



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

LAND USE HEARING
November 2, 2022
10:00 AM

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

HEARING

File No.: ZDO-273: Short Term Rentals, on Remand

Applicants: Clackamas County

Proposal: This hearing is for consideration of File ZDO-273 (on remand), which contains amendments to the County's Zoning & Development Ordinance (ZDO) related to the allowance of short-term rentals (STRs). These amendments are being brought before the Board to remedy issues that the Land Use Board of Appeals (LUBA) identified through an appeal of the previously-adopted ZDO amendments related to STRs.

Staff Contact: Martha Fritzie, Principal Planner (MFritzie@clackamas.us, 503-742-4529), Nate Boderman, Sr. County Counsel (NBoderman@clackamas.us, 503-655-8364)



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

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

Staff Contact: Martha Fritzie, Planning and Zoning, mfritzie@clackamas.us
Nate Boderman, County Counsel, nboderman@clackamas.us

Board of County Commissioners Hearing Date: November 2, 2022

PROPOSAL:

The November 2, 2022 public hearing before the Board of County Commissioners (Board) is for consideration of File ZDO-273 (on remand), which contains amendments to the county's Zoning & Development Ordinance (ZDO) related to the allowance of short-term rentals (STRs). These amendments are being brought before the Board to remedy issues that the Land Use Board of Appeals (LUBA) identified through an appeal of the previously-adopted ZDO amendments related to STRs.

The Board recently repealed from the County Code separate regulations related to the licensing and regulation of STRs in the County. These recently repealed regulations, or considerations related to an alternative STR licensing and regulatory program in the County Code, are *not* the subject of this hearing but may be discussed separately by the Board in the future.

Background: The County has identified short-term rentals to be the rental of a dwelling unit, a portion of a dwelling unit, or a guest house for overnight residential purposes, for a period of up to 30 consecutive nights. Operators/hosts may be owners, renters, or property management companies. STRs 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 STRs generated enough complaints that it became 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 appear to be a large number that are not. It was thought that 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 more than a year of research, work, and public outreach to consider the regulation of homes being used as STRs, the Board went through a series of public hearings to consider establishing a STR registration and regulation program and to clarify that short-term rentals are an allowed use in the Zoning & Development Ordinance (ZDO). As structured by staff and the Board, there were two main components to the county's overall STR program; each component had its own adoption process and post-adoption actions.

1. County Code amendments: The Board adopted a STR registration and regulation program (Chapter 8.10) into County Code on November 25, 2020, with an effective date of July 1, 2021. Due to a number of factors, the Board postponed the effective date for this program twice - most recently until July 1, 2023. However, on September 8, 2022, the Board voted to repeal the STR program (Chapter 8.10). There is currently no registration/regulation program for STRs (except that STRs continue to be required to register for and pay the transient room tax).
2. Zoning & Development Ordinance (ZDO) amendments: On December 17, 2020, the Board adopted amendments to the county's ZDO that were intended to clarify that STRs are an allowed residential use. The amendments were adopted, in part, to support the STR program that had just been adopted into the County Code, but also because the ZDO needed clarification about whether and where STRs may be allowed. After that approval, the following actions occurred:
 - The ZDO amendments were appealed to the Oregon Land Use Board of Appeals (LUBA) by two parties, known as the petitioner and as the intervenor-petitioner. They identified seven Assignments of Error in the ZDO amendments.
 - On January 24, 2022, LUBA issued a decision denying two of the Assignments of Error (#3 and #5 from the intervenor-petitioner) and remanding (sending back to the County) all or parts of the remaining five Assignments of Error (LUBA No. 2021-003).
 - Both the County and intervenor-petitioner then appealed a limited portion of LUBA's decision to the Oregon Court of Appeals.
 - On June 23, 2022, the Court of Appeals affirmed LUBA's original decision to remand the ZDO amendments back to the county (1000 Friends of Oregon v. Clackamas County, 320 Or. App. 444 (2022)).

As a result of the remand, the previously-adopted ZDO amendments to allow STRs in the county are not in effect and STRs remain prohibited in most zoning districts in the unincorporated areas of the county.

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

The full text of the proposed ZDO amendments is included in the Board Packet. LUBA's grounds for the remand are summarized in the "Significant Issues" section and discussed in more detail in the *Staff Report and Recommendations to the Board of County*

Commissioners, also in the Board Packet. Both the LUBA and Court of Appeals decisions are found in Exhibit 1.

Current Proposal:

Ordinance ZDO-273 (on remand) includes amendments to the County’s Zoning & Development Ordinance (ZDO) that address the grounds for remand by allowing STRs in dwelling units and guest houses *outside* the Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F) zones. Specifically, the amendments would:

1. Add a definition of “short-term rental” to ZDO Section 202, *Definitions*.
2. Add “short-term rental” as an allowed use of a dwelling unit or guest house in all zoning districts where dwelling units or guest houses are allowed,
 - a. *except* for the EFU, TBR, and AG/F districts and
 - b. *except* for dwellings located in an urban or rural reserves where state law prohibits allowing new uses that were not allowed when the reserves were designated.
3. Amend ZDO Section 833, *Guest Houses*, to remove existing text that specifically prohibits using a guest house as a source of rental income and replace it 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.

These amendments would not authorize a new dwelling or a new guest house that would not otherwise be authorized in any zoning district.

RELATED PRIOR BCC ACTION:

Prior public hearings and policy sessions at which various decisions related to STRs occurred include:

- Public hearings - January 30, 2020; February 13, 2020; November 5, 2020; December 9, 2020, June 23, 2022; and September 8, 2022
- Policy/planning sessions - March 13, 2019; June 11, 2019; August 6, 2019; September 25, 2019; October 22, 2019; January 14, 2020; March 11, 2020; October 13, 2020; March 30, 2021; May 4, 2022; May 10, 2022; and August 3, 2022

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on the amendments originally 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.

The Planning Commission will not review ZDO-273 (on remand).

CPO AND HAMLET RECOMMENDATIONS:

All the County’s CPOs and Hamlets were sent notice of this proposal on October 12, 2022. No responses have been received from any of these entities.

Notice of the proposed amendments in ZDO-273 (on remand) was also published in the newspaper and sent to all the cities within the county; DLCDC, Metro, ODOT and other interested

agencies; and an interested parties list, specific to the STR project, that contains more than 300 individuals.

To date, the Planning and Zoning Division has received six comments. These comments are all included in the Board Packet (see Exhibits 3 through 8).

SIGNIFICANT ISSUES:

1. Assignments of Error to address on remand from LUBA. Proposed findings addressing each of the relevant Assignments of Error are included in the *Staff Report* in the Board Packet. A summary of the relevant Assignments of Error and how ZDO-273 (on remand) will address them follows.

A. *First Assignment of Error (petitioner), and First and Second Assignments of Error (intervenor-petitioner)*: LUBA found the County's amendments to be inconsistent with state law regulating uses on farm and forest lands, since the amendments have the effect of expanding the allowed use of a dwelling on lands zoned Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F). Specifically, LUBA found that state law does not allow STRs as a "use" in those zoning districts.

B. *Second Assignment of Error (petitioner)*: Given LUBA's determination that short-term rentals are impermissible expansions of the use of dwellings on farm and forest lands, LUBA found that the County's amendments do not comply with Statewide Planning Goals 3 (Agricultural Lands) and 4 (Forest Lands) or with agriculture and forest policies in the County's Comprehensive Plan.

