

## **RURAL AFFORDABLE HOUSING IN MARION COUNTY**

### **HOUSE BILL 2937 and 2938**

**March 14, 2017**

#### **BACKGROUND/PROBLEM STATEMENT**

Oregon's land use system was designed to preserve and protect valuable farmland and resource lands. Counties implement state land use requirements through county codes that are reviewed and aligned with state laws and administrative rules in conjunction with the Oregon Department of Land Conservation and Development (DLCD). While not in Oregon statute, DLCD administrative rules limit housing in rural residential areas to "one single-family dwelling on a lot or parcel" (OAR 60-004-0040 (9)). DLCD was authorized to create these rules under its authority to develop goals in ORS Chapter 197. This OAR precludes Oregon counties from allowing Accessory Dwelling Units (ADUs) in rural residential areas.

Some counties have implemented "hardship" provisions that allow families or caretakers to live in a second dwelling on rural property and to provide care on a temporary basis – often requiring a physician's authorization for the caretaking circumstances. However, once the hardship condition no longer exists, DLCD rules require that the dwelling be removed. "Guest homes" are permitted in some counties, but are prohibited from being defined as a "second dwelling." To accomplish this, county codes require that the guest home not have a full kitchen or bathroom. In Marion County, guest homes are limited to a microwave and no working stove. Oregon counties are further precluded from authorizing a Recreational Vehicle (RV) to be occupied as a second dwelling in rural residential areas, except in hardship situations.

Homelessness is not unique to Marion County, but is epidemic across the nation. Oregon is experiencing a crisis in homelessness. In Salem, for example, there are 10,000 families on the waiting list for Section 8 vouchers. Even those who rise to the top of the list and receive a voucher have a tremendously difficult time finding an available apartment with rents in a low-income price range. Vacancy rates for multi-family units are less than 1% in most areas of Marion County. In addition to people who can be seen camping on city sidewalks and outside Rite-Aid, residents at neighborhood meetings across the city described people camping in city parks and along stream banks in residential neighborhoods, or camping on the street in an RV that is moved from block to block. Realtors describe homeless families living in vacant homes. KPTV ran a story on September 12, 2016 about families being asked to leave their homes by Marion County code enforcement officials enforcing the county code and state law. (See Attachment 1.)

Homelessness is a complex issue. Effective strategies vary depending on the driver – whether it be a homeless veteran, a person with chronic mental illness, a family living in a car because of loss of income, or a victim of domestic violence fleeing a dangerous situation. Only a multi-

faceted approach will solve the problem, with many strategies being implemented. Adding to the housing supply helps solve one part of this vast problem.

### **WHY ACCESSORY DWELLING UNITS (ADUs)?**

The U.S. Department of Housing & Urban Development (HUD) published a case study<sup>1</sup> in 2008 describing the history and benefits of ADUs. In the study, ADUs are defined as “additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities, and can either be attached or detached from the main residence.” ADUs are also commonly referred to as accessory apartments, second units, or granny flats. RVs can also serve as an ADU.

HUD articulates the benefits of ADUs as helping increase the housing supply, since ADUs cost less than a new single-family home on a separate lot. They are thus an affordable housing option for many low-and moderate-income residents. The case study further notes that “elderly and/or disabled persons who may want to live close to family members or caregivers, empty nesters, and young adults just entering the workforce find ADUs convenient and affordable.” ADUs can benefit homeowners by providing extra income that can assist in mitigating increases in the cost of living. ADUs can be connected to the existing utilities of a primary dwelling. A consideration in the rural areas, however, is to assure that the well and septic system are adequate to accommodate the additional load. These issues can be easily governed through county codes that assure health and safety.

Another study about the potential to allow ADUs in rural areas<sup>2</sup> of Benton County cited research demonstrating that overcrowding has not been a problem for jurisdictions that allow ADUs: on average 2.16 persons lived in the main unit and 1.2 persons in the accessory unit. Benton County planning staff also found that “most illegal units were being used to accommodate family members that needed some level of care from the property owner.” Residents may have had some medical hardship, but did not qualify for the county’s temporary medical hardship dwelling permit.<sup>3</sup>

Klickitat County, Washington passed an ordinance in 2014 allowing ADUs in rural residential areas. The ordinance stated that “provisions for accessory dwelling units create more housing choices for residents and allow opportunities for households to remain in place despite changing needs over time.” Klickitat County allows ADUs as an administrative conditional use with notice required to adjacent land owners. They require the ADU to be located on the same

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<sup>1</sup> Sage Computing, Inc., *Accessory Dwelling Units: Case Study* (June 2008). Prepared for U.S. Department of Housing and Urban Development, Office of Policy Development and Research. Sage: Reston, VA.

