



MEMORANDUM

TO: Deschutes County Planning Commission

FROM: Nicole Mardell, AICP, Senior Planner

DATE: March 6, 2025

SUBJECT: Public Hearing: Temporary Hardship Dwelling Text Amendment

The Deschutes County Planning Commission (Commission) will conduct a public hearing on March 13, 2025, at 5:30 p.m. at the Deschutes Services Center, 1300 Wall Street, Barnes and Sawyer rooms to consider text amendments relating to temporary hardship dwellings (file no. 247-25-000078-TA). 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 ~~striketrough~~. The public hearing will be conducted in person, electronically, and by phone.

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 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- Amended outdated references;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 a relative to provide or receive care for a resident with a medical condition. This would allow for the property owner or current resident of the property 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 the hardship dwelling.

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.

Following the Planning Commission work session, County Legal Counsel directed staff to amend the findings associated with the text amendment. The findings have been updated to list the County's 2011 Comprehensive Plan goals in policies in place of the 2040 Comprehensive Plan goals as findings, as the 2040 Plan is currently under appeal and not yet in effect.

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

The amendments aspire to match 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. The amendments in DCC 18.116.090 provide the same general requirements for temporary hardship dwellings whether they are in a resource zone or non-resource zone that allows for a single family. In addition, the farm and forest zones maintain

existing requirements for conditional use criteria review 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 Oregon Administrative Rule (OAR) or Oregon Revised Statute (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 regulations do not define "existing building" for 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 as a bathroom facility, and preserving existing requirements related to compliance with property setbacks, full licensure, highway readiness, and compliance with flood hazard zone requirements if applicable.

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

IV. PLANNING COMMISSION WORK SESSION / PUBLIC AND AGENCY COMMENT

The Commission conducted a work session on February 27, 2025¹. During the meeting, the Commission requested the following information:

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-62v>

- Does the definition for "relative" come from state law or is it a local definition subject to clear and objective standards?
 - Staff confirmed that the definition comes from Oregon Administrative Rule.
- Could the resident of the property live in the temporary dwelling and bring in a caretaker to live in the primary dwelling?
 - This issue was resolved in LUBA case no. 21-053.
 - The person suffering the hardship must be either an existing resident or a relative of a resident.
 - The existing resident who is suffering the hardship (or whose relative is suffering the hardship) must reside in an existing dwelling.
 - There is no requirement that a family member must occupy the temporary hardship dwelling.
 - Nothing in the language of the temporary hardship dwelling provisions requires that the caregiver and the person receiving care be related to each other.
- If you add a kitchen to an existing building, do you need to decommission the facilities if the temporary use is no longer needed? Is there an inspection process?
 - Staff confirmed kitchen facilities would need to be decommissioned within 90 days of the end of the temporary use. CDD has an internal policy and process for decommissioning of temporary hardship dwellings as state law doesn't explicitly state what is required. Inspections are required for capping of 220V wiring.
- How many temporary hardship dwellings currently exist?
 - County code enforcement estimates there are 143 total properties in the County with active approval for a temporary hardship dwelling.
 - In the last two years (February 2023 - February 2025), the County issued:
 - Nonresource zones: 18 total approvals
 - Ten RVs
 - Six manufactured homes
 - One change in listed occupant
 - One existing building (approved as a reasonable accommodation through the Americans with Disabilities Act)
 - Resource Zones: Seven total approvals
 - One change in occupant
 - Two existing building
 - Four manufactured homes

As of the date of this memo, no public comments have been received. Staff has received two agency comments. The County's Senior Transportation Planner noted the proposal complies with Statewide Goal 12 and the Transportation Planning Rule. Tom Mooney, Redmond Fire and Rescue, requested that the County amend DCC 18.36.080 to be consistent with Oregon Fire Code. The proposal is out of scope of the proposed text amendment but will be added to the County's list of future code amendments to pursue.

V. NEXT STEPS

The Planning Commission will ultimately provide a recommendation to the Board of County Commissioners on the proposed amendments. The Commission could choose to recommend approval of the amendments as drafted, approval with revisions, or denial of the amendments.

A public hearing with the Planning Commission is scheduled for March 13, 2025.

Attachments:

- Draft Amendments and Draft Findings