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**REVISED STAFF REPORT TO THE PLANNING COMMISSION
FOR THE
PUBLIC HEARING ON JUNE 6, 2011
AMENDING TEMPORARY HEALTH HARDSHIP DWELLING REQUIREMENTS
CASE FILE: PC 2011-1397**

PART I. INTRODUCTION

After preparation of the May 2, 2011 Staff Report, planning staff continued to work with our County Attorney Jed Tomkins on the proposed code language. The proposed alterations to the language are not intended to change the intent of the modifications but to ensure that the new language is clear and enforceable. To assist the Planning Commission in understanding the alterations made since the May 2nd Staff Report, planning staff has created the following legend:

CODE = Proposed Code Language from May 2, 2011 Staff Report

~~DELETE~~ = Existing Code Language to be deleted

~~DOUBLE STRIKETHROUGH~~ = Additional Existing Code Language to be Deleted

REVISED LANGUAGE = New Proposed Code Language Since the May 2011 Staff Report

Italicized = Proposed to Remain in the Code per the June 2011 Staff Report

~~DELETED PROPOSED LANGUAGE~~ = Language that was proposed, but is no longer proposed

This staff report includes proposed amendments to the temporary health hardship requirements to allow additional types of temporary dwellings, clarify the requirements to renew the permit in a timely fashion and remove the temporary dwelling after the permit expires. At the last meeting in April, planning staff discussed various options for modifying the County's temporary health hardship regulations. The Planning Commission provided feedback to help staff identify the modifications needed to improve the applicable criteria and process for these temporary dwellings. Based on these recommendations, planning staff has crafted proposed amendments to the zoning code for the Planning Commission to consider and recommend to the Board for adoption.

This staff report is organized into the parts listed below. The zoning code citations in both Parts II and III are to MCC Chapter 33, however conforming amendments to Chapters 34, 35, and 36 will also be required. The zoning code citations in Part IV are to Chapter 38 for the Columbia River Gorge National Scenic Area requirements.

- II. Changes to Definitions
- III. Changes to Permit Standards
- IV. Changes to the Base Zones
- V. Proposed National Scenic Area Health Hardship Ordinance
- VI. Proposed Code without Mark-Up

PART II. CHANGES TO DEFINITIONS

Part II discusses proposed additions to the Definition section of Chapter 33, 34, 35 and 36. These new definitions are needed to support the changes to the Temporary Health Hardship Dwelling regulations. Definitions help planners and constituents alike understand the intent of the code language so that both parties can agree on terms used.

- A. As allowed in the Exclusive Farm Use zones and the National Scenic Area, the Planning Commission supported the expansion of the temporary health hardship permit in other zones to provide temporary housing for aged or infirm person or persons needing daily care and assistance to live a semi-independent life. The Commission also supported allowing additional types of temporary dwellings to be used as the Temporary Health Hardship Dwelling. The additional definitions below are needed to support these policy choices.

§ 33.0005 Definitions [The same changes are proposed for MCC 34.0005, 35.0005, 36.0005]

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

Daily Care – Daily care includes but is not limited to bathing, grooming, eating, medication management, walking and transportation. Daily care does not include financial management or the improvement or maintenance of property.

Health Hardship - The assistance, required as a result of age and/or poor health, that is given to a specific person in the activities of daily living, which may include but are not necessarily limited to, bathing, grooming, eating, medication management, ambulation and transportation, and/or “care”. The daily supervision of a specific person when such supervision is required due to cognitive impairment. As used in this Subsection, “health hardship” does not include assistance with improvement or maintenance of property in the absence of a documented need for assistance with personal activities or a need for personal supervision due to cognitive impairment. “Health hardship” does not include financial hardship alone.

A specific person’s need for daily supervision due to cognitive impairment and/or a specific person’s need for assistance with daily care as a result of age and/or poor health.

