

Senate Bill 439

Sponsored by Senator HAYDEN (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 **as introduced**.

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

Makes permanent temporary changes made in 2013 to laws authorizing alteration, restoration or replacement for dwellings on lands zoned for exclusive farm use.

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 **uses** 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.

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

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 Section 4, chapter 440, Oregon Laws 2019, is repealed.**

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

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.

1 215.291. (1) A lawfully established dwelling may be altered, restored or replaced under ORS
 2 215.213 (1)(q), [or] 215.283 (1)(p) or **215.755 (1)** if the county determines that:

3 (a) The dwelling to be altered, restored or replaced has, or **formerly had**:

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

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

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

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

9 (b)(A) **If the dwelling was removed, destroyed or demolished:**

10 (i) **The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and**

11 (ii) **Any removal, destruction or demolition occurred on or after January 1, 1973;**

12 (B) **If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for**
 13 **occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien**
 14 **for delinquent ad valorem taxes; or**

15 (C) **A dwelling not described in subparagraph (A) or (B) of this paragraph was assessed**
 16 **as a dwelling for purposes of ad valorem taxation:**

17 (i) **For the previous five property tax years; or**

18 (ii) **From the time when the dwelling was erected upon or affixed to the land and became**
 19 **subject to assessment as described in ORS 307.010.**

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

21 (a) The dwelling to be replaced must be removed, demolished or converted to an allowable
 22 nonresidential use:

23 (A) Within [*three months*] **one year** after the date the replacement dwelling is certified for oc-
 24 cupancy pursuant to ORS 455.055[.]; or

25 (B) **If the dwelling to be replaced is, in the discretion of the county, in such a state of**
 26 **disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance,**
 27 **on or before a date set by the county that is not less than 90 days after the replacement**
 28 **permit is issued.**

29 (b) The replacement dwelling:

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

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

33 (c) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot
 34 or parcel that is not zoned for exclusive farm use or **forest use**, the applicant shall execute and
 35 cause to be recorded in the deed records of the county in which the property is located a deed re-
 36 striction prohibiting the siting of another dwelling on that portion of the lot or parcel. The re-
 37 striction imposed is irrevocable unless the county planning director, or the director's designee,
 38 places a statement of release in the deed records of the county to the effect that the provisions of
 39 this section and either ORS 215.213, [or] 215.283 or **215.755** regarding replacement dwellings have
 40 changed to allow the lawful siting of another dwelling.

41 (3) **Notwithstanding subsection (2)(b)(A) of this section, a replacement dwelling under**
 42 **this section must be sited on the same lot or parcel:**

43 (a) **Using all or part of the footprint of the replaced dwelling or near a road, ditch, river,**
 44 **property line, forest boundary or another natural boundary of the lot or parcel; and**

45 (b) **If possible, for the purpose of minimizing the adverse impacts on resource use of land**

1 **in the area, within a concentration or cluster of structures or within 500 yards of another**
 2 **structure.**

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

6 [(4)] (5) If an applicant is granted a deferred replacement permit under this section:

7 (a) The deferred replacement permit:

8 (A) Does not expire but, **notwithstanding subsection (2)(a)(A) of this section**, the permit
 9 becomes void unless the dwelling to be replaced is removed or demolished within three months after
 10 the deferred replacement permit is issued; and

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

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

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

18 92.176. (1) A county or city may approve an application to validate a unit of land that was
 19 created by a sale that did not comply with the applicable criteria for creation of a unit of land if
 20 the unit of land:

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

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

24 (2) Notwithstanding subsection (1)(b) of this section, a county or city may approve an application
 25 to validate a unit of land under this section if the county or city approved a permit, as defined in
 26 ORS 215.402 or 227.160, respectively, for the construction or placement of a dwelling or other
 27 building on the unit of land after the sale. If the permit was approved for a dwelling, the county or
 28 city must determine that the dwelling qualifies for replacement under the criteria set forth in ORS
 29 [215.755 (1)(a) to (e)] **215.291**.

30 (3) A county or city may approve an application for a permit, as defined in ORS 215.402 or
 31 227.160, respectively, or a permit under the applicable state or local building code for the continued
 32 use of a dwelling or other building on a unit of land that was not lawfully established if:

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

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

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

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

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

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

