

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: December 7, 2022 **Approx. Start Time:** 10 AM **Approx. Length:** 30 Min

Presentation Title: Climate Friendly and Equitable Communities (CFEC) Rules – Overview and Near-Term Requirements for Reduced Parking Regulations

Department: Transportation and Development

Presenters: Martha Fritzie, Principal Planner and Karen Buehrig, Long Range Planning Manager

Other Invitees: Jennifer Hughes, Planning Director; Cheryl Bell, DTD Assistant Director – Development; Dan Johnson, DTD Director

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Direction on whether to submit a request to the Department of Land Conservation and Development for an extension to the implementation deadline for portions of the Climate Friendly and Equitable Communities (CFEC) rules that mandate reduced parking requirements.

EXECUTIVE SUMMARY:

In August of 2022, the Land Conservation and Development Commission (LCDC) adopted a series of changes to their existing rules, including changes to the Transportation Planning Rule (TPR), that were designed to better support climate friendly and equitable communities. These amendments to the TPR include a variety of required compliance dates for local jurisdictions to implement the changes and amend their development codes to reflect the new rules. While many of the changes take effect when the county's Transportation System Plan is updated, mandatory reductions in parking requirements take effect in two phases, the first on December 31, 2022, and the second on June 30, 2023.

It should be noted that one county and 13 cities have filed a lawsuit challenging the CFEC rules. As part of that action, they have requested an injunction that would prevent the rules from taking effect until the lawsuit is resolved. At the time of this report, staff is unaware of any action by the Oregon Court of Appeals on this matter.

The parking management rules are outlined in OAR 660-012-0400 through OAR 660-012-0450. These rules apply to portions of counties in a metropolitan area within an urban growth boundary that are served by urban water and sanitary sewer services. In Clackamas County, this includes unincorporated areas that currently have urban zoning districts (see map, Attachment 1). Cities located within a metropolitan area must comply with the same rules as the county; many of these cities also have additional requirements related to parking management, electric vehicle charging, and establishing "climate friendly areas."

Parking A: December 31, 2022

The parking management rules in the OARs are mandatory. The first set of rules – frequently referred to as "Parking A" - must be implemented by **December 31, 2022**. Jurisdictions are not required to amend their zoning codes for Parking A and may implement the rules directly from the state law. There is no option for an extension of this implementation date.

The rules under Parking A require the county to remove or reduce the minimum number of off-street parking spaces required for certain types of development and for development within certain proximity to transit, as follows:

- **No more than one parking space per dwelling unit** can be required for residential developments with more than one unit on a lot.

Most middle housing (plexes, townhouses and cottage clusters in low density residential zones) and all studio and one-bedroom units in multi-family developments already have a one-space per unit parking requirement in the county's ZDO. This change will result in a reduction of required parking for multi-family development with two or more bedrooms and middle housing types in medium and high-density zoning districts.

- **No parking required** for the development of:
 - (a) Child care facilities
 - (b) Single-room occupancy (SRO) housing
 - (c) Dwellings smaller than 750 sq. ft.
 - (d) Affordable housing (at or below 80% AMI)
 - (e) Publicly-supported housing
 - (f) Emergency and transitional shelters for people experiencing homelessness
 - (g) Domestic violence shelters; and
 - (h) Facilities or homes designed to serve people with psychosocial, physical, intellectual or developmental disabilities, including but not limited to a: residential care facility, residential training facility, residential treatment facility, residential training home, residential treatment home, and conversion facility.

- **No parking required** for *any* new development on a lot that is completely or partially within:

- (a) 3/4-mile of rail transit stop or
- (b) 1/2-mile of frequent transit corridor (as defined in the Rule)

The Rule allows for this distance to be measured by either walking distance or straight-line distance. See Attachment 2 for draft map identifying the urban unincorporated area affected by this provision.

Not requiring off-street parking for the identified development types and near transit represents a significant change for development in the county, particularly for commercial development. Off-street parking is currently required for all commercial uses and can range as high as 15 spaces per 1,000 square feet of space for a use like a restaurant.

The rules do not prohibit developers from choosing to provide off-street parking (or more off-street parking than the minimum for those uses that retain a minimum); rather, they prevent the county from requiring that they do so. However, parking maximums currently apply in some locations, and as part of Parking B, additional parking maximums may be established.

Parking B: June 30, 2023

The second set of rules – frequently referred to as “Parking B” – require jurisdictions to amend their zoning codes and must be implemented by **June 30, 2023**. This deadline for Parking B, however, may be extended if a jurisdiction requests an “alternative date” through the Department of Land Conservation and Development (DLCD) by January 31, 2023. The process and Staff’s recommendation for requesting an extension for Parking B are discussed below in the “Alternative Dates” section.

The rules under Parking B provide for three Pathways for a jurisdiction to take related to major parking reform in urban areas. Parking B contains a number of elements, which are summarized below.

Pathway 1:

- A. Remove all parking mandates (minimum parking requirements) in the urban area, *plus***

- B. Amend development standards for parking lots to require parking lots more than ¼-acre in size to install tree canopy, solar panels (or pay a fee-in-lieu-of solar panels), or incorporate other green technology;
- C. Adopt policies and regulations to encourage conversion of underused parking areas and allow for shared parking and preferential parking for carpools and vanpools; and
- D. Establish off-street parking maximums in certain locations (downtowns, designated centers, transit-oriented development, etc).