* * *

Park-Model Recreational Vehicle: A recreational vehicle built on a single chassis, mounted on wheels, and designed to facilitate movement from time to time but not intended to be towed on a regular basis that does not exceed 400 square feet when in the set-up mode and designed to provide recreational seasonal or temporary living quarters which may be connected to utilities necessary for the operation of installed fixtures and appliances.

Recreational Vehicle: A vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

(a) Holding tank(s);

(b) Liquid petroleum gas; or

(c) A 110 to 240 volt electrical systems.

Temporary Dwelling: A detached dwelling allowed to be placed on a lot or parcel for a limited amount of time in addition to the permanent, existing dwelling. A temporary dwelling shall be removed upon the expiration of the land use permit authorizing it.

Travel Trailer: A non-motorized, towable recreational trailer which contains an Oregon Insignia of Compliance as a recreational vehicle. Motor homes, converted buses, van conversions, slide-in truck campers and folding camper trailers ("pop-up" campers) are not considered a travel trailer.

PART III. CHANGES TO PERMIT STANDARDS

Part III discusses the proposed changes to the Temporary Health Hardship Dwelling requirements. The purpose of these changes is to clarify locational and utility requirements and simplify the permitting process to establish and renew the permit.

- A. The changes to the Purpose statement for the Temporary Health Hardship Dwelling are to simplify the intent of the permit. In the existing code where the term *mobile home* is used, it is being changed out to *temporary dwelling* to accommodate the two additional types of dwellings being allowed. Changes to the submittal information are to ensure the health hardship documents are current and that the care giver is able to provide the daily care necessary. The requirement to demonstrate a lack of appropriate alternative accommodations will be deleted as in the rural areas rental housing is quite limited. Planning staff on a routine basis finds the criterion is a given condition in all of our rural areas. In addition, planning staff is recommending adding individuals that qualify as a relative as they would typically be viewed as a relative in society.

MCC 33.0515 TEMPORARY HEALTH HARDSHIP PERMIT DWELLING.

[The changes in this section, and in sections B. through G. below are proposed for MCC 34.0515, 35.0515, and 36.0515]

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of ~~daily health care needs~~ supervision and/or assistance with daily care to a person or persons with a demonstrated health hardship by allowing the placement of a ~~one mobile home temporary dwelling on a lot~~ on a lot or parcel ~~with an existing a single-family residence dwelling on a renewable term.~~ This use is temporary in nature and shall not increase the residential density in the rural plan area. The permit is temporary in nature and not intended to encourage an increase in the residential density beyond that envisioned by the Comprehensive Plan and its implementing ordinances.

~~(A)~~ (B) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a temporary dwelling ~~mobile home~~ on a lot or parcel in conjunction with an existing single-family dwelling allowed in the zone ~~with a single family residence~~ subject to the following:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

(a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.

(b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.

(c) For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, , brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship

~~(2) The person with the health hardship is unable to adequately provide daily self care needs because of a physical and/or medical impairment condition based upon a written statement from a licensed physician describing the nature of the impairment condition and its resultant limitations. The physician shall indicate that those limitations are severe enough to warrant daily assistance, and that at least one of the residents of the property is capable of providing that assistance.~~

~~(a) The physician's statement shall be dated within 90 days of submittal of the initial application.~~

~~(b) A letter from the care provider shall be submitted describing the assistance being given and their ability to provide it.~~

~~(2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:~~

~~(a) The person identified in the application has a health hardship as defined in MCC 33.0005;~~

~~(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 33.0005; and~~

~~(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.~~

~~(3) There is a demonstrated lack of appropriate alternative accommodations within the area entitled to notice, including, but not limited to, rental housing or space within the existing residence.~~

~~(3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will~~

provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.

- B. Direction was given to staff by the Planning Commission to expand the types of temporary dwellings allowed for the health hardship permit. The Planning Commission felt that the continued use of manufactured dwellings (mobile homes) and the addition of Park-Model Recreational Vehicles and Travel Trailers would increase the options available to provide affordable temporary housing.

