

1 BOARD OF COMMISSIONERS

2 COOS COUNTY

3 STATE OF OREGON

4 In the Matter of Amending language in the Coos County Zoning and Land Development Ordinance (CCZLDO) ORDINANCE No.: 24-06-005PL
5 Legislative Amendments to the Coos County Zoning and Land Development Ordinance, File Number AM-24-002
6

7 SECTION 1. TITLE

8 This Ordinance shall be known as the “Coos County Ordinance No. 22-04-003PL”.

9 SECTION 2. AUTHORITY

10 This ordinance is enacted pursuant to the provisions of but not limited to ORS Chapter 215
11 Sections 215.060 & ORS 215.223;

12 SECTION 3. PURPOSE

13 The purpose of this Ordinance is to amend the Coos County Implementing Ordinance. This
14 ordinance amends Coos County Ordinances 85-03-005L, 84-5-016L and 82-12-022L which adopted the Coos
15 County Comprehensive Plan and Implementing Ordinance;

16 SECTION 4. FINDINGS

17 The Planning Commission reviewed this matter in accordance with Article 5.1 of the Coos
18 County Zoning and Land Development Ordinance. The Planning Commission Recommended approval to the
19 Board of Commissioners on June 6, 2024. The Board of Commissioners reviewed the text as recommended by
20 the Planning Commission on July 2, 2024. The Board of Commissioners made a decision to approve the final
21 draft are shown on Attachment “A” as of the date the ordinance was signed. The Board also found that staff
22 provided proper legal notices in this matter, public hearings were held to take public testimony on this matter
23 and procedures were followed pursuant to Article 5.1.

24 SECTION 5. AMENDMENT TO THE COOS COUNTY ORDINANCE

25 Exhibit “A”, attached hereto and incorporated herein by this reference, is adopted as amendment to
26 Ordinances 85-03-005L, 84-5-016L and 82-12-022L.

27 SECTION 6. SEVERANCE CLAUSE

28 If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or
29 declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect
30

1 the validity of the reaming portions of this ordinance; and it is hereby expressly declared that every other
2 section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or
3 validity of the portion thereof declared to be unconstitutional or invalid, is valid.

4 SECTION 7. REPEAL OF INCONSISTENT ORDINANCES

5 Coos County Ordinances 85-03-005L, 84-5-016L and 82-12-022L are repealed to the extent that they
6 are in conflict with this ordinance. Coos County Ordinances 85-03-005L, 84-5-016L and 82-12-022L shall
7 remain in full force and effect in all other respects.

8 SECTION 8. EMERGENCY CLAUSE

9 The Board of Commissioners for the County of Coos deems this Ordinance necessary for the
10 immediate preservation and protection of the public peace, safety, health and general welfare for Coos County
11 and declares an emergency exists, and this Ordinance shall be in full force and effective upon its passage.

12 Dated this 22nd day of July
13 ~~1st~~ day of ~~June~~

14 ATTEST

15 Jill Ruffe
Recording Secretary

16 Approved as to form:

17 Colton Totland
18 Office of Legal Counsel

BOARD OF COMMISSIONERS

[Signature]
Chair

[Signature]
Vice Chair

[Signature]
Commissioner

21 First Reading: July 2, 2024

22 Second Reading: July 22, 2024

23 Effective Date: July 22, 2024

ATTACHMENT A

The changes to the ordinance language are show with strike through for removal and bold italics for new language.

• **Chapter 4 – Balance of County**

HOUSING UPDATE – HB 4064

Background: The State of Oregon Legislature passed HB4064 which directs local governments to update regulations regarding manufactured home within the urban growth boundary. There is UR-1 zoning within Bandon UGB (within the donut hole) and Myrtle Point UGB (north eastern portion of Sitkum Lane). Coos County has definitions for both manufactured homes and mobile homes, the difference is the date the structures were built. The House bill references specific ORS definitions, as show below.

A manufactured home defined under HB 4064 is defined as: *SECTION 5. (3) “Manufactured dwelling,” “manufactured dwelling park,” “manufactured home” and “mobile home park” have the meanings given those terms in ORS 446.003.*

Oregon ORS 446.003 defines manufactured dwellings as *(21)(a) “Manufactured dwelling” means a residential trailer, mobile home or manufactured home. (b) “Manufactured dwelling” does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code, the Low-Rise Residential Dwelling Code adopted pursuant to ORS 455.020 or 455.610 or the Small Home Specialty Code adopted under section 2, chapter 401, Oregon Laws 2019.*

Change: The request is to change the Dwelling – Mobile Single Family from ‘N’ to ‘**CD**’ in the UR-1. Basically, Single Family Conventional, Mobile Single Family, and Manufactured Single Family will have the same planning standards in the urban residential zoning districts. Below is what the proposed changes are requested.

