
Objectivity Of Ground Water Standards & Criteria

Ground Water Standards & Criteria The JCCP Goal 11, Policy 2.C and RLDC 46.040.C require that “Requests involving changes to the plan and/or zone maps * * * demonstrate the land has adequate carrying capacity to support the densities and types of uses allowed by the proposed plan and zone designations.” JCCP Goal 11, Policy 2.C[1]-[6] and RLDC 46.040.C.1-6 are the same and list factors that must be considered in making the required carrying capacity determination.

RLDC 46.040.C.2 requires findings that the land and *surrounding area* is suitable for the proposed densities and uses. It requires that the carrying capacity analysis consider a specified list of factors and any other “similar natural or man-made conditions or circumstances.”

RLDC 46.040.C.3 requires findings that the land in its natural state accommodates the proposed uses and densities, or special alterations or mitigation plans can make the land achieve the carrying capacity for the allowed densities and types of uses.

The RLDC 11.030 definition of “carrying capacity” specifies that the analysis consider “the adequacy of the domestic groundwater supply.”

Taken together, the carrying capacity criteria of RLDC 11.030, RLDC 46.040.C, and JCCP Goal 11, Policy 2.C require findings that the groundwater resources of the land in its natural state and the *surrounding area* can, or can be made to accommodate the proposed use and densities.

Rural Land Development Code (RLDC)

Subjective Ground Water Standards Standards and criteria that require findings that the groundwater resources of the land in its natural state and the *surrounding area* can, or can be made to accommodate the proposed use and densities are subjective and can not be measured.. The standard falls back on the “reasonable person fiction”.

adequate carrying capacity

This situation is seen again and again in public hearings before the RPC and JO CO Board of County Commissioner (BCC). It is frustrating when a member of the hearing body asks a member of the JO CO Planning Department whether a land use application is in compliance with the standards and criteria and the Planning Director states the standards and criteria are subjective and it was up to the RPC or the BCC to make a decision.

must be considered

Reasonable Person The “reasonable person” is a legal fiction of the common law. It is used to determine if a breach of a standard has occurred. This concept is found in three places in the RLDC.

RLDC 11.030. Significant Adverse Impact
RLDC 31.110.A. Rules of Evidence
RLDC 46.050.G Non-resource Land Criteria

Josephine (JO) County (CO) Comprehensive Plan (JCCP)

RPC When the RPC and BCC do not have meaningful standards and criteria as the basis for



performing their job, they can only revert to a political decision with member votes that support personal values. The subjective standards make it impossible for members of the RPC and BCC to

carry out their assigned responsibilities. This subjectivity also makes them non-accountable.

can, or can be made to accommodate

JO CO CIC Perhaps there is another alternative, at least for brainstorming. When the keeper of the RLDC, the Planning Office, can not advise the RPC whether a land use application meets the standards and criteria its time for the JO CO Citizen Advisory Committee (CIC) to analyze the problem (i.e., if the Planning Director does not have an answer, how can he, with a straight face, ask citizens to participate in a planning process not understandable by the county expert?).

reasonable person is a legal fiction

Want more information? Contact an officer of the *Hugo Neighborhood* on how you can become involved in the land use or history of your community.

Hugo Neighborhood Association & Historical Society's Mission

This information brochure is one of a series of documents published by the Hugo Neighborhood Association & Historical Society (*Hugo Neighborhood*). It is designed to be shared with neighbors for the purpose of helping protect our rural quality of life by promoting an informed citizenry in decision-making. The *Hugo Neighborhood* is an informal nonprofit charitable and educational organization with a land use and history mission of promoting the social welfare of its neighbors.

Land Use & History

The *Hugo Neighborhood's* land use mission is to promote Oregon Statewide Goal 1 — Citizen Involvement, and to preserve, protect, and enhance the livability and economic viability of its farms, forests, and rural neighbors. It will act, if requested, as a technical resource assisting neighbors to represent themselves.

Its history mission is to educate, collect, preserve, interpret, and research its local history and to encourage public interest in the history of the Hugo area.

Volunteer membership dues are \$10.00 annually per family and normally used for paper, ink, envelopes, publications and mailings. Make checks to the *Hugo Neighborhood* and send them to our Treasurer. Send us your e-mail address if you want to know what we are doing.

Hugo Neighborhood

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Objectivity of Ground Water Standards & Criteria: A Neighbor's Perspective



Brochure 13A in Water Assessment Series

Very Draft

RLDC 11.030 The review body shall judge the significance of impacts based on what a **reasonable person** would consider serious given the facts and circumstances of the application (Significant (Adverse) Impact).

RLDC 31.110.A - RULES OF EVIDENCE All evidence offered and not properly objected to may be received unless otherwise excluded by the hearing body. Evidence received at the hearing shall be of the same quality as the evidence used by **reasonable persons** in the conduct of their everyday affairs.

RLDC 46.050.G - NON-RESOURCE LAND CRITERIA. The review body shall judge the use of the term significant based on what a **reasonable person** would consider significant

September 11, 2005

Land Use Committee
Hugo Neighborhood Association &
Historical Society