



JACKSON COUNTY DEVELOPMENT SERVICES

TEXT AMENDMENT TO THE JACKSON COUNTY LAND DEVELOPMENT ORDINANCE

STAFF REPORT

DEVELOPMENT SERVICES

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FILE: 439-22-00004-LRP

APPLICANT: Jackson County

PROPOSAL: Text Amendment to modify Jackson County Land Development Ordinance (JCLDO) Chapters 6 and 13, based on recent changes in State law.

BACKGROUND: Senate Bill 1051 passed on July 7, 2017 allows for an Accessory Dwelling Unit (ADU) within Urban Growth Boundaries (UGB). House Bill 2001 passed on June 30, 2019 approved a clarification relating to ADUs and reasonable local regulations. Senate Bill 391 passed on June 9, 2021 allows for ADUs outside of UGBs that meet certain parameters but relied upon an approved Statewide Wildfire Risk Map. Senate Bill 762 passed on June 25, 2021 related to wildfire preparedness through creating fire-adapted communities, developing safe and effective response, and increasing resiliency. Senate Bill 1533 passed March 2, 2022 relates to the Statewide Wildfire Risk Map. Senate Bill 644 passed on March 28, 2023 decoupled ADUs outside UGBs from the State Wildfire Risk Map.

On December 13, 2023, the Board of Commissioners directed staff to begin the text amendment process. On June 13, 2024, a study session with the Jackson County Planning Commission (JCPC) was scheduled for Staff to discuss the proposed changes.

A notice of the proposed amendment (PAPA) was provided to Department of Land Conservation and Development (DLCD) on April 2, 2024 via electronic submittal. The proposed amendment is scheduled before the JCPC for a first evidentiary hearing on June 27, 2024.

I. **APPROVAL CRITERIA:** In order to approve an amendment to the Jackson County Land Development Ordinance (JCLDO), the County must find compliance with the JCLDO, Section 3.8.3.

II. COMPLIANCE WITH JACKSON COUNTY LAND DEVELOPMENT ORDINANCE:

3.8 TEXT AMENDMENT TO THE LAND DEVELOPMENT ORDINANCE

3.8.1 Purpose

The Board of Commissioners, in accordance with the procedures of this Section, may amend the text of this Ordinance. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but to make adjustments to the text of this Ordinance that are necessary in light of changed circumstances or changes in public policy, or that are necessary to advance the general welfare of the County.

3.8.2 Procedures

A) Initiation

Text amendments to this Ordinance may be initiated only by the Board of County Commissioners or the Jackson County or White City Planning Commissions.

B) Standard Review Procedure

Applications for amendments to this Ordinance will follow the Type 4 review procedure set forth in Section 2.7, as identified in Table 2.7-2.

3.8.3 Approval Criteria

Recommendations and decisions on LDO text amendments will be consistent with and adequate to implement all applicable provisions of the Comprehensive Plan, the Statewide Planning Goals, and Oregon Administrative Rules. Notice of amendments will be provided by the County as required by ORS 197A.425, ORS 197.610 and ORS 215.503.

FINDING: Staff finds the purpose of the proposed changes is consistent with the applicable criteria. The Board of Commissioners initiated the proposed JCLDO text amendment via Board Order No. 268-23 adopted December 13, 2023. The procedures for the amendment are adhered to by the Planning Commission hearing and recommendation to the Board. All noticing has been prepared consistent with the required State statutes.

Staff finds that the proposed amendment to the Jackson County Land Development Ordinance Chapters 6 and 13 as identified below are consistent with the Jackson County Comprehensive Plan, Statewide Planning Goals, and Oregon Administrative Rules and help to implement the goals and policies of the Comprehensive Plan.

Notice of the amendment has been provided to applicable County residents and DLCD as required by ORS 197A.425 and ORS 197.610.

OREGON REVISED STATUTES: ACCESSORY DWELLING UNITS IN RURAL RESIDENTIAL ZONES (ORS 215.495)

FINDING: Oregon Revised Statute (ORS) 215.495 (amended by Senate Bill 644 approved March 28, 2023) provides a pathway for an owner of a Rural Residential zoned parcel located outside of an Urban Growth Boundary and outside of an Urban Reserve to construct one accessory dwelling unit subject to specific standards. Staff finds that the proposed JCLDO changes as listed below are consistent with the statute.