<sup>2</sup> Holly M. Fellows, *A Health Impact Assessment of Accessory Dwelling Unit Policies in Rural Benton County, Oregon* (May 2011). Corvallis: Oregon State University.

<sup>3</sup> *Ibid*, p. 9.

parcel as the primary residence and to use the same potable water source (well) as the primary dwelling. The ordinance also prohibits transient accommodation in ADUs.

### **IDENTIFIED STATUTES TO AMEND**

Since Oregon’s statutes do not currently allow or prohibit ADUs in rural/rural residential areas – rather, the prohibition is implicit in DLCD OAR provisions that allow only one residence on a parcel – there are a couple different approaches that could be used to place explicit permission for ADUs in Oregon law:

1. Add a section in Chapter 197 under “Miscellaneous” that allows ADUs in rural residential areas; and/or
2. Add a section in Chapter 215 under “Permitted Uses in Zones” that expressly allows counties to approve ADUs in rural residential areas.

Existing statutes also do not prohibit RVs as accessory dwellings in rural residential areas. (See ORS 197.493.) Ostensibly, the same OAR language requiring a single dwelling in rural zones has triggered county jurisdictions to adopt various hardship provisions that place time limits on persons residing there.

### **SUGGESTED LANGUAGE**

The following language is suggested to allow ADUs in rural residential areas and for residences on rural property/farms:

*On property outside of an urban growth boundary with a legally established dwelling, a jurisdiction may permit as an accessory dwelling unit, one site-built dwelling, manufactured dwelling, or recreational vehicle subject to standards adopted by the jurisdiction to ensure the accessory dwelling unit is accessory to the primary dwelling.*

### **SIDEBOARDS**

The intent of this legislative proposal is to limit ADUs to one per parcel/residence. We are not interested in creating RV parks on rural lands. We are also assuming that county codes will require appropriate health and safety measures; i.e., adequate water supply, safe electrical connections, and appropriate sewage disposal systems.

### **CONTACTS**

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|------------------------------------|---------------|--|
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## ATTACHMENT 1

### Marion County landowner upset over fines for housing homeless - KPTV - FOX 12

Posted: Sep 12, 2016 6:29 PM PDT Updated: Sep 12, 2016 10:32 PM PDT

By Simon Gutierrez

MARION COUNTY, OR (KPTV) -

Property owners in rural Marion County who are providing temporary refuge for families displaced by the region's housing crisis have been told to cease and desist.

Renee Glass, who has been allowing a close friend to park her recreational vehicle near her barn, said she received a notice from the county's code enforcement division informing her she was in violation of county ordinance.

"I was shocked," Glass said. "They're here because they can't afford to pay park rent. They're here because they have family, support, friends."

The county's letter to Glass outlined the complaints, stating that an RV cannot be inhabited on the property for more than 120 days and that it cannot be "hard-lined" to utilities.

Glass contends that the people have been staying less than the 120-day limit, and said that utility hookups were all temporary, adding that the power was just from an extension cord.

She said she is not the only one getting a notice from the county, either, adding that two of her neighbors were also today to stop housing people on their property.

According to Marion County, there are more than 1600 people that classify as homeless in the region, and a waiting list for affordable housing has more than 10,000 names on it.

"Where are these people going to go?" Glass asked. "You kick them out off of private land. Where are they going to go?"

Glass was also skeptical of what the county would do with the \$1,025 fine she would have to pay if she remained in violation of the county codes.

"If I pay a thousand dollar fine, are they going to give that money to Section 8?" she said. "Are they going to give them food?"

A spokesman for the Marion County Sheriff's Office, which oversees code enforcement, said the county is willing to work with property owners, and will provide extensions to enforcement deadlines as long as lines of communication remain open.

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