

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Policy Session Worksheet

**Presentation Date:** May 10, 2023 **Approx. Start Time:** 11 AM **Approx. Length:** 30 Min

**Presentation Title:** ZDO-287: Zoning & Development Ordinance Amendments for Religious Land Use And Institutionalized Persons Act Compliance, Places of Worship

**Department:** Transportation & Development and County Counsel

**Presenters:** Jennifer Hughes, Planning Director; Martha Fritzie, Principal Planner; and Jeffrey Munns, Assistant County Counsel

**Other Invitees:** Cheryl Bell, DTD Assistant Director – Development; Dan Johnson, DTD Director; Stephen Madkour, County Counsel

### WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Direction on amendments to the county's Zoning & Development Ordinance (ZDO) to ensure that churches/places of worship are treated comparably with other assembly and institutional, non-religious uses.

### EXECUTIVE SUMMARY:

#### General Background

The County is presently the defendant in a federal lawsuit alleging that the ZDO does not treat places of worship equally with other similarly situated uses. The County has denied this allegation; however, to avoid future lawsuits and to assist with resolution of the present case, staff recommends amendments to the ZDO.

#### The ZDO and Places of Worship

Historically, the county's ZDO has sought to treat churches, or places of worship, the same as other uses traditionally considered to be "places of assembly", like community halls, fraternal organization lodges, or senior centers. In some zoning districts, these assembly uses are all included in one, larger "use" category: **Assembly Facilities**, including auditoriums, community centers, convention facilities, exhibition halls, fraternal organization lodges, places of worship, senior centers, and theaters for the performing arts.

However, it has come to our attention that there are other types of uses in the ZDO, including certain recreational uses, that are different than a traditional Assembly Facility, but may at times allow for assembly uses more like a place of worship. In order to understand how this new information affects the ZDO, staff assessed how a broader list of uses that may be considered similar to places of worship are treated in the ZDO, including the following categories:

- Arenas, Exhibition Halls, and Stadiums
- Civic and Cultural Facilities, including art galleries, museums, and visitor centers
- Community Halls
- Entertainment Facilities, including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters
- Fraternal Organization Lodges
- Government Uses, generally
- Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events
- Libraries

- Government-Owned Recreational Uses, including parks, amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; tables and seating; and similar recreational uses
- Other Recreational Uses or Recreational Sports Facilities, including gymnastics facilities, swimming pools, and other sports or outdoor recreation facilities

When considering how uses are treated in the ZDO, it is important to understand the ZDO's general structure regarding uses that are allowed or prohibited in each zoning district.

- Prohibited uses are either specifically listed as prohibited within a zone or are simply not included in the list of uses for a zone (and are therefore considered prohibited by that exclusion).
- Allowed uses will fall under one of several categories, the most relevant for this discussion being:
  - **Primary Use:** The use itself is allowed without any additional approvals, but it *may* still be required to undergo certain land use review(s) to ensure all the required development standards are met. Examples of such reviews include Design Review or Floodplain Development.
  - **Conditional Use:** The use is only allowed if approved through a Conditional Use permit, a discretionary land use approval that includes consideration of such factors as impacts to the character of the surrounding area and consistency with the Comprehensive Plan. Even if approved through a Conditional Use permit, the development may also be required to undergo certain land use review(s), to ensure all the required development standards are met.

Other types of allowances include Accessory Use; Limited Use; Conditional Use only in a planned unit development; and Use may be allowed if determined to be similar to another allowed use.

### Potential RLUIPA Conflicts in the ZDO

The ZDO allows for places of worship in most, but not all, of the zoning districts in the county. In most zoning districts where they are allowed, places of worship require approval under a Conditional Use permit.

Based on Staff's analysis of allowances for places of worship and the broader list of other possible "similar" uses, the county's ZDO has a potential RLUIPA conflict in every residential, industrial and open space zoning district and in 8 of the 15 commercial zoning districts.<sup>1</sup> These conflicts can be categorized by type of zone as follows:

- **Residential and commercial zones:** The main potential RLUIPA conflict in urban and rural residential and commercial zones is with the government-owned recreational use category (which contains uses like amphitheaters, community buildings and grounds, and gymnasiums). Government-owned recreational uses are allowed as a Primary Use in these zones, whereas places of worship are allowed as a Conditional Use in most of these zones. This conflict affects 34 of the 41 residential and commercial zones.
- **Industrial and open space zones:** Places of worship are not currently allowed in the Open Space Management (OSM) district or in urban or rural industrial districts, but in each of these districts one or more of the possible "similar" uses are allowed as a Primary or Conditional Use. Unless the Board decides to remove certain allowed uses in these zones, places of worship should be added as an allowed use (but not necessarily a Primary Use in some zones).

