

CITY OF JOHN DAY

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Chantal DesJardin

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Shannon Adair
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ORDINANCE NO. 20-188-09 (AMD-20-11)
AN ORDINANCE AMENDING THE JOHN DAY DEVELOPMENT CODE
REVISING LANGUAGE RELATED TO MANUFACTURED HOMES AND
MANUFACTURED DWELLING PARKS. (TYPE IV PROCEDURE)

Type of Action Requested

	[]	Resolution	[X]	Ordinance
	[]	Formal Action	[]	Report Only

DATE SUBMITTED: February 16th, 2021
AGENDA DATE REQUESTED: February 23rd, 2021

1. PROPOSAL SUMMARY

The City of John Day is proposing amendments to the City of John Day Development Code (the “Code”) to clarify and refine land use regulations concerning manufactured dwellings parks. The proposed amendments add standards for open space, lighting, and street surfacing in new manufactured dwelling parks and incorporate standards set out in state law. The primary purposes of the amendments are to clarify the Code with respect to manufactured dwelling parks, establish consistency with state and federal requirements, and improve standards for manufactured dwelling parks.

2. APPLICABLE CRITERIA

This request is a legislative amendment to the John Day Development Code. The applicable approval criteria are found in section 5-4.050, which incorporates compliance with Statewide Planning Goals and the John Day Comprehensive Plan.

3. CITY COUNCIL CONSIDERATIONS

The City Council’s review must focus on the relevant code criteria and follow the public hearing requirements for a Type IV Legislative Amendment under section 5-4.7.020. The City Council should approve the request as recommended by the Planning Commission if it conforms to the approval criteria.

4. STAFF RECOMMENDATION

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Staff recommends that the City Council **adopt Ordinance 20-188-09 as presented in Exhibit B**, along with the findings in this report.

5. PUBLIC NOTIFICATION

The City of John Day mailed public notice to affected property owners on December 17th, 2020 and published notice in the Blue Mountain Eagle on February 3rd, 2021 as required by the Development Code. Interested parties who participated in previous hearings were notified of the final hearing three weeks and advance. Staff reports were made available for public inspection and sent to interested parties seven days prior to the hearing date.

6. PLANNING COMMISSION DISCUSSION/PUBLIC COMMENT

Set out below are the primary issues discussed during the proceeding before the Planning Commission. Staff has inserted comments where appropriate to facilitate the City Council's review of the proposed amendments. Ultimately, the Planning Commission recommended that the City Council approve the proposed amendments with a change to make the play area standard generally applicable as discussed in more detail below.

- a) ORS 446.095 requires that manufactured dwelling parks provide a play area when children under 14 years of age will likely live in the park. Concern was raised as to how this would be evaluated and whether parks restricted to seniors, which would seem to be exempt from this standard, should nonetheless be obligated to provide a play area for visiting grandchildren. The Planning Commission approved of making this park requirement generally applicable to all manufactured dwelling parks.
- b) The proposed amendments included the same standards for play areas within manufactured dwelling parks under ORS 446.095 (2,500 sq. ft. or 100 sq. ft. per unit, whichever is greater). A proposal was made to increase this standard, but the Planning Commission ultimately elected to keep the same standard as state law.
- c) The amendments include a requirement that residential building materials requirement that states dwellings "shall have exterior siding and roofing which in color, material and appearance are similar to the exterior siding and roof material commonly used on surrounding dwellings." Riverside Home Park ("Riverside") argued that this provision violates the "clear and objective" standard of ORS 197.307(4). Staff notes that this language mirrors the language of ORS

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197.307(8)(d)¹ for manufactured dwellings outside of a manufactured dwelling park and ORS 197.314(6)² for manufactured dwellings within a manufactured dwelling park that is smaller than 3 acres, which expressly provides that local jurisdictions can adopt such a standard. Manufactured homes greater than 3 acres are not subject to this standard. City Council could keep the standard as is, remove the

¹ 197.307 Effect of need for certain housing in urban growth areas; approval standards for residential development; placement standards for approval of manufactured dwellings.

...

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:

...

(8) In accordance with subsection (4) of this section and ORS 197.314, a jurisdiction may adopt any or all of the following placement standards, or any less restrictive standard, for the approval of manufactured homes located outside mobile home parks:

(a) The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.

...

(d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

² **197.314 Required siting of manufactured homes; minimum lot size; approval standards.**

...