SECTION 4.3.200 ZONING TABLES FOR URBAN AND RURAL RESIDENTIAL, MIXED COMMERCIAL-RESIDENTIAL, COMMERCIAL, INDUSTRIAL, MINOR ESTUARY AND SOUTH SLOUGH *(please note the text direction was modified to fit on the page)*

sa#	USE	UR-1	UR-2	UR-M	RR-2	RR-5	CD	RC	C-1	IND	AO	REC	SS	MES	Subject
25	<i>Dwelling – Manufacture d Single Family (ORS 446.003)</i>	CD	CD	CD	CD	CD	CD	CD	N	N	N	N	N	N	(27)(f)
26	<i>Dwelling – Mobile Single Family (ORS 446.003)</i>	N CD	CD	CD	CD	CD	CD	CD	N	N	N	N	N	N	(27)(g)

30	Dwelling – Single Family Conventional	CD	CD	CD	CD	CD	CD	CD	N	N	N	N	N	N	(27)(k)
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SECTION 4.3.210 – CATEGORIES AND REVIEW STANDARDS (27)

(f) Manufactured Homes- structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. In the urban zones this type of dwelling shall meet the requirements of ORS 197.307.

(g) Mobile Homes - Structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976. Mobile Homes and Residential Trailers are prohibited in the Urban Residential-1 Zone. Residential Trailers are further prohibited in all zoning districts.

(k) Single Family Dwelling- A single household unit. Construction is characterized by no common wall or ceiling with another unit, including a mobile home unless otherwise allowed by under this ordinance.

ACCESSORY DWELLING UNITS (ADU)

Senate Bill 391/644

On June 23, 2021, the Oregon Legislature adopted Senate Bill (SB) 391, which authorizes counties to allow an owner of a lot or parcel within a rural residential exception area to construct one Accessory Dwelling Unit (ADU) subject to certain restrictions and limitations. SB 391 does not obligate a county to allow ADUs, nor does it prohibit a county from imposing any additional restrictions beyond what is mandated in state law.

Rural residential exception areas and their corresponding zones exist throughout Oregon. By definition, rural residential zones exist outside urban growth boundaries (UGBs), but are excluded from the state’s resource land (farm and forest zone) protections. While the protections afforded to resource lands allow residential uses only in conjunction with a farm or forest use, rural residential zones allow a dwelling as a primary use of the land. Prior to the adoption of SB 391, state law allowed counties to permit an additional dwelling on a property containing a house built prior to 1945. However, unlike urban zones, rural residential zones did not have other by-right accessory dwelling options, making inter-generational and alternative housing options difficult to achieve.

SB 391 only authorizes ADUs on lands zoned for rural residential use. Areas zoned for rural residential use are defined by ORS 215.501 to mean “land that is not located inside a UGB as defined in ORS 195.060 (Definitions) and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.” The applicable zoning designations in Coos County for these lands are Rural Residential-2 (RR-2), Rural Residential-5 (RR-5).

In 2023 legislation was passed by the Oregon Legislature which modified SB 391. Specifically, SB 644 was passed which provides direction to local jurisdictions looking

to adopt rural ADU standards prior to formal release of the Statewide Wildfire Hazard Map required by SB 762. Additionally, SB 80 was passed which alters the original standards and terminology used within the forthcoming Statewide Wildfire Hazard Map. Further details regarding SB 644 and SB 80 are discussed in following sections.

Senate Bill 762

There may be some properties in rural Coos County that will be subject to new wildfire mitigation measures as approved under SB 762. One of the primary pieces of SB 762 is the creation of a comprehensive Statewide Wildfire Hazard Map to guide new wildfire regulations for development. The initial hazard map was made available on June 30, 2022. However, based on significant concern from citizens and interest groups through the state, the Oregon Department of Forestry (ODF) withdrew the initial map to provide more time for additional public outreach and refinement of hazard classification methodologies. Staff's understanding that ODF anticipates releasing new draft hazard maps in 2024. They are taking comments on the draft maps and have many meetings. The maps are anticipated to be finalized later this year. Coos County has very little high wildfire danger and most of it is in the large tract industrial forestlands that will not be developed.