THE STATEWIDE PLANNING GOALS

Goal 1, Citizen Involvement: Goal 1 is to develop a citizen involvement program that insures the opportunity for citizens to be in all phases of the planning process.

FINDING: Notice of the public hearing scheduled for June 27, 2024 was sent to property owners of unincorporated land located within an Urban Growth Boundary. Additionally, the notice of public hearing was sent to property owners of Rural Residentially zoned unincorporated land containing

2.0 or more acres located outside of an Urban Growth Boundary and Urban Reserve. The notice of public hearing is posted on the County Website. Oral and written testimony will be accepted at the June 27, 2024 hearing as well as subsequent public hearings.

Goal 2, Land Use Planning: Goal 2 is to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. Goal 2 also provides an exceptions process in Part II.

FINDING: No changes to the Comprehensive Plan are proposed. The Board of Commissioners initiated the text amendment process and public hearings are scheduled. This staff report provides sufficient factual basis for the amendment. No goal exception is necessary.

Goal 3, Agricultural Lands: Goal 3 is to preserve and maintain agricultural lands.

FINDING: The approved House and Senate Bills did not create new permitted land uses in the Exclusive Farm Use (EFU) zoned lands.

Goal 4, Forest Lands: Goal 4 is to conserve forest lands.

FINDING: The approved House and Senate Bills did not create new permitted land uses in the forest zoned lands (Woodland Resource, Forest Resource, and Open Space Reserve).

Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces: Goal 5 is to protect natural resources and conserve scenic and historic areas and open spaces.

FINDING: The proposed text amendment does not create or modify a resource list, Comprehensive Plan or Land Development Ordinance regulation adopted to protect a significant Goal 5 resource. A map of the Jackson County Rural Residential Zoned Tax Lots within the Deer and Elk Winter Range Area of Special Concern (ASC 90-1) was created and attached to this staff report as Exhibit "A". Of the 9,777 Rural Residentially Zoned Tax Lots located outside of a UGB in Jackson County, only 368 tax lots are located within the Deer and Elk Winter Range Overlay. Of the parcels zoned Rural Residential located within the Deer and Elk Winter Range Overlay, 252 tax lots contain two (2) or more acres. Of those 252 tax lots, 225 tax lots contain 2.0 acres or more and are developed with an initial dwelling. The standards for development within the Deer and Elk Winter Range (ASC 90-1) specified in JCLDO Section 7.1.1(C)(4) are required for initial dwellings, only, and would not pertain to ADUs. JCLDO Section 7.1.1(C)(5) applies to all discretionary land use permits. The proposed ADU regulations will categorize the ADU review process as a Type 1 standards driven review and not a discretionary land use permit (Type 2-4). However, one of the requirements of Senate Bill 644 is that the ADU be located within 100' of the primary dwelling which, also, complies with JCLDO Section 7.1.1(C)(5)(d)(ii) which requires clustering of dwellings within a 200-foot radius of the existing dwelling.

An economic, social, environmental, and energy (ESEE) analysis is not required for justification of the proposed JCLDO text amendment to allow ADUs. Chapter 7 provides standards to adequately protect identified Goal 5 Resources from potential impacts of development. The proposed ADU language will not create conflicting uses with a particular significant Goal 5 Resource because protection regulations and overlays are not changing.

Goal 6, Air, Water and Land Resources Quality: The goal is to maintain and improve the quality of the air, water and land resources of the state.

FINDING: The proposed text amendment does not change the County's Comprehensive Plan or regulations regarding air, water and land resource quality.

Goal 7, Areas Subject to Natural Hazards: The goal is to protect people and property from natural hazards.

FINDING: The proposed text amendment does not change the County's Comprehensive Plan or regulations regarding natural hazards.

Goal 8, Recreational Needs: The goal is to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

FINDING: The proposed text amendment does not change the County's Comprehensive Plan or regulations regarding recreational needs.

Goal 9, Economic Development: The goal is to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING: The proposed text amendment does not restrict the County's Comprehensive Plan or regulations regarding economic development.

Goal 10, Housing: The goal is to provide for the housing needs of the citizens of the state.