(6) A city or county may adopt the following standards for the approval of manufactured homes located in manufactured dwelling parks that are smaller than three acres:

(a) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

(b) The manufactured home shall have exterior siding and roofing that, in color, material and appearance, is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or that is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

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standard, or adopt alternative language such as one or more of the following examples:

1. *Prior to relocating or placing a manufactured dwelling, evidence must be provided to the Planning Official that the manufactured dwelling meets or exceeds the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act), as evidenced by providing a copy of the HUD certification label (HUD tag) or a Letter of Label Verification from the Institute for Building Technology and Safety (IBTS) or equivalent document in the event the HUD tag is missing from the home."*
 2. *The manufactured home shall have no bare, unpainted, repurposed, or galvanized metal roofing or siding materials.*
- d) Amending the ordinance to clarify density, setback, and landscaping requirements. The minimum standards that are currently in place are included in the drafted ordinance, but may be removed by council discretion.
- e) Finally, Riverside raised arguments regarding the applicability of ORS 446.200 and ORS 197.493. These statutes deal with the application of local regulations to lawfully placed manufactured dwellings and requirements for local governments to allow use of residential trailers as a dwelling in certain circumstances. Staff notes that the proposed amendments do not generally conflict with the cited statutes and thus the cited statutes would not provide a basis for a facial challenge to the proposed amendments (i.e. that there is no circumstance in which the proposed amendments could be lawfully applied). However, the statutes may prohibit application of the proposed amendments in specific situations, namely development that has already been lawfully established and is not proposed for modification. According, staff would recommend moving forward with the amendments and considering "as-applied challenges" as they arise during the course of administering the amended Code.

7. ADOPTION PROCEDURE AND FINDINGS

The following section shown in italics and boldface provides the decision making criteria as required by John Day Development Code Section 5-4.1.050.G.

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Decision-Making Criteria. The recommendation by the Planning Commission shall be based on the following factors:

1. Approval of the request is consistent with the Statewide Planning Goals;

FINIDNG: Specific findings of compliance with statewide land use goals are addressed below.

Goal 1 – Citizen Involvement.

Finding: The Code establishes procedures for text amendments such as the subject proposal to implement Goal 1. The Code specifically calls for various forms of notice and public hearings. The City has provided the requisite notices and held the requisite public hearings to satisfy the Code and therefore Goal 1. This criterion is met.

Goal 2 – Land Use Planning.

Finding: Staff is following the prescribed procedure for a text amendment to ensure adequate review of the proposed text amendment. This staff report identifies the basis for making a decision on the subject proposal pursuant to applicable code criteria. Staff finds Goal 2 is met.

Goals 3 and 4, Agricultural and Forest Lands

Finding: These Goals are not applicable as the proposed text amendments will not have any known impact on either Agricultural or Forest Lands.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces.

Finding: The proposed text amendments have no impact on Natural Resources, Scenic and Historic Areas, and Open Spaces. This Goal does not apply.

Goal 6 – Air, Water and Land Resources Quality.

Finding: The proposed text amendments have no impact to City regulations to protect air, water, and land resources. This Goal does not apply.

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Goal 7 – Areas Subject to Natural Hazards.

Finding: The proposed text amendments have no impact on the City’s ability to plan for natural hazards or do not otherwise amend the City’s land use regulations governing natural hazards. This Goal does not apply.

Goal 8 – Recreational Needs.

Finding: The proposed text amendments further the objectives of Goal 8 by implementing state requirements for recreational facilities within manufactured dwelling parks and otherwise expanding access to recreational opportunities.

Goal 9 – Economic Development.

Finding: The proposed amendments do not affect the City’s supply of lands available for industrial or commercial uses or otherwise inhibit development of lands within the City for such uses. This Goal does not apply.

Goal 10 – Housing.

Finding: The purpose of Goal 10 is to provide for the housing needs of citizens of the state. Statewide Planning Goal 10 addresses manufactured housing. However, manufactured homes do not qualify as “needed housing” for cities with a population smaller than 2,500 people pursuant to ORS 197.303(5)(a). Because John Day is classified as a “very small city,” the City has additional flexibility in our analysis of what types of future housing development is needed to serve the community.

Nonetheless, no residential land supplies, types, locations, or affordability ranges are impacted by the proposed amendments. The City’s Housing Needs Analysis (HNA) and Buildable Lands Inventory (BLI) were addressed in the 2003 Comprehensive Plan. Due to changing market conditions and the desire to increase the supply of both affordable housing and workforce housing, the City contracted with EcoNorthwest to create the Housing & Community Development Assessment (October 2019) for John Day. This document reflects the best available data for John Day’s housing market and includes an inventory of buildable residential lands and the City strives to follow its findings. Key findings from the Assessment as it relates to the proposed amendments are:

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- Demand for new housing is primarily linked to population growth. Between 1990 and 2018, John Day's population shrunk by 101 people (-6%). The population in John Day's UGB is forecasted to continue to shrink in the coming decades as is the population of Grant County. However, City policies currently in place to incentivize housing and develop buildable lands, coupled with its emphasis on tourism and recreation as described in its Strategy for Growth and Community Investment Strategy/Comprehensive Economic Development Strategy could shift this decline to modest but sustainable growth.
- John Day has capacity for 1,000-1,800 units in the current urban growth boundary, more than double the number of homes currently in the city limits.
- John Day will have demand for up to 230 new dwelling units between 2019 and 2039. This equates to between 22 and 46 for each 5-year period, or between 4 and 9 new units per year. About 75% of new dwelling units are expected to be single-family detached (including manufactured homes)

Based on these findings, the City of John Day is already compliant with Goal 10 and will continue to be compliant for the foreseeable future.