~~(3)~~ (4) The following locational criteria are satisfied:

(a) ~~The proposed siting of the mobile home will satisfy the applicable setback standards of the zoning district without requiring a variance. An adjustment of the setback requirement may be approved.~~ The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.

- C. The Planning Commissioners at the April meeting agreed with planning staff's recommendations to continue with the requirement of the temporary dwelling sharing the existing utilities and adding the language to require the temporary dwelling to use the same driveway in order to meet the permit's purpose of providing convenient daily care to a person that has a medical condition or is infirmed. The Commissioners also recommended that we include the 100 ft clustering requirement for the temporary dwelling to assist in sharing of utilities and reduce the perception of creating a separate dwelling compound with the temporary dwelling. To exceed the maximum distance a variance or adjustment approval would be required. These changes are reflected in the following language:

~~(3)~~ (4) The following locational criteria are satisfied:

* * *

(b) ~~The mobile home shall be located in a manner which satisfies the locational requirements of a second residence on properties capable of being divided under the existing zoning within those areas designated as urban by the Comprehensive Framework Plan.~~ The temporary dwelling shall be located within 100 feet of the single family dwelling on the subject parcel, unless an adjustment or variance pursuant to MCC 33.7601 through 33.7616 is approved. This distance shall be measured from the closest portion of each building.

(c) ~~The mobile home temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. will not require any new main connections to public facilities or services (e.g., sewer, water or power mains, curb cuts, etc.) unless sited in the manner allowed in subsection (b) above, in which case those services may be extended to the area on the property which satisfies the locational requirements of a second residence. In addition, the temporary dwelling # shall use be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.~~

(d) The ~~mobile home~~ temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps. ~~to accommodate the health care needs of the proposed occupant.~~

~~(4) The 100 foot distance from the existing dwelling may be modified pursuant to the provisions for adjustment or variance provisions in MCC 33.7601 through 33.7616.~~

- D. At the April work session, the Planning Commission reviewed the requirement for the penal bond and agreed with staff that it is not working to insure removal of the temporary health hardship dwelling within the specified time period. They felt that the recordation of a statement recognizing that the dwelling is temporary and is not transferable when the property is conveyed to another party could have a better effect as the property owner is clouding their title until removal. Based on this discussion, planning staff is proposing to delete the penal bond requirement and require the statement recordation as expressed in the language below:

* * *

~~(5) A penal bond in the amount of \$1,000 is posted to insure removal of the mobile home within six months after the health hardship ceases to exist.~~

~~(B)~~ (C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.

(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

(3) In the EFU & CFU zone, the property owner shall record a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules and to conduct accepted farming practices.

- E. Direction given by the Planning Commission was to continue giving notice to the neighbors when a Temporary Health Hardship Permit is renewed. The purpose is to remind neighbors that the second dwelling is temporary and has restrictions on its use. Planning staff would like to convert the renewals to a Type I procedure to reduce the amount of staff time and cost associated with these renewal requests. The renewal criteria are non-discretionary and it is not necessary for the renewal to be through the Type II procedure. The Planning Commission's direction was for an informational message to be provided to the neighbors, not necessarily as an opportunity to appeal the renewal application. To achieve this goal, planning staff has added to the renewal process an informational message be mailed after the Planning Director approves the renewal.

* * *

~~(6) As a condition of approval, every two years from the approval date the applicant shall submit:~~

(a) A recent (within 6 months prior to the two year deadline) physician's statement verifying that the situation described in (2) above still exists; and

(b) A letter from the care provider describing the continuing assistance being given.

~~(C)~~ (D) Expiration of the Temporary Health Hardship Permit.

The Temporary Health Hardship Permit ~~automatically~~ expires ~~automatically~~ two years after from the date of the final approval of the permit unless an extension is approved as set forth in (E) below. ~~land use decision or time extension approval, unless the permit is extended pursuant to (D) below.~~

~~(D)~~ (E) Renewal Extension Procedure of the Temporary Health Hardship Permit.