Staff has addressed these Assignments of Error (identified in A & B) by changing the structure of the ZDO amendments to include STRs as an outright allowed use in dwellings, portions of dwellings, and guest houses located only in certain zoning districts, which do *not* include the EFU, TBR and AG/F districts. EFU, AG/F and TBR are the county's zoning districts that implement Goals 3 and 4.

C. *Fifth Assignment of Error (intervenor-petitioner)*: LUBA found that the County did not meaningfully consider and address affordable housing policies in its Comprehensive Plan.

Staff has addressed this Assignment of Error by providing additional findings related to affordable housing policies found in Chapter 6 of the county's Comprehensive Plan.

2. STRs as a home occupation. In its decision, LUBA does not preclude the idea that a STR might be able to be operated in a dwelling in any zoning district, including EFU, AG/F and TBR as a "home occupation". The county's ZDO allows for a "home occupation" to be approved, subject to the regulations found in ZDO Section 822, and even includes an option for a "home occupation" to be a bed and breakfast use. Not listing a STR as an outright allowed use of a dwelling in those zoning districts would not prevent a property owner from submitting a land use application and trying to qualify for a STR under the county's existing home occupation rules. It should be noted that for some, operating a STR may not fall neatly into the county's existing home occupation rules. In particular, the operator must live in the dwelling.

3. Overnight rental of a dwelling versus hourly rental of accessory structures or home amenities. Staff understood and consistently messaged to the public and decision-makers throughout the life of the STR project that a STR includes the *overnight* rental of a dwelling,

portion of a dwelling, or guest house. The fact that STRs must register for and pay the transient room tax, as well as the fact that the STR registration program that was recently repealed included regulations specific to the number of sleeping areas in a STR attest to this understanding. LUBA clearly understood this when it stated that *the ZDO amendments allow a person to stay in a dwelling unit or guest house overnight on a transient basis (p.22, LUBA 2021-003)*.

The hourly rental of only home amenities or other accessory structures on a property was never contemplated in the STR project and was not included in the ZDO amendments that were appealed to LUBA. However, it has come to Staff's attention in recent months that there is at least one online platform on which property owners can post and rent out their "home amenities," like a pool or tennis court, on an hourly basis. As noted in written testimony (see Exhibits 5 and 6), these rentals may include the hosting of parties or other events, and there is a specific request to consider this type of rental in the definition of a STR. Staff expects this issue to come up at the November 2 hearing and notes the following:

- Similar to STRs, the hourly rental of home amenities is not explicitly provided for in the ZDO and is therefore not allowed outright. A property owner could seek approval for this type of use as a home occupation (potentially with exceptions to the limitations on outdoor activity and noise that apply to most home occupations). In addition, the type of business referenced in Exhibits 5 and 6, which includes hosting pool parties, could conceivably be permitted through the county's ZDO as a conditional use permit for a "home occupation to host events," which does have some allowance for outdoor activities, or as a conditional use permit for a private recreational swimming pool.
- The proposed definition of a short-term rental in ZDO-273 (on remand) has been intentionally worded to make it clear that a STR includes "overnight" rental and not the hourly rental of an accessory structure or amenity. This is a clarification of the intent and is not intended to be a policy change. The definition also clarifies that the use of home amenities by overnight guests would be allowed.

Testimony in Exhibit 6 notes that *"arguably home amenity rentals fell under the County's zoning ordinance ZDO-273 and thus should be amended into the new zoning amendments*. Whether or not the Board agrees that the previous ZDO amendments would have unintentionally allowed for such a use or agrees with Staff's assessment that it would not, the previous ZDO amendments are not in effect and the county is not *required* to make the same amendments that were made in the past. In fact, because of the remand, the amendments proposed under ZDO-273 (on remand) must be different than were previously adopted.

- Because the hourly rental of home amenities is not something that was within the scope of the STR project and previously adopted ZDO amendments, research into appropriate regulations for this use, as well as public outreach around this concept should occur before the Planning Commission and Board consider adopting additional ZDO amendments to allow for it outside of existing ZDO permit options discussed above.

STAFF RECOMMENDATION:

Staff recommends approval of the amendments proposed in ZDO-273 (on remand), as drafted. The amendments in ZDO-273 (on remand) are necessary to clarify that STRs are an outright allowed use in many areas of the unincorporated county and are necessary to address the Assignments of Error remanded in LUBA 2021-003 and affirmed in 1000 Friends of Oregon v. Clackamas County, 320 Or. App. 444 (2022).



ZDO-273 (on remand)
Short-Term Rentals
Clackamas County Zoning & Development
Ordinance Amendments

Board of County Commissioners Hearing

November 2, 2022



Proposal: ZDO-273 (on remand)

- Amendments to Zoning & Development Ordinance (ZDO) to clarify where short-term rentals (STRs) are allowed
- Addresses remand from Land Use Board of Appeals (LUBA)

County Code regulations related to licensing and regulation of STRs are *NOT* the subject of this hearing



Why do we need a ZDO amendment?

- ZDO does not specifically allow for STRs
 - From a zoning perspective, STRs are not considered an allowed use of a dwelling in most zones
 - ZDO specifically prohibits use of a guest house for source of rental income
- Estimated to be $\approx 1,000$ operating in unincorporated county



Brief History: ZDO-273 (zoning code amendments)

- Dec. 17, 2020: ZDO amendments adopted
 - Appealed to LUBA by two parties, 7 Assignments of Error
- Jan. 24, 2022: LUBA decision
 - Denied 2 Assignments of Error
 - Remanded (sent back) all or parts of 5 Assignments of Error
 - Portion of LUBA decision appealed to OR Court of Appeals
- June 23, 2022: Court of Appeals decision
 - Affirmed LUBA decision to remand



Proposed ZDO Amendments

- Section 202, *Definitions*
 - Add “short-term rental”
 - Overnight residential occupancy
 - Maximum 15 people – same as current maximum for a “family” in a dwelling unit
- Sections 315, 316, 317, 510 & 513 (*Residential and Commercial zones that allow dwellings*)
 - Add STR as outright allowed use in dwellings and guest houses allowed in underlying zoning district
 - *Except* in urban or rural reserves
- Section 833, *Guest Houses*
 - Allow rental, but only as STR



Remand – Assignment of Error 1 (*petitioner*) & Assignment of Error 1 & 2 (*intervenor-petitioner*)

- Amendments inconsistent with state law regulating farm and forest lands
 - STRs not an allowed non-farm use under state laws that dictate what can be allowed on farm and forest lands
- Proposed remedy (ZDO-273, on remand)
 - LUBA clearly identifies STR as a separate “use”
 - ZDO amendments restructured and revised to include STRs as a “use” to zones that allow dwellings and guest houses
 - Does not include EFU, AG/F & TBR (county’s farm and forest zones)



Remand – Assignment of Error 2 (*petitioner*)

- Amendments did not comply with
 - Statewide Planning Goal 3, *Agricultural Lands* & Goal 4, *Forest Lands*
 - Comprehensive Plan policies related to agriculture and forest lands
- Proposed remedy (ZDO-273, on remand)
 - Not allowing STRs in EFU, AG/F & TBR eliminates conflict (county zones that implement Goals 3 & 4)



Remand – Assignment of Error 5 (*intervenor-petitioner*)

- Affordable housing policies in Comp Plan not adequately addressed
- Proposed remedy (ZDO-273, on remand)
 - Two policies referenced had been amended by ZDO-282
 - Additional findings drafted to address current Plan policies related to affordable housing (see staff report)



Significant Issues/ Considerations

- STRs as a home occupation under existing ZDO regulations
 - May be an option for some property owners
- Hourly rental of home amenities
 - Swimming pools, play structures, etc (Swimply)
 - May be able to authorize use through other land use process (e.g. home occupation, home occupation to host events, conditional use for recreation facility)



Staff Recommendation

- Approval of ZDO-273 (on remand), as drafted
- Proposed ZDO amendments would provide more certainty to future and existing property owners and address LUBA remand issues





Questions?





