

A-Engrossed Senate Bill 75

Ordered by the Senate April 7
Including Senate Amendments dated April 7

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Natural Resources and Wildfire)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act strikes fire hazards requirements for rural second homes. (Flesch Readability Score: 61.3).

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

[Defines "high wildfire hazard area"] **Removes requirements related to wildfire hazards** 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 ORS 215.291 and 215.495.

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

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

5 215.495. (1) As used in this section:

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

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

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

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

12 (a) The lot or parcel is not located within an area designated as an urban reserve as defined in
13 ORS 197A.230;

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

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

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

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

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

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

23 (h) If the water supply source for the accessory dwelling unit or associated lands or gardens
24 will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within

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 an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been re-
2 stricted by the Water Resources Commission;

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

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

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

11 *[(L) The accessory dwelling unit complies with the construction provisions of section R327 of the
12 Oregon Residential Specialty Code, if:]*

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

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

16 *[(m)] (k) The county has adopted land use regulations that ensure that:*

17 (A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource
18 use; **and**

19 (B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation
20 and staged evacuation areas[; and].

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

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

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

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

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

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

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

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

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

45 215.291. (1) A lawfully established dwelling may be altered, restored or replaced under ORS

1 215.213 (1)(q), 215.283 (1)(p) or 215.755 (1) if the county determines that the dwelling to be altered,
2 restored or replaced:

3 (a) Has, or formerly had:

4 (A) Intact exterior walls and roof structure;

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

7 (C) Interior wiring for interior lights; and

8 (D) A heating system; and

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

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

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

14 (B) If the value of the dwelling was eliminated as a result of destruction or demolition, was as-
15 sessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and
16 since the later of:

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

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

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 within three months after the date the replacement dwelling is certified for oc-
23 cupancy pursuant to ORS 455.055.

24 (b) The replacement dwelling:

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

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

28 *[(C) Must comply with the construction provisions of section R327 of the Oregon Residential Spe-*
29 *cialty Code, if:]*

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

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

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, the applicant shall execute and cause to be re-
35 corded in the deed records of the county in which the property is located a deed restriction pro-
36 hibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed
37 is irrevocable unless the county planning director, or the director's designee, places a statement of
38 release in the deed records of the county to the effect that the provisions of this section and either
39 ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of
40 another dwelling.

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

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

45 (a) The deferred replacement permit:

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

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

5 (b) The replacement dwelling must comply with applicable building codes, plumbing codes, san-
6 itation codes and other requirements relating to health and safety or to siting at the time of con-
7 struction.

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

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

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