



PLANNING & ZONING DIVISION

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

LAND USE HEARING

December 9, 2020

9:30 AM

Clackamas County is abiding by social distancing requirements during the coronavirus pandemic, so this public hearing will be conducted virtually using the Zoom platform. The Zoom link to the public hearing and details on how to observe and testify online or by telephone are available on our website:

www.clackamas.us/meetings/bcc/landuse/2020-05-06

All interested parties are invited to "attend" the hearing online or by telephone and will be provided with an opportunity to testify orally, if they so choose. Applications may be viewed online at <https://accela.clackamas.us/citizenaccess/>. After selecting the "Planning" tab, enter the Record (File) number to search. Then scroll down and select "Attachments," where you will find the submitted application. Please direct all calls and correspondence to the staff member listed below.

LAND USE HEARING

File No.: ZDO-273: Short-Term Rentals

Applicants: Clackamas County

Proposal: ZDO-273 includes the following amendments to the County's Zoning & Development Ordinance (ZDO):

ZDO Section 202 (Definitions): the definition of "dwelling unit" would be amended to make it clear that the rental of a dwelling unit on a short-term basis is allowed; and

ZDO Section 833 (Guest Houses): existing text that specifically prohibits using a guest house as a source of rental income would be removed and replaced with text that makes it clear that the rental of a guest house on a short-term basis is allowed. Specific facilities allowed and not allowed in guest houses would also be clarified.

The effect of these amendments would be to specifically allow STRs in legal dwellings and guest houses.

Staff Contact: Martha Fritzie, Principal Planner, 503-742-4529, MFritzie@clackamas.us

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at least three (3) business days before the meeting at 503-742-4545 or email Drenhard@clackamas.us.

¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

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

File Number: ZDO-273, Short-Term Rentals - *Proposed Amendments to the County's Zoning & Development Ordinance (ZDO)*

Staff Contact: Martha Fritzie, Planning and Zoning Division, mfritzie@clackamas.us

Board of County Commissioners Hearing Date: December 9, 2020

PROPOSAL:

ZDO-273 includes the following amendments to the County's Zoning & Development Ordinance (ZDO):

- *ZDO Section 202 (Definitions):* the definition of "dwelling unit" would be amended to make it clear that the rental of a dwelling unit on a short-term basis is allowed; and
- *ZDO Section 833 (Guest Houses):* existing text that specifically prohibits using a guest house as a source of rental income would be removed and replaced with text that makes it clear that the rental of a guest house on a short-term basis is allowed. Specific facilities allowed and not allowed in guest houses would also be clarified.

The effect of these amendments would be to specifically allow STRs in legal dwellings and guest houses.

Background:

A short-term rental (STR), or vacation rental, is a dwelling unit, or portion of a dwelling unit, that is rented to any person or entity for a period of up to 30 consecutive nights. Operators/hosts may be owners, renters, or property management companies. Short-term rentals are often advertised on websites such as Airbnb, HomeAway, VRBO, VacationRentals.com, or Booking.com.

In early 2019, the Board directed staff to look into the most effective ways to potentially allow and regulate STRs. After nearly two years of work and public outreach to consider the regulation of homes being used as STRs, the Board of County Commissioners (BCC) adopted a STR registration and regulation program on November 25, 2020. This program will be housed in the County Code, which will include all the rules and regulations specific to STRs; the STR application processes and requirements; and the enforcement processes and actions; however, the program will not be in effect until July 1, 2021.

To support the adopted STR program, it is necessary to make some amendments to the County's Zoning & Development Ordinance (ZDO) to eliminate conflicts between the ZDO and the County Code related to two areas:

1. The ZDO does not clearly identify STRs as allowed in any homes in the county, and therefore, from a zoning perspective, it is considered a prohibited use of a dwelling. The ZDO needs to clearly identify that STRs are indeed allowed in a dwelling; and
2. The ZDO specifically prohibits the use of a guest house as a "source of rental income". Since the BCC adopted regulations for operating a STR in a legal guest house, this prohibition needs to be changed to be clear that it does not apply to the use of a guest house as a source of rental income if rented on a short-term basis.

The public hearing before the Board of County Commissioners on December 9, 2020, regarding Planning File ZDO-273, includes consideration only of the proposed amendments to the county's ZDO to provide for the short-term rental use. The amendments to the County Code to create the STR registration and regulation program have already been adopted.

Staff has made a few minor amendments to the proposal in ZDO-273 since the public hearing before the Planning Commission. These changes include only edits that staff deemed necessary to ensure the text of the amendments accurately reflected the intent of the amendments. No substantive changes were made.

RELATED PRIOR BCC ACTION:

The BCC adopted STR program in County Code on November 25, 2020.

Prior public hearings and policy sessions at which various decisions related to short-term rentals occurred on:

- Public hearings - January 30, 2020; February 13, 2020; and November 5, 2020
- Policy/planning sessions - March 13, 2019; June 11, 2019; August 6, 2019; September 25, 2019; October 22, 2019; January 14, 2020; March 11, 2020; and October 13, 2020

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on the amendments proposed in ZDO-273 on November 23, 2020, and voted 7-1 to recommend the BCC's approval of the amendments included in ZDO-273. Two members of the public provided testimony at the PC hearing.

CPO AND HAMLET RECOMMENDATIONS:

All the County's CPOs and Hamlets were sent notice of this proposal on October 19, 2020. No responses have been received from any of these entities in direct response to the proposed ZDO amendments. Many of the county's CPOs and Hamlets have been very involved in the larger STR project, as have a lot of members of the public. A very large number of comments have been received throughout the last two years, related to the proposed STR registration and

regulation program that was recently adopted into the County Code. Public and CPO and Hamlet participation in that process was particularly robust and while there remain a number of different opinions about the proposed program and the level of regulation that may be appropriate for this use, the one thing that has remained fairly consistent within the comments received is a general agreement that STRs should be allowed in the county.

SIGNIFICANT ISSUES:

No significant issues arose at the Planning Commission hearing that were directly related to the proposed ZDO amendments. Issues raised at hearing generally related to the County Code amendments that were, at the time, still under consideration by the BCC. The main issues, which staff articulated to the BCC at the November 25th hearing, included (1) infrastructure impacts and capacity concerns, particularly regarding septic systems and wells; (2) concerns about the total number of people on a STR property, including guests of overnight occupants; and (3) fees, both an interest in building the fee on a sliding scale and also providing for a review in 2-3 years to understand the actual cost of the program.

Since the Planning Commission hearing occurred prior to BCC's adoption of the STR program into the County Code and the Planning Commission and staff did not know whether the STR program would be adopted, consideration was given to what the implications of the ZDO amendments would be both if the County Code amendments were adopted and if they were not:

- With the STR program - the effect of ZDO amendments would be allowing STRs, subject to regulations in County Code
- Without the STR program - the effect of ZDO amendments would be allowing STRs with no additional regulation (aside from the obligation to register and pay Transient Room Tax)

After lengthy discussion about the identified issues and the implications of the BCC's decisions to adopt or not adopt the County Code amendments, the PC ultimately voted to recommend approval of the proposed ZDO amendments to allow for STRs, regardless of whether the BCC adopted the STR program.

STAFF RECOMMENDATION:

Staff recommends approval of the amendments proposed in ZDO-273, as drafted, and as also recommended by the Planning Commission. The amendments in ZDO-273 are necessary to support the STR program recently adopted into the County Code.

ZDO-273: Short-Term Rentals

Clackamas County Zoning & Development Code Amendments

Board of County Commissioners Hearing

December 9, 2020



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ZDO-273 Proposal

- Amendments to Zoning & Development Ordinance (ZDO) to clarify where short-term rentals (STRs) are allowed
 - Legal dwellings (most)
 - Guest houses
- STR - a dwelling unit or portion of a dwelling unit that is rented to any person or entity for a period of up to 30 consecutive nights



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Why do we need a ZDO amendment?

- On November 25th the BCC adopted the STR program into the County Code
- Zoning & Development Ordinance (ZDO) does not specifically allow short-term rentals in any homes
 - From a zoning perspective, short-term rentals are not considered an allowed use of a dwelling
 - ZDO specifically prohibits use of a guest house for source of rental income



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Adoption Process – Overall Structure

1. County Code (Section 8.10)
 - Would contain STR registration program
 - All rules and regulations specific to STRs
 - Application processes and requirements
 - Enforcement processes and actions
2. Zoning & Development Ordinance (ZDO)
 - Enabling amendments to eliminate conflicts with County Code and specifically allow STRs
 - Section 202 – definition of “dwelling unit”
 - Section 833 – allow use in guest houses
3. County Code (Appendix A & B)
 - Fees and fines



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Adoption Process - Decisions

1. County Code (Section 8.10) amendments **ADOPTED**
 - **Thursday, November 5 (10 AM):** 1st reading - Board of County Commissioners (BCC) public hearing
 - **Wednesday, November 25 (10 AM):** 2nd reading/action - BCC public hearing
 - BCC voted 3-2 to adopt County Code amendments
2. Zoning & Development Ordinance (ZDO) amendments
 - **Monday, November 23 (6:30 PM):** Planning Commission public hearing
 - PC voted 7-1 to recommend approval of ZDO amendments
 - **TODAY Wednesday, December 9 (9:30 AM):** BCC public hearing
 - **Thursday, December 17 (10 AM):** BCC adoption
3. County Code (Appendix A & B) amendments
 - **Spring 2021**



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Proposed ZDO Amendments

- Section 202, Definitions
 - Dwelling unit, specify that rental on short-term basis allowed
- Section 833, Guest Houses
 - No rental income, currently
 - Change would allow short-term rental
- In both cases, the number of occupants in the STR – either dwelling unit alone or dwelling unit plus guest house – may not exceed 15 (also in Ch. 8.10 – County Code)
 - Same as current maximum for a “family” in a dwelling unit



Findings

- Legislative amendments
- Subject to relevant goals and policies in: Statewide Planning Goals; Metro Urban Growth Mgmt. Functional Plan (UGMFP); County Comp Plan & ZDO
- All relevant goals/policies met
 - Clarifying rental use of dwelling unit – Goal 10, Comp Plan
 - No increase in maximum number of occupants – Goal 12
 - Applicable procedures followed – Comp Plan, ZDO Section 1307



Planning Commission Actions

- Public hearing: November 23, 2020 (before BCC adopted County Code amendments)
- 2 people testified
- No significant issues directly related to ZDO amendments
- Lot of discussion around regulations, STR program
- Consideration about whether to recommend approval regardless of whether the County Code amendments were adopted
- Voted 7-1 to recommend approval





Other Considerations

- Proposed amendments are necessary to implement the STR program recently adopted into County Code
- Proposed ZDO amendments
 - Provide certainty, future and existing owners
 - Public support



Staff Actions

- Minor, non-substantive edits made to draft to ensure text meets intent
- Staff recommends approval of ZDO-273, as currently drafted





Questions?