**STAFF REPORT AND RECOMMENDATION TO THE BOARD OF COUNTY
COMMISSIONERS**

Response to Remand at LUBA No. 2021-003

To: Board of County Commissioners

From: Martha Fritzie, Principal Planner
Nate Boderman, Assistant County Counsel

Date: October 26, 2022

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

BACKGROUND

The County has identified short-term rentals to be the rental of a dwelling unit, a portion of a dwelling unit, or a guest house for overnight residential purposes, for a period of up to 30 consecutive nights. 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 STRs generated enough complaints that it became 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 appear to be a large number that are not. It was thought that 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 more than a year of research, work, and public outreach to consider the regulation of homes being used as STRs, the Board went through a series of public hearings to consider establishing a STR registration and regulation program and to clarify that short-term rentals are an allowed use in the Zoning & Development Ordinance (ZDO). As structured by staff and the

Board, there were two main components to the county's overall STR program; each component had its own adoption process and post-adoption actions.

1. County Code amendments: The Board adopted a STR registration and regulation program (Chapter 8.10) into County Code on November 25, 2020, with an effective date of July 1, 2021. Due to a number of factors, the Board postponed the effective date for this program twice - most recently until July 1, 2023. However, on September 8, 2022, the Board voted to repeal the STR program (Chapter 8.10). There is currently no registration/regulation program for STRs (except that STRs continue to be required to register for and pay the transient room tax).
2. Zoning & Development Ordinance (ZDO) amendments: On December 17, 2020, the Board adopted amendments to the county's ZDO that were intended to clarify that STRs are an allowed residential use. The amendments were adopted, in part, to support the STR program that had just been adopted into the County Code, but also because the ZDO needed clarification about whether and where STRs may be allowed. After that approval, the following actions occurred:
 - The ZDO amendments were appealed to the Oregon Land Use Board of Appeals (LUBA) by two parties, known as the petitioner and as the intervenor-petitioner. They identified seven Assignments of Error in the ZDO amendments.
 - On January 24, 2022, LUBA issued a decision denying two of the Assignments of Error (#3 and #5 from the intervenor-petitioner) and remanding (sending back to the County) all or parts of the remaining five Assignments of Error (LUBA No. 2021-003).
 - Both the County and intervenor-petitioner then appealed a limited portion of LUBA's decision to the Oregon Court of Appeals.
 - On June 23, 2022, the Court of Appeals affirmed LUBA's original decision to remand the ZDO amendments back to the county (1000 Friends of Oregon v. Clackamas County, 320 Or. App. 444 (2022)).

LUBA's grounds for the remand are detailed and addressed in the "Findings" section below.

As a result of the remand, the previously-adopted ZDO amendments to allow STRs in the county are not in effect and short-term rentals remain prohibited in most zoning districts in the unincorporated areas of the county.

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

The public hearing held before the Board of County Commissioners on November 2, 2022 is to consider *only* the ZDO amendments proposed in Planning File ZDO-273 (on remand) and to consider the findings addressing the Assignments of Error remanded to the county.

PROPOSAL

Ordinance ZDO-273 (on remand) includes amendments to the County's Zoning & Development Ordinance (ZDO) that address the grounds for remand by allowing STRs in dwelling units and guest houses *outside* the Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F) districts zones, which are the districts in the county that directly implement Statewide Planning Goals 3 and 4. Specifically, the amendments would:

1. Add a definition of “short-term rental” to ZDO Section 202, *Definitions*.
2. Add “short-term rental” as an allowed use of a dwelling unit or guest house in all zoning districts where dwelling units or guest houses are allowed,
 - a. *except* for the EFU, TBR, and AG/F districts and
 - b. *except* for dwellings located in an urban or rural reserves where state law prohibits allowing new uses that were not allowed when the reserves were designated
3. Amend ZDO Section 833, *Guest Houses*, to remove existing text that specifically prohibits using a guest house as a source of rental income and replace it 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.

These amendments would not authorize a new dwelling or a new guest house that would not otherwise be authorized in any zoning district.

It should be noted that under the proposal in ZDO-273 (on remand), not all dwellings outside of the EFU, TBR and AG/F zones would be allowed to be used as STRs. Dwellings that are approved with specific restrictions on occupancy or usage (for example, a temporary dwelling for care, or “hardship dwelling”) would remain ineligible for use as an STR could not be used as a STR). In addition, structures on a property that are accessory to dwellings could not separately be used as a STR, but overnight renters of the STR may be allowed to have access to accessory structures like decks or swimming pools.

There are several other issues that are important to note when considering ZDO-273 (on remand) including:

- In its decision, LUBA does not preclude the idea that a STR might be able to be operated in a dwelling in any zoning district, including EFU, AG/F and TBR as a “home occupation”. The county’s ZDO allows for a “home occupation” to be approved, subject to the regulations found in ZDO Section 822, and even includes an option for a “home occupation” to be a bed and breakfast use. Not listing a STR as an outright allowed use of a dwelling in those zoning districts would not prevent a property owner from submitting a land use application and trying to qualify for a STR under the county’s existing home occupation rules. It should be noted that for some, operating a STR may not fall neatly into the county’s existing home occupation rules. In particular, the operator must live in the dwelling.
- Staff understood and consistently messaged to the public and decision-makers throughout the life of the STR project that a STR includes the *overnight* rental of a dwelling, portion of a dwelling, or guest house. The fact that STRs must register for and pay the transient room tax, as well as the fact that the STR registration program that was recently repealed included regulations specific to the number of sleeping areas in a STR attest to this understanding. LUBA clearly understood this when it stated that *the ZDO amendments allow a person to stay in a dwelling unit or guest house overnight on a transient basis (p.22, LUBA 2021-003)*.

The hourly rental of only home amenities or other accessory structures on a property was never contemplated in the STR project and was not included in the ZDO amendments that were appealed to LUBA. However, it has come to Staff’s attention in recent months that there is at least one online platform on which property owners can post and rent out their “home amenities,” like a pool or tennis court, on an hourly basis. As noted in written testimony (see Exhibits 5 and 6), these rentals may include the hosting of parties or other

events, and there is a specific request to consider this type of rental in the definition of a STR. However,

- Similar to STRs, the hourly rental of home amenities is not explicitly provided for in the ZDO and is therefore not allowed outright. A property owner could seek approval for this type of use as a home occupation (potentially with exceptions to the limitations on outdoor activity and noise that apply to most home occupations). In addition, the type of business referenced in Exhibits 5 and 6, which includes hosting pool parties, could conceivably be permitted through the county's ZDO as a conditional use permit for a "home occupation to host events," which does have some allowance for outdoor activities, or as a conditional use permit for a private recreational swimming pool.
- The proposed definition of a short-term rental in ZDO-273 (on remand) has been intentionally worded to make it clear that a STR includes "overnight" rental and not the hourly rental of an accessory structure or amenity. This is a clarification of the intent and is not intended to be a policy change. The definition also clarifies that the use of home amenities by overnight guests would be allowed.
- Because the hourly rental of home amenities is not something that was within the scope of the STR project and previously adopted ZDO amendments, research into appropriate regulations for this use, as well as public outreach around this concept should occur before the Planning Commission and Board consider adopting additional ZDO amendments to allow for it outside of existing ZDO permit options discussed above.

