



FINDINGS

HARDSHIP DWELLING TEXT AMENDMENTS

I. APPLICABLE CRITERIA:

Title 22, Deschutes County Development Procedures Ordinance

II. BACKGROUND:

This is a legislative text amendment to Deschutes County Code (DCC), Title 18, County Zoning. The primary purpose of the amendment is to conform local requirements with state law and provide consistency for the review of hardship dwellings across multiple county zones. Notable changes include:

- Reorganized content for readability;
- Amended outdated references;
- Clarified hardship dwelling can be used for the “aged” as well as the “infirm”;
- Clarified “existing building” use and definition for the purpose of the section;
- Clarified hardship dwelling can be the only second dwelling on the property;
- Amended renewal requirement from every one year to two years;
- Listed the use in all permissible zones for readability.

Since 1979, Deschutes County has allowed property owners to obtain a temporary use permit for a secondary dwelling on a property, with the intent the dwelling would be used for the care of a property owner or relative of the property owner with a medical condition. This would allow for the person with the medical condition to maintain independence and continue to live on a rural property while also receiving necessary medical attention. Recreational Vehicles (RVs), manufactured homes, or existing buildings are eligible to be used as hardship dwellings.

The current requirements for hardship dwellings were drafted in 2008. Since that time, the state has undergone rulemaking for this use in farm and forest (resource) zones. To staff’s understanding, there are no explicit state requirements for regulation of the use in non-resource zones. The purpose of this proposal is to amend the code for greater consistency with state rules and statutes and to establish a consistent review process for hardship dwelling applications across all County zones in which the use is permitted.

III. STATE REQUIREMENTS AND LOCAL INTERPRETATIONS

As noted above, the state of Oregon regulates hardship dwellings in both Oregon Administrative Rule (OAR) and in Oregon Revised Statute (ORS). These regulations only apply to hardship dwellings in resource zones – the Exclusive Farm Use Zone (DCC 18.16) and Forest Zones (18.32 and 18.40).

ORS 215.283(2)(L) - Uses Permitted in Exclusive Farm Use Zones and ORS 215.755(2) – Other Forestland Dwellings require:

- The use is subject to ORS 215.296 (Farms Impacts Test) for the EFU zone.
- *One manufactured dwelling, recreational vehicle, or temporary residential use of an existing building, in conjunction with the existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.*
- *Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or in the case of the existing building, the building shall be removed or returned to an allowed nonresidential use.*
- *The governing body or designee shall provide for periodic review of the hardship claimed under this paragraph.*
- *A temporary residence is not eligible for replacement under subsection (1)(p) of this section.*

OAR 660-006-0025(4)(t) – Forest Lands – Uses Authorized in Forest Zones and OAR 660-033-0130(10) -Agricultural Lands – Minimum Standards for Permitted and Conditional Uses require:

- *As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons experienced by the existing resident or relative as defined in ORS chapter 215.*
 - *ORS 215 definition for relative: a relative is defined as a grandparent, step-grandparent, grandchild, parent, step-parent, child, step-child, brother, sister, sibling, step-sibling, either blood or legal relationship, niece, nephew, uncle, aunt or first cousin.*
- *The temporary residence may include a manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building.*
- *A manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required.*
- *Governing bodies shall review the permit authorizing such manufactured homes every two years.*
- *Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.*
- *Department of Environmental Quality review and removal requirements also apply.*

Staff has drafted text to be consistent with state requirements where possible. The state does not have regulations pertaining to hardship dwellings on non-resource lands. In approaching the amendments, staff has integrated state requirements where possible, for all zones in which a hardship dwelling is permitted, to ensure a consistent and clear process for property owners and county staff.

Deschutes County can provide local interpretation of requirements that are not expressly addressed in OAR or ORS. In coordination with the County's Building, Code Enforcement, Coordinated Services, and Onsite Wastewater Divisions, staff identified several policy choices for the Planning Commission and Board to consider.

Policy Choice #1: "Existing Building" Definition

State requirements do not define what constitutes an "existing building" as it relates to temporary hardship dwellings. To avoid a scenario in which a new building is constructed for temporary use, CDD staff identified a rolling eligibility date of two-years from the date of final inspection of a building to the submittal date of the temporary use permit for a hardship dwelling. If the application is submitted prior to the two-year date, it does not constitute an "existing building".

Policy Choice #2: Restrictions on Additions and Modifications of Structures

Code Enforcement has had several cases involving unsafe or illegal modification of RVs, manufactured homes, and existing buildings for hardship dwellings. In order to avoid these situations, the text amendments include a limitation to modification of existing buildings to be within the existing building floor area. This will focus modifications on structures that are already built for residential use but may require the installation of kitchen facilities or other minor improvements. The text amendments continue to restrict additions to RVs due to safety concerns from Building staff.