The specific language of SB 391 originally mandated that no properties would be eligible for rural ADUs, despite adoption of County standards which approve said use within the County Comprehensive Plan and zoning ordinances, until such time as a new iteration of a Statewide Wildfire Hazard Map is formally released by ODF.

Under SB 762, once these hazard maps are finalized, properties included in **both** a designated Wildland Urban Interface (WUI) boundary and classified as high hazard will be subject to additional development regulations. SB 762 requires that, at minimum, local governments ensure that properties meeting both of these standards will be subject to:

- 1) Home hardening building codes as described in section R327 of the Oregon Residential Specialty Code.
- 2) Defensible space standards as determined by the Oregon State Fire Marshal.

At present, the State Fire Marshal has yet to develop final statewide defensible space requirements. Coos County may have some WUI areas that may fall into the category that requires hardening standards and defensible space.

Senate Bill 644

SB 644 was passed by the Oregon State Legislature. SB 644 temporarily decouples the Statewide Wildfire Hazard Map from the adoption of any local rules allowing rural ADUs. During any interim period where a local jurisdiction has adopted rules allowing rural ADUs and prior to the release of the final hazard map, any constructed ADUs will be subject to the home hardening building codes as described in section R327 of the Oregon Residential Specialty Code. Additionally, SB 644 requires that any ADUs constructed within a designated WUI shall meet the minimum defensible space rules established by the State Fire Marshal.

SB 644 does not identify defensible space standards for ADUs constructed prior to the release of the Statewide Wildfire Hazard Map. To provide for clear and objective standards, staff has proposed supplemental defensible space rules for all ADU development which occurs prior to adoption and release of the Statewide Wildfire Hazard Map. The proposed defensible space

standards are based on existing rules within the Forest Use Zones (F/FMU).

Senate Bill 80

SB 80 was recently in 2023 by the Oregon State Legislature. SB 80 alters several components of the wildfire hazard map mandated by SB 762. As it relates to rural ADU standards, SB 80 changes the name of the “Statewide Map of Wildfire Risk” to the “Statewide Wildfire Hazard Map.” Additionally, the bill reduces the number of hazard classifications from five to three: high, moderate, and low. The currently proposed ADU amendments reflect these changes where appropriate.

SB 391 and SB 644 contain several provisions related to properties eligible for rural ADUs which cannot be amended by counties. Those criteria and restrictions are listed in the table below:

Eligibility	Restrictions
1. Rural Residential Exception Areas, Minimum Lot Size, and Dwelling Requirements	<ul style="list-style-type: none"> • Applies to Rural Residential RR-2 and RR-5 and not qualified residential zones (any zone that did not have an exception) • Lot or parcel must be at least two (2) acres in size. • One (1) Single Family Dwelling must be sited on the lot or parcel.
2. Existing Dwelling Nuisance	<ul style="list-style-type: none"> • The existing Single Family Dwelling is not subject to an order declaring it a nuisance or pending action under ORS 105.550 to 105.600.
3. ADU Sanitation Requirements	<ul style="list-style-type: none"> • The ADU must comply with all applicable laws and regulations relating to sanitization and wastewater disposal and treatment.
4. ADU Square Footage Requirements	<ul style="list-style-type: none"> • The ADU cannot include more than 900 square feet of useable habitable floor area.
5. ADU Distance Requirements	<ul style="list-style-type: none"> • The ADU is required to be located no farther than 100 feet from the existing single-family dwelling.
6. ADU Water Supply Requirements	<ul style="list-style-type: none"> • If the ADU is relying on a domestic well, no portion of the lot or parcel can be within new or existing ground water uses restricted by the Water Resource Commission.
7. ADU Water Supply Source Option	<ul style="list-style-type: none"> • A county may require that an ADU be served by the same water supply source or water supply system as the existing Single Family Dwelling, provided such is allowed by an existing water right or a use under ORS 537.545 (exempt uses).
8. ADU Setback Requirements	<ul style="list-style-type: none"> • The ADU is required to have adequate setbacks from adjacent lands zoned Exclusive Farm Use (EFU) or Forest Use (F/FMU).
9. ADU / Statewide Wildfire Map Requirements	<ul style="list-style-type: none"> • Applies to properties identified as high hazard and/or located within a designated wildland urban interface (WUI) on the statewide wildfire hazard maps established per SB 762 and SB 80. • ADUs on properties identified as high hazard are required to comply with the Oregon Residential Specialty Code relating to wildfire hazard mitigation for the mapped area (R327.4). • ADUs identified within a designated WUI on the statewide wildfire hazard maps are required to comply with the minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392. • Per SB 644, prior to release of the statewide wildfire hazard maps, all ADUs, regardless of future hazard classification, are required to comply with the Oregon Residential Specialty Code relating to wildfire hazard mitigation (R327.4).
10. ADU / Outside Wildland- Urban Interface (WUI) Area Requirements	<ul style="list-style-type: none"> • If the ADU is not subject to ORS 477.015 to 477.061 (i.e. outside of the newly-defined WUI), local jurisdictions may impose supplemental defensible space and fuel break standards.
11. ADU Adequate Access and Evacuation for Firefighting Requirements	<ul style="list-style-type: none"> • Local regulations must ensure the ADU has adequate access for firefighting equipment, safe evacuation, and staged evacuation areas