ASSIGNMENTS OF ERROR ADDRESSED (LUBA 2021-003)

The following discussion summarizes Staff's proposed findings as they relate to each of the Assignments of Error remanded by LUBA (2021-003) and affirmed by the Oregon Court of Appeals (1000 Friends of Oregon v. Clackamas County, 320 Or. App. 444 (2022)). See Exhibit 1 for full text of LUBA and Court decisions.

1. First Assignment of Error (petitioner), and First and Second Assignments of Error (intervenor-petitioner): The county's Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F) Districts implement Statewide Planning Goals 3 (Agricultural Lands) and 4 (Forest Lands). In this assignment of error, LUBA found the County's ZDO amendments to be inconsistent with state law regulating uses on farm and forest lands, since the amendments have the effect of expanding the allowed use of a dwelling on lands zoned EFU, TBR, and AG/F.

As noted by LUBA, *ORS 215.283 lists uses that are allowed on EFU land, and a county cannot allow uses that are not listed under the statute in an EFU zone. OAR chapter 660, division 6, similarly identifies the limited uses that are allowed on forest land.* The county has three zoning districts that are regulated by ORS 215.283 and OAR chapter 660, division 6: EFU, TBR and AG/F (which allows for both farm and forest uses).

While the intent of the county's ZDO amendments was to clarify that the county did not intend to regulate length of stay in a dwelling (just as the county does not regulate long-term rental of a dwelling), both LUBA and the Court concluded that the short-term residency of a dwelling is indeed a different "use" of that dwelling than the long-term residency of a dwelling. LUBA's decision (as affirmed by the Court) makes this distinction, asserting that the short-term rental of a dwelling is indeed a new "use" of the dwelling that must be

authorized under state law. Further, LUBA found that *if the county wants to allow the nonfarm short-term rental use of a dwelling unit on EFU land, that use must be allowed pursuant to either ORS 215.283(1) or (2)... and that use is not allowed under ORS 215.283. The uses that are allowed on forest land are similarly restricted by OAR 660-006-0025 and, absent any identification of authority under OAR 660-006-0025 for allowing the short-term rental use of dwelling units or guest houses on forest land, that use is not allowed. (p.10, LUBA, Exhibit 1).*¹

LUBA further explains this determination with a discussion about the types of “nonfarm” uses ORS 215.283 specifically allows in dwellings on EFU lands, including residential homes and room and board arrangements and concludes that if a short-term rental were an allowed use of an existing dwelling in EFU, then it would be an ORS 215.283(2)-type use. Similarly, LUBA notes that OAR 660-006-0025(1)(d) identifies the types of dwellings allowed on Forest lands and that there are other lodging-type facilities that are specifically allowed on such lands, like a guest ranch, but short-term rental of a dwelling unit is not specified in those rules. In the case of both Agricultural and Forest Lands, uses allowed conditionally, including many of the identified uses of dwellings or lodging, require a finding that the use would not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

LUBA further concludes that these state regulations *suggests a legislative intent to strictly regulate transient lodging on resource land with consideration of its effects on accepted farm and forest practices.*(p. 18, LUBA, Exhibit 1). The Court concurred, stating that *we conclude that regardless of whether the question is whether the short-term rental use of dwellings is implicitly included in the allowance of "dwellings" or "residences" on [resource] land or, instead, whether state law expressly allows the short-term rental use of dwellings on land zoned for resource uses, the answer is the same: It does not.*(p. 18, Court, Exhibit 1)

To address and remedy this issue, Staff has revised the structure of the ZDO amendments found in ZDO-273 (on remand) to:

- Define “short-term rental” as *The rental of a dwelling unit, portion of a dwelling unit, or guest house for overnight residential purposes, for a period of up to 30 consecutive nights. Overnight occupancy of the dwelling unit plus any guest house shall not exceed 15 persons. A short-term rental may include use of accessory structures, such as decks or swimming pools, that are located on the same lot as the dwelling unit or guest house being rented.*
- Include STRs as an allowed use in urban and rural residential zones and certain commercial zones that allow dwellings.² Notably, these amendments do not add

¹ While not relevant to the remedy associated with these Assignments of Error, Staff does note that LUBA errs in its assumption that guest houses are an allowed use in the EFU, TBR, and AG/F Districts. In fact, guest houses are prohibited in all three of those districts because they are not listed as an authorized use in either ORS 215.283 of OAR chapter 660, division 6.

² The ZDO sections amended by ZDO-273 (on remand) are Sections: 202, *Definitions*; 315, *Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30), Village Standard Lot Residential (VR-5/7), Village Small Lot Residential (VR-4/5), Village Townhouse (VTH), Planned Medium Density Residential (PMD), Medium Density Residential (MR-1), Medium High Density Residential (MR-2), High Density Residential (HDR), Village Apartment (VA), Special High Density Residential (SHD), and Regional Center High Density Residential (RCHDR) Districts*; 316, *Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Recreational Residential (RR), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10) Districts*; 317, *Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts*; 510, *Neighborhood Commercial (NC), Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL),*

STRs as an allowed use in the county's farm and forest zones that were the subject of the remand, including the EFU, TBR and AG/F Districts.

These amendments also do not allow for STRs in urban and rural reserves that were established pursuant to OAR 660, Division 27, which include the Metro area urban reserves and all the county's rural reserves. These areas are excluded because the required restructuring of the amendments, necessitated by LUBA's analysis, means that STRs are a separate use rather than just a clarification of what constitutes a dwelling and state law prohibits the county from making code changes that allow for new uses within these reserves.

However, nothing about the exclusions in EFU, TBR, and AG/F or in reserves would prevent a property owner from trying to qualify for a STR as a home occupation.

- Amend Section 833, *Guest Houses*, to remove existing text that specifically prohibits using a guest house as a source of rental income and replace it with text that makes it clear that the rental of a guest house on a short-term basis is allowed. This part of the proposal remains unchanged from the originally adopted STR amendments.

In short, the amendments proposed under ZDO-273 (on remand) would effectively allow for the STR use in dwellings and guest houses *outside* of the EFU, TBR, and AG/F Districts and the Metro area urban and rural reserves, provided that the dwelling or guest house is allowed by the underlying zoning district in which the property is located.

Therefore, the First Assignment of Error (petitioner) and First and Second Assignments of Error (intervenor-petitioner) are satisfactorily addressed.

2. Second Assignment of Error (petitioner): Given LUBA's determination that short-term rentals are impermissible expansions of the use of dwellings on farm and forest lands, LUBA found also that the County's amendments did not comply with Statewide Planning Goals 3 (Agricultural Lands) and 4 (Forest Lands) or with agriculture and forest policies in the County's Comprehensive Plan. LUBA concluded that because the ZDO amendments were not consistent with ORS 215.283 (1) and (2) and OAR chapter 660, division 6, then the amendments were necessarily inconsistent with the county's Comprehensive Plan policies that implement those provisions.