Policy Choice #3: RV Components

Code Enforcement has had several cases involving non-operational RVs that are unfit for habitation. The text amendments clarify the requirements for an RV to be eligible as a hardship dwelling. This includes requiring a sink and toilet, and preserving existing requirements for compliance with property setbacks, full licensure, highway readiness, and compliance with flood hazard zone requirements if applicable.

Staff requests the Planning Commission evaluate these policy options during the hearing process.

IV. BASIC FINDINGS:

The Planning Division determined minor changes were necessary to clarify existing standards and in various sections of the Deschutes County Code (DCC). Staff initiated the proposed changes and notified the Oregon Department of Land Conservation and Development on February 6, 2025 (File no. 247-24-000078-TA). As demonstrated in the findings below, the amendments remain consistent with the Deschutes County Code, the Deschutes County Comprehensive Plan, and the Statewide Planning Goals.

V. FINDINGS:

CHAPTER 22.12, LEGISLATIVE PROCEDURES

Section 22.12.010.

Hearing Required

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: This criterion will be met because a public hearing will be held before the Deschutes County Planning Commission (Commission) on March 13, 2025, and a public hearing will be held before the Board of County Commissioners (Board).

Section 22.12.020, Notice

Notice

A. Published Notice

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.***
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.***

FINDING: This criterion will be met as notice will be published in *The Bulletin* newspaper at least 10 days prior to each public hearing.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: Posted notice was determined by the Planning Director not to be necessary.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: The proposed amendments are legislative and do not apply to any specific property. Therefore, individual notice is not required.

D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

FINDING: Notice was provided to the County public information official for wider media distribution. This criterion has been met.

Section 22.12.030 Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division at the direction of the Board and has received a fee waiver. This criterion has been met.

Section 22.12.040. Hearings Body

- A. *The following shall serve as hearings or review body for legislative changes in this order:***
 - 1. *The Planning Commission.***
 - 2. *The Board of County Commissioners.***
- B. *Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.***

FINDING: This criterion is met as the Commission will hold a public hearing on March 13, 2025. The Board will hold a public hearing on a subsequent date.

Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes included in file no. 247-25-000078-TA will be implemented by ordinances upon approval and adoption by the Board.

OAR 660-015, STATEWIDE PLANNING GOALS AND GUIDELINES

Goal 1: Citizen Involvement:

FINDING: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments was provided to the *Bulletin* for the Board public hearing.

Goal 2: Land Use Planning:

FINDING: The purpose of the amendment is to integrate requirements from Oregon Administrative Rule and Oregon Revised Statutes. The proposal has a factual base and is consistent with the intent of the Comprehensive Plan and zoning districts. This goal is met.

Goal 3: Agricultural Lands:

FINDING: The proposed amendments integrate requirements from Oregon Administrative Rule and Oregon Revised Statute for hardship dwellings on agricultural lands. This goal is met.

Goal 4: Forest Lands:

FINDING: The proposed amendments integrate requirements from Oregon Administrative Rule and Oregon Revised Statute for hardship dwellings on forest lands. This goal is met.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 5. This goal does not apply.

Goal 6: Air, Water and Land Resources Quality:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 6. This goal does not apply.

Goal 7: Areas Subject to Natural Disasters and Hazards:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 7. This goal does not apply.

Goal 8: Recreational Needs:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 8. This goal does not apply.

Goal 9: Economic Development:

FINDING The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 9. This goal does not apply.

Goal 10: Housing:

FINDING: The proposed amendments provide more flexibility for hardship dwellings, as allowed by state law. The amendments will provide clarity on a housing type for vulnerable populations in the rural county. This goal is met.

Goal 11: Public Facilities and Services:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 11. This goal does not apply.

Goal 12: Transportation:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 12. This goal does not apply.

Goal 13: Energy Conservation:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 13. This goal does not apply.

Goal 14: Urbanization:

FINDING: The proposed amendments integrate requirements from Oregon Administrative Rule and Oregon Revised Statute for hardship dwellings. The use is already permitted in the underlying zoning districts, there is no alteration to allowance of development density on rural lands. This goal does not apply.

Goals 15 through 19

FINDING: These goals are not applicable to the proposed plan and text amendments because the County does not contain these types of lands.

2011 DESCHUTES COUNTY COMPREHENSIVE PLAN

Chapter 3 Rural Growth Management, Section 3.3. Rural Housing Policies

Policy 3.3.5 Maintain the rural character of the County while ensuring a diversity of housing opportunities, including initiating discussions to amend State Statute and/or Oregon Administrative Rules to permit accessory dwelling units in Exclusive Farm Use, Forest and Rural Residential Zones.

FINDING: The intent of the text amendment is to amend regulations for temporary hardship dwellings to be consistent with state law and administrative rule for resource zones. The amendments will also provide a consistent process for regulation of hardship dwellings in both nonresource and resource zones. These requirements will ensure development continues to comply with all state rules, and will maintain the rural character of the County through intentional placement of temporary housing associated with a hardship.

VI. CONCLUSION:

Based on the information provided herein, the staff recommends the Board of County Commissioners approve the proposed text amendments as drafted.