



MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Tanya Saltzman, AICP, Senior Planner
Will Groves, Planning Manager

DATE: November 6, 2024

SUBJECT: Continued Deliberations – RVs as Rental Dwellings

On November 13, 2024, staff will continue deliberations after a record extension with the Deschutes County Board of Commissioners (Board) concerning a legislative text amendment to consider allowing recreational vehicles (RV) as rental dwellings (File No. 247-23-000700-TA) under Senate Bill 1013. The entirety of the record can be found at www.deschutes.org/rvamendments.

I. PROCEDURAL BACKGROUND

Staff submitted a Post-Acknowledgement Plan Amendment notice to the Department of Land Conservation and Development on October 4, 2023. Staff presented information on the proposed amendments at a Planning Commission work session on October 12, 2023.¹ The Planning Commission held an initial public hearing on November 9, 2023,² which was continued to December 14, 2023.³ At that time, the hearing was closed, and the written record was held open until December 28 at 4:00 p.m. The Planning Commission began deliberating on January 11, 2024⁴ and elected to continue the discussion to January 23 to form a complete recommendation to forward to the Board. After deliberating, the Planning Commission voted 4-3 to **not** recommend adoption by the Board. In addition, the Planning Commission chose to provide recommendations concerning the draft amendments if the Board chooses to move forward with adoption.

Staff provided a summary of the amendments and the process thus far at a February 28 work session⁵ to the Board and followed up with additional information on several topics on March 27,⁶ at which time the Board directed staff to proceed with a public hearing. A public hearing was held before the Board on

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-41>

² <https://www.deschutes.org/bc-pc/page/planning-commission-40>

³ <https://www.deschutes.org/bc-pc/page/planning-commission-43>

⁴ <https://www.deschutes.org/bc-pc/page/planning-commission-44>

⁵ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-157>

⁶ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-161>

May 8, 2024. At that time, the public hearing was closed, and the written record was held open until 4 p.m. on May 29.⁷

Staff met with the Board on June 10⁸ to begin the deliberative process, orient the Board to issues raised in the record, and receive feedback on areas of Board interest or concern. During that meeting, the Board directed staff to further research issues relating to fire protection and associated resources, and to gather information about the status of other counties regarding SB 1013 before proceeding with further deliberations.

On August 14, staff returned to the Board to request that the record be reopened in order to receive additional information, most notably from the fire districts, which were occupied at the time during the height of fire season. The Board signed Order No. 2024-029, directing staff to reopen the record until November 1, 2024.

II. SUMMARY OF ADDITIONAL TESTIMONY RECEIVED

Additional testimony consisted of input from individuals, fire districts, and CDD staff. Below is a summary of the input provided, followed by a general staff response.

Individual Testimony

Thirteen individuals provided testimony; of these, eight had provided comments during the initial open record period and/or the Planning Commission process. Six individuals testified in support of the amendments (of which three already provided such testimony); seven individuals testified in opposition (of which five had already provided such testimony). Issues stated in support included providing additional housing options and providing a legal pathway to allow people to live in RVs. One individual requested that RV rental dwellings be allowed on properties that did not already have a dwelling or properties where establishing a dwelling would be difficult, costly, or impossible. Those in opposition cited reasons of health and safety, septic capacity, compatibility, and enforcement.

Fire Protection Districts

As noted previously, there has been significant concern from not only the fire districts, but also members of the public and the Planning Commission, about the impacts RVs as rental dwellings could have on fire and emergency services given the large number of eligible properties. Staff reached out to the fire districts during the second open record period, presenting at a meeting of the Central Oregon Fire Chiefs Association (COFCA) on August 14, reintroducing the issues at hand and requesting additional information. Representatives from COFCA provided several pieces of testimony.⁹

⁷ The record, which contains all memoranda, notices, and written testimony received, is available at the following website:

www.deschutes.org/rvamendments

⁸ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-175>

⁹ [2024-09-20 T Riley \(CO Fire Chiefs Association\) Comment](#); [2024-10-21 J Barram \(CO Fire Chiefs Association\) Comment](#); [2024-10-22 J Barram \(CO Fire Chiefs Association\) Comment w attachment](#)

In general, the fire districts supported the proposal concept as a way to alleviate housing pressures but continued to have significant unresolved concerns. The primary piece of testimony noted that the program could work if RV rental dwellings are subject to the same permit requirements as an ADU. Specifically:

"If treated like an ADU, then we can be assured that the following will happen:

- *Permit fees can be assessed, both for initial permitting and annual renewal, and these monies can be directed to the appropriate fire, EMS, and law enforcement agencies who will be required to respond to these dwellings.*
- *Defensible space requirements will be met, including distance from primary residence, and vegetation cleared around the RV.*
- *Access to the RV will meet current fire code requirements for single family occupancies.*
- *Proper addressing of the RV, including size and location of the numbers."* (2024-10-21 T Riley Comment)

Additional testimony noted concerns for the additional workload, concerns about enforcement, and the need for proper addressing.