Eligibility	Restrictions
12. ADU Occupancy Requirements	<ul style="list-style-type: none"> ADUs cannot be allowed for vacation occupancy, as defined in ORS 90.100.
13. ADU Land Division Requirements	<ul style="list-style-type: none"> If an eligible property with an ADU is divided, the Single Family Dwelling and ADU cannot be situated on a different lot or parcel.
14. ADU / Additional Units	<ul style="list-style-type: none"> A second ADU is not allowed.

LANGUAGE CHANGE:

Section 4.3.210 Use Table

#	Use	Zones													Subject To
		UR-1	UR-2	UR-M	RR-2	RR-5	CD	RC	C-1	IND	AO	REC	SS	MES	
18.	Accessory Uses and Structures to permitted residential	CD	CD	CD	CD	CD	CD	CD	CD	CD	CD	CD	CD	CD	(1)
19.	Accessory Dwelling Unit														
	a. ADU - Urban Zones	CD	CD	CD	N	N	CD	N	N	N	N	N	N	N	(27)(a)(A)
	b. ADU- Historical Dwellings	N	N	N	CD	CD	N	N	N	N	N	N	N	N	(27)(a)(B)
	c. ADU- Rural Residential Zones	N	N	N	CD	CD	N	N	N	N	N	N	N	N	(27)(a)(C)
20.	Dwellings (Single-Family Dwellings)	CD	CD	CD	CD	CD	CD	CD	N	N	N	N	N	N	(27)(a)

Section 4.3.210 (27)

(a) Accessory Dwelling Unit –

(A) ACCESSORY DWELLING UNITS IN URBAN ZONES (UR-1, UR-2 AND UR-M)

An Accessory Dwelling Unit (ADU) is defined as an interior, attached, or detached residential structure which is clearly accessory and incidental to that of a lawfully established Single Family Dwelling on the same lawfully created unit of land. For the purpose of this definition, interior means the ADU is located within a building that was not originally designed or used as an ADU. Attached means at least a portion of one wall or floor of the ADU is connected to a building. Detached means the ADU is not connected to any other building. A structure that qualifies as an apartment, duplex dwelling, multi-unit dwelling structure, an accessory building, or an accessory structure is not an ADU. ~~In order to qualify for an Accessory Dwelling Unit a primary dwelling shall have existed or been approved as of July 1, 2018.~~ ADUs are subject to the following standards:

- (i) The ADU shall be located entirely inside the Urban Growth Boundary or Urban Unincorporated Community Boundary and is zoned for Urban Residential or Controlled Development;
- (ii) The ADU shall either be detached, attached, or located within the interior of a lawfully established Single Family Dwelling on a lawfully created unit of land and meet one of the following size requirements:
 1. On Properties served by water and sewer or meet the current one (1) acre density requirement for not having water and sewer, an ADU can be detached, attached or interior. The ADU shall not exceed 800 square feet of floor area, or 75 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling exceeds 800 square feet.
 2. On Properties not served by water and sewer and less than one (1) acre, an ADU can be detached, attached or interior. The Accessory Dwelling Unit shall not exceed 500 square feet, or 75% of the floor area of the primary dwelling whichever is less.
 3. Calculation of size shall be made using the Coos County assessment square footage. If ~~there is no~~ data is ~~unavailable~~ in the assessment records on the size of the existing dwelling unit ~~available~~ then ~~the~~ applicant shall supply a sworn statement of compliance and plot plan showing the size of the primary dwelling. No primary dwelling shall be converted to an accessory dwelling unless the dwelling is a historic dwelling pursuant to subsection e (Historical Dwellings Modifications) of this section.
- (iii) All ADUs shall comply with Oregon Residential Specialty Code which may require modification to one or more existing structures. Any structure not constructed for permanent human occupancy shall not be used as Accessory Dwelling Units. These structures include recreational vehicles, park models, yurts or any other similar design. Any legal accessory structure, not described in the

prior sentence, may be converted to an ADU as long as the floor area requirements are met.