STAFF REPORT

To: Clackamas County Planning Commission

From: Martha Fritzie, Principal Planner

Date: November 16, 2020

RE: Planning File #ZDO-273, Short-Term Rentals - *Proposed Amendments to the County's Zoning & Development Ordinance (ZDO)*

BACKGROUND

A short-term rental (STR), or vacation rental, is a dwelling unit, or portion of a dwelling unit, that is rented to any person or entity for a period of up to 30 consecutive nights. Operators/hosts may be owners, renters, or property management companies. Short-term rentals are often advertised on websites such as Airbnb, HomeAway, VRBO, VacationRentals.com, or Booking.com.

In early 2019, the Board directed staff to look into the most effective ways to potentially allow and regulate STRs for three reasons:

1. The County's Zoning & Development Ordinance (ZDO) does not clearly identify STRs as allowed in any homes in the county, and therefore, from a zoning perspective, it is considered a prohibited use of a dwelling. However, there are clearly a number of homes in the County actively being used as short-term rentals and a growing interest among homeowners in pursuing this type of use legally in the county;
2. Several properties in the county operating as short-term rentals have generated enough complaints that it has become apparent that this use can cause unwanted neighborhood impacts; and
3. The Transient Room Tax (TRT) currently applies to STRs, as it does to hotels, motels and other lodging establishments. While there are a number of STRs that are paying the tax as required, there appears to be a large number that are not. Establishing a STR registration program, linking the registration to a requirement to pay the TRT, and funding enforcement of the new regulations could help level the playing field for all lodging establishments, ensuring they are all paying their fair share.

After over a year of work and public outreach to consider the regulation of homes being used as STRs, followed by a six-month break from the project due to the COVID pandemic, the Board of County Commissioners (BCC) is currently going through a series of public hearings to consider establishing a STR registration and regulation program. This program would be housed in the

County Code, which would include all the rules and regulations specific to STRs; the STR application processes and requirements; and the enforcement processes and actions.

If the STR program is adopted into the County Code, enabling amendments will need to be made to the county's Zoning & Development Ordinance (ZDO) to eliminate any conflicts between the ZDO and County Code, and, specifically, to clarify where short-term rentals would be allowed.

If the Board declines to adopt the STR registration and regulation program into the County Code, a decision will need to be made at that time regarding whether to move forward with this proposal to amend the ZDO.

The public hearing before the Planning Commission on November 23, 2020, regarding Planning File ZDO-273, includes consideration only of the proposed amendments to the county's ZDO. These amendments would simply be providing for the short-term rental use by clarifying within the ZDO where short-term rentals are an allowed residential use.

PROPOSAL

ZDO-273 would include the following amendments to the County's Zoning & Development Ordinance (ZDO):

- *ZDO Section 202 (Definitions)*: the definition of "dwelling unit" would be amended to make it clear that the rental of a dwelling unit on a short-term basis is allowed; and
- *ZDO Section 833 (Guest Houses)*: existing text that specifically prohibits using a guest house as a source of rental income would be removed and replaced with text that makes it clear that the rental of a guest house on a short-term basis is allowed. Specific facilities allowed and not allowed in guest houses would also be clarified.

The effect of these amendments would be to specifically allow STRs in legal dwellings and guest houses.

- If the BCC adopts the STR registration program into the County Code, then all dwellings and/or guest houses would also be subject to the new County Code regulations and would need to comply with the registration requirements.
- If the BCC does not adopt the STR registration program, but does decide to adopt the proposed ZDO amendments, then STRs would be allowed to operate in dwellings and/or guest houses without any additional regulations or registration requirements (except to register for and pay the Transient Room Tax, as is currently required).

It should be noted that under the proposal in ZDO-273, regardless of whether the BCC adopts the separate STR registration program, not all dwellings would be allowed to be used as STRs. Dwellings that are approved with specific restrictions on occupancy and/or usage would remain ineligible for use as an STR. Examples of such dwellings include temporary dwellings for care ("hardship dwellings"), accessory farmworker dwellings, or caretaker dwellings.

PUBLIC NOTICE & COMMENTS

Notice of the proposed amendments in ZDO-273 was sent to:

- All cities within the County
- All County Community Planning Organizations (CPOs) and Hamlets
- DLCD, Metro, ODOT and other interested agencies
- An interested parties list, specific to the STR project, that contains more than 300 individuals

Notice was also published in the newspaper and was the subject of a press release posted on various social media outlets. To date, the Planning and Zoning Division has not received any comments from members of the public or any cities or agencies to which notice was sent for this particular proposal.

It should be noted, however, that a very large number of comments have been received throughout the last two years, related to the proposed STR registration and regulation program that is being considered for inclusion into the County Code. Public participation in that process has been robust and while there remain a number of different opinions about the proposed program and the level of regulation that may be appropriate for this use, the one thing that has remained fairly consistent within the public comments is a general agreement that STRs should be allowed in the county.

ANALYSIS AND FINDINGS

1. Statewide Planning Goals

This section of the report includes findings on the consistency of ZDO-273 with the Statewide Planning Goals.

- a. **Goal 1 – *Citizen Involvement*:** Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process” and requires the County to have a citizen involvement program with certain features.

ZDO-273 does not propose to change the structure of the County’s citizen involvement program. Notice of the proposed amendments was provided to all Community Planning Organizations, Hamlets, DLCD, and a sizeable list of interested parties. Notice of the Planning Commission and Board of County Commissioners hearings was published in the newspaper, both were advertised through social media, and press releases issued.

The proposal in ZDO-273 essentially represents the final piece in a larger project that included a robust public outreach effort that began in early 2019 and included 8 very well-attended public meetings, a project webpage, extensive outreach through social media and press releases, and hundreds of pages of written comments/testimony related to the STR program proposed under a separate adoption process into the County Code.

This proposal is consistent with Goal 1.

- b. **Goal 2 – Land Use Planning:** Statewide Planning Goal 2 does not apply to ZDO-273 because its text amendments do not propose to change the County’s land use planning process. The County will continue to have a comprehensive land use plan and implementing regulations consistent with that plan.
- c. **Goal 3 – Agricultural Lands:** This goal is also not applicable because the ZDO-273 text amendments would not change Plan agricultural land policies or implementing regulations for compliance with Goal 3.
- d. **Goal 4 – Forest Lands:** This goal is not applicable because the ZDO-273 text amendments would not change the Plan forest lands policies or implementing regulations for compliance with Goal 4.
- e. **Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources:** Goal 5 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations for Goal 5 open spaces, scenic and historic areas, and natural resources within Clackamas County.
- f. **Goal 6 – Air, Water and Land Resources Quality:** Goal 6 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations for compliance with Statewide Planning Goal 6.
- g. **Goal 7 – Areas Subject to Natural Disasters and Hazards:** This Statewide Planning Goal is also not applicable because the text amendments do not propose to change Plan policies or implementing regulations regarding natural disasters and hazards.
- h. **Goal 8 – Recreational Needs:** Goal 8 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations related to recreational needs.
- i. **Goal 9 – Economy of the State:** Goal 9 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations related to economic development and analysis in the County’s urban areas.
- j. **Goal 10 – Housing:** Goal 10 concerns urban lands designated for residential use. ZDO-273 does not propose to rezone land for residential purposes or to reduce the amount of land already zoned for residential development.

Goal 10 requires Oregon’s county plans to “*encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.*”

Nothing in Goal 10 seeks to regulate whether a dwelling must or should be owner-occupied or renter-occupied, presumably because this would be likely to violate fair-housing laws. Staff finds the proposed amendments to the ZDO are consistent with

Statewide Planning Goal 10, because the proposed amendments simply clarify that a dwelling may be rented on a short-term basis, not just on a long-term basis.

This proposal is consistent with Goal 10.

- k. **Goal 11 – Public Facilities and Services:** Goal 11 is not applicable because the text amendments do not propose to change the County’s Comprehensive Plan policies or implementing regulations regarding public facilities and services. STRs would be allowed in certain legally-established dwellings, which will have necessarily been developed compliant with public facilities and services requirements applicable at the time of construction.
- l. **Goal 12 – Transportation:** Goal 12 is implemented by Oregon Administrative Rules (OAR) Chapter 660, Division 12. Local governments are required to adopt a transportation system plan (TSP) and land use regulations to implement the TSP. This proposal does not include amendments to the County’s TSP or transportation-related land use regulations. Nonetheless, OAR 660-012-0060 requires any comprehensive plan and land use regulation amendment to be evaluated according to the terms outlined in that OAR to demonstrate whether they will have a significant impact on the transportation system.

In the case of ZDO-273, no significant impact on the transportation system is expected because the proposal simply clarifies that a dwelling may be rented on a short-term basis. The maximum number of occupants in the dwelling would remain at 15, as per existing language in ZDO Section 202, and, therefore, expected traffic patterns and volumes and the adequacy of the transportation system would have already been considered with the construction of the dwelling, which would have been developed compliant with transportation system requirements applicable at the time of construction.

This proposal is consistent with Goal 12.

- m. **Goal 13 – Energy Conservation:** Goal 13 is not applicable because the text amendments do not propose to change the Plan’s energy conservation policies or implementing regulations.
- n. **Goal 14 – Urbanization:** Goal 14 is not applicable to ZDO-273 because the text amendments do not propose to change Plan policies or implementing regulations regarding urbanization.
- o. **Goal 15 – Willamette River Greenway:** Goal 15 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations regarding the Willamette River Greenway (WRG).
- p. **Goals 16-19 – (Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources):** Clackamas County is not subject to these four Statewide Planning Goals.

2. Metro Urban Growth Management Functional Plan

The purpose of the Functional Plan is to implement certain regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO) including the Metro 2040 Growth Concept and the Regional Framework Plan.

ZDO-273 does not propose to change the County's residential, commercial, or industrial land supply or to modify any UGB. The ordinance would not change the housing density standards in any part of the County or allow any new retail use in any zoning district. The ordinance would also not change the boundaries of an urban or rural reserve, the dimensional standards of any use in an urban area, or any provision governing water resources, flood management areas, or open spaces. For these reasons, **this proposal is consistent with the Functional Plan.**

3. Clackamas County's Comprehensive Plan

While the county's Comprehensive Plan does contain a number of policies related to dwellings and the need to provide for a range of dwellings for both owner and rental occupancy, similar to Goal 10, it does not seek to regulate whether a dwelling must or should be owner-occupied or renter-occupied. Therefore, Staff finds that only the following two chapters of the County's Comprehensive Plan are applicable to this proposal.

a. Chapter 2 – *Citizen Involvement*

Chapter 2 aims to promote public participation in the County's land use planning. Its policies largely focus on the County's Community Planning Organization (CPO) program and methods for informing and involving the public. Chapter 2 includes these specific policies:

2.A.1 – Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representations, not only of property owners and Countywide special interests, but also of those persons within the neighborhood or areas in question.

2.A.6 – Seek citizens' input not only through recognized community organizations, but also through service organizations, interest groups, granges, and other ways.

2.A.11 – Promote informed public participation in decisions through sponsoring or conducting education programs and providing publications and printed materials.

Consideration of ZDO-273 has proceeded according to the noticing and public hearing requirements of ZDO Section 1307, which implements Chapter 2 of the Plan. Further, as noted previously, this proposal essentially represents the final piece in a larger project that included a robust public outreach effort that began in early 2019 and has continued through the series of public hearings scheduled for this proposal and for the STR program, proposed for adoption separately into the County Code.