To continue the use of the temporary dwelling for a health hardship, the property owner shall submit an application at least 30 days prior to expiration of the permit to extend the Temporary Health Hardship Permit.

(1) An extension may be granted for a two year period from the expiration date of the original permit. Provided the need for a temporary health hardship continues, additional two year extensions may be granted pursuant to these procedures.

(2) The extension request shall be submitted on the forms provided by the Planning Director along with the following information:

(a) A physician's statement dated within 90 days of the extension request, verifying that the health hardship recipient continues to have the medical or physical condition described in (A)(2) above; and

(b) A letter from the care provider describing the continuing assistance being given.

(3) Upon the approval of the extension, the Planning Director shall mail notification to the property owners contiguous to the subject parcel.

(4) The Temporary Health Hardship Permit shall automatically expire unless an extension is granted.

The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.

MCC 37.0530 SUMMARY OF DECISION MAKING PROCESSES.

The following decision making processes chart shall control the County's review of the indicated permits:

| APPROVAL PROCESS | | | | | |
|-----------------------------------|-----------------------------|---------------------|-----------------------|-----------------------|---------------|
| Permit Type | I | II | III | IV | PC |
| Initial Approval Body | (Not a "land use decision") | (Planning Director) | (Hearings Officer) | (Planning Commission) | (Legislative) |
| Temporary Health Hardship | | X | X If CU | | |
| Temporary Health Hardship Renewal | <u>X</u> | | | | |

- F. Planning staff is recommending adding (F) below to clarify that the temporary dwelling can only be used while the health hardship exists. It is to help property owners understand that the dwelling does not convert to a rental unit or some other type dwelling without further action. Presently, a property owner has six months to remove the Temporary Health Hardship Dwelling from the property in Chapters 33, 34, 35 & 36. In the National Scenic Areas (Chapter 38), temporary health hardship dwellings must be removed within 30 days. At the last work session, planning staff had recommended reducing the six months to 90 days, but to decrease the amount of inconsistencies between the codes, planning staff is now recommending a 30 day time period to remove the temporary dwelling. (G) is also crafted to clearly require the removal of the dwelling where the previous code was not so direct.

~~(E)~~ (F) Occupancy of the Temporary Dwelling

The Occupancy of the temporary dwelling may ~~only~~ occur ~~only~~ while the person(s) for which the Temporary Health Hardship Permit was granted lives on the property.

~~(F)~~ (G) Removal of Temporary Dwelling.

The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of ~~when~~ the Temporary Health Hardship Permit ~~expires or the health hardship ends end of the health hardship or the provision of supervision or assistance with daily care.~~

- G. Prior to January 1994, Temporary Health Hardship Permits were for one year only. This provision was included in the ordinance to prevent automatic expiration of these permits after one year. It converted them to the two year renewal period. Planning staff was unable to identify any Temporary Health Hardship Permits from this period that are still actively renewing via this code section. This section is no longer needed.

~~(B) Temporary health hardship permits approved prior to January 11, 1994 shall not be subject to the original expiration date and shall be permitted to be renewed by the Planning~~

~~Director every two years from the original approval date based upon a Finding that the hardship still exists and that the conditions imposed are being satisfied.~~

PART IV. CHANGES TO THE BASE ZONES

Modifications to Exclusive Farm Use and Commercial Forest Use zones are minor in nature and allow for consistency through out the zones.

- A. At present, the Exclusive Farm Use zone requires the review and approval of a conditional use permit (Type III) to establish a Temporary Health Hardship Dwelling on a property. All other zones allow authorization of a hardship dwelling via an Administrative Decision by the Planning Director (Type II). The language proposed below modifies the EFU zones to allow review via the administrative decision procedure.

Exclusive Farm Use

MCC 33.2625 REVIEW USES

[The same changes are proposed for MCC 34.2625(Q), 35.2625(Q), and 36.2625(N)]

(Q) A temporary dwelling for health hardship pursuant to MCC 33.0515 and 33.2660.