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<sup>1</sup> Note that agricultural and forest zoning districts (EFU, AG/F & TBR) were not included in this analysis because uses in those districts are determined by state law.

Based on Staff's analysis of the ZDO, there are also potential RLUIPA conflicts related to parking requirements and certain design standards that only apply to places of worship. These conflicts will be fully evaluated and addressed at the same time as the amendments for the use allowance.

### Proposed Remedies

Remedying the potential RLUIPA conflicts in the ZDO basically comes down to the following policy choice:

**Should the county's ZDO be amended to be more permissive for places of worship or should it be amended to be less permissive for certain other assembly and recreational uses (that are in some ways similar to places of worship)?**

Each approach involves key considerations.

More permissive for places of worship:

1. This choice involves relatively simple code amendments and would effectively allow places of worship in every zoning district in the county. Places of worship would still require a Conditional Use approval in a few zones, but the vast majority of the zones in the county would allow places of worship as a Primary Use.
2. The county's ZDO requires all "institutional uses<sup>2</sup>" to be reviewed under Design Review (or a similar Type II land use review), regardless of whether it is listed as a Conditional Use, Primary Use, or other type of use. This land use review ensures development meets all applicable siting and design standards in the ZDO (e.g., landscaping, lighting, parking). Nothing in RLUIPA requires the county to waive development standards for places of worship if they are equitably applied and therefore, even if the county were to establish places of worship as a Primary Use in most zones, there would still be some review required to mitigate impacts as with all other institutional uses.

Less permissive for other uses similar to places of worship:

1. Places of worship could remain prohibited in some zones (open space, all industrial and one commercial zone) and allowed only as Conditional Uses in some zones (all residential and eight commercial zones), but the ZDO would have to also prohibit some uses that are currently allowed and change some currently allowed uses from Primary to Conditional, including certain recreational uses, arenas, exhibition halls, and stadiums.
2. This choice may have higher potential for controversy because it involves restricting or completely taking away development options for a sizeable number of property owners. In addition, because this choice involves restricting uses, the county would be required to mail a notice to every affected property owner, adding considerable expense to the implementation of these code amendments.

To be clear, the choice to be more or less permissive is not necessarily all or nothing. It would be possible for only certain zoning districts to be made more permissive for places of worship and the other districts be made less permissive for the other assembly and institutional uses. Although a more complicated set of amendments, some reasons the Board may want to choose this option would be due to concern for preservation of industrial land for industrial uses; concern for allowing this use in open space districts; or concern for allowing this use as a Primary Use in certain residential districts.

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<sup>2</sup> The ZDO defines institutional uses as: *the use of land and/or structures for activities such as child care, adult daycare and pre-school facilities, public and private schools, colleges, universities, art, music, trade and other educational and training facilities, convalescent care facilities, nursing homes, hospitals, places of worship, fraternal lodges, municipal and civic buildings, transit centers and park-and-ride facilities, parks, swimming pools and other recreational facilities open to the public or a membership group, senior and community centers, libraries, museums, cemeteries and mausoleums, utility facilities, and similar public and private uses.*

If the Board chooses this route, staff would need direction from the Board about which specific zoning districts or types of zoning districts to amend in each way.

**FINANCIAL IMPLICATIONS (current year and ongoing):**

Is this item in your current budget? X YES  NO

What is the cost? \$ Existing staff time.

What is the funding source? Existing budgeted General Fund allocation.

**STRATEGIC PLAN ALIGNMENT:**

1. 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.

2. How does this item align with the County's Performance Clackamas goals?

The project aligns with the goal to "build public trust through good government".

**LEGAL/POLICY REQUIREMENTS:**

Amendments to the ZDO must be presented to the Planning Commission and then adopted by Ordinance by the Board of County Commissioners. Amendments should be made a priority due to the pending litigation.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

Public notice will be provided, as required by law, for any proposed amendments to the ZDO that comes before the Planning Commission and Board for formal consideration at public hearings.

