



MIKE McCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

CLACKAMAS COUNTY BOARD OF COMMISSIONERS
2051 Kaen Road, Oregon City
BCC Hearing Room - 4th Floor

LAND USE HEARING
August 15, 2018
9:30 AM

The item will not begin before time noted. Interested parties may appear and be heard during the testimony phase of any hearing at the above address. If a hearing is set for decision only, the evidence phase has been completed, so interested parties may no longer be heard. Applications or comments may be inspected, and calls or correspondence directed to: Planning & Zoning Division, 150 Beaver Creek Road, Oregon City, OR 97045, (503) 742-4500.

HEARING

File No.: ZDO-268: ZDO Audit Phase 5

Applicants: Clackamas County

Proposal: The proposal is a legislative text amendment to the Clackamas County Zoning and Development Ordinance (ZDO) to implement Phase 5 of the Zoning and Development Ordinance Audit.

Staff Contact: Jennifer Hughes, Principle Planner, 503-742-4518,
JenniferH@clackamas.us



Land Use Hearing Item
Staff Report to the Board of County Commissioners

File Number: ZDO-268, Proposed Zoning and Development Ordinance Amendments—ZDO Audit Phase 5

Staff Contact: Jennifer Hughes; 503-742-4518; Planning and Zoning Division

Board of County Commissioners Hearing Date: August 15, 2018

PROPOSAL:

The proposal is a legislative text amendment to the Clackamas County Zoning and Development Ordinance (ZDO) to implement Phase 5 of the Zoning and Development Ordinance Audit.

Background: The Planning and Zoning Division is midway through an “audit” of the Zoning and Development Ordinance (ZDO). This project began in 2012 and is scheduled to be completed by July 2019.

The ZDO, adopted in 1980 (with roots in the 1960 Zoning Ordinance), has been amended approximately 250 times since, resulting in regulations that are sometimes inconsistent, antiquated, cumbersome and disorganized. As a consequence, a comprehensive review and update was initiated. The overarching goals of the ZDO audit are to develop a more condensed, user-friendly document; consolidate zones and allow additional uses where appropriate; provide clear and consistent definitions, development standards and procedures; and maintain compliance with state and regional regulations. The intent is to complete a comprehensive update of every section of the ZDO.

COMPLETED PHASES

- Phase 1: Industrial zones; amendments effective September 2013
- Phase 2: Urban residential zones, urban commercial zones, and land use application procedural standards; amendments effective October 2014
- Phase 3: Rural residential zones, rural commercial zones, development review process, and criteria for discretionary permits; amendments effective June 2015
- Phase 4: Special use requirements, exceptions and development standards; amendments effective May 2018

CURRENT PHASE

Phase 5 focuses on Special Use sections not previously audited (28 sections) and a second subset of the Development Standards sections (4 sections). Minor and conforming amendments are proposed to 28 additional sections.

FUTURE PHASES

Phase 6 will focus on environmental regulations and overlay zones (e.g., floodplain, habitat, steep slopes, historic landmarks, airports). Phase 7 will wrap up the project with consideration of renumbering and reorganizing the code and final edits to resolve errors and inconsistencies that may remain. The final six Development Standards sections will be packaged with one of these future phases.

Proposed Amendments:

Amendments are proposed to 60 sections of the ZDO, seven of which would be repealed. The focus is on special uses and development standards, and the amendments to approximately half of the sections are minor/conforming edits. The proposed ZDO amendments are to the following sections:

- 102 (Purpose and Scope)
- 202 (Definitions)
- 315 (Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30), Village Standard Lot Residential (VR-5/7), Village Small Lot Residential (VR-4/5), Village Townhouse (VTH), Planned Medium Density Residential (PMD), Medium Density Residential (MR-1), Medium High Density Residential (MR-2), High Density Residential (HDR), Village Apartment (VA), Special High Density Residential (SHD), and Regional Center High Density Residential (RCHDR) Districts)
- 316 (Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Recreational Residential (RR), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10) Districts)
- 317 (Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts)
- 401 (Exclusive Farm Use District)
- 406 (Timber District)
- 407 (Ag/Forest District)
- 510 (Neighborhood Commercial (NC), Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OC), and Regional Center Office (RCO) Districts)
- 511 (Village Community Service District)
- 512 (Village Office District)
- 513 (Rural Tourist Commercial and Rural Commercial Districts)