MCC 33.2630 CONDITIONAL USES [The same changes are proposed for MCC 34.2620(H) and 35.2630(H)]

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 33.6300 to 33.6335:....

* * *

~~(H) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The 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. The Planning Director shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this subsection is not eligible for replacement under MCC 33.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~

~~A finding shall be made that the health hardship manufactured dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.~~

* * *

- B. To consolidate the standards for the Temporary Health Hardship Dwelling into one section, the compatibility standard in the Commercial Forest Use zone has been simplified to the requirement to record a covenant acknowledging the rights of farmers and for forest practice activities to occur. This allows the deletion of MCC 33.2245 from the approval criteria. In addition, by requiring the temporary dwelling to be within 100 ft of the existing dwelling, fire hazards are reduced.

Commercial Forest Use Zones

MCC 33.2225 REVIEW USES

[The same changes are proposed for MCC 33.2025(C), 33.2425(C), 35.2025(B), 35.2225(C) and 36.2025(C)]

(C) A temporary dwelling for health hardship dwelling mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit pursuant to MCC 33.0515; ~~33.2245~~ and 33.2256.

MCC 33.2245 USE COMPATIBILITY STANDARDS

[The same changes are proposed for MCC 33.2045, 33.2445, 35.2045, 35.2245 and 36.2045]

Specified uses of MCC 33.2225~~(C)~~, (D) and (E) and MCC 33.2230 (A), (B), and (C) may be allowed upon a finding that:

(A) The use will:

- (1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;
- (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(B) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

PART V. PROPOSED NATIONAL SCENIC AREA HEALTH HARDSHIP ORDINANCE

Proposed modifications to the Temporary Health Hardship requirements in the National Scenic Area (NSA) (Chapter 38) are to improve consistency with the County's other code chapters. Where possible, planning staff is recommending changes to add definitions, change wording, and clarify language so that the Temporary Health Hardship Permit can be more easily implemented.

- A. Presently the NSA code does not define what is acceptable as a health hardship or family hardship. Planning staff is recommending adding two definitions to Chapter 38 to assist in the implementation of the code language. The modification to the *Camping or Recreational Vehicle* definition is proposed since the definition for a *Recreational Vehicle* is difficult to find located under "C" in the

definition. In addition, a camper is a type of recreational vehicle and the term *camping vehicle* is not a commonly used phrase.

MCC 38.0015 DEFINITIONS

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

Daily Care – Daily care includes but is not limited to bathing, grooming, eating, medication management, walking and transportation. Daily care does not include financial management or the improvement or maintenance of property.

Health Hardship: The assistance, required as a result of age and/or poor health, that is given to a specific person in the activities of daily living, which may include but are not necessarily limited to, bathing, grooming, eating, medication management, ambulation and transportation, and/or “care”. The daily supervision of a specific person when such supervision is required due to cognitive impairment. As used in this Subsection, “health hardship” does not include assistance with improvement or maintenance of property in the absence of a documented need for assistance with personal activities or a need for personal supervision due to cognitive impairment. “Health hardship” does not include financial hardship alone.

A specific person’s need for daily supervision due to cognitive impairment and/or a specific person’s need for assistance with daily care as a result of age and/or poor health.

Park-Model Recreational Vehicle: A recreational vehicle built on a single chassis, mounted on wheels, and designed to facilitate movement from time to time but not intended to be towed on a regular basis that does not exceed 400 square feet when in the set-up mode. Designed to provide recreational seasonal or temporary living quarters which may be connected to utilities necessary for the operation of installed fixtures and appliances.

Camping or Recreational Vehicle: A vacation trailer, camper or self-propelled vehicle equipped with wheels for transport and equipped with plumbing, a sink or a toilet in-tended for recreational, but not for residential purposes. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a septic tank or other sewer system, water and electrical lines, or is occupied on the same parcel for more than 60 days in any consecutive 12 month period.