CDD Building Safety Official

Testimony has been submitted to the project record by several CDD divisions throughout the legislative process, including Building Safety, Code Enforcement, and Onsite Wastewater. In prior testimony, Code Enforcement identified existing caseload/staff capacity, the difficulty of investigating and proving violations of proposed criteria, and the potential high cost for a property owner to come into compliance with proposed new rules as challenges (2024-05-29 CDD Code Enforcement Memo). Onsite Wastewater noted the need for RV rental dwellings to have the wastewater disposal requirements of a permanent dwelling rather than a temporary one and that a 1-acre minimum lot size for RV dwellings would reduce but not eliminate septic denial issues, as installing an additional septic system for the RV may still not be feasible due to limited space or soil conditions (2023-11-02, 2023-12-21, 2024-05-08 T Cleveland Comments). Building Safety noted the challenges of using vehicles designed for temporary use as permanent dwellings. Staff's memo summarizing CDD divisions' testimony in greater detail is attached to this memorandum.

Randy Scheid, CDD Building Official, provided additional testimony during the record extension period expressing significant concerns about adoption of the proposed amendments and noted that he "does not support the use of these temporary living units for permanent dwelling accommodations." Specifically, he noted the differences between RVs as permanent rental dwellings and ADUs, which recently became available in certain circumstances:

- *"These ADU's currently must meet the R327 Wildfire Mitigation section of the ORSC [Oregon Residential Specialty Code]. RV's do not.*
- *These ADU's must meet the energy efficiency requirements of the ORSC. RV's do not.*
- *These ADU's must be constructed to the ORSC so they are safe, sanitary, and durable and will allow lending agencies to issue 30-year mortgage loans. Since the 1980's dwelling fires and their associated*

deaths and injuries in the United States have been cut in half. [NFPA Journal - Fire Progress, Fall 2021] RV's do not.

- *These ADU's are taxable real property that is the funding mechanism for most of the services that we all enjoy, including first responder services. RV's are not.*
- *We have issued construction permits for several Rural ADU's and will see the first ones becoming available for occupancy this year. These new units will provide the same level of safety and protection under the law as other ORSC governed structures. RV's do not."* (2024-08-23 R Scheid Comment)

Staff Response

Staff appreciates the input received during the reopened record period and provides the following observations.

RVs are an inherently different type of dwelling than ADUs. This was noted repeatedly in testimony given by the County Building Official as noted above, and therefore presents challenges to the request of the fire districts to utilize the same permitting structure for RVs as for ADUs.

- Recreational vehicles are not regulated by the building code that regulates ADUs, including wildfire hardening, energy efficiency, and general safety. The fire hardening requirements in ORSC, known as R327, are applied to ADUs by law because ADUs are structures that are regulated by ORSC.
- As such, RVs do not receive an inspection from the Building Safety Division for the above-mentioned criteria.
- Access: It is likely that concerns about emergency access could be adequately addressed with standards relating to access driveway surface and unobstructed width, as well as emergency vehicle turnaround standards.
- Defensible space requirements for ADUs are required to be met prior to receiving a building permit. No building permits are issued with RV rental dwellings, though septic, electrical, plumbing, and land use permits will be required. It may be possible to utilize portions of the code language for ADUs but a solution would have to be developed to address inspection/approval of these requirements.

Staff has been unable to identify a mechanism within the Community Development Department's authority for establishing additional fees/creating additional funding to support the services necessary to support the proposed amendments. As noted previously, RVs are not taxed as real property and as such, would not generate additional property taxes that could provide funding for fire and emergency services, among others. Staff consulted with several experts both within and beyond CDD, including CDD's Senior Management Analyst, to determine potential options.

- As noted in testimony by the Chief Appraiser (2023-11-16 T Straughan Comment), measurement of real market value is governed by statute and as such cannot be altered to accommodate special concerns or situations such as the one posed by RV rental dwellings.