This proposal is consistent with Chapter 2.

b. Chapter 11 – The Planning Process

Chapter 11 of the Comprehensive Plan includes policies requiring inter-governmental and inter-agency coordination, public involvement, and noticing. As explained previously in this report, all required entities have been notified in accordance with law and have been invited to participate in duly-advertised public hearings.

Chapter 11 of the Comprehensive Plan also contains the specific requirement that the Comprehensive Plan and ZDO be consistent with Statewide Planning Goals and with Metro’s Urban Growth Management Functional Plan; Chapter 11 is what requires the ZDO itself to be consistent with the Comprehensive Plan. This report’s *Analysis & Findings* beginning on Page 3 outlined how ZDO-273 is consistent with all of these requirements.

This proposal is consistent with Chapter 11.

4. Zoning and Development Ordinance (ZDO)

The text amendments proposed in ZDO-273 are legislative. Section 1307 of the ZDO establishes procedural requirements for legislative amendments, which have been or are being followed in the proposal and review of ZDO-273. Notice of this proposal was provided at least 35 days before the first scheduled public hearing to DLCD, all cities in the County, and active CPOs, Hamlets, and Villages, as well as other interested agencies and a sizeable list of interested individuals, to allow them an opportunity to review and comment on the proposed amendments. Advertised public hearings are being held before the Planning Commission and the BCC to consider the proposed amendments. The ZDO contains no further specific review criteria that must be applied when considering an amendment to the text of the Comprehensive Plan or ZDO.

This proposal is consistent with the Zoning & Development Ordinance.

5. Other considerations

Due to timing constraints, the public hearing for ZDO-273 is scheduled with the Planning Commission before the BCC makes a final decision about whether to adopt the STR registration and regulation program into the County Code. As such, consideration needs to be given to whether or not the BCC’s decision on County Code amendments would or should impact the decision regarding the Zoning & Development Ordinance (ZDO) amendments proposed under ZDO-273.

As noted previously, the county’s ZDO does not clearly identify STRs as allowed in any homes in the county, and therefore, from a zoning perspective, it is not considered an allowed use of a dwelling. However, we do know there are as many as 1,000 homes in the county actively being used as short-term rentals, some of which, particularly in the resort areas on Mt. Hood, have been operating for many decades. In addition, there appears to be a growing interest among homeowners in pursuing this type of use legally in the county.

- The amendments proposed to ZDO Section 202 would provide the clarity that the ZDO

currently lacks regarding the rental of a dwelling on a short term basis by adding the following underlined language:

DWELLING UNIT: A building, or portion thereof, with one or more rooms designed for residential occupancy by one family, or, except as otherwise provided in this Ordinance, for residential occupancy by no more than 15 persons on a short-term basis that does not exceed 30 consecutive nights.

This clarity would provide property owners certainty as they are making decisions to purchase a second home or to invest in improvements to their primary dwelling, financial decisions that may need the supplemental income provided by the rental of that property on a short-term basis. Further it would provide certainty to property owners of existing STRs, many of which have been operating for several decades, that there would not be a violation or code enforcement action taken on them in the future simply because of the use of the dwelling as such.

- The amendments proposed to ZDO Section 833 would remove the specific prohibition on using a guest house as a source of rental income and allow a property owner to rent their guest house on a short-term basis, as identified below:

A guest house shall be used only by members of the family residing in the primary dwelling, their nonpaying guests, or their nonpaying employees who work on the premises, ~~A guest house shall not be a source of rental income. or for residential occupancy by one or more paying guests on a short-term basis that does not exceed 30 consecutive nights. In no case shall the number of paying guests plus the number of occupants in the primary dwelling exceed 15 persons.~~

By its definition, a guest house is not a separate dwelling unit – it cannot contain separate laundry and kitchen/cooking facilities and is indeed intended only for “guests” of the family residing in the primary dwelling unit. Adding the ability of the resident family to rent the guest house on a short-term basis could similarly provide an opportunity for supplemental income, while retaining the intent of the guest house to be occupied only by guests or employees and not by a separate family living in the unit on a long-term basis. In addition, this allowance is a change that was specifically requested by members of the public and supported by the BCC during the extensive process to consider the STR program.

For these reasons, Staff finds that the ZDO amendments proposed in ZDO-273 are needed, regardless of whether the BCC decides to separately adopt the STR program.

RECOMMENDATION

Staff finds the proposed ZDO text amendments are consistent with all applicable goals and policies. Staff also finds that the proposed amendments are necessary to clarify whether and where STRs are an allowed use, regardless of whether the BCC decides to adopt the proposed County Code amendments to implement a STR registration and regulation program.

Therefore, Staff recommends the Planning Commission recommend approval of ZDO-273, as drafted and included in Attachment 1.

ATTACHMENTS

1. Proposed ZDO amendments
 - a. ZDO Section 202, Definitions
 - b. ZDO Section 833, Guest Houses

**PLANNING COMMISSION
MINUTES**

November 23, 2020

Meeting held via Zoom meeting online

Commissioners present: Tammy Stevens, Michael Wilson, Tom Peterson, Mary Phillips, Louise Lopes, Gerald Murphy, Brian Pasko, Carrie Pak

Commissioners absent: Steven Schroedl

Staff present: Jennifer Hughes, Martha Fritzie, Darcy Renhard.

Commission Chair Stevens called the meeting to order at 6:34pm.

General public testimony not related to agenda items: none.

Martha Fritzie presented ZDO-273, a set of proposed amendments to the Clackamas County Zoning and Development Ordinance (ZDO). The Planning Commission is charged with making a recommendation specifically related to the proposed ZDO amendments to provide clarification on where short-term rentals (STRs) would be allowed. Currently the ZDO does not allow STRs in any homes, although there are already hundreds of them already operating within the County. Several issues that have been brought forward are that some existing STR properties generate a significant amount of complaints from neighbors and STR operators are not paying the County Transient Room Tax as hotels, motels, and other lodging facilities do.

A STR registration and regulation program would be housed within the Clackamas County Code and these ZDO amendments would simply clarify where they would be allowed. Specifically, there would be an amended definition for “dwelling unit” and an amendment to allow STRs in guest houses. The ZDO amendments would eliminate any conflicts between the ZDO and the County Code. The County Code, Section 8.10, would house the STR registration program, all of the rules and regulations, fees and fines, application processes and requirements, and enforcement processes and actions. The BCC voted 4-1 to proceed with the second reading on November 5th. The second reading is scheduled for November 25th. The BCC will be holding a public hearing on the ZDO amendment proposal on December 9th with a hearing on whether or not to adopt the ZDO amendments on December 17th.

We are proposing to amend two sections of the ZDO. Section 202 would specify that the rental of a dwelling on a short-term basis is allowed. Section 833 would be changed to allow for short-term rentals. Currently guest houses cannot be used for any rental income. In both cases, the number of occupants in the STR, whether a dwelling unit alone or a dwelling unit plus a guest house, may not exceed fifteen. This is the same maximum for a family in a dwelling unit.

Staff finds that all relevant goals and policies of the Statewide Planning Goals, Metro Urban Growth Management Functional Plan, Clackamas County Comprehensive Plan and ZDO are satisfied.

Other considerations are the implications if the BCC does or does not adopt the changes to County Code. If the BCC does adopt the County Code changes, the effect would be that the ZDO allows STRs subject to regulations in the County Code. If they decide NOT to adopt the County Code changes, the effect would be that the ZDO allows for STRs with no additional regulation.

Generally, there has been a lot of public support for allowing STRs in the county, which is what the proposed ZDO amendments would do. They would provide certainty for current STR operators as well as future STR operators.

The Planning Commission has several options to a recommendation: 1. Recommend denial; 2. Recommend approval whether or not the STR is adopted into the County Code; 3. Recommend approval, but only if the STR program is adopted into County Code; or 4. Recommend approval of only part of the proposed amendments. Staff is recommending approval of ZDO-273 as drafted, whether or not the STR program is adopted into the County Code.

Commissioner Phillips asked why the proposal ended up in the definitions instead of as an allowed accessory use. Martha explained that we are trying to clarify that this is a residential use, although it can be an accessory use. Owner occupancy is not required to operate an STR under the zoning code provisions. Commissioner Murphy said that if the ZDO does not allow STRs, then it is technically not a legal use and cannot be regulated. Martha replied that this is correct, depending on what the infractions are. Building, life, safety, fire, illegal activities, etc. would still be enforced through the Sherriff's office, but otherwise other things could not be enforced. If the program is adopted into the County Code, it would establish registration fees and fines that would support the program. The BCC's goal is to have the STR program be entirely fee funded and not supported by general fund. We don't have a way to determine what the level of enforcement would have to be at this time, but it is important to keep in mind that these activities are already happening now. The noise ordinance would remain housed in the Sherriff's office the same as it is now.

We have heard a lot of testimony about the need for more affordable housing up in the Mt. Hood area. It seems like the STRs are taking the place of what might otherwise be affordable housing. Jennifer Hughes pointed out that without the tourists renting the STRs up on the mountain, there would not be as much of a tourism industry to support the local businesses. Many property owners feel that it is too much work to have a long term rental as opposed to the short term rentals. Commissioner Wilson asked what the majority of complaints have been. Martha responded that the predominant complaints within neighborhoods were noise, cars parking in the right of way, parties, trash, etc. There were similar complaints up on the mountain. Commissioner Lopes wanted to know if something happens if a renter stays past 30 days. Martha explained that we don't regulate whether someone is living in a rental for more than 30 days at a time. The transient tax is a self-regulating tax, so it is conceivable that someone could simply not pay it although they would open themselves up to potential additional fines. Commissioner Murphy relayed concerns about potential increase in property taxes due to the STRs coming in to neighborhoods.

Chair Stevens asked if there were any CPOs, hamlets or villages who wished to testify. There are none. There are no outside agencies to provide testimony. Chair Stevens asked for any public testimony.

Dennis Tylka – Mr. Tylka is concerned that there are still too many unanswered questions that may lead to unforeseen issues in the future. He is concerned about how it may affect the census count and community funding. There are three of the seven properties on his block that are STRs and they have had significant impacts on him. He feels that the language in the code should be more precise, more in line with a conditional use. He would like a clear limit on noise, cars, and how many people can be on the property at one time, not just overnight. There is also a real concern about the capacity of the septic tanks and wells up on the mountain.

Martha said that there is a process that would be implemented within the STR registration program that could invoke a revocation if there was a property with significant violations. Part of the intent of that program, if implemented, would be to provide more resources to enforce complaints and violations.

Commissioner Murphy said that the STRs do provide a benefit to the tourism industry, but at the same time the local employees have a hard time finding affordable places to live which means they have to travel a long way to get to and from work.

Pascale Plank Steig – Ms. Steig would like a sliding scale for the fees. There is a big difference between someone who only rents out a single room on occasion and someone with a large house that is continuously rented. There are financial concerns for a lot of people right now, and being able to run an STR provides some much needed financial relief.

