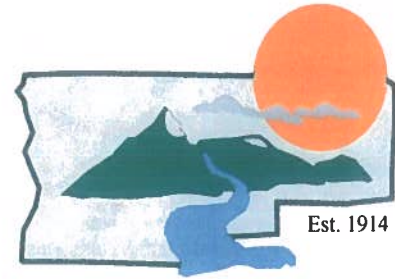


# JEFFERSON COUNTY

## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION STAFF REPORT CASEFILE 23-PA-04

Hearing Date: August 24, 2023

Application Number: 23-PA-04

#### **Background**

The Oregon Department of Land Conservation and Development (DLCD) oversees Oregon's Statewide Planning Program on behalf of Oregon LCDC. DLCD follows the 19 Statewide Planning Goals in reviewing what is required in Jefferson County's land use program.

DLCD has formally requested that Jefferson County update the Forest Zone Template Dwelling Test (JCZO Section 303.6(E.) based on HB 2225 (2019). DLCD scheduled a phased approach to implementation of the bill over four years to handle the amount of work they need to do with Oregon's 36 Counties. DLCD also determined that this Zoning Code update requires notice under Measure 56 to landowners who are affected.

The Forest Zone Template Dwelling Tests is permitted in forest zones within areas that already have a certain number of existing dwellings and parcels on January 1, 1993. On January 1, 2020, HB 2225 became effective changing certain requirements for "template dwelling" reviews set forth in ORS 215.750. DLCD has determined that the amendment's to ORS 215.750 may limit or prohibit land uses previously allowed on properties thus requiring Measure 56 notice.

#### **HB 2225 changes the following requirements set forth in ORS 215.750:**

- 1) ORS 215.750 previously required the 160 acre template to be centered on the tract but does not provide a method for determining the center. HB 2225 specifies that the template must be centered on the "mathematical centroid of the tract."
- 2) HB 2225 prohibits using property line adjustments to relocate parcels from areas where they would not qualify for a template dwelling to areas where they would qualify.
- 3) ORS 215.750 previously did not allow template dwelling approval on a tract that has an existing dwelling. "Tract" means one or more contiguous lots or parcels under the same ownership. The HB 2225 amendments do not allow template dwelling approval if a parcel was part of a tract on January 1, 2019 and another parcel that was part of the tract on that date has a dwelling.

## When will this law apply?

HB 2225 establishes an effective date of on and after November 1, 2023 for Jefferson County.

**Applicable Standards:** Jefferson County Zoning Ordinance (JCZO), Chapter 8 Amendments and Section 303.6 (E.), Oregon Statewide Planning Goal 4 – Forest Lands and (2019) HB 2225.

### Current Zoning Code (to be deleted)

~~Jefferson County Zoning Ordinance Section 303.6 (E.)~~

~~JCZO Section 303.6 – Dwellings~~

~~A dwelling may be approved by the Planning Director under the Administrative Review procedures in Section 903.4 if found to comply with the criteria in this section, the siting~~

~~standards in Section 303.7, the fire safety standards in Section 426, and any other applicable requirements of this ordinance.~~

~~E. — Forest Template Dwelling~~

~~A forest template dwelling may be approved if all of the following criteria are met:~~

- ~~1. — The tract on which the dwelling will be sited does not include a dwelling;~~
- ~~2. — The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:
  - ~~a. — Capable of producing 0 to 20 cubic feet per acre per year of wood fiber and all or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and at least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels;~~
  - ~~b. — Capable of producing 21 to 50 cubic feet per acre per year of wood fiber and all or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and at least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels; or,~~
  - ~~c. — Capable of producing more than 50 cubic feet per acre per year of wood fiber and all or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and at least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.~~
  - ~~d. — Lots or parcels within an urban growth boundary shall not be used to satisfy the eligibility requirements under this subsection.~~~~
- ~~3. — If the tract on which the dwelling will be sited abuts a road that existed on January 1, 1993, the measurement required by subsection (2) above may be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the subject tract and that is to the maximum extent possible aligned with the road;~~
- ~~4. — If the tract on which the dwelling will be sited is 60 acres or larger and abuts a road or perennial stream, the measurement required by subsection~~  
~~(2) above shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the subject tract and that is to the maximum extent possible aligned with the road. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:~~
  - ~~a. — Be located within the 160-acre rectangle; or~~
  - ~~b. — Be within one-quarter (¼) mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.~~