The amendments proposed under ZDO-273 (on remand) would effectively allow for the STR use in dwellings and guest houses *outside* of the EFU, TBR, and AG/F districts. The proposal includes no amendments to uses or regulations in the zones that implement Statewide Planning Goals 3 and 4 and therefore Goals 3 and 4 are not applicable. Similarly, agriculture and forest policies found in the county's Comprehensive Plan that implement those Goals are not applicable.

Therefore, the Second Assignment of Error (petitioner) is satisfactorily addressed.

3. Fifth Assignment of Error (intervenor-petitioner): LUBA found that the County did not meaningfully consider and address affordable housing policies in its Comprehensive Plan. In this Assignment of Error, LUBA found that the county did consider housing impacts generally, but did not specifically address affordable housing. Specific policies in the

Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OC), and Regional Center Office (RCO) Districts; 513, Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts; and 833, Guest Houses.

county's Comprehensive Plan referenced in this Assignment include the following from Chapter 6, *Housing*:

“6.B.1 Encourage development of affordable housing (including public subsidized housing) to produce a range of housing prices and rent ranges commensurate with the range of the County's household incomes. And

6.B.2 Encourage the development of low-and moderate-income housing with good access to employment opportunities.”

However, since the adoption of ZDO-273 in December, 2020, the county substantially revised Chapter 6 of the Plan and adopted a number of amendments to the ZDO to allow for more opportunities for the development of housing, including more affordable housing. These changes include:

- Substantially amending the two Comprehensive Plan policies noted in LUBA 2021-003 and identified above. Current affordable housing policies that may be relevant to the proposed amendments include:
 - *6.C.1. Encourage more affordable housing by allowing for a variety of housing densities and price ranges throughout the county.*
 - *6.C.2. Allow for rental units with a variety of size, location, and accessibility.*
- Making a number of changes to the county's ZDO to increase the supply of housing that is more affordable to households at all income levels, with a focus on housing for low-income households (subsidized affordable housing) and moderate-income households (smaller units that are naturally more “affordable”). These amendments:
 1. Increased maximum allowed density for multifamily dwellings in certain commercial zones from 25 dwelling units/acre to 60 dwelling units/acre. This action will make multifamily development in these zones more financially feasible and enable developers to provide more affordable units, rather than having to price them higher to cover shared development costs.
 2. Decreased minimum off-street parking requirements for multifamily development. This action will make the development of higher-density units more feasible on a site and reduce the per-unit development costs for multifamily development.
 3. Increased the affordable housing density bonus, from a maximum of 8% over base density to a maximum of 50% over base density. This action will allow and may incentivize affordable housing developers to provide more needed units.
 4. Added a density bonus for mixed-use development in certain commercial zones. This action is intended to incentivize mixed-use development, in part to enable more housing to be developed in proximity to needed goods and services and to transit options.
 5. Allowed duplexes, triplexes, quadplexes, townhouses, and cottage clusters (middle housing) in urban low-density residential areas, and identified development and design standards that apply to this middle housing. This action implemented House Bill 2001 [2019] and should result in the development of smaller, lower-priced dwellings, which in turn, will provide more opportunities for moderate-income households to afford rental or for-sale housing.

6. Removed the 3,000 square foot minimum lot size for residential development. This action will facilitate the development of smaller, more affordable homes on existing urban lots that were not separately developable under the previous regulations.
7. Simplified the maximum lot coverage requirements in urban low density residential zoning districts. This action increased the amount of lot area that can be covered with structures in several of these zones, which will help facilitate the development of middle housing.
8. Allowed and identified standards for middle housing land divisions. This action implemented Senate Bill 458 [2021] and will allow for more, lower-priced homeownership opportunities in the urban area.
9. Repealed design standards specific to manufactured dwellings, including minimum sizes and specific development standards that increased the expense of home placement. This action removes some of the cost barriers for manufactured dwellings and enabled them to be a more affordable option.

With this in mind, the county offers the following additional findings to address this Assignment of Error and specifically the relevant affordable housing policies in Chapter 6 of the Plan identified above:

- Potential impacts to affordable housing were considered throughout the life of the larger STR project (which began in 2019). Although there has been anecdotal evidence questioning if increased rental income generated from running an STR, in lieu of a traditional long-term rental, has motivated some owners to not pursue long-term rental as an option, it is important to note the following:
 - a. There are currently estimated to be approximately 1,000 STRs operating in the unincorporated area of the county, the majority of which are in the resort areas of Mt. Hood, where a large portion of the housing stock is vacation homes rather than primary residences for owner or renter occupancy; and
 - b. Based on the county's housing needs analysis (completed in 2019), there are approximately 62,000 dwelling units in the unincorporated area of the county, meaning that only approximately 1.5% of the current housing stock in the unincorporated area are STRs.
- Several national studies have considered impacts of STRs on the price of housing. Most conclude that STRs, on average, may have a minimal impact to home prices. As noted in the Wall Street Journal article, *Short-Term Rentals Have Modest Impact on Home Prices, Study Suggests* (see Exhibit 2) a report by Oxford Economics found that *short-term vacation rentals haven't significantly contributed to the rise in American housing costs. This report found that over a four-year period only 0.2 percentage points of the 4.3% rise in inflation-adjusted rent could be attributed to the effects of short-term rentals., For home sales, the increase amounts to less than \$9 on the average monthly mortgage payment.*

On a more local level, evidence from Clatsop County suggests STRs do not have a discernable impact on housing prices. A May 2022 report compiled from short-term rental data in Clatsop County (see Exhibit 2) found that the data *demonstrates that there is not a correlation between the issuance of short-term rental permits and housing prices.*

- Even if one were to concede that STRs may have a small impact on housing affordability or availability in some areas, this conclusion would not necessarily mean that allowing

STRs is contrary to the county's affordable housing policies. The county's policies, noted above, reference allowing for and encouraging the development of a variety of housing types in a variety of locations and at a variety of price points. The county has elected to address these policies through more direct means in the that would have a greater impact of affordability, such as creating more opportunities for the development of a greater variety of housing; more incentives for the development of affordable housing; and amending zoning regulations to help make the development of affordable housing more financially feasible in appropriate locations near services and transit. Allowing STRs would not interfere with these other efforts.

Therefore, the Fifth Assignment of Error (intervenor-petitioner) is satisfactorily addressed.

CONCLUSION AND RECOMMENDATION

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 in ZDO-273 (on remand) would provide the clarity that the ZDO currently lacks regarding the rental of a dwelling on a short-term basis. 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 hinge on 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. Owners of existing STRs in zoning districts that are *not* EFU, AG/F or TBR would be assured that there would not be 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, *Guest Houses* 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. 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 Board during the extensive process to consider a STR program.
- Nothing in these amendments would authorize a new dwelling or a new guest house that would not otherwise be authorized in any zoning district.
- With the amendments proposed in ZDO-273 (on remand) and the additional findings provided above, all the relevant Assignments of Error remanded to the county by LUBA (and affirmed by the Court) have been satisfactorily addressed.

Staff finds amendments in ZDO-273 (on remand) are necessary to clarify that STRs are an outright allowed use in many areas of the unincorporated county and are necessary to address

the Assignments of Error remanded in LUBA 2021-003 and affirmed in 1000 Friends of Oregon v. Clackamas County, 320 Or. App. 444 (2022). Therefore, Staff **recommends approval of the amendments proposed in ZDO-273 (on remand), as drafted.**

File ZDO-273, on remand

Zoning and Development Ordinance Amendments

Text to be added is underlined. Text to be deleted is ~~struck through~~.