Commissioners Phillips, Peterson, Murphy, and Pak are in favor of staff's recommendation to approved the ZDO amendments regardless of whether or not the amendments to the County Code are adopted. Commissioners Pak would like to see an allowance for customization of fees. Commissioner Lopes agrees, but would like to have even more regulations. Commissioner Pasko agrees as well, but would like some sort of regulatory ordinance passed as well. Commissioner Wilson is against any restriction on the use of private property.

Commissioner Murphy asked if keeping this as an illegal use could potentially impact a bank loan or an insurance policy. Staff is not aware of any issues at this point, but it is something to consider. Commissioner Peterson asked how our proposed regulations compare with other local jurisdictions. Martha explained that this is similar to most of them, although there are varying degrees of regulations between the jurisdictions. We tried to pull things from other jurisdictions that seem to be working well and implement them into our proposal. Commissioner Peterson can see the challenges in trying to implement a program that works for all of the varying areas within the County.

Commissioner Phillips moved to recommend approval of ZDO-273 based on the November 16, 2020 staff report. Commissioner Peterson seconds. *Ayes= 7 (Pasko, Phillips, Stevens, Lopes, Murphy, Pak, Peterson) Nays=1 (Wilson). Motion is passed.*

Commissioner Phillips asked that we be sure to emphasize to the BCC the importance of considering infrastructure impacts, number of people that could potentially be on one property, safety issues, and real costs. The Planning Commission would like the BCC to revisit the STR program in a couple of years and consider implementing a sliding scale fee structure. They would also like to see an evaluation in a couple of years to assess whether or not the program is actually funding itself.

There are no items on the Planning Commission schedule through the rest of the year. The BCC only has the STR proposals on their land use schedule through the end of the year.

There being no further business, the meeting was adjourned at 9:05 pm.

202 DEFINITIONS

ACCESSORY BUILDING OR USE: A subordinate building or use, the function of which is clearly incidental to that of the main building or use on the same lot.

ACCESSWAY: A public right-of-way, a portion of which is hard surfaced, for use by pedestrians and bicyclists providing a direct route where public roads require significant out of direction travel.

ACCESS DRIVE: A private way, with a travel surface generally no more than 12 feet in width, created by deed or easement to provide vehicular ingress to, or egress from not more than two lots or parcels.

ACTIVE RECREATIONAL AREA: An area such as a park, sports field, or golf course, where turf lawn provides a playing surface that is dedicated to active play.

ADJOINING: Contiguous or abutting exclusive of street width. It shall include the terms adjacent, abutting or contiguous.

AIRPORT, PERSONAL-USE: An airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by his invited guests, and to commercial activities in connection with agricultural operations only.

AIRPORT, PRIVATE USE: An airport restricted, except for aircraft emergencies, to use by the owner and his invited guests. The determination as to whether an airport is private or public-use is made by the Oregon Department of Aviation.

AIRPORT, PUBLIC-USE: An airport that is open to use by the flying public, with or without a request to use the airport.

ALLEY: A travel way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

ALTERATION, CULTURAL RESOURCE: Any exterior change or modification, through public or private action, of any cultural resource or of any property located within an historic district including, but not limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archaeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

ANTIQUES: Goods that, by virtue of their age or unusual quality, are generally considered to be of historical and/or artistic interest, ordinarily such items are in good state of preservation or are restorable to their original conditions.

AQUIFER: A layer of rock or alluvial deposit which holds water.

ARCHITECTURAL FEATURES: Features include, but are not limited to cornices, canopies, sunshades, gutters, chimneys, fireplaces, flues and eaves. Architectural features shall not include any portion of a structure built for the support, occupancy, shelter or enclosure of persons or property of any kind.

ARCHITECTURAL FEATURES, CULTURAL RESOURCE: The architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement, including, but not limited to, the kind, color, texture of the building materials and type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvements.

AUTOMATIC IRRIGATION CONTROLLER: An automatic timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers schedule irrigation events using either evapotranspiration (weather-based) or soil moisture sensor data.

BABYSITTER: A person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

BASEMENT: A portion of a building which has less than one-half of its height measured from finished floor to finished ceiling above the average elevation of the adjoining ground, but not an "underground structure" as defined in this ordinance.

BEACON: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same site as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST HOMESTAY: A use that is conducted in an owner-occupied single-family dwelling, provides rooms for rent on a daily or weekly basis to the public, and includes breakfast as part of the cost of the room. A maximum of two guest rooms and a maximum of five guests at one time are permitted.

BED AND BREAKFAST INN: A use that is conducted in an operator- or owner-occupied single-family dwelling, provides rooms for rent on a daily or weekly basis to the public, and includes breakfast as part of the cost of the room. A bed and breakfast inn may include a restaurant offering meals to the general public as well as to overnight guests.

BED AND BREAKFAST RESIDENCE: A use that is conducted in an operator- or owner-occupied single-family dwelling, provides rooms for rent on a daily or weekly basis to the public, and includes breakfast as part of the cost of the room. In addition to the required breakfast, other occasional family-style meals may be provided for overnight guests.

BICYCLE RACK: An apparatus designed to support the central frame of a bicycle and allow locking of both wheels, without the removal of wheels.

BIKEWAY: A paved facility provided for use by cyclists. There are five types of bikeways.

Shared Roadway: A type of bikeway where motorists and cyclists occupy the same roadway area. Shared roadways are allowed on neighborhood streets and on rural roads and highways.

Shoulder Bikeway: A bikeway which accommodates cyclists on paved roadway shoulder.

Bike Lane: A section of roadway designated for exclusive bicycle use, at the same grade as the adjacent roadway.

Bike Path: A bike lane constructed entirely separate from the roadway.

Cycle Track: An exclusive “grade-separated” bike facility elevated above the street level using a low-profile curb and a distinctive pavement material.

BLANKETING: The visual blocking of one sign by another as seen by a motorist traveling a street or highway.

BLOCK: A parcel of land bounded by streets, railroad rights-of-way, waterways, parks, unsubdivided acreage, or a combination thereof.

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING ENVELOPE: The three dimensional space which is to be occupied by a building.

BUILDING LINE: A straight line that is parallel and adjacent to the front side of the main building and parallel to the front lot line.

BUILDING OR STRUCTURE HEIGHT: The term "height of building" shall be calculated by the methods identified in the State of Oregon Structural Specialty Code or the State of Oregon One and the Two Family Dwelling Specialty Code, as applicable.

BULK PLANT: Hazardous substances at the bulk plant level are manufactured, collected, repackaged, stored, or distributed, but are generally not used on the site. The primary emphasis of uses at the bulk plant level is on hazardous substances. Materials are stored in large permanent tanks. Bulk plant quantities are larger than amounts transported in or out in any single shipment. Processors of hazardous substances will generally be at this level. Uses which produce hazardous substances as a by-product or accessory to another product are not in this category.

CANNABINOID: Any of the chemical compounds that are the active constituents of marijuana.

CANNABINOID CONCENTRATE: A substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

CANNABINOID EDIBLE: Food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

CANNABINOID EXTRACT: A substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

CANNABINOID PRODUCT: A cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

CARE: The provision of room and board and other services as needed to assist in activities of daily living, such as assistance with bathing, grooming, eating, medication management, money management, or recreation.

CHILD CARE FACILITY: As defined in Oregon Revised Statutes 329A.250 but excluding a family child care home.

CLACKAMAS REGIONAL CENTER: The regional center identified on Comprehensive Plan Map X-CRC-1, *Regional Center, Corridors, and Station Community*, excluding the portion in the City of Happy Valley.

CLACKAMAS REGIONAL CENTER AREA: The Clackamas Regional Center Area identified on Comprehensive Plan Map X-CRC-1, *Regional Center, Corridors, and Station Community*, excluding the portion in the City of Happy Valley.

COGENERATION FACILITY: A facility that produces, through the sequential use of energy, electric energy and useful thermal energy including but not limited to heat or steam, used for industrial, commercial, heating, or cooling purposes; and is more than 50 percent owned by a person who is not an electric utility, an electric holding company, an affiliated interest, or any combination thereof.

COMMERCIAL USE: The use of land and/or structures for the conduct of retail, service, office, artisan, restaurant, lodging, child care, adult daycare, entertainment, private recreational, professional, and similar uses.

COMMON OWNERSHIP: Land commonly owned to include open space lands dedicated in planned unit developments and lands dedicated for open space which are owned by homeowners associations.

COMMUNITY GARDEN: A site where any kind of plant, except marijuana, is grown, and several individuals or households cultivate the site. The site may be divided into individual allotments, or gardeners may work together to cultivate the entire property. The land may be publicly or privately owned. The plants are grown for personal use by the gardeners, or for donation, and sales are prohibited.

COMPOSTING: The managed process of controlled biological decomposition of green feedstocks. It does not include composting for the purposes of soil remediation.

COMPOSTING FACILITY: A site or facility, excluding home composting and agricultural composting conducted as a farm use, which utilizes green feedstocks to produce a useful product through a managed process of controlled biological decomposition. Composting may include amendments beneficial to the composting process. Vermiculture and vermicomposting are considered composting facilities.

CONGREGATE HOUSING FACILITY: A building that contains more than one dwelling unit and provides common facilities and services for residents who require or desire a more supportive living environment than typically afforded to residents in multifamily, three-family, two-family, or single-family dwellings. Regular on-premise supervision by a registered physician, registered nurse, or other health care provider may be included.

CULTURAL RESOURCE: Improvements, buildings, structures, signs, features, sites, places, areas or other objects of scientific, aesthetic, educational, cultural, architectural, or historical significance to the citizens of the county.

CULTURAL RESOURCE INVENTORY: The official list of designated cultural features, sites, districts subject to the provisions of Section 707, Cultural Resources.

CULTURAL RESOURCES OBJECT: A material thing of functional, aesthetic, cultural, symbolic or scientific value, usually by design or nature movable.

DEDICATION: The designation of land by its owner for any general or public use.

DESIGNATED SITE (historic site, cultural resource site, landmark site): A parcel or part thereof on which a cultural resource is situated, and any abutting parcel or part thereof constituting part of the premises on which the cultural resource is situated, and which has been designated pursuant to this Ordinance.

DESIGNATED STRUCTURE (landmark, cultural resource, historic structure): Any improvement that has special historical, cultural, aesthetic or architectural character, interest or value as part of the development, heritage or history of the county, the State of Oregon, or the nation and that has been designated pursuant to this ordinance.

DIMENSIONAL STANDARD: A numerical measurement for a distance or area standard of this Ordinance, such as building height, lot size, or yard depth; or a percentage of a distance or area measurement of this Ordinance, such as lot coverage or landscaped area.

DIRECT ROUTE: The shortest reasonable route between two points. A route is considered direct if it does not involve significant out of direction travel that could be avoided. Out of direction travel is significant if it is more than 50 percent longer than the straight line between two points.

DISTINCTIVE URBAN FOREST: Forested or woodland areas which are visually prominent or contain unique or rare tree and plant communities. These areas are usually found in association with other open space resources within the urban area.

DRIP LINE, TREE: The outermost edge of a tree's canopy; when delineating the tree drip line on the ground, it will appear as an irregularly shaped circle defining the canopy's perimeter.

