

BEFORE THE MORROW COUNTY COURT
OF MORROW COUNTY

AN ORDINANCE ADOPTING AMENDMENTS
TO THE MORROW COUNTY ZONING
ORDINANCE ARTICLE 4 SUPPLEMENTARY
PROVISIONS SECTION 4.130 HARDSHIP
DWELLINGS.

COUNTY ORDINANCE

NO. MC-9-2009

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the county over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was acknowledged by the Land Conservation and Development Commission on January 15, 1986; and

WHEREAS, The Planning Commission initiated changes to the Zoning Ordinance Article 4 Supplementary Provisions Section 4.130 Hardship Variances in January 2009 to allow the Planning Director to review and make a ministerial decision on hardship variance renewals; and

WHEREAS, Planning staff and the Planning Commission recommended a more extensive renovation of the Section in order to clarify the permitting requirements for hardship dwellings in resource zones; and

WHEREAS, the Morrow County Planning Commission held hearings to review the request on September 29, 2009, at the Port of Morrow Riverfront Center in Boardman and on October 27, 2009, at the Morrow County School District Building in Lexington, Oregon; and

WHEREAS, the Morrow County Planning Commission unanimously recommended approval of the request and adopted Planning Commission Final Findings of Fact; and

WHEREAS, the Morrow County Court held a hearing to consider the recommendation of the Morrow County Planning Commission on December 2, 2009, at the Morrow County Courthouse in Heppner, Oregon; and

WHEREAS, the Morrow County Court considered the testimony and evidence presented to them and continued the hearing in order to remove the license requirements of a caregiver; and

WHEREAS, the Morrow County Court continued the hearing on December 9, 2009 at the North County Annex in Irrigon, Oregon and did consider the revised text as presented to them.

MORROW COUNTY, OREGON **CJ2009-2697**
Commissioners' Journal 12/23/2009 10:22:17 AM



I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Bobbi Childers - County Clerk



Zoning Ordinance Amendment
Article 4 Section 4.130 Hardship Dwellings
2009 Amendment
Page 1

NOW THEREFORE THE COUNTY COURT OF MORROW COUNTY ORDAINS AS FOLLOWS:

Section 1 Title of Ordinance:

This Ordinance shall be known, and may be cited, as the "Article 4 Section 4.130 Hardship Dwellings 2009 Amendment."

Section 2 Affected Document

The Morrow County Zoning Ordinance Article 4 Supplementary Provisions Section 4.130 Hardship Dwellings is amended and shall be replaced in its entirety with the document identified as Exhibit 1.

Section 3 Effective Date

This ordinance shall be effective on February 1, 2010.

Date of First Reading: December 16, 2009

Date of Second Reading: December 23, 2009

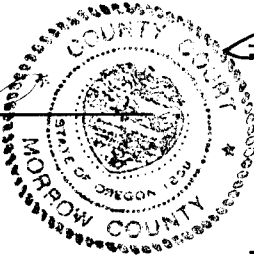
DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 23rd DAY OF December, 2009

ATTEST:

MORROW COUNTY COURT:

Bobbi Childers

Bobbi Childers
County Clerk



Terry K. Tallman
Terry K. Tallman, Judge

Ken A. Grieb
Ken Grieb, Commissioner

APPROVED AS TO FORM:

Ryan Swinburnson
Ryan Swinburnson
County Counsel

Leann Rea
Leann Rea, Commissioner

SECTION 4.130 Hardship Dwellings

A. A hardship dwelling is a temporary use of a manufactured home, recreational vehicle or an existing building necessary for a relative or other designated caregiver to care for or provide custody for an elderly, mentally handicapped, or infirm person whom a medical professional certifies needs this kind of care or custody. This certification will be on the medical professional's stationery or stamped by the medical professional's office, and will indicate that the patient is not physically or mentally capable of maintaining himself/herself in a residence on a separate property and is dependent on someone being close by for assistance. As an alternative, the medical professional can stamp and sign the application form available through the Planning Department for a medical hardship. Financial hardship conditions, child care, and other convenience arrangements not relating to physical and/or mental impairment are not considered an infirm condition.