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 (ORS) 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 ORS 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 other types of dwellings. Regular on-premise supervision by a registered physician, registered nurse, or other health care provider may be included.

COTTAGE CLUSTER: A group of four or more detached dwelling units with a common courtyard, all of which are located on the same lot of record or on middle housing lots.

COTTAGE CLUSTER DEVELOPMENT: A development site with one or more cottage clusters.

CULTURAL RESOURCE: Improvements, buildings, structures, signs, features,

sites, places, areas or other objects of scientific, aesthetic, educational, cultural, architectural, or historical significance to the community members of the county.

CULTURAL RESOURCE INVENTORY: The official list of designated cultural features, sites, districts subject to the provisions of Section 707, *Historic Landmark (HL)*, *Historic District (HD)*, and *Historic Corridor (HC)*.

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.

DUPLEX: A building that contains exactly two dwelling units, both of which are located on the same lot of record or on middle housing lots. If one of the two dwelling units is an accessory dwelling unit, the building is not a duplex.

DWELLING: A building that 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, DETACHED SINGLE-FAMILY: A building 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, residential trailer, or dwelling unit in a cottage cluster is not a detached single-family dwelling.

DWELLING, MULTIFAMILY: A building that contains five or more dwelling units.

DWELLING UNIT: A building, or portion thereof, with one or more rooms designed for residential occupancy by one family.

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 ORS 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:

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:

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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.

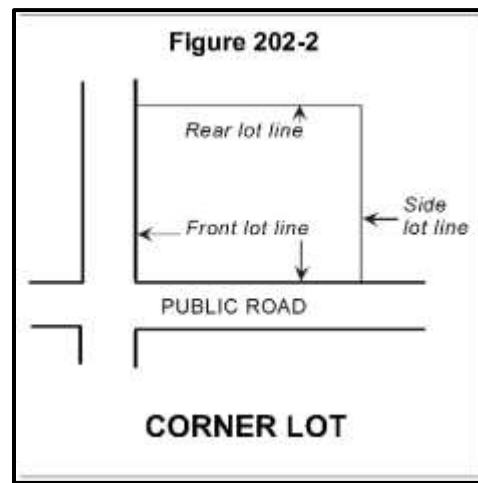
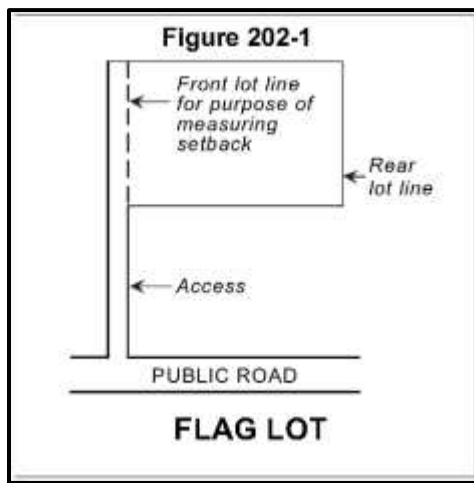
LOT, FLAG: A lot that has access to a road by means of a narrow strip of lot or easement.

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 ORS Chapter 88.

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 ORS 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.

MIDDLE HOUSING: A duplex, triplex, quadplex, townhouse, or cottage cluster.

MIDDLE HOUSING LAND DIVISION: A partition or subdivision of a lot of record that is developed, or proposed to be developed, with more than one middle housing

dwelling unit. The type of middle housing developed on the original lot of record is not altered by a middle housing land division.

MIDDLE HOUSING LOT: A lot or parcel created through a middle housing land division. A middle housing lot is a separate lot of record; however, development on a middle housing lot is limited by conditions imposed at the time of the middle housing land division. Middle housing lots are not divisible.

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 ORS 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 ORS 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 ORS 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 or elimination of all or a portion of the 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 the division line 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.

QUADPLEX: A building that contains exactly four dwelling units, all of which are located on the same lot of record or on middle housing lots.

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, other than a property line adjustment or a middle housing land division, 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.

SHORT-TERM RENTAL: The rental of a dwelling unit, portion of a dwelling unit, or guest house for overnight residential purposes, for a period of up to 30 consecutive nights. Overnight occupancy of the dwelling unit plus any guest house shall not exceed 15 persons. A short-term rental may include use of accessory structures, such as decks or swimming pools, that are located on the same lot as the dwelling unit or guest house being rented.

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,

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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, DRIVE-THRU: A freestanding or building sign for a commercial drive-thru window service that is oriented toward a drive-thru lane on the same property and that is for viewing by drivers and their passengers while they are in the drive-thru lane, but does not extend higher than eight feet above grade.

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.

TOWNHOUSE: A dwelling unit that shares at least one wall, or portion thereof, with another townhouse and is located on a separate lot of record from any other dwelling that is not an accessory dwelling unit.

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.

TRIPLEX: A building that contains exactly three dwelling units, all of which are located on the same lot of record or on middle housing lots.

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*.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

[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; Amended by Ord. ZDO-273, 1/17/21; Amended by Ord. ZDO-280, 10/23/21; Amended by Land Use Board of Appeals Remand of Ord. ZDO-273, 1/24/22; Amended by Ord. ZDO-282, 7/1/22]

315 URBAN LOW DENSITY RESIDENTIAL (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, AND R-30), VILLAGE STANDARD LOT RESIDENTIAL (VR-5/7), VILLAGE SMALL LOT RESIDENTIAL (VR-4/5), VILLAGE TOWNHOUSE (VTH), PLANNED MEDIUM DENSITY RESIDENTIAL (PMD), MEDIUM DENSITY RESIDENTIAL (MR-1), MEDIUM HIGH DENSITY RESIDENTIAL (MR-2), HIGH DENSITY RESIDENTIAL (HDR), VILLAGE APARTMENT (VA), SPECIAL HIGH DENSITY RESIDENTIAL (SHD), AND REGIONAL CENTER HIGH DENSITY RESIDENTIAL (RCHDR) DISTRICTS

315.01 PURPOSE

Section 315 is adopted to implement the policies of the Comprehensive Plan for Low Density Residential, Village Standard Lot Residential, Village Small Lot Residential, Village Townhouse, Medium Density Residential, Medium High Density Residential, High Density Residential, Special High Density Residential, Village Apartment, and Regional Center High Density Residential areas.

315.02 APPLICABILITY

Section 315 applies to land in the Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30), Village Standard Lot Residential (VR-5/7), Village Small Lot Residential (VR-4/5), Village Townhouse (VTH), Planned Medium Density Residential (PMD), Medium Density Residential (MR-1), Medium High Density Residential (MR-2), High Density Residential (HDR), Village Apartment (VA), Special High Density Residential (SHD), and Regional Center High Density Residential (RCHDR) Districts, hereinafter collectively referred to as the urban residential zoning districts.

315.03 USES PERMITTED

A. Uses permitted in each urban residential zoning district are listed in Table 315-1, *Permitted Uses in the Urban Residential Zoning Districts*. Uses not listed are prohibited, except:

1. In the PMD District, uses similar to one or more of the listed uses for the PMD District may be authorized pursuant to Section 106, *Authorizations of Similar Uses*; and
2. In the HDR, SHD, and RCHDR Districts, uses similar to one or more of the listed limited uses for the applicable zoning district may be authorized pursuant to Section 106.