FINDING: The proposed text amendment does not change the County's Comprehensive Plan; however, the text amendment provides additional allowances and regulations regarding housing.

Goal 11, Public Facilities and Services: The goal is to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

FINDING: The proposed text amendment does not change the County's Comprehensive Plan or regulations regarding public facilities and services. Uses will continue to require appropriate levels of available public facilities depending on their Rural or Urban setting.

Goal 12, Transportation: The goal is to provide and encourage a safe, convenient and economic transportation system.

FINDING: The proposed text amendment does not change the County's Comprehensive Plan or regulations regarding the transportation system. The text amendment includes consideration of similarly situated uses in existing zoning districts.

Goal 13, Energy Conservation: The goal is to conserve energy.

FINDING: The proposed text amendment does not change the County's Comprehensive Plan or regulations regarding energy.

Goal 14, Urbanization: The goal is to provide for an orderly and efficient transition from rural to urban land use.

FINDING: The proposed text amendment does not change the County's Comprehensive Plan or regulations regarding urbanization.

Goals 15-19, Various

FINDING: Goals 15-19 are site specific Goals not found in Jackson County.

JACKSON COUNTY COMPREHENSIVE PLAN

CITIZEN INVOLVEMENT

FINDING: Policies 1-4 encourage the legislative process to inform, notify and support participation of citizens early and often. The County posted the project on its website and provided written notice to unincorporated citizens of Jackson County and submitted public notice to local media outlets.

RURAL AND SUBURBAN LANDS

FINDING: The Rural and Suburban Lands Element deals with areas within Jackson County which are not being planned for urbanization, agriculture, open space, or forest uses. The County faces difficult decisions in balancing economic and environmental realities with population growth and increasing development pressures. It is the policy of Jackson County to reduce and reallocate the overall allowable density and intensity of rural and suburban lands to the extent necessary to minimize further degradation of air quality, reduce energy consumption and reduce the long-range cost of providing public facilities and services. The enrollment of Senate Bill 1051, House Bill 2001, and Senate Bill 644 align with the Jackson County Rural and Suburban lands element, allowing the potential for ADUs on certain rural and suburban lands subject to specific standards.

III. PROPOSED CHANGES TO JACKSON COUNTY LAND DEVELOPMENT ORDINANCE

New language is noted in **Bold Underlining**.

A. CHAPTER 6 USE REGULATIONS

		TABLE 6.2-1. USE TABLE FOR BASE ZONING DISTRICTS														SEE ALSO	
		1 = Type 1 Permit 2 = Type 2 Permit 3 = Type 3 Permit 4 = Type 4 Permit															
CATEGORY	SPECIFIC USE	ZONING DISTRICTS															
		RU	RURAL RESIDENTIAL		URBAN RESIDENTIAL		COMMERCIAL								INDUSTRIAL		
		RR 00 & 10	RR-5 & RR-5A	UR-1 To UR-10	UR -30	G C	IC	N C	R S	A R S	R R S	S V R S	GI	LI			
RESIDENTIAL USES																	
Household Living	Accessory dwelling unit	-	1	1	1*	-	-	-	-	-	-	-	-	-	6.4.4(B)(H), *12.4.1(F)*		
	Co-housing	-	-	2	2	2	-	-	-	-	-	-	-	-	6.3.2(C)		
	Detached single family dwelling, 1 st	1	1	1	1	2	2	-	2	2	2	3	2	2	6.3.2(A)		
	Manufactured dwelling park	-	-	-	3	3	-	-	-	-	-	-	-	-	6.3.2(B); 3.2		
	Multi-family dwelling	-	-	-	-	1	-	-	-	-	-	-	-	-	6.3.2(C)		
	Rectory/parsonage	2	1	1	1	1	2	-	2	2	2	3	2	2	6.3.2(D)		
	Single-family dwelling, two or more (attached or detached)	2	2	2	2	2	-	-	-	-	-	-	-	-	3.2		
Group Living	Convent or monastery	2	3	3	3	-	-	-	-	-	-	-	-	-	ORS 197.660; ORS 426.502		
	Farm Labor housing	1	3	-	-	-	-	-	-	-	-	-	-	-	ORS 197.660; 6.3.3(K); 12.3.1		
	Nursing home	-	3	3	3	3	-	-	-	-	-	-	-	-			
	Residential facility/ Community housing	-	3	3	3	1	-	-	-	-	-	-	-	-			
	Residential home/ in-home day care	1	1	1	1	1	1	-	1	1	1	1	1	1			
	Substance abuse rehabilitation	-	3	3	3	-	-	-	-	-	-	-	-	-			
	COMMERCIAL/OFFICE USES																
Agricultural Sales and Services	Agriculture produce stand	1	3	3	-	-	-	-	2	2	-	2	-	-	6.3.3(A)		
	Farm equipment repair	3	-	-	-	-	1/2	-	-	2	2	3	2	1/2	1/2		
	Farm equipment sales	3	-	-	-	-	1/2	-	-	-	-	2	1/2	1/2	6.3.4(C)		
	Farm equipment storage	1	-	-	-	-	-	-	-	-	-	-	1/2	1/2	6.3.4		
	Firewood retail sales	1	2	2	-	-	1/2	-	-	-	-	-	1/2	-	6.3.3(M)		
	Stock auction yard	3	-	-	-	-	-	-	-	-	-	-	3	-			