Pathways 2 and 3:

- Maintain parking reductions and removal of parking mandates included in Parking A, *plus*
- Items B through D included in Pathway 1, *plus*
- Allow for parking reductions for car sharing, electric vehicle charging spaces and other circumstances in a development;
- Allow shared parking and off-site parking within 2,000 feet to count toward parking minimums;
- Remove all parking mandates in a Regional or Town Center boundary and within ¼-mile of that boundary;
- Unbundle parking for multifamily residential units built in a Regional or Town Center boundary; *plus*
- Implement either the “fair parking policy approach” or the “reduced regulation parking management approach”, as noted below

<i>Pathway 2: Fair Parking Policy Approach</i>	<i>Pathway 3: Reduced Regulation Parking Management Approach</i>
Adopt at least 3 of 5 policies below:	Adopt regulations doing all of the following:
1. Unbundle parking for residential units with 5 or more units	No mandates for a variety of specific uses, small sites, vacant buildings, studio/one-bedroom units, historic properties and others
2. Unbundle leased commercial parking	Set parking maximums
3. Flexible commute benefits for businesses with more than 50 employees	No additional parking for redevelopment/ additions
4. Tax on parking lot revenue	Designate at least one residential parking district to manage on-street residential parking through permits, payments or time limits
5. No more than 1/2 space per unit for multifamily development	

Alternative Dates: Parking B

The “alternative date” provisions in the Rules allow jurisdictions to request an extension of the deadline for the Parking B requirements. To request a different date for compliance, a jurisdiction has until **January 31, 2023** to submit a request that includes:

1. A description of any work already underway to begin complying with the new parking requirements;
2. Proposed dates for accomplishing the requirements in lieu of deadlines provided in the rules; and
3. A schedule for updating local transportation system plans to comply with the new rules.

The latest date that may be proposed for completion of the parking reform rules is June 30, 2027, but any date requested must be justified by a work plan that demonstrates a logical progression of tasks to complete the amendments.

It is not likely that Planning Staff can complete the required ZDO amendments to implement Parking B by the June 30, 2023 deadline, even if the Board were to choose the least complicated option (Pathway 1, no parking mandates) for a number of reasons:

- Staff needs Board direction about which Pathway(s) to pursue with the ZDO amendments. Staff understands the Board needs more information about Parking B before making this decision and expects to have this discussion at a future policy session.
- Because there are choices involved in the Parking B regulations, public outreach should be an integral part of its implementation. An effective public outreach program takes many months to develop and implement and would need to be completed prior to taking any proposed ZDO amendments through a hearings process for adoption.
- Land use hearings themselves take time. At best, sending required notices and holding public hearings before the Planning Commission and the Board and the Board's adoption may take four to five months.
- Some of the Pathways involve items that are not implemented through the ZDO and coordination with other agencies and departments is needed.
- Some of the Pathways involve entirely new programs that would need to be developed and funding identified.
- And finally, like many other organizations, the county's Planning and Zoning Division is severely short-staffed due to recent retirements and resignations. While every effort is being made to remedy the staffing issue, it is a tough market for hiring and we do not expect to be fully staffed until well into 2023.

As such, Staff requests that the Board authorize a request for an Alternative Date for the completion of Parking B.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? ☒ YES ☐ NO

What is the cost? \$ Existing staff time What is the funding source? Staff time
funded through budgeted general fund allocation for the Long-Range Planning program. However, the additional work and public outreach involved in Parking B may require additional resources for consultants or additional staff time. Grant funds may be available through the Department of Land Conservation & Development (DLCD) in the future.

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals?

The project aligns with the Long-Range Planning program's purpose of providing land use and transportation plan development, analysis, coordination and public engagement services to residents; businesses; local, regional and state partners; and County decision-makers so they can plan and invest based on a coordinated set of goals and policies that guide future development.

- How does this item align with the County's Performance Clackamas goals?
The project aligns with the goal to "ensure safe, healthy, and secure communities".

LEGAL/POLICY REQUIREMENTS:

The county is legally required to implement the Climate Friendly and Equitable Communities rules, as identified in OAR 660, Division 12. The provisions under Parking A become effective on December 31, 2022. If the county does not implement the provisions under Parking B by June 30, 2023, or obtain an approval for an "alternative date," then the county may not enforce any parking mandates in the urban area after June 30, 2023.

As noted above, one county and 13 cities have filed a lawsuit challenging the CFEC rules. As part of that action, they have requested an injunction that would prevent the rules from taking effect until the lawsuit is resolved.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Public notice will be provided as required by law for any proposed amendments to the Comprehensive Plan or the ZDO that come before the Planning Commission or Board for consideration at public hearings.

OPTIONS:

1. Direct Staff to submit a request for an extension for the implementation of Parking B through the “alternative date” process and to return to the Board in February 2023 for a policy session to discuss the Parking B Pathways. At the February policy session, Staff would provide the Board with a draft scope of work and expected timelines for each of the Pathways under Parking B.

2. Do nothing. This option would mean that Staff would work toward implementing Pathway 1 in Parking B (no parking mandates) and if the required ZDO amendments cannot be completed by June 30, 2022, the county could not require parking in the urban area after that date regardless.

RECOMMENDATION:

Option 1. Direct Staff to submit a request for an extension for the implementation of Parking B through the “alternative date” process and to return to the Board in February 2023 for a policy session to discuss the Parking B Pathways. At the February policy session, Staff would provide the Board with a draft scope of work and expected timelines for each of the Pathways under Parking B.

ATTACHMENTS:

1. Map: Areas Affected by CFEC Rules
2. Map: Transit Buffer Areas with No Parking Requirements

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval *Dan Johnson*

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Martha Fritzie @ 503-742-4529 or mfritzie@clackamas.us
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