B. As used in Table 315-1:

1. “P” means the use is a primary use.
 2. “A” means the use is an accessory use.
 3. “L” means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
-

4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
 5. “CPUD” means the use is allowed as a conditional use in a planned unit development.
 6. “X” means the use is prohibited.
 7. Numbers in superscript correspond to the notes that follow Table 315-1.
- C. Permitted uses are subject to the applicable provisions of Subsection 315.04, *Dimensional and Building Design Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

315.04 DIMENSIONAL AND BUILDING DESIGN STANDARDS

- A. General: Dimensional and building design standards applicable in the urban residential zoning districts are listed in Tables 315-2, *Dimensional and Building Design Standards in the Urban Low Density Residential Zoning Districts*; 315-3, *Dimensional and Building Design Standards in the VR-4/5, VR-5/7, and VTH Districts*; and 315-4, *Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts*. As used in Tables 315-2 through 315-4, numbers in superscript correspond to the notes that follow each table.
- B. Modifications: Modifications to the standards in Tables 315-2 through 315-4 are established by Sections 800, *Special Use Requirements*; 904, *Height Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*. Except in the HDR, SHD, and RCHDR Districts, modifications to the standards in these tables also are established by Section 903, *Setback Exceptions*.

Table 315-1: Permitted Uses in the Urban Residential Zoning Districts

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Accessory Buildings and Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A	A	A	A	A	A
Accessory Kitchens	A ¹	A ¹	A ¹	A ¹	X	A ¹	A ¹	X	X	X	X

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Bed and Breakfast Inns , subject to Section 832	C	X	C	X	X	P	P	P	X	L ² ,C ³	L ⁴
Bed and Breakfast Residences , subject to Section 832	C	X	C	P	X	P	P	P	P	X	X
Bus Shelters	A	A	A	A	P	A	A	A	A	A	A
Cemeteries , subject to Section 808	C	X	C	X	X	X	X	X	X	X	X
Child Care Facilities	C	C	C	C	C	C	C	L ⁵ ,C	C	L ² ,C ³	L ⁴
Civic and Cultural Facilities , including art galleries, museums, and visitor centers	X	X	X	X	X	X	X	L ⁵ ,C ⁶	X	L ² ,C ³	L ⁴
Community Halls	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD
Composting Facilities	X	X	X	X	X	X	X	X	X	X	X
Daycare Services, Adult	C	C	C	C	C	C	C	L ⁵ ,C	C	L ² ,C ³	L ⁴
Dwellings, including:											
Accessory Dwelling Units, subject to Section 839	A	A	A	A	X	X	X	X	X	X	X
Congregate Housing Facilities	X	X	X	P	P	P	P	P	P	P	P
Cottage Clusters	P ^{7,8}	P ^{7,8}	X	X	P	X	X	X	X	X	X
Detached Single-Family Dwellings	P ⁷	P ⁷	X	X	X	X	X	X	X	X	X
Duplexes	P ⁷	P ⁷	X	P	P	P	P	P	P	X	X
Manufactured Dwelling Parks, subject to Section 825	P ⁹ ,C	P ¹⁰	C	X	C	P	X	X	X	X	X

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Manufactured Homes	P ⁷	P ⁷	X	X	X	X	X	X	X	X	X
Multifamily Dwellings	X	X	X	X	P	P	P	P	P	P	P
Quadplexes	P ^{7,8}	P ^{7,8}	X	P	P	P	P	P	P	P	P
Townhouses	P ^{7,8}	P ^{7,8}	P	P	X	P ¹¹	P ¹¹	X	X	X	X
Triplexes	P ^{7,8}	P ^{7,8}	X	P	P	P	P	P	P	X	X
Entertainment Facilities , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	X	X	X	X	X	X	X	X	X	C ³	X
Farmers' Markets , subject to Section 840	A	A	A	A	A	A	A	A	A	A	A
Fences and Retaining Walls	P	P	P	P	P	P	P	P	P	P	P
Financial Institutions , including banks, brokerages, credit unions, loan companies, and savings and loan associations	X	X	X	X	X	X	X	L ⁵ ,C ⁶	X	L ² ,C ³	L ⁴
Fitness Facilities , including athletic clubs, exercise studios, gymnasiums, and health clubs	X	X	X	X	X	X	X	L ⁵ ,C	X	L ^{2,12} ,C	L ⁴ ,C
Fraternal Organization Lodges	C ¹³	X	C ¹³	X	C ¹³	C ¹³	C ¹³	C ¹³	X	C ¹³	C ¹³
Government Uses , unless such a use is specifically listed as a primary, accessory, limited, conditional, or prohibited use in the applicable zoning district	C ¹³	X	C ¹³	X	C ¹³	C ¹³	C ¹³	C ¹³	X	C ¹³	C ¹³
Guest Houses , subject to Section 833	A	X	A	X	X	X	X	X	X	X	X

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Home Occupations , including bed and breakfast homestays, subject to Section 822 ¹⁴	A	A	A	A	A	A	A	A	A	A	A
Horticulture, Nurseries, Hydroponics, and Similar Uses that Exceed an Accessory Use	C	X	X	X	X	X	X	X	X	X	X
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C	X	C	X	X	C	C	C	X	C	X
Hotels and Associated Convention Facilities	X	X	X	X	X	X	X	X	X	C ¹⁵	L ⁴ ,C
Hydroelectric Facilities	C	X	C	X	X	C	C	C	X	C	X
Libraries	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	L ⁵ ,C ⁶ , CPUD	CPUD	L ² ,C ³ , CPUD	L ⁴ , CPUD
Livestock , subject to Section 821	A	A	A	X	X	X	X	X	X	X	X
Marijuana Processing	X	X	X	X	X	X	X	X	X	X	X
Marijuana Production	X	X	X	X	X	X	X	X	X	X	X
Marijuana Retailing	X	X	X	X	X	X	X	X	X	X	X
Marijuana Wholesaling	X	X	X	X	X	X	X	X	X	X	X
Multi-Use Developments , subject to Section 844	C	X	X	X	X	C	X	C	X	C	X
Nursing Homes	C	C	C	P	P	P	P	P	P	P	P

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Offices , including accounting services, administrative, business, corporate, and professional offices, but not including offices for governmental uses. Examples include offices for the following: architectural services, business management services, call centers, employment agencies, engineering services, income tax services, insurance services, legal services, manufacturer’s representatives, office management services, property management services, real estate agencies, and travel agencies.	X	X	X	X	X	X	X	L ⁵ ,C ⁶	X	L ² ,C ³	L ⁴
Offices and Outpatient Clinics —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy	X	X	X	X	X	X	X	L ⁵ ,C ⁶	X	L ² ,C ³	L ⁴
Parking Structures	X	X	X	X	X	A	A	A	X	A	A
Pedestrian Amenities	P	P	P	P	P	P	P	P	P	P	P
Places of Worship , subject to Section 804	C	C	C	CPUD	C	C	C	C	CPUD	C	C

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Produce Stands , subject to Section 815	A	A	A	X	X	X	X	X	X	X	X
Public Utility Facilities ¹⁶	C ¹³	X	C ¹³	X	C ¹³	C ¹³	C ¹³	C ¹³	X	C ¹³	C ¹³
Radio and Television Studios , excluding transmission towers	X	X	X	X	X	X	X	X	X	L ² ,C ³	X
Radio and Television Transmission and Receiving Towers and Earth Stations ¹⁸	C ¹³	X	C ¹³	X	X	C ¹³	C ¹³	C ¹³	X	C ¹³	C ¹³
Recreational Vehicle Camping Facilities , subject to Section 813	X	X	X	X	X	C ¹³	C ¹³	C ¹³	X	X	X