Goal 11 – Public Facilities and Services

Finding: The proposed amendments do not impact the City's ability to plan for or supply public facilities or services. This Goal does not apply.

Goal 12 – Transportation

Finding: Goal 12 is implemented through OAR 660-012-0060 commonly known as the "transportation planning rule". Per OAR 660-012-0060(1) additional analysis, and potentially mitigation, is required if an amendment would have a "significant effect on a transportation facility. There is no significant effect because the proposed do not allow for higher levels of development than presently permitted or otherwise change the function or classification of any transportation facility. Because text amendments have no impact on the City's ability to plan for supply an adequate transportation system, the proposal complies with Goal 12.

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Goal 13 – Energy Conservation

Finding: The proposed text amendments have no impacts on energy use. This Goal does not apply.

Goal 14 – Urbanization

Finding: The proposed text amendments do not impact that transition of rural land to urban uses. This provision does not apply.

Goals 15 through 19.

Finding: Goals 15, 16, 17, 18 and 19 are not applicable because they only pertain to areas within Western Oregon.

2. *Approval of the request is consistent with the Comprehensive Plan; and*

Finding: The goals and policies of the City’s Comprehensive Plan largely mirror the Statewide Land Use Goal. Accordingly, those goals and policies are either satisfied or not applicable for the same reasons set out in findings for the corresponding statewide land use goal.

With respect to Goal 10, the corresponding element of the John Day Comprehensive Land Use Plan contains a provision to address manufactured dwellings specifically. Housing Policies 1 and 8 provide as follows:

1. That ordinance revisions be made to better accommodate manufactured housing, planned or cluster developments, and other innovative design techniques which might provide more flexibility and/or lower housing costs.

...

8. Mobile home parks should be developed in areas in close proximity to service commercial, with access to a collector, and should be designed to protect the character of adjoining residential uses and provide for a maximum level of quality living for occupants.

Jean Dahlquist submitted comment noting that the code changes look much needed although they do not help facilitate the creation of mobile home

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parks, which are one of the largest sources of affordable housing. Staff finds that the foregoing housing policies are somewhat in conflict at measures to provide for maximum level of quality living can make it more difficult to develop manufactured housing, can restrict flexibility, and increase the cost of providing manufactured housing within manufactured dwelling parks. However, staff finds that proposed amendments appropriately balance these conflicting goals. The proposed amendments clarify standards for manufactured dwellings and manufactured dwelling parks, which will provide more certainty for developers of manufactured dwellings and in turn accommodate more such development. The proposed amendments also include provisions focused on enhancing quality of life for occupants of manufactured dwelling parks. Staff is not aware of similar regulations in other jurisdictions inhibiting the provision of manufactured dwellings or manufactured dwelling parks in those jurisdictions. Thus staff finds that the regulations do not have the effect, either in themselves or cumulatively, of discouraging such forms of housing through unreasonable cost or delay.

Dahlquist also commented on the requirement that dwellings “shall be multi-sectional and have an enclosed floor area of not less than 1,000 square feet.” With the growing tiny house movement in Oregon, Dahlquist was concerned this requirement may be seen as discriminatory towards manufactured dwellings given that the city code does not have a minimum size requirement for stick-built homes. Staff notes that such a restriction is permitted for manufactured dwellings outside of a manufactured dwelling park pursuant to ORS 197.307(8)(a). However, the City could always adopt a less restrictive standard.

3. The property and affected area is presently provided with adequate public facilities and services, including transportation, sewer and water systems, to support the use, or such facilities and services are provided for in adopted City plans and can be provided concurrently with the development of the property.

Finding: The amendments affect the entire city of John Day, but do not propose or allow for any particular use in a particular area. The City is presently adequately providing public facilities and services for existing development within the City. If new manufactured dwellings are proposed, they are subject to requirements that there be adequate public facilities and services to support such development. Therefore, the amendments have no impact on the City’s ability to plan for or supply public facilities and services.

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8. CITY COUNCIL MOTION

After hearing the staff presentation and any public testimony, including any rebuttal, the Council will close the hearing and deliberate. The City Council has three options:

1. Adopt Ordinance No. 20-188-09, as presented.
2. Amend Ordinance No. 20-188-09 and adopt as amended.
3. Adopt findings demonstrating that the ordinance does not comply with the John Day Comprehensive Plan and do not adopt Ordinance No. 20-188-09.

The staff report may be amended during the course of the hearing.

Respectfully submitted this 16th day of February, 2021

Nicholas Green
City Manager / City Planning Official
City of John Day

Enclosures:

- Exhibit A. Staff Report
- Exhibit B. Ordinance No. 20-188-09