



STAFF REPORT

JOSEPHINE COUNTY, OREGON, COMMUNITY DEVELOPMENT DEPARTMENT

**RURAL LAND DEVELOPMENT CODE (RLDC) PROPOSED MISCELLANEOUS
HOUSING RELATED TEXT AMENDMENTS**

Date: May 21, 2018

To: Josephine County Rural Planning Commission

Staff: Julie A. Schmelzer, Community Development Director

Proposal: A series of proposed text amendments to address the housing crisis in Josephine County, Oregon. Specifically, create a path to allow for more affordable homes and lots, a variety of housing options, rural lodging options, a means to produce extra income to help address household poverty, allow for 'aging in place', develop clear camping regulations, preserve open space, address runoff, and other miscellaneous housing related amendments and definitions.

Planning Commission Review: Section §24.010 of the RLDC states the purpose of Article 24, Planning Commission Review Procedures, "is to provide for the conduct of an impartial public hearing by the Rural Planning Commission for applications which involve significant policy issues having county-wide impact, or which will call for review and recommendation

to the Board of Commissioners”. The specific procedures are listed in Article 24.

Section §46.020.B.1.d. explains the Planning Commission shall make final decisions to amend a comprehensive plan element unless the amendment involves an exception to statewide planning goals or involves farm or forest land. The proposed amendments *do* involve farm or forest lands; therefore, the Planning Commission’s decision shall be a recommendation to the Board of Commissioners in the form of a recommended ordinance. Section §46.030 outlines the requirements to amend the text of the comprehensive plan (the Rural Land Development Code).

Board Review Authority:

§46.020.B.2.a of the RLDC states the Board of Commissioners must implement amendments of the County Comprehensive Plan by ordinance. Two separate hearings will be held by the Board at a later date (to be determined).

Review Criteria:

§46.040 establishes review criteria which must be considered in reviewing the application. Details are as follows. In addition, compliance with planning goals is also reviewed and follow the RLDC review.

RLDC §46.040 – Plan Amendment Review Criteria

All plan amendments must comply with the requirements of RLDC §46.040. Herein staff presents an abbreviated version of that section with a short comment on each subsection.

A. Compliance with all applicable statewide and county goals and policies.

Finding: Applicable statewide and county goals and policies have been satisfied (see the following sections for details).

B. Changes from a resource designation to a non-resource designation.

Finding: This requirement is not applicable.

C. Adequate carrying capacity to support densities and types of uses proposed.

Finding: Satisfied. The development that could be allowed by the text amendments still has to satisfy carrying capacity requirements in the RLDC. For example, there must be an approved sewage disposal system and adequacy of domestic groundwater, road access, compliance with wildfire safety provisions, and meet flood-proofing requirements.

D. Density and types of uses are appropriate based on consistency with the character of the area, or, if inconsistent how such use can be justified.

Finding: Satisfied. According to ORS Chapter 197, *Comprehensive Land Use Planning*, Oregon does not regulate density management in rural areas (areas outside of a city or its urban growth boundary). Oregon does not provide for density management and Chapter 197 does not prohibit it either.

Chapter 197 requires annual reporting of densities; cities to plan for densities within an urban growth area; metropolitan service districts to report on density; offers a pilot program with density bonuses; addresses maximum net densities in expedited land divisions; looks at density when park planning; and, with goal exceptions. Nowhere in ORS 197 does the state prohibit a county from implementing density management. Josephine County believes the state should encourage density management to conserve open space and farmland. Rather, Oregon regulates lot size requiring large lots that typically remove lands from agricultural or forest production, or remove lands that could help meet open space and habitat needs.

The proposed *Cluster Subdivisions* amendments provide for density management options to allow rural lands to be subdivided to help meet housing demand, and maintains rural character, versus, a pattern of 'cookie-cutter' residential development typical of an urbanized area. Such management tool supports Josephine's Comprehensive Plan and Purpose sections of its RLDC.

Allowing temporary medical hardships/accessory dwelling units, in place of the abused medical hardship program and practice of allowing bedrooms in accessory buildings, provides a legal and safe path to meet housing demands. As such, there is no increase in existing residential density on such lands. Allowing temporary use accessory dwelling units, where none had existed before, provides space for a very limited increase in possible density, but, by limiting the size of the structure, and requiring said structure's dimensions to be included in accessory limitations per lot, maximum *building* density is not increased.