Temporary Dwelling – A detached dwelling allowed to be placed on a parcel for a limited amount of time in addition to the permanent, existing dwelling. A temporary dwelling shall be removed upon the expiration of the land use permit authorizing it.

- B. In the National Scenic Area, Temporary Health Hardship Dwellings are only authorized to care for a family member. It is not feasible to have a non-relative as your care-giver and use this temporary dwelling option. At present, the term family member is not defined in the Management Plan or current code language. Planning staff is proposing to clarify who is a relative.

MCC 38.7320 TEMPORARY HEALTH HARDSHIP PERMIT DWELLING

Temporary Health Hardship Dwelling—the temporary placement of a mobile home may be granted when:

~~(A) A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.~~

~~(B) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.~~

~~(C) The hardship dwelling is found to be consistent with the standards for protection of scenic, cultural, natural and recreation resources of MCC 38.7000 through 38.7085.~~

~~(D) A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this section and any other conditions of approval.~~

~~(E) Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.~~

~~(F) A new permit may be granted upon a finding that a family hardship continues to exist.~~

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and/or assistance with daily care to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling on a parcel with a single-family dwelling on a renewable term. This use is temporary in nature and shall not increase the residential density on the subject property.

~~(A) (B) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a temporary dwelling on a parcel in conjunction with a single family dwelling allowed in the base zone based on the following findings:~~

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners occupying the principal dwelling. ~~(e)~~ For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, stepparent, stepchild, step-grandparent, or step-grandchild either by blood or legal relationship.

~~(2) The person with the health hardship is unable to adequately provide daily self-care needs because of a physical and/or medical condition based upon a statement from a licensed physician describing the nature of the condition and its resultant limitations. The physician shall indicate that those limitations are severe enough to warrant daily assistance, and that the relative who will be the care provider is capable of providing that assistance.~~

~~(a) The physician's statement shall be dated within 90 days of submittal of the initial application.~~

~~(b) A letter from the care provider shall be submitted describing the assistance being given and their ability to provide it.~~

(2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:

(a) The person identified in the application has a health hardship as defined in MCC 33.0005;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 33.0005; and

(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.

(3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.

- C. The Temporary Health Hardship Dwelling criteria will add the Park-Model Recreational Vehicle as a temporary dwelling type available to be used. Travel trailers are not being added as they have metal or shiny siding that would not be able to meet a number of the Site Review criteria listed in MCC 38.7000 through 38.7085. As proposed for Chapters, 33, 34, 35, & 36, the temporary dwelling will need to be located within 100 ft of the existing dwelling and use the same utilities and driveway improvements.

~~(3)~~ (4) The following criteria are satisfied:

(a) The temporary dwelling shall be either a mobile home or park-model recreational vehicle.

(b) The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject parcel, unless a variance pursuant to MCC 38.7600 through 38.7605 is approved. This distance shall be measured from the closest portion of each building.

(c) The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling ~~it~~ shall be accessed by ~~use~~ the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps to accommodate the care needs of the proposed occupant.

~~(4) The 100 foot distance from the existing dwelling may be modified pursuant to the variance provisions in MCC 38.7600 through 38.7605.~~

~~(B)~~ (C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.

(2) The property owner shall record a covenant that states the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

- D. The time period to establish the temporary dwelling is proposed to be the same as the other Chapters and National Scenic Area language. Extension time will differ as the Management Plan only allows a one year extension period. Multiple extensions can be granted, but only one year at time.

~~(C)~~ (D) Expiration of the Temporary Health Hardship Permit.

The Temporary Health Hardship Permit ~~automatically~~ expires ~~automatically~~ two years ~~from~~ after the date of ~~the final land use decision approval unless or time~~ an extension is approved as set forth in (E) below. ~~approval, unless the permit is extended pursuant to (D) below.~~

~~(D)~~ (E) Extension Procedure of the Temporary Health Hardship Permit

To continue the use of the temporary dwelling for a health hardship, the property owner shall submit an application at least 30 days prior to expiration of the permit to extend the Temporary Health Hardship Permit.