The provisions of this section are to apply when the proposed use does not qualify as a continuation of a nonconforming use, not permitted by right, nor permitted through the operations of other more pertinent procedures and provisions of this zoning ordinance. Temporary use permits for hardship dwellings are not to be construed, permitted nor utilized as a means to abrogate the intent, purpose or procedures of the County's Comprehensive Plan or Zoning Ordinance regulations.

No temporary permit shall be granted that would have the effect of creating a permanent zoning or result in a hardship when the use is not permitted to continue at the expiration of the permit periods. Further, no temporary permit will be granted which has the effect of conferring a special privilege for which other property within the same zone would not be equally eligible.

B. As a temporary use in a residential zone, the Commission may allow as a variance one manufactured home, recreational vehicle, or temporary use of an existing building complying with the standards of Section 4.110, as applicable, and providing that no additions, except approaches or handicapped ramps, to the temporary residence shall be permitted in conjunction with a primary dwelling with the following findings:

1. That an accessory dwelling is necessary to care for or provide custody of an elderly, mentally handicapped, or infirm person who a medical professional certifies needs this kind of care or custody as required in A. above.
2. Electric, water and sewer utility connections shall be made to the temporary residence. If the hardship dwelling will not use a public sanitary sewer system, the 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 or as otherwise allowed and conditioned by the Planning Commission.
3. Within 90 days of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed non-residential use.

C. As a temporary use in a resource zone, the Commission may allow under a Conditional Use Permit, one manufactured home, recreational vehicle, or temporary use of an existing building complying with the standards of Section 4.110(A) as applicable, and providing that no additions, excepting approaches or handicapped ramps, to the temporary residence shall be permitted in conjunction with a primary dwelling with the following findings:

1. That the hardship dwelling use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;

2. The hardship dwelling use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
3. The manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building allowed as a hardship dwelling shall be connected to electricity, domestic water, and 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.
4. The landowner for the hardship dwelling shall sign and record in the deed records for the County a Right-to-Farm or a Right-to-Forest Statement binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from customary farm or forest practices.
5. Within 90 days of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed non-residential use.

D. A temporary use permit granted under this section is void when the elderly, mentally handicapped, or infirm existing resident or other person who is the subject of the permit no longer needs care, moves to another residence, is absent from the residence for more than 120 days or leaves the residence with no likelihood of returning for continued residency of at least 30 days. Exception to the 120-day limit can be provided for in the case of extraordinary circumstances such as extended hospitalization. These extensions can be approved by the Planning Director for up to an additional 60 days without Planning Commission approval. Additional extensions will require Planning Commission review and approval.

E. The County Planning Director or designee may review permits issued under this section at any time and may revoke permits when they are found to be out of compliance. After the initial approval by the Planning Commission any required renewal shall be applied for as a hardship dwelling extension. The decision to approve a hardship dwelling extension shall be an administrative decision of the Planning Director.

F. Any accessory dwelling placed under a permit authorized by this section must be located as close as possible to the primary dwelling. Unless there are physical limitations of the land this should be within 100 feet of the primary dwelling.

G. County Zoning and Building Permits will be required. A Rural Address will also be required to facilitate emergency response.

H. A temporary medical hardship permit is valid for up to 2 years from the date of initial issuance, i.e., permits issued in an odd-numbered year will expire in the next odd-numbered year. All permits will have an expiration date of January 31. The County will process all temporary medical hardship permit renewal requests once per year in January. The County will give permittees not less than 30 calendar days written notice of the pending expiration of their permits, advising that a renewal will be required. Failure to receive notification of pending expiration does not constitute an extension of time for the permit. The Planning Director shall not renew the hardship permit until the permittee has shown compliance with the conditions for issuance specified in this Section at the time of renewal and the County has received evidence of the continued validity of the medical hardship.