



MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Nicole Mardell, AICP, Senior Planner

DATE: April 16, 2025

SUBJECT: Public Hearing: Temporary Hardship Dwelling Text Amendment

The Deschutes Board of Commissioners (Board) will conduct a public hearing on April 23, 2025, to consider amendments to Title 18 of the Deschutes County Code relating to temporary hardship dwellings (file no. 247-25-000078-TA). The hearing will take place in the Barnes and Sawyer Rooms, 1300 NW Wall Street, Bend and virtually via Zoom.

Attached to this memorandum are the proposed text amendments and a staff report summarizing the changes. Within the proposed amendments, added language is shown underlined and deleted shown as ~~strikethrough~~. All record materials can be found on the project website: <https://bit.ly/25-78-TA>.

I. 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 to 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- Amended outdated references;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 (only in resource zones) are eligible to be used as hardship dwellings.

Since the last major update to the requirements for hardship dwellings, the state has undergone rulemaking in farm and forest (resource) zones, providing more detailed guidance on the eligibility and requirements for establishing the use.

OAR 660-004-0040(8)(f) provides limited guidance on hardship dwellings in rural residential exception areas, only noting that the dwelling type for such use is limited to Recreational Vehicles (RVs) and manufactured homes. To staff's understanding, there is no other state guidance for the regulation of temporary hardship dwellings in zones that allow for a single-family dwelling as a permitted use and are outside of farm, forest, and rural residential exception areas.

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.

II. OVERVIEW OF AMENDMENTS

The amendment package will affect the following DCC sections:

- Revision of section to comply with state requirements
 - 18.116.090: Temporary Hardship Dwelling requirements
- Removal of duplicative requirements found in 18.116.090
 - 18.16: Exclusive Farm Use Zone
 - 18.36: Forest Use 1 Zone
 - 18.40: Forest Use 2 Zone
- Minor amendment - listing temporary hardship dwelling under permitted uses
 - 18.32: Multiple-Use Agricultural Zone
 - 18.60: Rural Residential Zone
 - 18.65.020, 021, 022: Rural Service Center Unincorporated Community Zones
 - 18.66.020, 030, 040, 050: Terrebonne Rural Community Zones
 - 18.67.020, 030, 040: Tumalo Rural Community Zones
 - 18.74.020: Rural Commercial Zone
 - 18.108.030, 110: Sunriver Unincorporated Community Zones
 - 18.110.020, 030: Resort Community Zone

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 applicants and county staff. The amendments in DCC 18.116.090 provide the same general requirements for temporary hardship dwellings whether they are in a resource zone or a non-resource zone that allows for a single-family dwelling. In addition, the farm

and forest zones maintain existing requirements for compliance with the farm impacts test and ineligibility for a replacement dwelling associated with a temporary hardship dwelling.

III. POLICY CHOICES

Deschutes County can provide local interpretation of requirements that are not expressly addressed in the OAR or Oregon Revised Statute (ORS). Staff has identified several policy choices for the Board to consider.

Use of Existing Building as a Temporary Hardship Dwelling

Property owners can currently utilize an RV or manufactured home for a temporary hardship dwelling in all zones. In farm and forest zones, existing buildings (sheds, accessory structures, barns) are also permitted to be converted for use as a temporary hardship dwelling, per the OAR and ORS.

The proposed text amendment package proposes to allow the use of existing buildings in the following zones:

- 18.65.020, 021, 022: Rural Service Center Unincorporated Community Zones
- 18.66.020, 030, 040, 050: Terrebonne Rural Community Zones
- 18.67.020, 030, 040: Tumalo Rural Community Zones
- 18.74.020: Rural Commercial Zone
- 18.108.030, 110: Sunriver Unincorporated Community Zones
- 18.110.020, 030: Resort Community Zones

During Planning Commission deliberations, staff discovered the restriction in OAR 660-004-040 noted above and amended the original proposal to exclude the use of existing buildings as hardship dwellings in the RR-10 and MUA-10 zones. To staff's understanding, there are no state restrictions on the zones listed above.

Existing Building Definition

State regulations do not define "existing buildings" for temporary hardship dwellings. Currently, the code definition is a building "in existence on or before March 29, 2017". To provide additional flexibility, while still seeking to avoid a scenario in which a new building is constructed for temporary use, the proposed text amendments alter the definition to be 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."

Modification of Existing Buildings

The proposed text amendments would add a restriction on the modification of existing buildings to be used as temporary hardship dwellings. The intent of the requirement is to limit modifications to minor improvements in the existing building floor area (such as the installation of kitchen facilities) to ensure the use can be converted back to a nonresidential use if the temporary hardship dwelling is no longer needed. The limitation is drafted as follows: "*Any modifications to the existing building for the hardship dwelling must be contained within the existing building-floor area.*"

RV Component Requirements

Code Enforcement has processed several cases involving non-operational RVs that are unfit for habitation. The text amendments preserve existing requirements related to the necessary components and siting of an RV and also clarify that an RV must have a sink and a toilet. Although more restrictive than state law, CDD staff are supportive of carrying forward these requirements to ensure RVs are safe for occupants when used as a temporary hardship dwelling. The proposed text amendments include the following component language:

A recreational vehicle hardship dwelling must comply with all of the following requirements:

- 1. The recreational vehicle must have a sink and toilet;*
- 2. The recreational vehicle must comply with all setbacks of the underlying zone(s);*
- 3. The recreational vehicle must be fully licensed;*
- 4. The recreational vehicle must be ready for highway use, on its wheels or jacking system, and must be attached to the site only by quick disconnect type utilities and security devices;*
- 5. A recreational vehicle hardship dwelling located in a special flood hazard area must comply with DCC 18.96.*
- 6. Permanently attached additions are prohibited.*

The Board is welcome to raise additional items for discussion if desired.

IV. PLANNING COMMISSION PUBLIC HEARING AND RECOMMENDATION

The Commission held a public hearing on March 13, 2025¹. Two agency comments were provided in advance of the hearing:

- Redmond Fire and Rescue: recommended code provisions related to fire access roads be updated through a separate text amendment process.
- County Senior Transportation Planner: noted the proposal complies with the Transportation Planning Rule and Oregon Statewide Planning Goal 12.

One public comment was received prior to the hearing expressing general support for the amendments. One member of the public provided verbal testimony at the public hearing, expressing general support for the original proposal to allow use of existing buildings in rural residential zones and sought additional information on the applicability of requirements for a site-specific proposal. Commissioners closed the oral portion of the public hearing and left the written record open until 4 p.m. on Wednesday, March 19, 2025.

Planning Commissioner Altman submitted clerical edits to the proposed text into the record. Staff submitted LUBA Case No. 2021-053 in the record, which pertained to a temporary hardship dwelling application in Lane County. No additional public comments were received during the open record period.

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-63>

The Planning Commission voted 6-0 to recommend approval of the proposed text amendment package as drafted by staff, with the amendment to exclude the use of existing buildings as a hardship dwelling type in the RR-10 and MUA-10 zones.

V. NEXT STEPS

At the conclusion of the public hearing, the Board can choose one of the following options:

- Continue the hearing to a date and time certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain;
- Close the hearing and commence deliberations; or
- Close the hearing and schedule deliberations for a date and time to be determined.

Attachments:

- Proposed Amendments and Draft Findings