(1) An extension may be granted for a one year period from the expiration date of the original permit. Provided the need for a temporary health hardship continues, additional one-year extensions may be granted pursuant to these procedures.

(2) The extension request shall be submitted on the forms provided by the Planning Director along with the following information:

(a) A physician's statement dated within 90 days of the extension request, verifying that the health hardship recipient continues to have the medical or physical condition described in (A)(2) above; and

(b) A letter from the care provider describing the continuing assistance being given.

(3) Upon the approval of the extension, the Planning Director shall mail notification to the property owners contiguous to the subject parcel.

(4) The Temporary Health Hardship Permit shall automatically expire unless an extension is granted.

The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a one-year period from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject parcel.

~~(E)~~ (F) Occupancy of the Temporary Dwelling

The Occupancy of the temporary dwelling may ~~only~~ occur only while the person(s) or persons for which the Temporary Health Hardship Permit was granted lives on the property.

~~(F)~~ (G) Removal of Temporary Dwelling.

The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of ~~when~~ the Temporary Health Hardship Permit ~~expires~~ or ~~the health hardship ends~~ end of the health hardship or the provision of supervision or assistance with daily care.

- E. Planning staff is proposing to modify the Use description in the various zones that allow the Temporary Health Hardship dwelling. This change is to reflect the current Approval Criteria title for the use.

GGF: § 38.2025 REVIEW USES

(A) The following uses may be allowed on lands designated GGF, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(7) ~~The temporary use of a mobile home in the case of a family hardship~~ A temporary dwelling for health hardship pursuant ~~Dwelling~~, subject to MCC 38.7320, MCC 38.7305 and MCC 38.7315.

GSF: § 38.2025 REVIEW USES

(B) The following uses may be allowed on lands designated GSF pursuant to MCC 38.0530 (B) when the use or development will be sited to minimize the loss of land suitable for the production of forest products and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(10) On a parcel of 40 acres or greater with an existing dwelling, ~~the temporary use of a mobile home in the case of a family hardship~~ a temporary dwelling for health hardship ~~Dwelling~~, subject pursuant to the guidelines for hardship dwellings in MCC 38.7320, MCC 38.7305 and MCC 38.7315.

GGA: § 38.2225 REVIEW USES

(A) The following uses may be allowed on lands designated GGA pursuant to the provisions of MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(7) ~~The temporary use of a mobile home in the case of a family hardship~~ A temporary dwelling for health hardship ~~Dwelling~~, subject pursuant to MCC 38.7320 and MCC 38.0060.

GSA: § 38.2225 REVIEW USES

(B) The following uses may be allowed on lands designated GSA– 40 pursuant to MCC 38.0530 (B), provided that the use or development will be sited to minimize the loss of land suitable for the

production of agricultural crops or livestock and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(16) On a parcel of 40 acres or greater with an existing dwelling, ~~the temporary use of a mobile home in the case of a family hardship~~ a temporary dwelling for health hardship Dwelling, subject pursuant to MCC 38.7320.

GGRC: § 38.2425 REVIEW USES

The following uses may be allowed on lands designated GGRC, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(D) ~~The temporary use of a mobile home in the case of a family hardship~~ A temporary dwelling for health hardship Dwelling, pursuant to MCC 38.7320.

GGR: § 38.3025 REVIEW USES

(A) The following uses may be allowed on lands designated GGR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(4) ~~The temporary use of a mobile home in the case of a family hardship~~ A temporary dwelling for health hardship Dwelling, subject pursuant to MCC 38.7320.

GSR: § 38.3025 REVIEW USES

(B) The following uses may be allowed on lands designated GSR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(8) On a parcel of 40 acres or greater with an existing dwelling, ~~the temporary use of a mobile home in the case of a family hardship~~ a temporary dwelling for health hardship Dwelling, subject pursuant to MCC 38.7320.