- 601 (Campus Industrial District)
- 602 (Business Park, Light Industrial, and General Industrial Districts)
- 604 (Rural Industrial District)
- 702 (Open Space Management District)
- 708 (Mineral and Aggregate Overlay District)
- 711 (Government Camp Open Space Management District)
- 713 (Public Use Airport and Safety Overlay Zones)
- 804 (Churches)
- 805 (Schools)
- 806 (Home Occupations to Host Events)
- 808 (Cemeteries, Crematories)
- 813 (Recreational Vehicle Camping Facilities)
- 815 (Produce Stands)
- 818 (Surface Mining)
- 819 (Sanitary Landfills, Debris Fills, Recycling Centers, Transfer Stations, and Recyclable Dropoff Sites)
- 821 (Livestock)
- 822 (Home Occupations)
- 824 (Manufactured Dwellings)
- 825 (Manufactured Dwelling Parks and Manufactured Home Parks)
- 827 (Drive-Thru Window Services)
- 830 (Utility Carrier Cabinets)
- 832 (Bed and Breakfast Residences and Inns)
- 833 (Guest Houses and Studios)
- 834 (Composting/Yard Debris Processing Facility)
- 835 (Wireless Telecommunication Facilities)
- 836 (Home Occupations for Canine Skills Training)
- 837 (Mobile Vending Units)
- 840 (Farmers' Markets)
- 842 (Transitional Shelter Communities)
- 903 (Setback Exceptions)
- 904 (Height Exceptions)
- 1001 (General Provisions)
- 1005 (Site and Building Design)
- 1007 (Roads and Connectivity)
- 1010 (Signs)
- 1015 (Parking and Loading)
- 1016 (Multi-Use Development)
- 1017 (Solar Access)

- 1021 (Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments)
- 1105 (Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats)
- 1307 (Procedures)

The following sections are proposed for repeal. In most cases, this is because the provisions are redundant or obsolete.

- 807 (Daycare Facilities)
- 809 (Hospitals)
- 810 (Nursing Homes)
- 814 (Drive-In Theaters)
- 823 (Bus Shelters)
- 829 (Hydroelectric Facilities)
- 1018 (Solar Balance Point/Infill)

The proposed amendments recommended by the Planning Commission are shown in the attached drafts of these ZDO sections. Each section is also accompanied by a summary of the proposed changes. ZDO-268 would make numerous changes to the text, many of which fall squarely in the “housekeeping” category. Summarized below are those changes that staff has identified as more significant.

- Continue to reorganize the code for clarity/ease of use
- Continue to consolidate permitted uses in the Tables of Uses piloted in Phase 1 of the audit and to standardize use listings where reasonable
- Amend for consistency with state law
- Amend the definition of guest house to clearly distinguish a guest house from other types of accessory structures that have historically been permitted. The key distinction is that a guest house includes at least one bedroom. Repeal the requirement that a guest house be a “separate” accessory structure, or part of a “separate” accessory structure, which would more clearly allow the guest house to, for example, be built above a garage that is attached to the primary dwelling. Update the building code reference. Delete the limitation that makes guest houses temporary living quarters, which will then permit members of the family or on-site employees (e.g., a nanny) to occupy the guest house full-time. Delete the limitations on who may live in a guest house and the prohibition on renting a guest house because they will instead appear in Section 833 as an approval standard.
- Allow bus shelters as an accessory use in the RCHDR District
- Repeal the 30-foot minimum front setback standard for places of worship that applies in some zones. Instead, the regular front setback standard will apply (still 30 feet in many rural zones) unless through conditional use review a larger setback is applied to mitigate impacts of the use.
- Repeal the two-acre minimum site area standard for places of worship and schools that applies in the RR District. This is the only district that has a specific minimum lot size

for these uses, and it's not clear why. These use are conditional in the RR District, meaning that ZDO Section 1203 requires that the site size be evaluated for suitability in the context of the specific proposal.

- Clearly allow home occupations to host events and home occupations for canine skills training to be located on the same tract as the related dwelling. The current standard is that it be on the same property, which is vague in the context of the ZDO. The change would clearly permit someone who owns two or more contiguous lots of record to site a home occupation on a different lot of record than the dwelling but still require both lots to be in the same ownership and the business operator to live in the on-site dwelling
- Repeal use-specific regulations for daycare facilities, hospitals, nursing homes, bus shelters and hydroelectric facilities because these uses are adequately regulated through other applicable standards and processes. Depending on the specific use/location, these may include the conditional use criteria, general development standards and state and federal regulations.
- Repeal use-specific regulations for drive-in-theaters because although this use appears to be an allowed service use in some zones, it is not called out specifically and, as a result, Section 814 does not apply in any zoning district
- Repeal the 3-acre minimum site area standard for transfer stations in the HR and RR Districts. These are the only districts that have a set minimum lot size for this use, and it's not clear why. This use is conditional in these districts, meaning that Section 1203 requires that site size be evaluated for suitability in the context of the specific proposal.
- Adopt as part of the home occupation standards the definition of gross vehicle weight rating from the Oregon Revised Statutes
- Repeal the requirement that a property take direct vehicular access to a road with a functional classification of collector or higher to be eligible for an exception to one or more of the home occupation standards
- Repeal the minimum lot size standards for guest houses. As with other residential accessory structures, the minimum setbacks and, if applicable, maximum lot coverage standard, will determine whether a guest house can be sited on a lot.
- Repeal the prohibition on a refrigerator or freezer in a guest house
- Amend the solar access provisions that apply to the creation of new lots as follows:
 - Reduce the percentage of lots or parcels that must meet the solar access design standard (unless an exception is granted) from 80 to 70
 - Reduce the basic design standard from three alternatives to one
 - Streamline and consolidate the exemptions and adjustments subsections
 - Modify the existing shade exception to correspond with the repeal of the concept of nonexempt trees and for consistency with Section 1002
- Repeal solar access provisions that apply to certain structures because they are difficult to administer, conflict with the goal of infill development and serve primarily to protect passive solar access rather than rooftop solar energy systems.