**OPTIONS:**

1. Direct staff to draft amendments to the ZDO to be more permissive for places of worship, to the extent necessary to align with existing allowances for other potentially similar assembly-type uses and proceed with public hearings.
2. Direct staff to draft amendments to the ZDO to be more restrictive for other potentially similar assembly-type uses, to the extent necessary to align with existing allowances for places of worship and proceed with public hearings.
3. Direct staff to do a combination of Option 1 and Option 2. Specify which zones to treat which way.
4. Do nothing, thereby allowing the pending lawsuit to play out in the courts, which may subject the County to attorney fees and damages.

**RECOMMENDATION:**

Option 1. Direct staff to draft amendments to the ZDO to be more permissive for places of worship, to the extent necessary to align with existing allowances for other potentially similar assembly-type uses and proceed with public hearings.

**ATTACHMENTS:**

Draft revision to ZDO Section 316, demonstrating how the amendment under Option 1 would be accomplished in the ZDO (example is for certain residential zones).

**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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CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

**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**

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316.01 PURPOSE

Section 316 is adopted to implement the policies of the Comprehensive Plan for Unincorporated Community Residential, Rural, and Future Urban areas.

316.02 APPLICABILITY

Section 316 applies to land in the 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, hereinafter collectively referred to as the rural residential and future urban residential zoning districts.

316.03 USES PERMITTED

- A. Uses permitted in each rural residential and future urban residential zoning district are listed in Table 316-1, *Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts*. Uses not listed are prohibited.
- B. As used in Table 316-1:
  - 1. “P” means the use is a primary use.
  - 2. “A” means the use is an accessory use.
  - 3. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
  - 4. “CPUD” means the use is allowed as a conditional use in a planned unit development.
  - 5. “X” means the use is prohibited.
  - 6. “Type II” means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.
  - 7. Numbers in superscript correspond to the notes that follow Table 316-1.
- C. Permitted uses are subject to the applicable provisions of Subsection 316.04, *Dimensional Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

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316.04 DIMENSIONAL STANDARDS

- A. General: Dimensional standards applicable in the rural and future urban residential zoning districts are listed in Table 316-2, *Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts*. As used in Table 316-2, numbers in superscript correspond to the notes that follow the table.
- B. Modifications: Modifications to the standards in Table 316-2 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

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**Table 316-1: Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts**

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Accessory Buildings and Uses, Customarily Permitted</b> , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A
<b>Accessory Historic Dwellings</b> , subject to Section 843	A <sup>2</sup>	X				
<b>Accessory Kitchens</b>	A <sup>3</sup>					
<b>Aircraft Land Uses</b>	X	X	X	C	C	C
<b>Aircraft Landing Areas</b>	X	C	C <sup>4</sup>	X	X	X
<b>Bed and Breakfast Inns</b> , subject to Section 832	C	C	C	C	C	X
<b>Bed and Breakfast Residences</b> , subject to Section 832	C	C	C	C	C	C
<b>Bus Shelters</b>	P	P	P	P	P	P

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Campgrounds</b>	C	C	C	C	C	C
<b>Cemeteries</b> , subject to Section 808	C	C	X	C	C	C
<b>Child Care Facilities</b>	C	C	C	C	C	C <sup>5</sup>
<b>Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses<sup>6</sup></b>	X	X	X	C	C	X
<b>Community Halls</b>	CPUD	CPUD	CPUD	CPUD	CPUD	X <sup>7</sup>
<b>Composting Facilities</b> , subject to Section 834	X	X	X	C	C	X
<b>Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources</b>	P	P	P	P	P	P
<b>Crematories</b> , subject to Section 808	C	C	X	X	X	X
<b>Daycare Services, Adult</b>	C	C	C	C	C	C <sup>8</sup>
<b>Dwellings, including:</b>						
Accessory Dwelling Units, subject to Section 839	A <sup>1</sup>	A <sup>1</sup>	X	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>
Detached Single-Family Dwellings	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>
Duplexes	C <sup>9</sup>	X	X	X	X	X
Manufactured Dwellings	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>
<b>Energy Source Development</b>	X	X	C	X	X	X
<b>Farm Uses, including<sup>6</sup>:</b>						
Raising, harvesting, and selling crops	P	P	P <sup>10</sup>	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X <sup>11</sup>	P	X <sup>11</sup>	P	P	P
Dairying and the sale of dairy products	X <sup>11</sup>	P	X <sup>11</sup>	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X <sup>11</sup>	P	X <sup>11</sup>	P	P	P
Preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use	P	P	P <sup>10</sup>	P	P	P