(iv) All development standards, with the exception of dwelling density and off street parking requirements to the extent they may conflict with allowance of an accessory dwelling, shall apply.

All development standards will be upheld, except for the dwelling density and off-street parking requirements, which will be waived if they hinder the placement of the ADU. These exceptions will only be applied if enforcing them conflicts with the allowance of an accessory dwelling, and only to the extent necessary to facilitate such use.

(v) The ADU shall not:

1. be accessory to a temporary dwelling;
2. be used as a short-term rental (vacation rentals). The applicant shall sign a covenant stating that the ADU cannot be used for a short-term rental and record it in the deed of records. This deed restriction shall apply until the property is annexed into the city or the restriction is otherwise removed.

(B) ACCESSORY HISTORICAL DWELLING UNITS IN RURAL RESIDENTIAL (RR-2 AND RR-5)

(i) As Used in this section:

1. *“Historic Accessory Dwelling Unit (‘ADU’)” means a residential structure that is used in connection with or that is auxiliary to a Single Family Dwelling. For the purposes of this section, “auxiliary” means a use or structure incidental and subordinate to the main use of the property, and located on the same lot as the main use.*
2. *” Area zoned for rural residential use” means land that is not located inside an urban growth boundary as defined in ORS 195.060 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use. Qualified Rural Residential Zoned property will not qualify for an ADU.*
3. *“Historic home” means a Single Family Dwelling constructed between 1850 and 1945.*
4. *“New” means that the Dwelling being constructed did not previously exist in residential or nonresidential form. “New” does not include the acquisition, alteration, renovation or remodeling of an existing structure.*
5. *“Place a Manufactured Dwelling” for this purpose of this section only, means the placement of a manufactured home that did not previously exist on the subject lot of record; it may include the placement of a manufactured home that was previously used as a dwelling on another lot and moved to the subject lot of record.*
6. *“Single Family Dwelling” for the purpose of this section only, means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.*

- (ii) *An owner of a lot or parcel within an area zoned for Rural Residential use (RR-2 & RR-5) may construct a new Single Family Dwelling or place a manufactured dwelling on the lot or parcel, provided:*
1. *The lot or parcel is not located in an area designated as an urban reserve as defined in ORS 195.137;*
 2. *The lot or parcel is at least two acres in size;*
 3. *A historic home is sited on the lot or parcel;*
 4. *The owner converts the historic home to an Accessory Dwelling Unit upon completion of the new Single Family Dwelling or placement of a manufactured home; and*
 5. *The Accessory Dwelling Unit may be required to comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment*

An owner who constructs a new Single Family Dwelling or places a Manufacture Dwelling under subsection (B)(i) of this section must adhere to the following conditions:

1. *Prohibitions: The owner may not:*
 - a. *Subdivide, partition, or otherwise divide the lot or parcel in a manner that separates the new Single Family Dwelling or manufactured home from the Accessory Dwelling Unit.*
 - b. *Increase the square footage of the Accessory Dwelling Unit beyond 120 percent of the historic home's square footage at the time of constructing the new Single Family Dwelling.*
 - c. *Rebuild the Accessory Dwelling Unit if it is deemed a dangerous building due to fire or other natural disasters, as defined by the Uniform Code for the Abatement of Dangerous Buildings.*
 - d. *Construct an additional Accessory Dwelling Unit on the same lot or parcel.*
2. *Water Supply: The new Single Family Dwelling constructed or Manufactured Dwelling placed under this section may be required to use the same water supply source as the Accessory Dwelling Unit.*
3. *Occupancy and Rental Restrictions: Owner occupancy of either the Accessory Dwelling Unit or the new Single Family Dwelling is not mandatory. However, neither unit may be used for vacation rentals (short-term rentals of thirty consecutive days or less).*

(C) ACCESSORY DWELLING UNITS IN RURAL RESIDENTIAL ZONES (RR-2 AND RR-5)

- (i) *As used in this section:*
1. *“Accessory Dwelling Unit” means a residential structure that is used in connection with or that is auxiliary to a Single Family Dwelling. For the purposes of this section, “auxiliary” means a use or structure incidental and subordinate to the main use of the property, and located on the same lot as the main use.*

