildfire hazard map has been adopted; and*]

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

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

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

10 (C) If the accessory dwelling unit is not in [*an area identified on the*
11 *statewide wildfire hazard map described in ORS 477.490 as within the*
12 *wildland-urban interface*] a **high wildfire hazard area**, the accessory dwell-
13 ing unit complies with the provisions of this section and any applicable local
14 requirements for defensible space established by a local government pursuant
15 to ORS 476.392.

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

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

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

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

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

1 partment.

2 (6) An existing single-family dwelling and an accessory dwelling unit al-
3 lowed under this section are considered a single unit for the purposes of
4 calculating exemptions under ORS 537.545 (1).

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

11 **SECTION 2.** ORS 215.291 is amended to read:

12 215.291. (1) A lawfully established dwelling may be altered, restored or
13 replaced under ORS 215.213 (1)(q), 215.283 (1)(p) or 215.755 (1) if the county
14 determines that the dwelling to be altered, restored or replaced:

15 (a) Has, or formerly had:

16 (A) Intact exterior walls and roof structure;

17 (B) Indoor plumbing consisting of a kitchen sink, toilet and bathing fa-
18 cilities connected to a sanitary waste disposal system;

19 (C) Interior wiring for interior lights; and

20 (D) A heating system; and

21 (b)(A) Unless the value of the dwelling was eliminated as a result of de-
22 struction or demolition, was assessed as a dwelling for purposes of ad
23 valorem taxation since the later of:

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

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

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

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

31 (ii) The date that the dwelling was erected upon or fixed to the land and

1 became subject to property tax assessment.

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

3 (a) The dwelling to be replaced must be removed, demolished or converted
4 to an allowable nonresidential use within three months after the date the
5 replacement dwelling is certified for occupancy pursuant to ORS 455.055.

6 (b) The replacement dwelling:

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

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

11 (C) Must comply with the construction provisions of section R327 of the
12 Oregon Residential Specialty Code, if[.] **the dwelling is in a high wildfire**
13 **hazard area, as defined in ORS 215.495.**

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

16 *[(ii) No statewide map of wildfire risk has been adopted.]*

17 (c) As a condition of approval, if the dwelling to be replaced is located
18 on a portion of the lot or parcel that is not zoned for exclusive farm use, the
19 applicant shall execute and cause to be recorded in the deed records of the
20 county in which the property is located a deed restriction prohibiting the
21 siting of another dwelling on that portion of the lot or parcel. The re-
22 striction imposed is irrevocable unless the county planning director, or the
23 director's designee, places a statement of release in the deed records of the
24 county to the effect that the provisions of this section and either ORS
25 215.213 or 215.283 regarding replacement dwellings have changed to allow the
26 lawful siting of another dwelling.

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

31 (4) If an applicant is granted a deferred replacement permit under this

1 section:

2 (a) The deferred replacement permit:

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

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

8 (b) The replacement dwelling must comply with applicable building codes,
9 plumbing codes, sanitation codes and other requirements relating to health
10 and safety or to siting at the time of construction.

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

14 (6) Construction of a replacement dwelling approved under this section
15 must commence no later than four years after the approval of the application
16 under this section becomes final.

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