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species that are under the jurisdiction of the Oregon Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission	X <sup>11</sup>	P	X <sup>11</sup>	P	P	P
Growing cultured Christmas trees	P	P	P <sup>10</sup>	P	P	P
<b>Farmers' Markets</b> , subject to Section 840	A	A	A	A	A	A
<b>Fish or Wildlife Management Programs</b>	X	X	X	P	P	P
<b>Forest Practices</b> , including the following operations conducted on or pertaining to forestland: reforestation of forestland, road construction and maintenance, harvesting of forest tree species, application of chemicals, disposal of slash, and removal of woody biomass	P <sup>12</sup>	P <sup>12</sup>	P	P <sup>12</sup>	P <sup>12</sup>	P <sup>12</sup>
<b>Fraternal Organization Lodges</b>	C <sup>13</sup>					
<b>Government Uses</b> , unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C <sup>13</sup>					
<b>Guest Houses</b> , subject to Section 833	A	A	A	A	A	A
<b>Guest Ranches and Lodges</b>	X	X	C	X	X	X
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>14</sup>	A	A	A	A	A	A
<b>Home Occupations to Host Events</b> , subject to Section 806	C	C	C	C	C	C
<b>Hydroelectric Facilities</b>	C	C	C	C	C	C
<b>Kennels</b>	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>	X
<b>Libraries</b>	CPUD	CPUD	CPUD	CPUD	CPUD	X <sup>7</sup>
<b>Livestock</b> , subject to Section 821	P	X <sup>11</sup>	A	X <sup>11</sup>	X <sup>11</sup>	X <sup>11</sup>
<b>Marijuana Processing</b>	X	X	X	X	X	X
<b>Marijuana Production</b> , subject to Section 841	X	X	X	A	A	X

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Marijuana Retailing</b>	X	X	X	X	X	X
<b>Marijuana Wholesaling</b>	X	X	X	X	X	X
<b>Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources</b>	X	X	X	C	C	X
<b>Places of Worship</b> , subject to <del>Section 804</del>	EP	EP	EP	EP	EP	EP <sup>46</sup>
<b>Produce Stands</b>	A <sup>17</sup>	A <sup>17,18</sup>				
<b>Public Utility Facilities</b>	C <sup>13,19</sup>					
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	C <sup>13,20</sup>					
<b>Recreational Uses</b> , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails <sup>21</sup>	C <sup>13</sup>	C <sup>13,22</sup>	C <sup>13</sup>	C <sup>13,22</sup>	C <sup>13,22</sup>	C <sup>13,22</sup>
<b>Recreational Uses, Government-Owned</b> , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses <sup>21</sup>	P <sup>23</sup>	P <sup>23</sup>	P <sup>23</sup>	P	P	P

**Commented [HJ1]:** Section 804 would be proposed for repeal, except that the associated and accessory use allowances for places of worship will be retained and most likely relocated elsewhere in the code.

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>21</sup>	P <sup>23</sup>	P <sup>23</sup>	P <sup>23</sup>	P	P	P
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	C <sup>13</sup>	C <sup>13</sup>	C	C <sup>13</sup>	C <sup>13</sup>	X
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, flowers, food, furniture, garden supplies, hardware, interior decorating materials, jewelry, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos.	CPUD <sup>25</sup>	X	X	X	X	X
<b>Roads</b>	P	P	P	P	P	P
<b>Sanitary Landfills and Debris Fills</b>	X	X	X	C	C	X
<b>Schools</b> , subject to Section 805	C <sup>26</sup>	C <sup>26</sup>	C	C <sup>26</sup>	C <sup>26</sup>	C <sup>27</sup>
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	CPUD <sup>25</sup>	X	X	X	X	X