RELATED PRIOR BCC ACTION:

At the March 16, 2017, Business Meeting, the Board approved the Long Range Planning Work Program for 2017-2018, which included this project.

PLANNING COMMISSION ACTION:

A hearing was held on July 23, 2018, for Planning Commission consideration of the proposed amendments.

By a vote of 7 – 0, the Planning Commission recommended approval to the BCC of staff’s proposal.

The draft text reviewed by the Planning Commission has been updated to be consistent with edits staff recommended during the Planning Commission hearing and which the Planning Commission included in their recommendation of approval. In addition, staff has made a few additional housekeeping edits.

CPO AND HAMLET RECOMMENDATIONS:

On June 18, 2018, all CPOs and Hamlets were provided with notice of public hearing on ZDO-266 and a web link to the text of the proposed amendments. To date, no testimony has been submitted from any CPO or Hamlet.

SIGNIFICANT ISSUES:

The Planning Commission identified several potential ZDO amendments they would like to have considered in the future, but for the purpose of the current proposal, the Commission focused its discussion primarily on the process for exceptions to the regular home occupation standards.

During public comment at the June 11 Planning Commission meeting, an issue related to these exceptions was raised. ZDO Section 822 allows an applicant to request an exception to many of the standards that typically apply to a home occupation. An application that includes an exception requires a public hearing before the Land Use Hearings Officer and is evaluated based on several discretionary review criteria that do not apply to regular home occupation permits. However, this option is available only if the property takes direct access on a road with a functional classification of collector or higher. After discussion, the Commission directed staff to include in ZDO-268 an amendment to repeal this limitation so that an exception would be possible regardless of the access road classification, assuming compliance with all of the other exception criteria. The attached draft of Section 822 recommended by the Planning Commission during their July 23 public hearing includes this change.

STAFF RECOMMENDATION:

Staff recommends adoption of ZDO-268 as drafted.

Audit of Zoning and Development Ordinance (ZDO): Phase 5

**File ZDO-268
Board of County Commissioners Public
Hearing
August 15, 2018**



What is the ZDO?



- Regulates zoning and development in unincorporated Clackamas County
- Implements goals and policies of the County's Comprehensive Plan
- Adopted in 1980 and amended more than 200 times since



What is an Audit?

- **Review County's ZDO to:**
 - Streamline and clarify
 - Repeal redundant and/or conflicting regulations
 - Reorganize to make important information easier to find and understand
 - Ensure consistency with state and regional laws
 - Consider amendments to policies on allowed uses and development standards



ZDO Audit Schedule

Year	Topics	Status
2012-13	<ul style="list-style-type: none"> • Industrial Zones 	Completed
2013-14	<ul style="list-style-type: none"> • Urban Residential & Commercial • Procedural Standards 	Completed
2014-15	<ul style="list-style-type: none"> • Rural Residential & Commercial • Development Review Process • Discretionary Permits 	Completed
2015-16 2016-17	<ul style="list-style-type: none"> • Exceptions • Development Standards 	Suspended
2017-18	<ul style="list-style-type: none"> • Special Use Requirements • Exceptions • Development Standards 	1st phase complete 2nd phase in process
2018-19	<ul style="list-style-type: none"> • Development Standards • Overlay Zoning Districts • Definitions, Final Organization 	To be done

Audit Phase 5: Generally

- 60 ZDO Sections (7 proposed for repeal)
- Continue to reorganize the code for clarity/ease of use
- Continue to consolidate permitted uses in the Tables of Uses piloted in Phase 1 of the audit and to standardize allowed uses where reasonable
- Amend for consistency with state law
- Streamline by repealing obsolete and redundant provisions

Special Uses

- Repeal use-specific sections for daycare facilities, hospitals, nursing homes, drive-in theaters, bus shelters and hydroelectric facilities

Special Uses

- Guest houses: definition, lot size, refrigerators
- Allow bus shelters in RCHDR
- Revise front setback for places of worship
- Repeal special HR and RR minimum lot size for certain uses

Special Use: Home Occupations

- Tract vs. lot of record
- Gross vehicle weight
- Access standard for exceptions

Development Standards

- Multi-Use Developments
- Solar Access
- Solid Waste and Recyclable Material Collection

Development Standards: Solar Access

- Amend solar access standards that apply to new lots, structures and vegetation
 - Reduce the percentage of lots that must meet the solar access design standard
 - Streamline the design and exceptions standards
 - Repeal the shade point height limit

Planning Commission Recommendation

- Approval of the staff proposal, without amendment, by a vote of 7-0

Questions