- ~~e. A dwelling is considered to be in the 160-acre rectangle if any part of the dwelling is in the rectangle.~~
- ~~5. If a road crosses the tract on which the dwelling will be sited, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling;~~
- ~~6. The proposed dwelling is not prohibited by, and complies with, applicable provisions of the Comprehensive Plan, this Ordinance, and other applicable provisions of law; and~~
- ~~7. No dwellings will be allowed on other lots or parcels that make up the tract. Irrevocable deed restrictions precluding all future rights to construct a dwelling on the lots or parcels that make up the tract or to use the tract to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under the goals for agricultural lands or forest lands shall be recorded with the deed for each lot and parcel.~~

**Proposed Zoning Code Update Based On (2019) HB 2225 (to be added)**

Jefferson County Zoning Ordinance Section 303.6 (E.)

JCZO Section 303.6 Dwellings

A dwelling may be approved by the Planning Director under the Administrative Review procedures in Section 903.4 if found to comply with the criteria in this section, the siting standards in Section 303.7, the fire safety standards in Section 426, and any other applicable requirements of this ordinance.

E. Forest Template Dwelling

A forest template dwelling may be approved if all of the following criteria are met:

E. Forest Template Dwelling

A forest template dwelling may be approved if all of the following criteria are met:

- 1. The tract on which the dwelling will be sited does not include a dwelling;
- 2. The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:
  - (a) Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:
    - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
    - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels;
  - (b) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
    - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
    - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels;
  - (c) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
    - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
    - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
- 3. Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements.
- 4. A proposed dwelling under this section is allowed only if:
  - (a) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations and other provisions of law; and
  - (b) It complies with the following requirements:
    - (1) If the lot or parcel is more than 30 acres, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met; or
    - (c) The dwelling meets the following requirements:

- (A) The dwelling has a fire retardant roof.
  - (B) The dwelling will not be sited on a slope of greater than 40 percent.
  - (C) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.
  - (D) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.
  - (E) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.
  - (F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
  - (G) The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner.
5. (a) If a governing body determines that meeting the requirement of subsection (1)(c)(D) of this section would be impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.
- (b) If a water supply is required under this subsection, it shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment.
- (c) No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met;
- (d) The tract on which the dwelling will be sited does not include a dwelling;
- (e) The lot or parcel on which the dwelling will be sited was lawfully established;
- (f) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
- (g) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- (h) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.
6. Except as described in subsection (7) of this section, if the tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.
7. If a tract 60 acres or larger abuts a road or perennial stream, the measurement shall be made in accordance with subsection (5.) of this section. However, one of the three required dwellings must be on the same side of the road or stream as the tract and:
- (A) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream; or
  - (B) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- (b) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings must be on the same side of the road as the proposed dwelling.

8. Notwithstanding subsection (4.)(a) of this section, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in subsection (5.) or (6.) of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle.

**Findings of Fact**

**FINDING 1:** Staff finds adoption of the ordinance language provided above will ensure compliance with the standards for Forest Template Dwellings found in Oregon Revised Statutes, Oregon Administrative Rules and Oregon Statewide Planning Goal 4.

**FINDING 2:** Staff finds the proposed Jefferson County Zoning Code Section 303.6 (E.) Forest Template Dwelling, includes standards and provisions that encourage sound Forest Dwelling management.

**FINDING 3:** Staff finds that updating the Jefferson County Zoning Code does not appear to have an impact on land use activities in Jefferson County do to staff not having received a Forest Template Dwelling application in the past 15 years based on staff review of CDD records.


Recommendation: Staff recommends the Planning Commission forward a recommendation to adopt the proposed amendments as shown.

**Potential motions:**

- 1.) I make a motion to forward a recommendation to **approve** the proposed Zoning Code Amendments as presented to the Jefferson County Board of Commissioners do to the fact that the proposed changes are required by HB 2225 (2019) as expressed by DLCDC in a letter to Jefferson County.
  
- 2.) I make a motion to forward a recommendation to **deny** the proposed Zoning Code Amendments as presented to the Jefferson County Board of Commissioners for the following reasons:

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\_\_\_\_\_  
\_\_\_\_\_

Respectfully submitted,

  
\_\_\_\_\_  
Phil Stenbeck, CFM  
Planning Manager

8/15/23  
Date