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Services, Commercial—Personal and Convenience</b> , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	CPUD <sup>25</sup>	X	X	X	X	X
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	CPUD <sup>25</sup>	X	X	X	X	X
<b>Sewer System Components that Serve Lands Inside an Urban Growth Boundary</b> , subject to ORS 660-011-0060(3)	Type II <sup>28</sup>					
<b>Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community</b> , subject to ORS 660-011-0060(4)	Type II <sup>29</sup>					
<b>Signs</b> , subject to Section 1010	A <sup>30</sup>					
<b>Surface Mining</b> , subject to Section 818	X	X	X	C	C	X
<b>Telephone Exchanges</b>	C <sup>13</sup>					
<b>Temporary Buildings for Uses Incidental to Construction Work</b> . Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A	A	A	A	A	A
<b>Transfer Stations</b> , subject to Section 819	X	X	C	X	X	C
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>31</sup>					

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Wireless Telecommunication Facilities</b> , subject to Section 835	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1

- <sup>1</sup> This use is permitted only inside of an urban growth boundary.
- <sup>2</sup> This use is permitted only outside of both an urban growth boundary and an urban reserve.
- <sup>3</sup> An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.
- <sup>4</sup> Aircraft landing areas are permitted for use by emergency aircraft (e.g., fire, rescue) only.
- <sup>5</sup> This use is limited to alteration or expansion of a lawfully established child care facility.
- <sup>6</sup> As used in Table 316-1, farm uses do not include marijuana production, marijuana processing, marijuana wholesaling, or marijuana retailing. See separate listings in Table 316-1 for these uses.
- <sup>7</sup> Even though it is prohibited in this category, this use is included in the “government use” category.
- <sup>8</sup> This use is limited to alteration or expansion of a lawfully established adult daycare service.
- <sup>9</sup> Except as allowed by Section 839, *Accessory Dwelling Units*, or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: detached single-family dwelling, duplex (only if approved as a conditional use in the RA-1 District), or manufactured dwelling.
- <sup>10</sup> This use is permitted only on lots larger than five acres.
- <sup>11</sup> In the RA-2, RRFF-5, FF-10, and FU-10 Districts, livestock is permitted as described under the use category of farm uses. In the RA-1 and RR Districts, livestock is permitted as described under the use category of livestock.
- <sup>12</sup> For land inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02 regarding a development restriction that may apply if excessive tree removal occurs.
- <sup>13</sup> Uses similar to this may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.
- <sup>14</sup> A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 316-1.
- <sup>15</sup> The portion of the premises used shall be located a minimum of 200 feet from all property lines.

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~~16 This use is limited to alteration or expansion of a lawfully established place of worship.~~

17 A produce stand shall be subject to the parking requirements of Section 1015, *Parking and Loading*.

18 In addition to selling produce grown on-site, a produce stand may sell agricultural products that are produced in the surrounding community in which the stand is located.

19 Public utility facilities shall not include shops, garages, or general administrative offices.

20 The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.

21 This use may include concessions, restrooms, maintenance facilities, and similar support uses.

22 Equine facilities are a primary use, subject to the following standards and criteria:

- a. The number of horses shall be limited to no more than one horse per acre or five horses in total, whichever is less. Horses owned by the operator of the equine facility, or owned by a 501(c)(3) organization and being temporarily fostered by the operator of the equine facility, do not count toward the maximum number of horses. The one-horse-per-acre standard shall be calculated based on the area of the lot of record or tract on which the equine facility is located.
- b. Services offered at the equine facility, such as riding lessons, training clinics, and schooling shows, shall be provided only to the family members and nonpaying guests of the operator of the equine facility, the owners of boarded horses, or the family members and nonpaying guests of the owners of boarded horses.

23 Any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in a residential zoning district.

24 Recyclable drop-off sites are permitted only if accessory to an institutional use.

25 The use is subject to the following standards and criteria:

- a. The use shall be located in a planned unit development (PUD) with a minimum of 100 dwelling units. No building permit for the use shall be issued until a minimum of 100 dwelling units are constructed within the PUD.
- b. The area occupied by all uses subject to Note 23 and located in a single PUD, including their parking, loading, and maneuvering areas, shall not exceed a ratio of one-half acre per 100 dwelling units in the PUD.
- c. The use shall be an integral part of the general plan of development for the PUD and provide facilities related to the needs of residents of the PUD.