2. ***“Rural Residential Use” means a lot or parcel located in the RR-2 or RR-5 zones, consistent with the definition of ORS 215.501. Properties that are zoned Qualified Rural Residential will not qualify for an ADU.***
3. ***“Single Family Dwelling” means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.***
4. ***“Useable Habitable Floor Area” means all areas of the Accessory Dwelling Unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers.***

(ii) ***One Accessory Dwelling Unit (ADU) is permitted on a lot or parcel zoned for RR-2 or RR-5 provided:***

1. ***The property is not within an urban reserve area.***
2. ***The property size is at least two acres.***
3. ***Only one Single Family Dwelling is present on the property.***
4. ***The existing Single Family Dwelling is not declared a nuisance, facing legal actions, or in the process of foreclosure and the property taxes are current.***
5. ***The Accessory Dwelling Unit complies with onsite or approved community sanitation and wastewater regulations.***
6. ***The Accessory Dwelling Unit does not exceed 900 square feet in floor area.***
7. ***The Accessory Dwelling Unit is located within 100 feet of the existing Single Family Dwelling.***
8. ***Accessory Dwelling Units must share the same water supply as the main dwelling, if legally allowed. Any well usage must adhere to setback requirements. If a well is used, there shall be no water use restrictions in the area or the property is not within a designated area of critical state concern.***
9. ***The property is served by a fire protection service.***
10. ***Vacation occupancy, as defined in ORS 90.100, is prohibited for Accessory Dwelling Units allowed under this section.***
11. ***The Accessory Dwelling Unit shall not be divided from the primary dwelling.***

(iii) ***Fire Restrictions:***

1. ***If the lot or parcel falls within an area identified on the statewide map of wildfire risk as within the wildland-urban interface, the lot or parcel, as well as any Accessory Dwelling Unit constructed thereon, must adhere to the following requirements: (i) Comply with any applicable minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392. (ii) Adhere to any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392.***
2. ***In cases where statewide wildfire risk maps have been approved, the Accessory Dwelling Unit must also comply with: (i) The Oregon residential specialty code pertaining to wildfire hazard mitigation for the mapped area.***

3. *Additionally, the county must have adopted land use regulations ensuring that:*
- i. The Accessory Dwelling Unit that is proposed to be sited adjacent to lands zoned for resource use shall comply with all requirements of Section 4.11.132(f) Natural Hazards Wildfire.*
 - ii. The Accessory Dwelling Unit provides adequate access for firefighting equipment, safe evacuation, and staged evacuation areas. Access, driveway and road standards are located in Chapter VII.*
 - iii. If the Accessory Dwelling Unit is not within the wildland-urban interface as identified on the statewide wildfire risk map, it must comply with the provisions of this section and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392*

CHANGES TO FARM AND FOREST

Updated to Chapter 4 – Forest and Exclusive Farm Use.

1st Change - Add into language for Accessory Structure in Forest zone. Staff is recommending that this be added into the use subject to compliance determinations. This would be consistent with how accessory structures are permitted in other zoning districts.

*SECTION 4.6.110 (OAR 660-006-0025) Uses Authorized in Forest Zones
 (2)The following uses pursuant to the Forest Practices Act (ORS chapter 527) and Goal 4 shall be allowed in forest zones. For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.*

21. a	<i>Agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building to another use. (ORS 215.760)</i>	CD	(3)(r)
b	Accessory Structure	CD	(3)(s)

*(3) PERMITTED OR USES SUBJECT TO COMPLIANCE DETERMINATIONS:
 The following uses may be allowed outright on forest lands subject to the review identified in the use table for forest are listed as part of the use:*

(s) ACCESSORY STRUCTURE – A building or structure that is (1) customarily incidental and subordinate to the principal use, main building or structure, and (2) subordinate in extent, area and purpose to the principal use. A use that constitutes, in effect, conversion to a use not permitted in the district is not an accessory use.

2nd Change - HB 2192 - 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.

Effective Date: January 1, 2024 Requires rulemaking and rulemaking will not be complete until December 2024. At this time staff has included the language as codified in the statute and will amend at later date if the rulemaking changes the language significantly. This provision is listed twice in the ordinance and staff would like to eliminate the duplicated reference and included the new language. Subsection 18 will be eliminated as replacement dwelling is found in ORS 215.755 as a type of dwelling authorized under that statute. Therefore, staff is keeping the use under 64. The language in Exclusive Farm Use is also proposed to comply with the changes.