4 *Only in an Urban Growth Boundary or White City.
 Jackson County Oregon
 Chapter 6
 Page 4

FINDING: Accessory Dwelling Units (ADUs) have, historically, been limited to within the White City Urban Unincorporated Community Boundary (WCUUCB). The recently approved House Bill and Senate Bills significantly increase the potential of property owners in rural residential zones to develop an ADU subject to a Type 1 review.

6.4.4(D) Home Business

1) Purpose

A home business is a more intensive kind of home occupation that may employ persons in addition to the residents of the property. The home business will be operated by a resident of the property, and may employ up to five (5) persons total, full- or part-time (See ORS 215.448).

2) Where Allowed

Outside urban growth and urban unincorporated community boundaries, home businesses that comply with the regulations of this Section may be allowed in residential and resource zones, subject to all applicable standards of this Ordinance. Home businesses are not allowed in urban unincorporated communities or urban growth boundaries. **Home Businesses are not allowed within accessory dwelling units.**

FINDING: The proposed change to Section 6.4.4(D)(2) will amend the language to be more consistent with the existing language in Section 6.4.4(C)(2) as shown below:

C) *Home Occupations*

1) *Purpose*

The purpose of a home occupation or home business is to make a profit in money. This Section provides standards for home occupations and businesses that permit the limited conduct of a business within a residential dwelling, attached or detached garage, or accessory structures in rural areas without adversely impacting the surrounding area. The standards for home occupations and home businesses in this Section are intended to ensure compatibility with other permitted uses and with the residential character of the property. In resource zones, the provisions of ORS 215.448 also apply.

2) *Where Allowed*

Home occupations that comply with the regulations of this Section may be allowed in all zoning districts, except within accessory dwelling units.

6.4.4 Accessory Uses and Structures Allowed

H) Accessory Dwelling Unit

Accessory dwelling units are subject to review and approval through a Type 1 permit. For White City Urban Unincorporated Community Boundary (WCUUCB), see Section 12.4.1(F).

1) Inside an Urban Growth Boundary

a) Where Allowed

On lots or parcels in zoning districts that permit detached single-family dwellings, with the exception of detached single-family dwellings subject to Section 6.3.2(C)(4).

b) Standards

i) At least one detached single-family dwelling is sited on the lot or parcel;

ii) One accessory dwelling unit per detached single-family dwelling is permitted;

iii) The accessory dwelling unit shall not include more than 900 square feet of useable floor area, defined as all areas of an accessory dwelling unit included within the surrounding exterior walls;

iv) The accessory dwelling unit shall be located no farther than 100 feet from the existing detached single-family dwelling measured from the exterior wall of the existing detached

single-family dwelling to the nearest wall of the usable floor area of the accessory dwelling unit;

v) The accessory dwelling unit shall comply with all applicable setbacks, including riparian and resource setbacks, as well as, fire safety, floodplain, and overlay requirements of this Ordinance;

vi) All building and fire codes shall be met;

c) Site Condition

i) No accessory structures will be permitted as incidental and customarily subordinate to an Accessory Dwelling Unit.