- Concerning the potential of utilizing business licenses to generate revenue, the County currently does not operate a business license program. To institute one specifically for RV rental dwellings would require establishing a business license program from scratch, which would come at a high cost to purchase software modules and train staff. A licensing program would likely be a significant cost burden to applicants, as any fees would need to durably fund the program and convey adequate funds to first responders.
- Fire district testimony stated that “Permit fees can be assessed, both for initial permitting and annual renewal, and these monies can be directed to the appropriate fire, EMS, and law enforcement agencies who will be required to respond to these dwellings.” As noted above, if RVs were taxed as real property, this could provide additional revenue as stated. However, in light of RVs not generating property tax increases, there is no existing mechanism to create a separate additional fee for RVs that could be directly passed on to fire or emergency services, whether that is an initial permit or a renewal.
- If fire districts wanted to establish a fee that they receive to offset the additional workload generated by RV rental dwellings, this would have to be established by a governing body that includes all of the fire districts (unless each fire district wanted to run a separate process, which would likely be unwieldy), not by the Planning Division. Such a process would likely entail this governing body determining an appropriate fee and undergoing their public process to establish this fee.
- Should first responder agencies lawfully develop and implement a system development charge (SDC), CDD has mechanisms to collect and distribute those funds, but those efforts, in turn, would need to be funded. It is unclear at this time if first responder agencies can lawfully or, as a practical matter, implement SDCs.

III. ACTIONS IN OTHER COUNTIES

As noted previously, Deschutes County is often one of the first counties to adopt legislative changes based on changes to state law. As of the date of this memorandum, only Clackamas County has adopted legislation for SB 1013, and Lane County has its first evidentiary hearing scheduled for November 19. According to staff outreach, Washington County is not pursuing the amendments at this time; Umatilla was considering them but pulled back due to staffing as well as concerns about groundwater nitrate. Staff is not aware of any other efforts at this time.

A copy of Clackamas County’s FAQ and RV zoning code, which became effective September 3, has been entered into the record. To date, Clackamas has received two RV applications but one is incomplete and one is in progress, so no further information is available to share. Clackamas County added several requirements beyond the baseline requirements of SB 1013, in which RVs:

- Cannot be located in the 100-year floodplain
- Must comply with the same setbacks that apply to the primary dwelling.
- Must be at least 10 feet and no more than 100 feet from the primary dwelling (the same as state law for ADUs, but is not in SB 1013 concerning RVs).

- Must have a working toilet and sink (same as Deschutes County).

Clackamas County's regulations do not address fire hardening, defensible space, or emergency access. Issues relating to wildfire and snow load were raised as an option for certain areas above specific elevations, but ultimately not included in the final adopted version.

Lane County is scheduled to conduct its first evidentiary hearing with the Planning Commission on November 19. Its draft code, which is included in the record, contains the following requirements beyond the baseline requirements of SB 1013:

- Cannot be located in the floodplain
- The lot or parcel cannot be subject to an open code enforcement action
- If the property is in an unincorporated community or water quantity limited area, they must demonstrate adequate supply of water (similar to Deschutes County)
- The RV must have an operable toilet and sink (same as Deschutes County)
- The property owner must provide a parking pad for the recreational vehicle with a surface material of compacted gravel, concrete or asphalt (same as Deschutes County)
- If the recreational vehicle will be located within a structure, the structure must be entirely open on at least two sides; (same as Deschutes County)
- The recreational vehicle must be setback 10 feet from the single family dwelling and other structures on the lot or parcel; (same as Deschutes County)
- The recreational vehicle must be setback at least 30 feet from properties zoned F1, F-2 or EFU;
- The property owner may provide residential accessory structures and uses for use by the tenant of the recreational vehicle as permitted by Lane Code 16.290(2)(t).

Note that Lane County's regulations are still in the draft stages and subject to change depending on public and Planning Commission input. Like Clackamas, Lane County's draft regulations do not address fire hardening, defensible space, or emergency access, which are significant concerns for Deschutes County but may not have as much relevance in other areas of the state.

IV. OPTIONS FOR NEXT STEPS

Before proceeding, staff requests Board direction on the general direction of the proposed amendments. While there has been noteworthy support for the amendments by the public throughout the open record period, staff seeks Board direction in light of the testimony summarized in this memo.

The testimony from the fire districts requested the requirements of ADUs be applied to RVs but as staff has noted, several components of this are not feasible, particularly with respect to funding but also certain elements of fire hardening and building safety. The Board may want to consider the impact on the fire districts if some portion of those requests are not achievable. Similarly, concerns expressed by

the County Building Official concerning fire and life safety do not have any solution or mitigation identified in the record.

Given the factors outlined in this memo, the Board can choose to:

- Proceed with deliberations: staff can return with a deliberative matrix addressing the issues raised in this memo as well as others that have been discussed thus far in public testimony.
- Pause the legislative process and resume the process at a future date. This would allow for potential action by those outside of CDD concerning funding mechanisms, and/or waiting to assess the experiences of other counties, as suggested by some public testimony.
- Withdraw the proposed amendments. The Board would have the option to reinstate the public process at any time.

Attachment

1. 2024-06-10 Deliberation Memo – RVs as Rental Dwellings