DROUGHT-TOLERANT PLANTS: Plants that will survive in the typical or somewhat less than typical amount of rainfall in the Willamette Valley, and therefore require very little or no supplemental water once established.

DWELLING: A building, or portion thereof, which contains one or more dwelling units. A dwelling may be a residential trailer or a manufactured dwelling but not a recreational vehicle.

DWELLING, ACCESSORY HISTORIC: A detached single-family dwelling legally constructed between 1850 and 1945 that was converted from a primary dwelling to an accessory dwelling, pursuant to Section 843, *Accessory Historic Dwellings*.

DWELLING, ATTACHED SINGLE-FAMILY: A building, or portion thereof, that contains only one dwelling unit; shares at least one wall, or portion thereof, with another attached single-family dwelling; and is located on a separate lot of record from any other dwelling, except where otherwise permitted for an accessory dwelling unit. A manufactured dwelling or residential trailer is not an attached single-family dwelling.

DWELLING, DETACHED SINGLE-FAMILY: A building, or portion thereof, that contains only one dwelling unit and is detached from any other dwelling, except where otherwise permitted for an accessory dwelling unit. A manufactured dwelling or residential trailer is not a detached single-family dwelling.

DWELLING, MULTIFAMILY: A building, or portion thereof, that contains four or more dwelling units.

DWELLING, THREE-FAMILY: A building, or portion thereof, that contains three dwelling units.

DWELLING, TWO-FAMILY: A building, or portion thereof, that contains two dwelling units, both of which are located on the same lot of record. If one of the two dwelling units is an accessory dwelling unit, the building, or portion thereof, is not a two-family dwelling.

DWELLING UNIT: A building, or portion thereof, with one or more rooms designed for residential occupancy by one family. A dwelling unit may be occupied by one family or, except as otherwise provided in this Ordinance, may be used for residential occupancy by no more than 15 persons for a period that does not exceed 30 consecutive nights by any one person.

DWELLING UNIT, ACCESSORY: A dwelling unit located on the same lot of record as a primary dwelling. The primary dwelling may be an attached or detached single-family dwelling, or a manufactured dwelling, as specified in the underlying zoning district provisions.

EASEMENT: A right of usage of real property granted by an owner to the public or to specific persons, firms, and corporations.

EDIBLE GARDEN: A garden that contains plants that produce food for human consumption.

ELECTRIC VEHICLE CHARGING STATION: A location where a vehicle can plug into an electrical source to re-charge its batteries.

EQUINE FACILITY: Premises that are used for the stabling or training of equines, including, but not limited to, providing riding lessons, training clinics, and schooling shows.

FAMILY: Any individual or group of persons, regardless of relationship but not exceeding 15 persons, living together as a single housekeeping unit within a dwelling unit.

FAMILY CHILD CARE HOME: A child care provider who provides child care to 16 or fewer children, including children of the provider, regardless of full-time or part-time status, in the home of the provider. Child and child care are as defined in Oregon Revised Statutes 329A.250.

FARMERS' MARKET: An organized seasonal outdoor market dedicated to the direct sales by growers of agricultural goods, including plants, produce, meats, and other animal products (e.g., eggs, cheese, honey), but excluding marijuana.

FLAG: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols.

FLOOR AREA: The area included within the surrounding exterior walls of a building or portion thereof, exclusive of porches and exterior stairs, multiplied by the number of stories or portion thereof. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. Floor area shall not include portions of buildings used for parking of vehicles, except the square footage of commercial uses in parking structures can be counted as part of the total floor area.

FLOOR AREA RATIO (FAR): A measurement of density expressed as the ratio of floor area (in square feet) to net site area (in square feet). The greater the ratio, the greater the density. For example, a building occupying one-fourth of the net site area has a FAR of .25:1, or .25; adding a second floor of equal area to the same building increases the FAR to .5:1, or .5.

GOVERNMENT CAMP: The unincorporated community of Government Camp, as identified on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan, Land Use Plan & Boundary*.

GRADE: The line of the street or ground surface deviation from the horizontal.

GREEN FEEDSTOCKS: Yard debris, non-treated wood waste, vegetative food waste, produce waste, vegetative restaurant waste, vegetative food processor by-products, crop waste, and livestock manure. Non-treated wood waste excludes wood waste treated with paint, varnish, or other chemicals or preservatives.

GREEN ROOF: A vegetated roof designed to treat storm runoff.

GROUNDWATER: Any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands, flows, percolates, or otherwise moves.

GUEST HOUSE: An accessory building, or portion thereof, that includes at least one bedroom and is—with the exception of bathrooms, closets, and halls—constructed as habitable space under the Oregon Residential Specialty Code.

HARDSCAPES: In the practice of landscaping, refers to the inanimate, manmade, non-planted, outdoor areas where the soil is no longer exposed and that are surfaced with pervious or non-pervious durable materials such as masonry, wood, stone, paving, tile, or similar material to create patios, walkways, water fountains, benches, gazebos, etc.

HAZARDOUS SUBSTANCE, MATERIAL, OR WASTE: Any hazardous substance, material, or waste listed in the following federal regulations:

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

1. Superfund Amendments and Reauthorization Act (SARA) of 1986, Section 302 Extremely Hazardous Substances List (40 C.F.R 355, App. A and B);
2. Comprehensive Environmental Response Compensation & Liability Act Superfund (CERCLA) of 1980, Hazardous Substances List (40 C.F.R 302, Table 302.4);
3. SARA of 1986, Section 313, Toxic Chemicals List (40 C.F.R Section 372.65);
4. Resource Conservation and Recovery Act (RCRA) of 1976 and 1984 Amendments, Hazardous Wastes List (P & U Categories) (40 C.F.R Section 261.33(e) and (f)); and
5. DOT Hazardous Materials Table (49 C.F.R Part 172.101).

HISTORIC AREA: Any area containing improvements which have a special character, historical interest or aesthetic value or which represent one or more architectural periods or styles typical of the history of the County and which improvements constitute a distinct section of the County that has been designated a cultural resource district pursuant to this ordinance.

HOME COMPOSTING: A composting area operated and controlled by the owner or person in control of a single-family dwelling and used to dispose of vegetative waste, garden wastes, weeds, lawn cuttings, leaves, and prunings generated from that property.

HOME OCCUPATION: An occupation or business activity that results in a product or service and is conducted, in whole or in part, in a dwelling unit, an accessory building normally associated with primary uses allowed in the subject zoning district, or both. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and parties are held more than six times in a calendar year or operate in excess of 24 total days in a calendar year.

HOMEOWNERS ASSOCIATION: The grouping or uniting of persons residing within a defined area, such as a subdivision, into an incorporated entity for the prosecution of a common enterprise.

HOSPITAL, ANIMAL: A building or premises for the medical or surgical treatment of domestic animals or pets, including dog, cat, and veterinary hospitals.

HOTEL: A building which is designed or used to offer short-term lodging for compensation, with or without meals, for six or more people. A facility that is operated for the purpose of providing care beyond that of room and board is not a "hotel".

HOUSEKEEPING UNIT: A living arrangement within a dwelling unit in which the kitchen, living and dining rooms, and other general living areas of the dwelling unit are shared in common, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement. Such a living arrangement also may include the provision of food, shelter, personal services, care, and when appropriate, a planned treatment or training program of counseling, therapy, or other rehabilitative social service, for persons of similar or compatible conditions or circumstances who are members of the resident family.

HYDROELECTRIC FACILITY: Any facility relating to the production of electricity by waterpower, including, but not limited to the power generating plant, associated dams, diversions, penstocks, navigation locks, fish ladders, fish screens, reservoirs and detention areas, recreation facilities, interconnecting transmission lines, substations, access roads, offices or commercial and industrial structures proposed to be built in connection with the energy facility; and activities involved in their construction and operation.

IMPROVEMENT: Any building structure, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

INDIRECT ILLUMINATION: A nonelectric sign illuminated by an indirect or separate light source.

INDUSTRIAL USE: The use of land and/or structures for the manufacturing or processing of primary, secondary, or recycled materials into a product; warehousing and associated trucking operations; wholesale trade; and related development.

INSTITUTIONAL USE: 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.

INVASIVE NON-NATIVE OR NOXIOUS VEGETATION: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.

KENNEL: Any lot or premises on which four or more dogs, more than six months of age or with permanent canine teeth, are kept for purposes other than a veterinary clinic.

KIOSK: A small structure used as a newsstand, information booth, refreshment stand, bandstand, or display of goods, etc.

KITCHEN, ACCESSORY: A kitchen that complies with all of the following standards:

1. It shall be incidental to a primary dwelling.
2. It shall be located in a room that is approved for residential occupancy and used for a purpose in addition to that of a kitchen (e.g., a recreation room, a bedroom).
3. It shall not be located in a detached accessory building.
4. Any of the following features shall be located within a contiguous area that is no more than 30 inches deep and 10 feet long: cooking appliances, sinks, refrigerators, dishwashers, counters, and cabinets.

LANDSCAPING: Areas of land planted with groundcover, grasses, shrubs, annuals, perennials, or trees.

LIMITED USE: A use allowed in a district on a limited basis and subject to conditions specified therein which are generally more restrictive than the conditions placed on primary or accessory uses within the same district.

LIVESTOCK: One or more domesticated animals raised to produce commodities, such as food, fiber, and labor. Livestock includes, but is not limited to, miniature livestock, fowl, and farmed fish.

LOT: A single unit of land that is created by a subdivision of land. For the purposes of this Ordinance, lot includes parcel and lot of record unless otherwise specified in the context of the specific provisions.

LOT AREA OR LOT SIZE: The total surface area (measured horizontally) within the lot lines of a lot.

LOT, CORNER: A lot with street frontage on two streets intersecting at a corner of the lot. A lot within the radius curve of a single street is not a corner lot. A lot may be both a corner lot and a through lot.

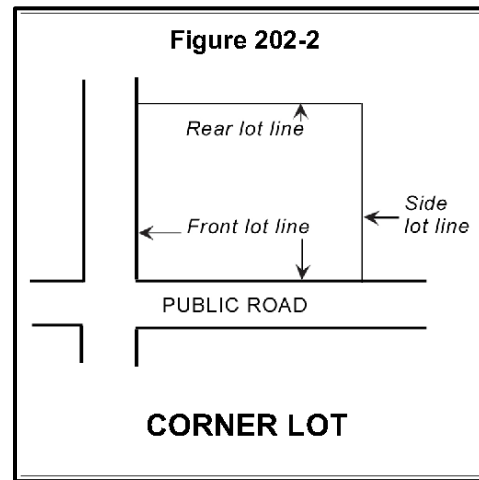
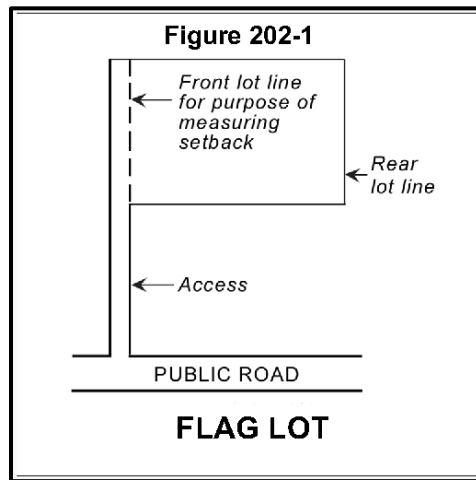
LOT COVERAGE: The area of a lot covered by a building or buildings expressed as a percentage of the total lot area. Swimming pools are not considered buildings for the purpose of this definition.

