



## MEMORANDUM

**Date:** December 20, 2023  
**To:** Residents of Lane County  
**From:** LMD Planning Director – Amber Bell  
**Re:** Advisory regarding changes to State laws governing alteration, restoration, and replacement of dwellings in farm and forest zones

Effective January 1, 2024, State laws governing the alteration, restoration, and replacement of dwellings on property zoned Exclusive Farm Use (EFU), Impacted Forest Land (F-2) and Non-Impacted Forest Land (F-1) will change. The changes will apply to all replacement dwelling applications filed after January 1, 2024. This memo provides a summary and background information for the new standards that will apply. It is not intended to provide legal advice, substitute for applicable statutes and rules, or interpret applicable requirements outside the land use application review process.

**Changes to State Law Made by House Bill 2192 (2023).** Oregon House Bill (HB) 2192 aligns statutory requirements<sup>1</sup> for the alteration, restoration, and replacement of dwellings in farm and forest zones (in Lane County: EFU, F-2, and F-1 zones). The applicable provisions become effective on January 1, 2024. The provisions expand current opportunities for alteration and replacement of dwellings in the F-1 and F-2 zones and expand the opportunities that would have become operational in EFU zones on January 2, 2024 after the sunset of temporary statutes in effect since 2014. The bill also adds requirements for construction and commencement of replacement dwellings.

For alteration, restoration or replacement of lawfully established dwellings in F-1, F-2, and EFU zones, HB 2192:

- Allows lawfully established dwellings to be altered, restored, or replaced that have or “formerly had” structural integrity when an application for a replacement building is filed within three years following the date that the dwelling last possessed all the required qualifying features if certain standards are met.
- Retains current standards for structural integrity (intact exterior walls and roof, indoor plumbing with a sink, toilet, and bathing facilities connected to sanitary waste system, interior wiring for lights, and heating system).
- Requires that the dwelling be assessed as a dwelling for purposes of ad valorem taxation:
  - In the five years before permit application unless the value of the dwelling was eliminated from such taxation because of destruction or demolition.
  - In the five years before the date of the destruction or demolition if the dwelling was eliminated from such taxation as a result of destruction or demolition.
  - From the date of the dwelling was established and became subject to taxation if the dwelling post-dates the beginning of the applicable five-year period.

For replacement of lawfully established dwellings, HB 2192:

- Requires that the replacement dwelling is to:
  - Be sited on any part of the same lot or parcel.
  - Comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
  - Commence construction no later than four years after its application is approved and finalized.
  - Comply with the fire hardening construction standards of section R327 of the Oregon Residential Specialty if a statewide wildfire risk map has not been adopted or if located in high hazard zone on the adopted map.
- Requires that the dwelling to be replaced is to be removed, demolished, or converted to allowable non-residential use within three months after the replacement dwelling is certified for occupancy.
- Provides no exemptions from four-year approval periods or extension provisions of ORS 215.417.

**Additional Background:** The alteration, restoration, and replacement of lawfully dwellings in farm and forest zones is governed by state statutes and administrative rules. Prior to the 2013 Oregon legislative session, the farm and forest statutes allowed for the alteration, restoration or replacement of a lawfully established dwelling only if that building presently met specific structural requirements for a habitable dwelling at the time of the permit application. In the case of replacement, the statutes also required the former dwelling to be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

For forest zones, these provisions have remained unchanged and are implemented by Lane Code 16.210 and Lane Code 16.211. They will remain in effect until January 1, 2024, when 2023 Oregon HB 2192 takes effect.

For farm zones, these provisions were changed with the passage of HB 2746 by the 2013 Oregon Legislature. HB 2746 established temporary provisions for alteration and replacement lawfully established dwellings to sunset on January 2, 2024. The temporary provisions added flexibility and increased opportunities for the replacement of dwellings that formerly met the structural requirements for a habitable dwelling in the five years before the date of permit application. These temporary provisions are implemented in Lane Code 16.212 and Lane Code 14.090(6)(b). In 2019, the Oregon Legislature amended 2013 law with the passage of HB 3024. The bill expanded the temporary provisions to allow for alteration and replacement of dwellings that formerly met the habitability requirements as far back as 1973.

These 2019 amendments took effect on January 1, 2020 have been implemented directly from State law. The amended temporary provisions remain in effect until HB 2192 becomes operative on January 1, 2024.

**Application Requirements.** The provisions of HB 2192 have not yet been formally codified in statute or adopted into the Lane Code. Lane Code replacement dwelling standards application procedures, requirements, and standards will continue to apply to the extent they are applicable and are in accordance with the changes and state law. Updates to Type I and Type II replacement dwelling application forms and handouts are in process for use after January 1, 2024. In accordance with current requirements and procedures, applications involving dwellings that do not meet the structural integrity requirements at the time of application, that are proposed to be replaced in a “new site<sup>ii</sup>,” or that that accompany a request for converting the former dwelling proposed for replacement generally require Type II application review and approval. Additionally, if a proposal for development involves discretionary review of an approval standard, Type II application review would be required pursuant to Lane Code 14.090(5).

ORS 215.417 establishes a four-year approval period for replacement dwellings with allowances for a two-year extension and allowances for up to five additional one-year extensions when the applicable residential development statute has not been amended following the approval of the permit. For approved forest replacement dwelling applications submitted prior to January 1, 2024 with four year approval periods, the changes to the applicable residential development statute under HB 2192 will eliminate the possibility of one-year extensions beyond an initial two-year extension. This limitation would not apply to approved EFU replacement submitted prior to January 1, 2024. EFU replacement approvals granted under the temporary EFU replacement dwelling provisions are exempted from the time to act provisions of ORS 215.417 and do not expire. All EFU and forest replacement dwelling approvals for applications submitted after January 1, 2024 will be subject to the time to action requirements of ORS 215.417.

You are encouraged to contact the Planner-on-Duty with any questions you may have regarding how these changes might affect your circumstances or plans. You may also wish to engage a private land use planning consultant if the changes present any particular cause for concern.

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<sup>i</sup> HB 2192 changes the replacement provisions of ORS 215.213(1)(q), ORS 215.291, and ORS 215.755. The bill does not address provisions for historic replacement dwellings under ORS 215.213(1)(n) or restoration and alteration of nonconforming uses under ORS 215.130.

<sup>ii</sup> “New site” means outside of the “same site” area, defined as a square with dimensions of 200-feet, which is centered on the footprint of an established, lawful dwelling. In implementation, the “same site” is often described as a 142-foot radius circle centered on the footprint of an established dwelling. See Lane Code 16.210(3)(o), 16.211(3)(r), 16.212(4)(bb).