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- d. The use shall be located, designed, and operated to efficiently serve frequent trade and service needs of residents of the PUD and not persons residing elsewhere.
  - e. The use shall not, by reason of its location, construction, manner or hours of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the PUD.
  - f. The maximum building floor space per commercial use is 4,000 square feet except that no maximum applies to uses authorized under Oregon Statewide Planning Goals 3 and 4 and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.
- <sup>26</sup> Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metropolitan Service District's 2040 Growth Concept Map.
- <sup>27</sup> This use is limited to alteration or expansion of a lawfully established school.
- <sup>28</sup> Components of a sewer system that serve land outside urban growth boundaries or unincorporated community boundaries are prohibited.
- <sup>29</sup> The use is limited to sewer systems that: are designed and constructed so that their capacity does not exceed the minimum necessary to serve the area within the boundaries described under ORS 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6); and do not serve any uses other than those existing or allowed in the identified service area on the date the sewer system is approved.
- <sup>30</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- <sup>31</sup> Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

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**Table 316-2: Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts**

<b>Standard</b>	<b>RA-1</b>	<b>RA-2</b>	<b>RR</b>	<b>RRFF-5</b>	<b>FF-10</b>	<b>FU-10</b>
Minimum Lot Size <sup>1</sup>	1 acre <sup>2,3</sup>	2 acres <sup>3</sup>	2 acres	2 acres, provided that the minimum average lot size of all lots or parcels in a subdivision, partition, or replat is 5 acres <sup>3,4,5,6</sup>	10 acres <sup>3,4,7</sup>	10 acres <sup>4</sup>
Minimum Front Setback	30 feet <sup>8</sup>	30 feet <sup>8</sup>	15 feet, except 20 feet to garage and carport motor vehicle entries <sup>9</sup>	30 feet <sup>8</sup>	30 feet <sup>8</sup>	30 feet
Minimum Rear Setback	30 feet <sup>10,11</sup>	30 feet <sup>10,12</sup>	15 feet <sup>10</sup>	30 feet <sup>10,12</sup>	30 feet <sup>10,12</sup>	30 feet <sup>12</sup>
Minimum Side Setback	10 feet <sup>10,13</sup>	10 feet <sup>10</sup>	5 feet <sup>10</sup>	10 feet <sup>10</sup>	10 feet <sup>10</sup>	10 feet
Maximum Lot Coverage	None	None	40 percent	None	None	None
Minimum Building Separation above 3,500 Feet in Elevation	None	None	20 feet between buildings with contiguous snow slide areas	None	None	None

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- <sup>1</sup> The minimum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except minimum lot size standards of Section 800 apply.
- <sup>2</sup> In a planned unit development, there is no minimum individual lot size. However, the minimum average lot size is one acre except for lots to be developed with a duplex, in which case the minimum average lot size is two acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.
- <sup>3</sup> The minimum lot size inside the Portland Metropolitan Urban Growth Boundary is 20 acres. The 20-acre minimum lot size is applicable to subdivisions, partitions, and Type II replats, but not to Type I replats or property line adjustments. Where this standard applies, it supersedes any other minimum lot size standard in Table 316-2.
- <sup>4</sup> For the purpose of complying with the minimum lot size standard, lots with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the County or public road right-of-way.
- <sup>5</sup> The minimum lot size inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy is five acres.
- <sup>6</sup> The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed partition, subdivision, or replat.
- <sup>7</sup> In a planned unit development, the minimum individual lot size is two acres, except inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy, where the minimum individual lot size is five acres. In all cases, the minimum average lot size is 10 acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.
- <sup>8</sup> In a planned unit development, the minimum front setback is 20 feet.
- <sup>9</sup> For a corner lot located above 3,500 feet in elevation, one of the minimum front setbacks is 10 feet, except 20 feet to garage and carport motor vehicle entries.
- <sup>10</sup> In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 316-2.
- <sup>11</sup> The minimum rear setback for an accessory building shall be five feet except as established by Note 10.

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- 12 The minimum rear setback for an accessory building shall be 10 feet except as established by Note 10.
- 13 The minimum side setback for an accessory building shall be five feet except as established by Note 10.

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-269, 9/6/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22]