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line of a lot.

LOT, FLAG: A lot that has access to a road by means of a narrow strip of lot or easement.

LOT LINE, FRONT: Any boundary line separating a lot from a County, public, state, or private road, or from an access drive. Exceptions are:

1. Except as otherwise provided in Subsection 903.08, the front lot line of a flag lot shall be within the boundaries of the lot by a distance equal to the width of the narrow strip of lot or easement providing access to the lot. The front lot line shall be parallel to the lot line extending from the road to the lot line opposite and most distant from the road. (See Figure 202-1.)
2. A corner lot has at least two front lot lines, except where one of the lot lines that would otherwise be a front lot line abuts a private road or access drive and motor vehicle access from the lot is not taken to that private road or access drive. In that case, the lot line where motor vehicle access is not taken is a side lot line.
3. A through lot has at least two front lot lines except where one of the lot lines that would otherwise be a front lot line abuts a collector, arterial, expressway, interstate, or other feature that precludes motor vehicle access. In that case, the lot line where access is precluded is the rear lot line.



LOT LINE, REAR: Any boundary line opposite and most distant from the front lot line and not intersecting a front lot line. Exceptions are:

1. For a corner lot, the rear lot line is any one of the boundary lines opposite the front lot lines. Any other opposite boundary line is a side lot line. (See Figure 202-2.)
2. A triangular-shaped lot has no rear lot line.
3. A through lot has no rear lot line except where one of the lot lines that would otherwise be a front lot line abuts a collector, arterial, expressway, interstate, or other feature that precludes motor vehicle access. In that case, the lot line where access is precluded is a rear lot line.

LOT LINE, SIDE: Any boundary line that is not a front or rear lot line.

LOT OF RECORD: A lot, parcel, other unit of land, or combination thereof, that conformed to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed or contract creating the lot, parcel or unit of land was signed by the parties to the deed or contract; except:

1. Contiguous lots under the same ownership when initially zoned shall be combined when any of these lots, parcels or units of land did not satisfy the lot size requirements of the initial zoning district, excluding lots in a recorded plat.
2. A unit of land created solely to establish a separate tax account, or for mortgage purposes, that does not conform to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed, tax account or contract creating it was signed by the parties to the deed or contract, unless it is sold under the foreclosure provisions of Chapter 88 of the Oregon Revised Statutes.

LOT, THROUGH: A lot that has street frontage on two or more non-intersecting streets. A lot may be both a corner lot and a through lot.

LOT WIDTH: The mean horizontal distance between the side lot lines of a lot.

LOT, ZONING: A "zoning lot or lots" is a single tract of land located within a single block, which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

LOW VOLUME IRRIGATION: The application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

MAJOR TRANSIT STOP: A transit center, major bus stop, or light rail stop, as identified on Comprehensive Plan Map 5-8a, *Transit, Urban*.

MAJOR TRANSIT STREET: A street with a Frequent Service Bus Line, as identified on Comprehensive Plan Map 5-8a, *Transit, Urban*; existing or planned High Capacity Transit, as identified on Comprehensive Plan Map 5-8c, *High Capacity Transit (HCT) System Plan*; or both.

MANUFACTURED DWELLING: A mobile home or manufactured home but not a residential trailer or recreational vehicle.

MANUFACTURED DWELLING PARK: Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. Manufactured dwelling park does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot.

MANUFACTURED HOME: A structure constructed on or after June 15, 1976, for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy by one family, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

MARIJUANA: The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

MARIJUANA ITEMS: Marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

MARIJUANA PROCESSING: The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission (OLCC), a holder of a research certificate issued by the OLCC, or registered with the Oregon Health Authority.

MARIJUANA PRODUCTION: The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission (OLCC), a holder of a research certificate issued by the OLCC, or registered with the Oregon Health Authority and a “person designated to produce marijuana by a registry identification cardholder.”

MARIJUANA RETAILING: The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

MARIJUANA WHOLESALING: The purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

MASTER PLAN: A sketch or other presentation showing the ultimate development layout of a parcel of property that is to be developed in successive stages or subdivisions. The plan need not be completely engineered but shall be of sufficient detail to illustrate the property's inherent features and probable development pattern.

MILL SITE, ABANDONED OR DIMINISHED: A mill, plant, or other facility engaged in the processing or manufacturing of wood products, including sawmills and facilities for the production of plywood, veneer, hardboard, panel products, pulp, and paper, that is located outside of urban growth boundaries; was closed after January 1, 1980, or has been operating at less than 25 percent of capacity since January 1, 2003; and contains or contained permanent buildings used in the production or manufacturing of wood products.

MIXED USE: A mix of uses located within a single building, such as retail on the first floor and residential or office uses on the upper floors.

MOBILE HOME: A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy by one family, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976 and met the construction requirements of Oregon mobile home law in effect at the time of construction.

MOBILE VENDING UNIT: A vehicle that is used in selling and dispensing goods or services to the customer. Notwithstanding this definition, a mobile vending unit shall not be used in selling and dispensing marijuana items. As used in this definition, a vehicle is motorized or non-motorized transportation equipment containing an axle and intended for use on public roads, including, but not limited to, a car, van, pickup, motorcycle, recreational vehicle, bus, truck, detached trailer, or a truck tractor with no more than one trailer.

MOTEL: A building or series of buildings in which lodging only is offered for compensation and which may have more than five sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access to and adjoining parking for each rental unit designed primarily for automobile tourists and transient persons. The term includes auto courts, tourist courts, tourist homes, and motor lodges.

NATIVE PLANTS: Any indigenous or resident species currently or historically found in the Willamette Valley.

NATURAL AREA: An area of land or water that has substantially retained its character and functions as an important habitat for plant and animal life.

NONCONFORMING DEVELOPMENT: An element of development, such as landscaping, parking, height, signage, or setbacks that was created in conformance with development regulations which, due to a change in the zone or zoning regulations, is no longer in conformance with the current applicable regulations.

NONCONFORMING USE: A use of any building, structure or land allowed by right when established or that obtained a required land use approval when established but, due to a change in the zone or zoning regulations, is now prohibited in the zone.

NURSERY: The propagation of trees, shrubs, vines or flowering plants for transplanting, sale, or for grafting or budding; planting of seeds or cuttings; grafting and budding one variety on another; spraying and dusting of plants to control insects and diseases, and buying and selling the above plant stock at wholesale or retail. Help and seasonal labor may be employed. The term "nursery" contemplates the sale of a product of such nursery. The conduct of a nursery business presumes parking places for customers, the keeping of sales records, and quarters for these functions. However, the use does not include the business of reselling goods purchased off the premises, except plant stock, or the establishment of a roadside stand.

NURSING HOME: A nursing, convalescent, or rest home facility licensed by the State under ORS chapters 441 and 442, or an assisting living facility licensed under ORS 443, which provides, for a period exceeding 24 hours, the continuous services of licensed nursing personnel to care for chronically ill or infirm patients, exclusive of those patients related to the owner or facility administrator by blood or marriage. Such nursing, convalescent, or rest home must provide nursing services to those patients who, in the judgment of a physician, registered nurse, or facility administrator, require remedial, restorative, supportive, or preventive nursing measures.

OPEN SPACE: Land within a development which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreational uses or for scenic purposes. Open space shall be used as such in perpetuity.

OVERBURDEN: Earth that lies above a natural deposit of a mineral.

OVERHEAD SPRINKLER IRRIGATION: The application of irrigation water from spray heads, rotors, or other above-ground emitters that send water through the air.

OWNER: Person or persons holding fee title to a parcel, lot or tract of land, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed the owner.

PARCEL: A single unit of land that is created by a partition of land. For the purposes of this Ordinance, parcel includes lot and lot of record unless otherwise specified in the context of the specific provisions.

PARKING STRUCTURE: A building having at least two levels that are designed and used for parking vehicles, or a building having one level of covered parking area under an open space or recreational use. A one-level surface parking area, garage, or carport is not a parking structure.

PARTITION: To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created. "Partition" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

PEDESTRIAN AMENITIES: Outdoor improvements directly visible and accessible to pedestrians that promote and facilitate pedestrian use, including plazas, pocket parks, courtyards, awnings or other weather protection, kiosks, gazebos, water features, drinking fountains, sculpture, outside seating areas, planters, trellises, and street furniture.

PEDESTRIAN PATHWAY: A hard-surfaced or permeable hard-surfaced pedestrian facility adjacent to a public roadway where there is no curb, but is protected from vehicular traffic or set back behind a planting strip.

PEDESTRIAN-SCALE LIGHTING: Street lights designed to illuminate sidewalks to provide security for nighttime use by pedestrians. Pedestrian scale lighting includes ornamental lighting with a 14- to 25-foot mounting height and which meets the Illumination Society guidelines for Commercial Collector roadways.

PENNANT: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended, usually in series, from a rope, wire, or string, and designed to move in the wind.

PERSON DESIGNATED TO PRODUCE MARIJUANA BY A REGISTRY IDENTIFICATION CARDHOLDER: A person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475B.420 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

PERVIOUS: Any surface or material that allows the passage of water through the material and into the underlying soil.

PLAT, FINAL: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a partition or subdivision and recorded as required by Oregon Revised Statutes Chapter 92.

PLAT, PRELIMINARY: A clearly legible and approximate drawing of the proposed layout of streets, blocks, lots and other elements of a subdivision or partition which shall help furnish a basis for the approval or disapproval of the general layout of a partition or subdivision. As used in this Ordinance, preliminary plat shall be synonymous with tentative plan as used in Oregon Revised Statutes Chapter 92.

POROUS PAVEMENT: Surface to walk, drive or park on that may reduce stormwater runoff by allowing water to soak into the ground. Examples are permeable pavers, pervious concrete, porous asphalt, and gravel.

PREMISES: A lot, building, or portion of a lot or building, occupied by a use with its appurtenances.

PRESERVATION, CULTURAL RESOURCES: The identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

PRIMARY BUILDING WALL: Exterior building wall which contains a public entrance to the occupant's premises and faces either a street or a parking area.

PRODUCE STAND: A table, bench, cart, or structure, any of which may be covered, that is located or erected for the purpose of direct sales by growers of agricultural goods, including vegetables, fruits, flowers, bulbs, herbs, plants, honey, and similar products, but not including marijuana or processed foods such as jams or jellies, that are produced on the same tract on which the produce stand is located.

PROFESSIONAL SERVICES: Activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist, teacher, real estate agent, and insurance agent.

PROPERTY LINE ADJUSTMENT: A relocation of a common property line between two abutting lots of record that does not create an additional lot of record. As used in this definition, a property line is a boundary between two abutting lots of record.

PUBLIC OWNERSHIP: Land owned by federal, state, regional, or local government, or governmental agency.