Oregon would allow a second structure on a lot for sleeping purposes if said units contained a 'hot plate' (or induction surface) instead of a cooking stove, as allowed currently in Jackson County, Oregon. Not only are hot plates unsafe, and cause for

improper nutrition, the fact remains that density is unchanged—regardless of the cooking method.

Also proposed are accommodations for the homeless or those in need of transitional housing. In that such facilities are not offering dwellings, or long-term housing, they do not increase residential density.

E. Change within an exception area must comply with OAR 660-004-0018.

Finding: This requirement is not applicable.

Statewide Planning Goals

Goal 1: Citizen Involvement

Finding: On November 21, 2017 the Board of Commissioners passed a resolution declaring a housing emergency for the unincorporated areas of Josephine County. (The adopted resolution was forwarded to Governor Kate Brown requesting assistance. To date, no assistance, whether financially or via suspended rules, has been received.) Following the passing of that resolution, the Board adopted an Order to have the Community Development Director draft amendments to the Rural Land Development Code (RLDC) to provide an array of housing options that will address safe, healthy, and affordable housing. The proposed rules will be discussed at a public hearing before the Rural Area Planning Commission on June 25, 2018. Additional hearings are yet to be scheduled on the proposal.

Goal 2: Land Use Planning

Finding: Staff finds the recommended ordinance provisions help further the orderly development of residential development in the rural areas; preserve agricultural lands, forests, and habitat areas by de-fragmenting them with development; minimize the need for roads and service extensions; improve safety; and help meet housing needs. In addition, no use is proposed that is not already similarly allowed in the zoning districts identified in the proposal.

Goal 3: Agricultural Lands

Finding: Offering a development option to cluster development, and requiring state authorized temporary use accessory dwelling units to be located near the primary dwelling on the lot, preserve agricultural lands. The option is consumption of ag lands for residential purposes, which Josephine County does not consider a good planning practice. *Statewide Planning Goal 3 Guidelines, Planning*, specify “urban growth should be separated from agricultural lands by buffer or transitional areas of open space”.

Clustering of development, and requiring accessory housing options to be in close proximity of the main home, create the open space buffers and transition areas lacking by the current practice of the ‘sprawling’ of homes without requiring open space buffers.

To help preserve agricultural lands, clustered development, accessory housing units, or other housing and lodging accommodations must be processed in accordance with state standards and criteria thereby ensuring state processes are followed.

Goal 4: Forest Lands

Finding: Unfortunately Oregon law allows for the destruction of our forests for non-forest farm uses. Josephine County has seen a decline in its forests due to emerging agricultural crops. The county has limited ability to preserve its forestlands other than through offering the clustering of homes to preserve said lands.

To help preserve forested lands, clustered development, or other housing and lodging accommodations must be processed in accordance with the standards and criteria for dwellings thereby ensuring state processes are followed.

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

Finding: The proposed amendments help preserve open spaces (as explained above) and encourage development be designed to protect scenic and natural areas. State Goal 5, Planning Guideline, calls for “the need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space”. The current RLDC lacks a provision, other than through lot size minimums, setbacks, or through Planned Unit Developments, to require land be set aside specifically for open space preservation. The proposed Cluster Subdivisions requirements will mandate open space be preserved if pursuing a land division in accord with that section of the RLDC. And, by requiring accessory housing units be in close proximity to the primary dwelling on the lot, prevents scattered housing and development of open spaces.

Goal 6: Air, Water and Land Resources Quality

Finding: Offering development alternatives such as shared septic systems and shared wells help minimize ground and water pollution. Providing structured transient accommodations minimizes the improper disposal of human waste, which has been a concern in Josephine County. Managing camping, and minimizing the potential for ‘compounds’, that often do not use proper waste facilities, and often have uncontrolled burns, will all help protect air, water, and land. Regulating waste around development helps reduce fire potential, as does requiring compliance with wildfire safety plans.

Goal 7: Areas Subject to Natural Disasters and Hazards

Finding: Cluster development encourages the preservation of floodplains, wetlands, steep slopes or other areas not suited for development. Current ‘cookie-cutter’ development forces homes on sensitive areas because of required lot sizes which do not take into account preserving such areas and building away from them. Requiring alternative housing in the forest zones to comply with wildfire safety plans protects investment and reduces the potential for forest fires. Providing structured transient shelters help minimize the potential for scattered campfires in areas subject to wildfire.