Forest, Farm and Natural Resource Uses

18.	Alteration, restoration or replacement of a lawfully established dwelling; RESERVED	ED	(3)(e)
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(9) Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.

64.	Replacement Dwelling (Other forestland dwellings 215.755)	ACU	(9)(B)(III)
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(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -

(III) REPLACEMENT DWELLING - 215.755 other forestland dwellings; criteria. Subject to the approval of the governing body or its designee **through a compliance determination unless discretion has been applied requiring a land use decision**, the following dwellings may be established in any area zoned for forest use under a land use planning goal protecting forestland, provided that the requirements of the acknowledged comprehensive plan, land use regulations and other applicable provisions of law are met:

- (1) (Replacement Dwelling) Alteration, restoration or replacement of a lawfully established dwelling that:
 - (a) Has intact exterior walls and roof structure;
 - (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (c) Has interior wiring for interior lights;
 - (d) Has a heating system; and
 - (e) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of completion of the replacement dwelling.
- (2 & 3) Hardship dwelling and caretaker dwelling covered under uses requiring a conditional use.

- 1) **A lawfully established dwelling may be altered, restored, or replaced under ORS 215.213 (1)(q), 215.283 (1)(p), or 215.755 (1) if the county determines that the dwelling to be altered, restored, or replaced:**
 - (a) **Has, or formerly had:**
 - (A) **Intact exterior walls and roof structure;**
 - (B) **Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;**
 - (C) **Interior wiring for interior lights;**
 - (D) **A heating system; and**
 - (b) **If the value of the dwelling hasn't been eliminated due to destruction or demolition, it must have been assessed for property tax purposes as a dwelling**

- for at least five years before the application date. Alternatively, it must have been assessed as a dwelling since the date it was erected or fixed to the land and became subject to property tax assessment, whichever is later.
- (B) If the value of the dwelling has been eliminated due to destruction or demolition, it still must have been assessed as a dwelling for property tax purposes for at least five years before the destruction or demolition date. Alternatively, it must have been assessed as a dwelling since the date it was erected or fixed to the land and became subject to property tax assessment, whichever is later.
- 2) For replacement of a lawfully established dwelling under this section:
- (a) The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055. A demo permit shall be obtained and signed off prior to the certificate of occupancy has been completed.
- (b) The replacement dwelling:
- (A) May be sited on any part of the same lot or parcel.
- (B) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
- (C) Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:
- (i) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
- (ii) No statewide map of wildfire risk has been adopted.
- (c) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- 3) The county planning director, or the director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection (2) of this section, including a copy of the deed restrictions filed under subsection (2)(c) of this section.
- 4) If an applicant is granted a deferred replacement permit under this section:
- (a) The deferred replacement permit:
- (A) Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and
- (B) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant. This condition shall be recorded on the deed prior to receiving a Zoning Compliance Letter.
- (b) The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.

- 5) **An application under this section must be filed within three years following the date that the dwelling last contained all the features listed under subsection (1)(a) of this section.**
- 6) **Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.**

EXCLUSIVE FARM USE (EFU)

SECTION 4.6.200 EXCLUSIVE FARM USE – USE TABLES

Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone. The tables describe the use, type of review, applicable review standards and Section 4.6.210 Development and Siting Standards. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.

1.	a. Alteration, restoration, or replacement of a lawfully established dwelling. (replaced within a year)	CD (8) (30)	CD (8) (30)
	b. Alteration, restoration, or replacement of a lawfully established dwelling. (DEFERRED REPLACEMENT)	ACU (8) (30)	ACU (8) (30)

~~(8) REPLACEMENT DWELLING - Dwelling that no longer meets replacement criteria as described in subsection (8)(a)(A)(i) through (iv) of this section. This determination meets the requirements for a land use decision and shall reviewed as an Administrative Conditional Use (ACU). Subject to the approval of the governing body or its designee through a compliance determination unless discretion has been applied requiring a land use decision, the following dwellings may be established in any area zoned for Exclusive Farm Use (EFU) under a land use planning goal protecting forestland, provided that the requirements of the acknowledged comprehensive plan, land use regulations and other applicable provisions of law are met:~~