PART VI. PROPOSED CODE WITHOUT MARK-UP

The following code language reflects all the changes listed above and is presented in this report to help the Planning Commission understand the final proposed wording for the Temporary Health Hardship ordinance. Planning staff has only provided the new code language that will be reflected in Chapters 33, 34, 35 & 36. The changes to Chapter 38 (Columbia River Gorge National Scenic Area) are very similar but there are some minor differences so that the County's code will remain compliant with the Management Plan.

MCC 33.0005 Definitions

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

Daily Care – Daily care includes but is not limited to bathing, grooming, eating, medication management, walking and transportation. Daily care does not include financial management or the improvement or maintenance of property.

Health Hardship – A specific person's need for daily supervision due to cognitive impairment and/or a specific person's need for assistance with daily care as a result of age and/or poor health.

* * *

Park-Model Recreational Vehicle: A recreational vehicle built on a single chassis, mounted on wheels, and designed to facilitate movement from time to time but not intended to be towed on a regular basis that does not exceed 400 square feet when in the set-up mode and designed to provide recreational seasonal or temporary living quarters which may be connected to utilities necessary for the operation of installed fixtures and appliances.

Recreational Vehicle: A vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

- (a) Holding tank(s);
- (b) Liquid petroleum gas; or
- (c) A 110 to 240 volt electrical systems.

Temporary Dwelling: A detached dwelling allowed to be placed on a lot or parcel for a limited amount of time in addition to the permanent, existing dwelling. A temporary dwelling shall be removed upon the expiration of the land use permit authorizing it.

Travel Trailer: A non-motorized, towable recreational trailer which contains an Oregon Insignia of Compliance as a recreational vehicle. Motor homes, converted buses, van conversions, slide-in truck campers and folding camper trailers ("pop-up" campers) are not considered a travel trailer.

MCC 33.0515 TEMPORARY HEALTH HARDSHIP PERMIT.

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and/or assistance with daily care to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling on a lot with a single-family dwelling on a renewable term. This use is temporary in nature and shall not increase the residential density in the rural plan area.

(B) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a temporary dwelling on a lot in conjunction with an existing single-family dwelling allowed in the zone with a single family residence subject to the following:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

(a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.

(b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.

(c) For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship

(2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:

(a) The person identified in the application has a health hardship as defined in MCC 33.0005;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 33.0005; and

(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.

(3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.

(4) The following criteria are satisfied:

(a) The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.

(b) The temporary dwelling shall be located within 100 feet of the single family dwelling on the subject parcel, unless an adjustment or variance pursuant to MCC 33.7601 through 33.7616 is approved. This distance shall be measured from the closest portion of each building.

(c) The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps.

(C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.

(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

(3) In the EFU & CFU zone, the property owner shall record a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules and to conduct accepted farming practices.

(D) Expiration of the Temporary Health Hardship Permit.

The Temporary Health Hardship Permit expires automatically two years after the date of final approval of the permit unless an extension is approved as set forth in (E) below.

(E) Extension of the Temporary Health Hardship Permit.

The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B) and (C) above. More than one extension may be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.

(F) Occupancy of the Temporary Dwelling

Occupancy of the temporary dwelling may occur only while the person for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling.

The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit or end of the health hardship or the provision of supervision or assistance with daily care.

Exclusive Farm Use

MCC 33.2625 REVIEW USES

(Q) A temporary dwelling for health hardship pursuant to MCC 33.0515 and 33.2660.

MCC 33.2630 CONDITIONAL USES [The same changes are proposed for MCC 34.2620(H) and 35.2630(H)]

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 33.6300 to 33.6335:....

Commercial Forest Use Zones

MCC 33.2225 REVIEW USES

(C) A temporary dwelling for health hardship, pursuant to MCC 33.0515 and 33.2256.

MCC 33.2245 USE COMPATIBILITY STANDARDS

Specified uses of MCC 33.2225(D) and (E) and MCC 33.2230 (A), (B), and (C) may be allowed upon a finding that:

(A) The use will:

- (1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;
- (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(B) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.