Goal 8: Recreational Needs

Finding: Clear, defined camping regulations ensure campgrounds are not used for dwelling purposes and ensure all visitors have access to our campgrounds. Land management tools that preserve natural areas ensure a healthy natural ecosystem for people to enjoy surface waters, viewsheds, and ensure habitat is protected.

Goal 9: Economic Development.

Finding: Businesses looking to locate to an area want to make sure there is an adequate labor force. When there is insufficient, or inadequate housing, people have a difficult time retaining jobs. Provide safe and affordable housing, and people tend to take pride in ownership, have fewer social problems, and try harder to provide for themselves. Housing means jobs. In addition, housing options create direct jobs in the construction field. Having organized transient accommodations so a party knows where they’ll sleep every night, structure, and direct access to information about social services, helps the transient transition out of homelessness quicker and into the labor pool. Accessory housing options also provide an income stream to the home owner whereby they can now lease space. Accessory housing options also result in the long-term homeowner being able to stay on their property and ‘age in place’ rather than have to sell their homestead. In addition, children that are housed do better in school, thereby increasing their success rates to graduate and be employed.

Goal 10: Housing

Finding: Based on population projections, the unincorporated areas of the county need to provide housing for 155 people per year to keep up with population growth (2016). Housing statistics are detailed in the Emergency Housing Declaration as well. The primary purpose of the proposed text amendments is to allow for more housing options, more housing stock, more affordable housing, quality housing, and safe shelter. To accomplish this in Josephine County, the proposed amendments help the county provide for their residents and those migrating into the county. The legalization of cultivating marijuana has placed an added strain on housing, which has resulted in associated social problems and costs for the county. Although too new to have

statistics, people complain of heightened crime and trespass associated with the influx of unhoused farm workers. Providing the option for a farmer to house their labor helps address some of the new problems associated with this emerging new industry.

Goal 11: Public Facilities and Services

Finding: Cluster development, homes sharing access, and easements reduce the need for additional roads, and minimize access points to public roads, thereby reducing accidents and the need for some emergency services. Structured transient shelter reduces some emergency service needs. Providing for housing is known to reduce crime, thereby lessening the strain on law enforcement. Providing homes and shelter reduce social problems thereby reducing demand on social service programs. Allowing housing where people want to live, instead of forcing them into urbanized areas, reduces the strain on city facilities and services.

Goal 12: Transportation

Finding: Cluster development, homes sharing access, and easements reduce the need for additional roads, and minimize access points to public roads. In addition, requiring fewer roads reduces the cost of development and makes for more affordable housing choices.

Josephine County Comprehensive Plan - Applicable Goals

Goal 1: Preserve and maintain agricultural lands and rural character.

Finding: See State Goals 2, 3, and 5 above.

Goal 2: Conserve and Develop the Forest Lands of Josephine County.

Finding: See State Goals 2, 4, and 5 above.

Goal 3: Allocate land for housing.

Finding: See State Goals 2, 10, and 11 above.

Goal 4: Plan and develop facilities and services that are needed, and can be afforded.

Finding: See State Goals 2, 9, 10, 11 and 12 above.

Goal 5: Diversify and stabilize the economy.

Finding: See State Goal 9 above.

Goal 6: Prevent loss of life and property by hazards.

Finding: See State Goals 6, 7 and 12 above.

Goal 7: Preserve valuable limited resources.

Finding: See State Goals 2, 3, 4, 5, 6, 7, 8, and 11 above.

Goal 8: Pollution Shall Be Controlled.

Finding: See State Goal 6 above.

Goal 10: To depict a land use pattern to guide future uses, to implement the desires of the county and to meet the requirements of the state of Oregon.

Finding: See State Goals 1, 2, 3, 4, 5, 8, 9, and 10 above.

Goal 11: Plan shall be maintained and updated.

Findings: See State Goal 2 above. As housing demand changes, and new housing trends emerge, rules should be amended to address supply, demand, adequacy, and affordability.

Goal 12: Procedures shall be established for the planning and zoning of unincorporated areas.

Finding: See State Goal 2 above. The unincorporated areas of Josephine County rely on the county to plan and protect their land through zoning. The proposed text amendments follow all processes outlined in the RLDC.

Recommendations of Planning Department

See attachment, *Proposed Text Amendments*.