PUBLIC UTILITY: A utility regulated by the Public Utility Commission under ORS 757 or any other utility that provides electrical energy directly to consumers within the State of Oregon, including, but not limited to, municipalities, cooperatives and people's utility districts.

PUBLIC WATER SYSTEM: A system for the provision to the public of piped water for human consumption, if such system has more than three service connections and is a facility licensed by the State of Oregon Health Division.

RAINWATER COLLECTION SYSTEM: A system of pipes, container (rain barrel, rainwater tank, pond, or rainwater reservoir), valves and associated apparatus for collecting and storing harvested rainwater runoff, typically from rooftops via rain gutters, but also from ground catchment systems.

RECREATIONAL VEHICLE: A vehicle licensed by the State of Oregon, with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes, and has a gross floor area not exceeding 400 square feet in the set-up mode. These shall include but are not limited to park trailers, travel trailers, pickup campers, motor homes, fifth wheel trailers, camping and tent trailers.

RECYCLABLE DROP-OFF SITE: A convenient location not within a public right-of-way where mobile depots or drop boxes may be sited as a recyclable material collection point for nearby residents prior to delivery to a broker or user of such materials.

RECYCLE/RECYCLING: A process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity. It shall also include the collection, transportation, or storage of products by other than the original user or consumer, giving rise to the product's being in the stream of commerce for collection, disposal, recycling, reuse, resource recovery, or utilization.

RECYCLING CENTER: A facility that primarily purchases for recycling or reuse principal recyclable materials which have been source-separated by type, such as vegetative yard debris, paper, glass, and metal, by the person who last used the unseparated solid wastes, but not a salvage or junkyard. Principal recyclable materials are those items defined as such by the Oregon Department of Environmental Quality.

RELATIVE: A parent, child, brother, sister, grandparent, or grandchild of a person or person's spouse.

REPLAT: The act of platting the lots, parcels, tracts, or easements in a final plat to achieve a reconfiguration of the existing final plat or to increase or decrease the number of lots or parcels.

RESERVE STRIP: A strip of land, usually one foot in width, across the end of a street or alley which shall be under the ownership of the County to insure street extensions where needed.

RESIDENTIAL TRAILER: A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy by one family, that is being used for residential purposes, and that was constructed before January 1, 1962, in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction and is greater than 400 square feet and less than 700 square feet.

RESOURCE RECOVERY FACILITY: Any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse, but not a salvage or junkyard.

RHODODENDRON: The unincorporated community of Rhododendron, as identified on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

RIGHT-OF-WAY: A passageway conveyed for a specific purpose.

ROAD: A public or private way created to provide ingress to, or egress from, one or more lots, parcels, areas or tracts of land, or that provides for travel between places by vehicles. A private way created exclusively to provide ingress and egress to land in conjunction with a forest, farm or mining use is not a “road:”. The terms “street”, “access drive” and “highway” for the purposes of this Ordinance shall be synonymous with the term “road”.

ROAD, COUNTY: A public way under County jurisdiction which has been accepted into the County road maintenance system by order of the Board of County Commissioners.

ROAD, PRIVATE: A private way created by deed or easement to provide vehicular ingress to, or egress from, three or more lots or parcels.

ROAD, PUBLIC: A public way dedicated or deeded for public use but not accepted into the County road maintenance system, intended primarily for vehicular circulation and access to abutting properties.

ROADWAY: That portion of a road or alley that has been improved for vehicular and pedestrian traffic.

SALVAGE: Separating, collecting, or retrieving reusable solid waste for resale.

SALVAGE, JUNKYARD: A location at which solid wastes are separated, collected, and/or stored pending resale.

SCHOOL, COMMERCIAL: A building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.

SENSITIVE GROUNDWATER AREA: Any area classified by the State of Oregon as a groundwater limited area, critical groundwater area, or other area where new groundwater appropriations are restricted by the State of Oregon.

SERVICE STATION: A commercial establishment with sales and services limited to the sale of motor fuels and supplying goods and service generally required in the operation and maintenance of automotive vehicles and fulfilling a motorist's needs. These may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubricating services; the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products. Major automotive repairs, painting and fender work are excluded. An electric vehicle charging station is not a service station.

SETBACK: The shortest horizontal distance between a structure and the lot line.

SETBACK, FRONT: The shortest horizontal distance between a structure and the front lot line.

SETBACK, REAR: The shortest horizontal distance between a structure and the rear lot line.

SETBACK, SIDE: The shortest horizontal distance between a structure and the side lot line.

SHARED PARKING: Parking spaces used jointly by two or more uses within the same development, or separate adjacent developments, which either have peak hours of operation that do not overlap, or typically provide services to many of the same patrons (e.g., restaurant in an office complex or hotel providing lodging for convention participants within the same development), provided satisfactory legal evidence is presented in the form of deeds, leases, or contracts securing full access to such parking spaces for all parties jointly using them.

SIDEWALK: A concrete pedestrian facility adjacent to a curb along a public road or setback from the curb behind a planting strip.

SIGN: A presentation or representation, other than a house number, by words, letters, figures, designs, pictures or colors displayed out of doors in view of the general public so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of identification. This definition specifically includes billboards, ground signs, freestanding signs, wall signs, roof signs, logo signs, and signs on the following: marquees, awnings, canopies, street clocks and furniture and includes the surface upon which the presentation or representation is displayed.

SIGN, ANIMATED: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

SIGN AREA, OR SURFACE AREA: The area, on the largest single face of a sign, within a perimeter which forms the outside shape of a sign. If the sign consists of more than one module, the total area of all modules will constitute the sign area. The area of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of a three-dimensional, round or irregular shape, the largest cross section shall be used in flat projection for the purpose of computing sign area.

SIGN, BUILDING: Any sign attached to any part of a building, as contrasted to a freestanding sign.

SIGN, CHANGEABLE COPY: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance.

SIGN, COMMERCIAL: Any sign associated with a commercial activity.

SIGN, DIRECTORY: An onsite sign that identifies and directs traffic to a number of tenants, uses, or buildings within a development.

SIGN, ELECTRONIC MESSAGE CENTER: A sign, display or device, or portion thereof, whose message may be changed by electronic process or remote control, and includes electronic time and temperature displays and the device known in the advertising industry as a commercial electronic variable message sign.

SIGN, FREESTANDING: A sign not attached to a building.

SIGN, INCIDENTAL: A sign, generally informational, that has a purpose secondary to the use of the site on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives.

SIGN, INTEGRAL ROOF: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SIGN, LOGO: A sign consisting of a trademark or symbol.

SIGN, MESSAGE: Anything displayed on an electronic message center sign, including copy and graphics.

SIGN, MONUMENT: A sign which extends from the ground or which has a support which places the bottom thereof less than two feet from the ground.

SIGN, OFF-PREMISES: A sign which advertises goods, products or services which are not sold, manufactured, or distributed on or from the premises or facilities on which the sign is located.

SIGN, POLE: A sign erected and maintained on a freestanding frame, mast or pole and not attached to any building but does not include ground-mounted signs.

SIGN, PORTABLE: Any sign not permanently attached to the ground or other permanent structure, and/or designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used as other than a sign in the normal day-to-day operations of the business for transportation of goods and/or personnel.

SIGN, PROJECTING: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

SIGN, PUBLIC SERVICE INFORMATION: Any sign, or message on an electronic message center sign, which provides the time, date, temperature, weather, or information concerning civic, charitable or other noncommercial activities.

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

SIGN, ROOF: Any sign erected and constructed wholly on and on top of the roof of a building, supported by the roof structure.

SIGN, SEGMENTED MESSAGE: Any message or distinct subunit of a message presented by means of at least one display change on an electronic message center sign.

SIGN, TEMPORARY: Any sign that is normally considered to be of temporary duration and is not permanently mounted. Examples include, but are not limited to: commercial signs for limited term events, election signs, real estate signs, etc.

SIGN, TRAVELING MESSAGE: A message which appears to move across an electronic message center sign.

SIGN, WALL: Any sign parallel to, and attached within six inches of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

SIGN, WINDOW: Any sign, pictures, symbol, or combination thereof, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SIGNIFICANT NATURAL AREAS: Natural areas as defined in "Oregon National Areas - Clackamas County Data Summary" published by The Nature Conservancy. This list of natural areas may be amended by the County as additional areas are identified.

SMALL POWER PRODUCTION FACILITY: A facility that produces energy primarily by use of biomass, waste, solar energy, wind power, water power, geothermal energy, or any combination thereof; is more than 50 percent owned by a person who is not an electric utility, an electric utility holding company, an affiliated interest, or any combination thereof; and has a power production capacity that, together with any other small power production facility located at the same site and owned by the same person, is not greater than 80 megawatts.

SNOW SLIDE AREA: The area around a building that may be subject to snow buildup as a result of snow sliding from the sloped roof of the building.

SOIL MOISTURE SENSOR: A device that measures the amount of water in the soil. The device also suspends and initiates irrigation events.

SOLAR ENERGY SYSTEM: Any solar collector, or other solar energy device, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating, or electricity.

1. The power generating capacity of a roof-mounted solar energy system that is located on a primary use, conditional use, or limited use structure is limited only by the size of the system that can fit within the confines of the roof surface to which it is mounted.
2. The power generating capacity of a ground-mounted solar energy system, or of a roof-mounted solar energy system that is located on an accessory structure, is limited to power consumed by the development to which the system is accessory, or—if the system feeds power into the grid of a public utility company—to an amount equivalent to no more than the annual usage of the development to which the system is accessory.

SOLID WASTE: As defined in Chapter 10.03, *Solid Waste and Wastes Management*, of the Clackamas County Code.

STORY: A portion of a building included between a floor and the ceiling next above it, exclusive of a basement.

STREAM: A body of perennial running water, together with the channel occupied by such running water.

STREAM CORRIDOR AREA: An area including the streambed and a required strip or buffer of land on each side of the streambed necessary to maintain streamside amenities and existing water quality. The width of the stream corridor area varies with the site conditions and shall be determined by on-the-ground investigation, as provided under Subsection 1002.04(B). The intent of the stream corridor area shall be to preserve natural environmental qualities and the function of land to purify water before it reaches the stream but not to prohibit timber management activities pursuant to the State Forest Practices Act.

STREET FRONTAGE: The entire linear distance of a lot abutting a street. Toe strips or flair strips shall not be used to satisfy the minimum street frontage requirements of the Ordinance.

STREET: See “ROAD”.

STREET FURNITURE: Any structural element other than residential, industrial or commercial buildings, streets, sidewalks and curbs shall be considered street furniture including, but not limited to, benches, bus shelters, newsstands, bulletin boards, kiosks, drinking fountains, bicycle stalls, etc.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground.

SUBDIVIDE: To divide an area or tract of land into four or more lots within a calendar year when such area or tract exists as a unit or contiguous units, under a single ownership at the beginning of such year, whether or not that area or tract of land is divided by a water course or a road right-of-way.

SUBDIVISION: A division of property creating four or more lots in the same calendar year.

SUBDIVISION, MAJOR: A subdivision creating 11 or more lots in the same calendar year.

SUBDIVISION, MINOR: A subdivision creating four to 10 lots in the same calendar year.

SUNNYSIDE VILLAGE: The Sunnyside Village community plan area, as identified on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan, Land Use Plan Map*.

