



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
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December 08, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

Kathleen Rastetter
Scott C. Ciecko
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Shawn Lillegren
Jeffrey D. Munns
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**Adoption of Previously Approved Zoning and Development Ordinance Amendments
ZDO-273, on Remand – Short-Term Rentals**

Purpose/Outcomes	Amend the Clackamas County Zoning and Development Ordinance
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	Indefinitely
Previous Board Action	Board of County Commissioners held a public hearing on this matter on November 2, 2022. Prior Board actions related to short-term rentals: Policy/Planning Sessions - <i>March 13, 2019; June 11, 2019; August 6, 2019; September 25, 2019; October 22, 2019; January 14, 2020; March 11, 2020; October 13, 2020; March 30, 2021; May 4, 2022; May 10, 2022; and August 3, 2022.</i> Public Hearings - <i>January 30, 2020; February 13, 2020; November 5, 2020; November 25, 2020, June 23, 2022; and September 8, 2022</i>
Strategic Plan Alignment	The item helps <u>build public trust through good government</u> by updating land use regulations to respond to community concerns; to provide clarity about allowed uses and to create certainty for property owners making investments in their property.
Counsel Review	November 29, 2022 - NB
Procurement Review	1. <i>Was the item processed through Procurement?</i> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. <i>If no, provide brief explanation:</i> The item is an amendment of the zoning code and does not involve any procurement activities.
Contact Person	Nate Boderman, Assistant County Counsel; 503-655-8364
Contract No.	N/A

BACKGROUND:

The County has identified short-term rentals to be the rental of a dwelling unit, a portion of a dwelling unit, or a guest house for overnight residential purposes, for a period of up to 30 consecutive nights.

In early 2019, the Board directed staff to look into the most effective ways to potentially allow and regulate STRs. After more than a year of research, work, and public outreach to consider the regulation of homes being used as STRs, the Board went through a series of public hearings to consider establishing a STR registration and regulation program and to clarify that short-term rentals are an allowed use in the Zoning & Development Ordinance (ZDO). As structured by staff and the Board, there were two main components to the county's overall STR program; each component had its own adoption process and post-adoption actions.

1. County Code amendments (Chapter 8.10), which included a STR registration and regulation program. This program was never funded and the regulations never became effective. On September 8, 2022, the Board voted to repeal this program.
2. Zoning & Development Ordinance (ZDO) amendments. On December 17, 2020, the Board adopted amendments to the county's ZDO that were intended to clarify that STRs are an allowed residential use. The amendments were adopted, in part, to support the STR program that had just been adopted into the County Code, but also because the ZDO needed clarification about whether and where STRs may be allowed.

After that approval, the following actions occurred:

- The ZDO amendments were appealed to the Oregon Land Use Board of Appeals (LUBA) by two parties that identified seven Assignments of Error in the ZDO amendments.
- On January 24, 2022, LUBA issued a decision denying two of the Assignments of Error and remanding (sending back to the County) all or parts of the remaining five Assignments of Error (LUBA No. 2021-003).
- Both the County and intervenor-petitioner then appealed a limited portion of LUBA's decision to the Oregon Court of Appeals.
- On June 23, 2022, the Court of Appeals affirmed LUBA's original decision to remand the ZDO amendments back to the county (*1000 Friends of Oregon v. Clackamas County*, 320 Or. App. 444 (2022)).

The amendments proposed in ZDO-273, on remand, are intended to again clarify where STRs are permitted and to also address the Assignments of Error remanded to the county.

Ordinance ZDO-273, on remand, addresses the remand, in part, by allowing STRs in dwelling units and guest houses:

- *outside* the Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F) zones; and
- *outside* of the Portland Metropolitan area urban and rural reserves.

To accomplish this, seven sections of the ZDO are proposed for amendment.

Ordinance ZDO-273, on remand, also addresses the remand by including more substantial findings related to affordable housing policies in the county's Comprehensive Plan.

A public hearing was held on November 2, 2022, for the BCC's consideration of ZDO-273, on remand. Following the public hearing, the BCC voted 3 - 2 to approve ZDO-273, on remand, as recommended by staff.

The attached Exhibit A reflects the amendments, as approved by the BCC.

RECOMMENDATION:

Staff respectfully requests that the BCC adopt the proposed ordinance.

Respectfully submitted,

Nate Boderman
Assistant County Counsel

Attachments:

Proposed Ordinance

Exhibit A, *Proposed Amendments*

Exhibit B, *Findings in Response to Remand at LUBA No. 2021-003*