2) Outside of an Urban Growth Boundary and Urban Reserve

a) Where Allowed

On lots or parcels in Rural Residential zoning districts:

Rural Residential-00 (RR-00),

Rural Residential-2.5 (RR-2.5),

Rural Residential-5 (RR-5),

Rural Residential-5 Applegate [RR-5(A)],

Rural Residential-10 (RR-10).

b) Standards

i) The lot or parcel is at least two acres in size;

ii) Only one detached single-family dwelling is sited on the lot or parcel;

iii) Only one accessory dwelling unit is permitted per lot or parcel;

iv) The accessory dwelling unit shall not include more than 900 square feet of useable floor area, defined as all areas of an accessory dwelling unit included within the surrounding exterior walls;

v) The accessory dwelling unit shall be located no farther than 100 feet from the existing detached single-family dwelling measured from the exterior wall of the existing detached single-family dwelling to the nearest wall of the usable floor area of the accessory dwelling unit;

vi) The accessory dwelling unit shall comply with all applicable setbacks, including riparian and resource setbacks, as well as, fire safety, floodplain, and overlay requirements of this Ordinance;

- vii) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas;
 - viii) A deed declaration that stipulates the accessory dwelling unit and the detached single-family dwelling cannot be used for vacation occupancy, as defined by ORS 90.100 shall be recorded, prior to the issuance of permits;
 - ix) All building and fire codes shall be met.
- c) Site Conditions
- i) No subdivision, partition or other division of a lot or parcel with an approved Accessory Dwelling Unit will be permitted if the subdivision, partition, or other division of the lot or parcel will result in an Accessory Dwelling Unit being located on a different lot or parcel than the detached single-family dwelling unit to which the Accessory Dwelling Unit is an accessory use;
 - ii) No accessory structures will be permitted as incidental or customarily subordinate to an Accessory Dwelling Unit

FINDING: Senate Bill 1051 requires counties to allow ADUs within Urban Growth Boundaries (UGBs). House Bill 2001 defines ADU and allows "reasonable local regulations relating to siting and design". Staff's recommendation for ADUs inside UGBs assures compliance with applicable County setbacks and overlays.

Senate Bill 644 allows counties the opportunity to adopt specific ADU regulations. Senate Bill 644 also includes language that is outside the scope of land use planning; including but not limited to building code, fire code, sewer connection regulations, and water connection regulations. Staff's recommendation for ADUs outside UGBs takes into consideration the Model Code from DLCD, the language adopted by other Oregon counties, the language of Senate Bill 644, and the language/requirements of the JCLDO.

B. Chapter 13. DEFINITIONS

- 77) DWELLING: A building, combination of buildings, or portions thereof, designed or used for human occupancy for residential purposes. See Sections 4.2.6 and 4.3.6 for additional standards applicable to dwellings in resource zones.
- a) Accessory dwelling unit: ~~Accessory use to an existing~~ A structure that is a dwelling and is residential in use that is incidental and customarily subordinate to the principal use of the primary single-family dwelling. See Chapters 6 and 12.

FINDING: The proposed change to JCLDO Section 13.3(77)(a) will amend the language to be more consistent with the language of Senate Bill 644 and JCLDO Section 6.4.1.

6.4.1 Purpose

This Section authorizes the establishment of accessory uses and structures that are incidental and customarily subordinate to principal uses in all zoning districts, except as otherwise provided in Sec. 6.3.8 with regard to accessory uses and structures in destination resorts. The County's intent in adopting this Section is to allow a broad range of accessory uses and structures, provided such uses are located on the same site as the principal use and they comply with the standards set forth in this Ordinance.

Approved uses will be deemed to include accessory uses and activities that are necessarily and customarily associated with, and appropriate, clearly incidental, and subordinate to, the principal uses allowed in zoning districts. Accessory uses and activities will be subject to the same regulations as apply to principal uses in each district, unless otherwise expressly stated.

IV. RECOMMENDATION:

Staff recommends that the Jackson County Planning Commission recommend approval of the text amendment modifying the Jackson County Land Development Ordinance (JCLDO) Chapters 6 and 13.

JACKSON COUNTY PLANNING DIVISION



By: Dawn Rittiman
Planner III

Date: June 5, 2024

Attachments:

- 1) Text Amendment to Chapters 6 and 13 (Full Chapters)