SURFACE MINING: Includes the mining of minerals by removing overburden and extracting a natural mineral deposit thereby exposed, or simply such extraction. Surface mining includes open-pit mining, auger mining, production of surface mining waste, prospecting and exploring that extracts minerals or affects land, processing to include rock crushing and batch plant operations, and excavation of adjacent offsite borrow pits other than those excavated for building access roads. Surface mining does not mean operations within a road right-of-way or other easement for the purpose of construction, reconstruction, or maintenance; excavations of sand, gravel, clay, rock, or other similar materials by a landowner or tenant for the purpose of construction, reconstruction, or maintenance of access roads; excavation or grading in the process of farming, forestry, or cemetery operations, or other onsite construction, unless more than 5,000 cubic yards of such materials are removed from the property for compensation, except that more than 5,000 cubic yards of such materials may be removed from the property for compensation when the construction activities are authorized by a building permit.

SURFACE MINING, MINERALS: Soil, clay, stone, sand, gravel, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial, or construction use.

SURFACE MINING, NONAGGREGATE MINERALS: Coal and metal-bearing ores, including, but not limited to, ores that contain nickel, cobalt, lead, zinc, gold, molybdenum, uranium, silver, aluminum, chrome, copper, or mercury.

SURFACE MINING, OPERATOR: A legal entity engaged in surface mining or in an activity at a surface mining site preliminary to surface mining.

SURFACE MINING, RECLAMATION: Procedures designed to minimize the disturbance from surface mining and to provide for the rehabilitation of surface resources through the use of plant cover, soil stabilization, and other procedures to protect the surface and subsurface water resources, and other measures appropriate to the subsequent beneficial use of mined lands.

SURFACE WATER MANAGEMENT REGULATORY AUTHORITY: The surface water management district in which the subject property is located, or, if there is no such district, the County.

TRACT: One or more contiguous lots of record under the same ownership. Notwithstanding the preceding definition, as used in Sections 706, *Habitat Conservation Area District*, 709, *Water Quality Resource Area District*, 1012, *Lot Size and Density*, 1013, *Planned Unit Developments*, and 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*, a tract is a unit of land (other than a lot or parcel) created by a subdivision, partition, or replat.

TRAIL: A hard- or soft-surfaced facility for pedestrians, bicyclists, or equestrians that is separate from vehicular traffic. Trails often go through natural areas and are designed to have a minimal impact on the natural environment.

TRANSFER STATION: A fixed or mobile facility used as part of a solid waste collection and disposal system or resource recovery system, between a collection route and a processing facility or a disposal site, including, but not limited to, drop boxes made available for general public use. Solid waste collection vehicles are not transfer stations.

TRANSIT STOP: Any posted bus or light rail stop.

TURF LAWN: A ground-cover surface made up of thick, closely mowed, cultivated grass.

UNDERGROUND STRUCTURE: A structure in which more than 50 percent of the cubic footage of the enclosed, covered space is (1) constructed below the highest elevation of the ground adjoining the structure site prior to excavation; and (2) covered over by ground materials, such as soil, sod, sand or exterior paving, which are continuous on at least one side of the structure with contiguous surface ground materials. Conventional roofing materials may be used to cover any portion of the structure which extends above ground elevation.

UNINCORPORATED COMMUNITY: A settlement that conforms to the definition set forth in Chapter 660, Division 22 of the Oregon Administrative Rules. The County's unincorporated communities are identified in Chapter 4 of the Comprehensive Plan and shown on Map IV-7 of the Comprehensive Plan.

USE: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied.

UTILITY CARRIER CABINETS: A small enclosure used to house utility equipment intended for off-site service, such as electrical transformer boxes, telephone cable boxes, cable television boxes, fire alarm boxes, police call boxes, traffic signal control boxes, and other similar apparatus.

VEHICLE, COMMERCIAL: A commercially licensed and operated vehicle exceeding the capacity of one ton.

VISUALLY SENSITIVE AREAS: Prominent natural landscape features such as hillsides, forests, and waterways; historic district; visual corridors along major highways and rivers. Natural landscapes that occur within the urban area and along traffic corridors are of higher visual significance.

WALKWAY: A hard-surfaced facility for pedestrians, within a development or between developments, distinct from surfaces used by motor vehicles. A walkway is distinguished from a sidewalk by its location on private property.

WELL, EXEMPT-USE: A well from which groundwater is used as defined in ORS 537.545(1) as amended.

WELL, PERMITTED: A well from which the intended use of water requires a registration, certificate of registration, application for a permit, permit, certificate of completion, or groundwater right certificate under ORS 537.505 to 537.795 and 537.992.

WEMME/WELCHES: The unincorporated community of Wemme/Welches, as identified on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

WETLANDS: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

WILDWOOD/TIMBERLINE: The unincorporated community of Wildwood/Timberline, as identified on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

ZIGZAG VILLAGE: The unincorporated community of Zigzag Village, as identified on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

ZONING DISTRICT, COMMERCIAL: A zoning district regulated by Section 500, *Commercial Districts*.

ZONING DISTRICT, INDUSTRIAL: A zoning district regulated by Section 600, *Industrial Districts*.

ZONING DISTRICT, NATURAL RESOURCE: A zoning district regulated by Section 400, *Natural Resource Districts*.

ZONING DISTRICT, RESIDENTIAL: A zoning district regulated by Section 300, *Urban and Rural Residential Districts*.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-232, 3/12/12; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16 and 3/1/16; Amended by Ord. ZDO-258, 1/18/17; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-267, 8/28/17; 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 automatic repeal of Ord. ZDO-267, 8/28/19]

833 GUEST HOUSES

833.01 STANDARDS

Guest houses shall comply with the following standards:

- A. Use: A guest house shall be used only by members of the family residing in the primary dwelling, their nonpaying guests, or their nonpaying employees who work on the premises. ~~A guest house shall not be a source of rental income or for residential occupancy by one or more paying guests for a period that does not exceed 30 consecutive nights by any one person. Residential occupancy by paying guests plus occupants of the primary dwelling shall not exceed 15 persons.~~
- B. Number: Only one guest house shall be allowed per lot of record.
- C. Maximum Floor Area: The maximum floor area shall be 600 square feet.
- D. Maximum Separation Distance: The guest house shall be located within 100 feet of the primary dwelling to which it is accessory. This distance shall be measured from the closest portion of each structure.
- E. Facilities: ~~Occupants of the guest house and the primary dwelling shall live together as one housekeeping unit, sharing the kitchen and laundry facilities in the primary dwelling.~~ The guest house may contain include one bathroom plus one additional sink, ~~but shall not include laundry facilities,~~ a stove, oven, or other cooking appliances.
- F. Utilities: All public water, electric, natural gas, and sanitary sewer service for the guest house shall be extended from the primary dwelling services. No separate meters for the guest house shall be allowed.
- G. On-Site Wastewater Treatment Systems: A guest house shall use the same on-site wastewater treatment system as the primary dwelling except when a separate system is required by the County due to site constraints, failure of the existing system, or where the size or condition of the existing system precludes its use.

[Amended by Ord. ZDO-268, 10/2/18]

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11-23-2013

I'm writing you in regards about Clackamas County's PAPA to amend their Comprehensive plan and Ordinance to allow Short term rentals in Residential district in ZDO 273 STR which would violate Goal 10 and Goal 2 and ORS 197.015(10)(a).

Clackamas County is in the process of amending their Ordinance in ZDO 273 to allow Short Term Rentals [STR] as an allowable use in their Residential Zoning Districts. Presently STR are prohibited in Residential Zones but has been a common practice in the Mt Hood area for several years without any enforcement action from the County. The County is amending their definition of "DWELLING UNIT in ZDO 202 to expand the definition from a building designed for residential occupancy by one family to include residential occupancy by one or more persons on a short term basis that does not exceed 30 consecutive nights.

"DWELLING UNIT: A building, or portion thereof, with one or more rooms designed for residential occupancy by one family, or, except as otherwise provided in this Ordinance, for residential occupancy by one or more persons on a short-term basis that does not exceed 30 consecutive nights".

- 1 My concerns are there are no findings as to how this amendment will affect affordable housing in CC especially in the Mt. Hood area as in Goal 10. There is substantial evidence from several meetings that by allowing STR the County action will increase the value of houses and increase rental income that will reduce the stock of affordable housing to purchase or rent by the month. Furthermore an owner wanting to rent their house could avoid any statues or rules governing tenant laws for monthly rentals by renting by the night instead of the month and could make more money. There is evidence in the record that the lack of affordable housing to rent in Welches over the last 9 years has reduced the number of students by over 40% at Welches Elementary and Middle Schools while every other school in Clackamas County has had a huge increase in students due to the population boom.

The purposed amendment is inconsistent with other definitions within ZDO 202 in the County's Ordinance that violates Goal 2 .The use of STR should be defined as a Commercial Use considering the County's definition of Commercial Uses, the intent was to regulate the commercial uses of businesses in commercial zones not commercial uses in residential zones especially when read together with the definition for Zoning District Commercial and Zoning District Residential.

“COMMERCIAL USE: The use of land and/or structures for the conduct of retail, service, office, artisan, restaurant, lodging, child care, adult daycare, entertainment, private recreational, professional, and similar uses.”

ZONING DISTRICT, RESIDENTIAL: A zoning district regulated by Section 300, Urban and Rural Residential Districts.

ZONING DISTRICT, COMMERCIAL: A zoning district regulated by Section 500, Commercial Districts.

- 2 Commercial uses are allowed in residential zones either as an Accessory to the Primary use as a Conditional Use Permit within Section 800 titled Special Use Requirements. An example would be ZDO 822 Home Occupations but requires the owner to reside full-time in a lawfully established dwelling unit on the tract on which the home occupation is located. STR's do not require the owner to reside at the house as a full time resident or requires a CU.

HOME OCCUPATION: An occupation or business activity that results in a product or service and is conducted, in whole or in part, in a dwelling unit, an accessory building normally associated with primary uses allowed in the subject zoning district, or both. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and parties are held more than six times in a calendar year or operate in excess of 24 total days in a calendar year

- 3 The proposed amendment is inconsistent with the County's Ordinance as it would nullify Conditional Use ZDO 832 Bed and Breakfast Homestay. At present the County regulates a Bed and Breakfast as a special use requirement as in section 800 and requires an individual Conditional Use costing \$3945.00 and a Public Hearing. No reasonable person would pay \$3945 and go through the time

BED AND BREAKFAST HOMESTAY: A use that is conducted in an owner-occupied single-family dwelling, provides rooms for rent on a daily or weekly basis to the public, and includes breakfast as part of the cost of the room. A maximum of two guest rooms and a maximum of five guests at one time are permitted.

Allowing STR's in Residential zones is a substantial change in land use in the present and the future as in ORS 197.015(10)(a) and the County should be required to amend each Residential District to allow STR's as a Primary Use or as a Conditional Use and include findings how this decision complies with Oregon Statewide Planning Goals. It's my opinion the County is attempting to game the process to a simple a housecleaning process that will have no affect by trying to amend a definition in the Ordinance.

CC Clackamas County