- 1) **A lawfully established dwelling may be altered, restored, or replaced under ORS 215.213 (1)(q), 215.283 (1)(p), or 215.755 (1) if the county determines that the dwelling to be altered, restored, or replaced:**
 - (a) **Has, or formerly had:**
 - (A) **Intact exterior walls and roof structure;**
 - (B) **Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;**
 - (C) **Interior wiring for interior lights;**
 - (D) **A heating system; and**
 - (b) **If the value of the dwelling hasn't been eliminated due to destruction or demolition, it must have been assessed for property tax purposes as a dwelling for at least five years before the application date. Alternatively, it must have been assessed as a dwelling since the date it was erected or fixed to the land and became subject to property tax assessment, whichever is later.**
 - (c) **If the value of the dwelling has been eliminated due to destruction or demolition, it still must have been assessed as a dwelling for property tax purposes for at least five years before the destruction or demolition date. Alternatively, it must have**

been assessed as a dwelling since the date it was erected or fixed to the land and became subject to property tax assessment, whichever is later.

- 2) **For replacement of a lawfully established dwelling under this section:**
 - (a) **The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055. A demo permit shall be obtained and signed off prior to the certificate of occupancy has been completed.**
 - (b) **The replacement dwelling:**
 - (A) **May be sited on any part of the same lot or parcel.**
 - (B) **Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.**
 - (C) **Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:**
 - (i) **The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or**
 - (ii) **No statewide map of wildfire risk has been adopted.**
 - (c) **As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.**
- 3) **The county planning director, or the director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection (2) of this section, including a copy of the deed restrictions filed under subsection (2)(c) of this section.**
- 4) **If an applicant is granted a deferred replacement permit under this section:**
 - (a) **The deferred replacement permit:**
 - (A) **Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and**
 - (B) **May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant. This condition shall be recorded on the deed prior to receiving a Zoning Compliance Letter.**
 - (b) **The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.**
- 5) **An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (1)(a) of this section.**
- 6) **Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.**

COMPLIANCE DETERMINATION

Currently, there is no expiration period for incomplete Compliance Determination Applications. Compliance Determinations are applications for nondiscretionary decisions, requiring a list of documents to demonstrate compliance with clear and objective standards. Staff often receives incomplete Compliance Determination applications that are never completed. Common reasons for incompleteness include a substandard plot plan, failure to build a passable driveway or property violation issue.

Staff proposed implementing a 180-day deadline for submitting all required materials, consistent with other deadlines in CCZLDO Section 5.0.200 Application Completeness. On the 181st day, if the application remains incomplete, it will become void, and the applicant will need to resubmit. The Planning Commission did make some revisions to this language followed by additional modifications to reference the appropriate sections for application completeness by the Board of Commissioners.

SECTION 5.10.100 COMPLIANCE DETERMINATIONS:

An application for Compliance Determination (CD) are required to be submitted to the Planning Department with the elements described in § 5.10.200. Once the application is received the Planning Staff will review the CD against the applicable zoning district to determine if additional reviews or notifications are required.

If the application is found to be incomplete, a notice of incompleteness will be issued consistent with CCZLDO Section 5.0.200(3). Applications will become void according to the timelines set forth in CCZLDO Section 5.0.200(6). If the project substantially changes with the additional information, an additional fee may be assessed to cover the extra review time.

Compliance determinations are nondiscretionary and are not subject to the additional timelines set forth in CCZLDO Section 5.0.200(2).

VALIDATION OF A UNIT OF LAND NOT LAWFULLY CREATED

As part of HB 2192 – Replacement Dwelling criteria a portion of ORS 92.176(2) was updated regarding validation of units of land not lawfully established. This only requires a minor change, reflected below.

SECTION 6.1.175 VALIDATION OF A UNIT OF LAND NOT LAWFULLY ESTABLISHED:

This section does not condone or encourage illegal land divisions, and as a penalty, this process will be charged a triple fee. Road requirements will be at the discretion of the Roadmaster.

1. The Planning Director may approve an application to validate a unit of land that was created by a sale that did not comply with the applicable criteria for creation of a unit of land if the unit of land:
 - a. Is not a lawfully established unit of land pursuant to LDO Section 6.1.125; and
 - b. Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.
2. Notwithstanding subsection (1)(b) of this section, the Planning Director may approve an application to validate a unit of land under this section if the Planning Department or Hearings Body approved a discretionary decision for the construction or placement of a

dwelling or other building on the unit of land after the sale. If the permit was approved for a dwelling, the Planning Director must determine that the dwelling ~~qualifies for replacement under the criteria listed below~~ **contains:**

a. ~~The dwelling must contain:~~

- i. Intact exterior walls and roof structure;
- ii. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- iii. Interior wiring for interior lights; and
- iv. A heating system