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Recreational Uses, Government-Owned , including parks, amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; tables and seating; and similar recreational uses ¹⁸	P ¹⁹	P ¹⁹	P ¹⁹	P ²⁰	P ²⁰	P ²⁰	P ²⁰	P ²⁰	P ²⁰	P ²⁰	P ²⁰
Recreational Uses, Government-Owned Golf Courses ¹⁸	P ¹⁹	X	P ¹⁹	X	C ¹³	P ²⁰	P ²⁰	C ¹³	X	C ¹³	C ¹³
Recreational Uses , including boat moorages, country clubs, equine facilities, gymnastics facilities, golf courses, parks, and swimming pools ¹⁸	C ¹³	X	C ¹³	X	C ¹³	C ¹³	C ¹³	C ¹³	X	C ¹³	C ¹³
Recyclable Drop-Off Sites , subject to Section 819	A ²¹	A ²¹	A ²¹	A ²¹	A ²¹	A ²¹	A ²¹	A ²¹	A ²¹	A ²¹	A ²¹

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Retailing —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	L ⁵ ,C ⁶ , CPUD ²²	CPUD ²²	L ² ,C ³ , CPUD ²²	L ⁴ , CPUD ²²
Roads	P	P	P	P	P	P	P	P	P	P	P
Schools , subject to Section 805	C	C	C	CPUD	CPUD	C	C	L ^{5,23} ,C ^{6,23} , CPUD	CPUD	L ^{2,23} ,C ^{3,23} , CPUD	L ^{4,23} , CPUD

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Services, Business , including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	X	X	X	X	X	X	X	L ⁵ ,C ⁶	X	L ³ ,C ⁴	L ²
Services, Commercial— Construction and Maintenance , including contractors engaged in construction and maintenance of electrical and plumbing systems	X	X	X	X	X	X	X	X	X	C ³	X
Services, Commercial—Food and Beverage , including catering and eating and drinking establishments	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	L ⁵ ,C ⁶ , CPUD ²²	CPUD ²²	L ² ,C ³ , CPUD ²²	L ⁴ , CPUD ²²
Services, Commercial— Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	X	X	X	X	X	X	X	L ⁵ ,C ⁶	X	L ² ,C ³	L ⁴
Services, Commercial— Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	X	X	X	X	X	X	X	X	X	C ³	X

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Services, Commercial—Miscellaneous , including food lockers, interior decorating, locksmith, upholstering, and veterinary	X	X	X	X	X	X	X	L ⁵ ,C ⁶	X	L ² ,C ³	L ⁴
Services, Commercial—Personal and Convenience , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	L ⁵ ,C ⁶ , CPUD ²²	CPUD ²²	L ² ,C ³ , CPUD ²²	L ⁴ , CPUD ²²
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	CPUD ²²	L ⁵ ,C ⁶ , CPUD ²²	CPUD ²²	L ² ,C ³ , CPUD ²²	L ⁴ , CPUD ²²
<u>Short-Term Rental in a dwelling unit or guest house permitted by this table</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Signs , subject to Section 1010	A ²⁴	A ²⁴	A ²⁴	A ²⁴	A ²⁴	A ²⁴	A ²⁴	A ²⁴	A ²⁴	A ²⁴	A ²⁴
Telephone Exchanges	C ¹³	X	C ¹³	X	C ¹³	C ¹³	C ¹³	C ¹³	X	C ¹³	C ¹³
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A	A	A	A	A	A

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A	A	A	A	A	A
Transit Park-and-Rides	X	X	X	X	X	X	X	X	X	X	A
Utility Carrier Cabinets , subject to Section 830	P,C ²⁵	P,C ²⁵	P,C ²⁵	P,C ²⁵	P,C ²⁵	P,C ²⁵	P,C ²⁵	P,C ²⁵	P,C ²⁵	P,C ²⁵	P,C ²⁵
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1

¹ An accessory kitchen is permitted only in a townhouse, a detached single-family dwelling, or a manufactured home, to the extent that these dwelling types are permitted in the applicable zoning district. Only one accessory kitchen is permitted in each townhouse, detached single-family dwelling, or manufactured home.

- ² The limited use is permitted subject to the following criteria:
- a. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
 - b. The building floor area occupied by all limited uses shall not exceed 15 percent of the building floor area occupied by primary uses.
 - c. No outdoor storage of materials associated with the use shall be allowed.
 - d. The use shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat, or vibration which are detectable outside of the premises and are incompatible with primary uses.

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- ³ The use shall be developed in conjunction with a primary use on the same site, which is developed at the maximum allowed density for the site area.
- ⁴ The limited use is permitted subject to the following criteria:
- a. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
 - b. No outdoor storage of materials or display of merchandise associated with the use shall be allowed.
- ⁵ The limited use is permitted subject to the following criteria:
- a. The use shall be part of a development within a Design Plan area.
 - b. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
 - c. The building floor area occupied by all limited uses shall not exceed 10 percent of the building floor area occupied by primary uses. No single limited commercial use shall occupy more than 1,500 square feet of building floor area.
 - d. Allowing the use will not adversely impact the livability, value, and appropriate development of the site and abutting properties considering the location, size, design, and operating characteristics of the use.
 - e. No outdoor storage of materials associated with the use shall be allowed.
 - f. The use shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat, or vibration which are detectable outside of the premises and are incompatible with primary uses.
- ⁶ The use shall be developed in conjunction with a primary use on the same site, which is developed at the maximum allowed density for the site area. The building floor area occupied by all limited uses, and by all conditional uses that are subject to Note 6, shall not exceed 10 percent of the building floor area occupied by primary uses.
- ⁷ Except as allowed by Section 839, *Accessory Dwelling Units*, or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: detached single-family dwelling, manufactured home, duplex, triplex, quadplex, townhouse, or cottage cluster development.
- ⁸ The development of a triplex, quadplex, townhouse, or cottage cluster is subject to Section 845, *Triplices, Quadplexes, Townhouses, and Cottage Clusters*.

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- ⁹ A manufactured dwelling park that also qualifies as a cottage cluster development pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, is a primary use. All other manufactured dwelling parks are conditional uses.
- ¹⁰ A manufactured dwelling park that also qualifies as a cottage cluster development pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, is a primary use. All other manufactured dwelling parks are prohibited.
- ¹¹ For a townhouse, the minimum lot size is 3,630 square feet in the MR-1 District and 2,420 square feet in the MR-2 District unless, as part of an application filed pursuant to Section 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*, new lots or parcels are proposed for townhouses. In that case, there is no minimum lot size provided that the density of the entire development complies with the maximum density standards of Subsection 1012.05.
- ¹² Only indoor facilities are permitted.
- ¹³ Uses similar to this use may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.
- ¹⁴ A use may be permitted as a home occupation, subject to Section 822, *Home Occupations*, even if such use is also identified in another use listing in Table 315-1.
- ¹⁵ Hotels in the SHD District are limited to a maximum of 80 units per gross acre.
- ¹⁶ Public utility facilities shall not include shops, garages, or general administrative offices.
- ¹⁷ The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- ¹⁸ This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- ¹⁹ Any principal building, swimming pool, or use shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- ²⁰ Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.
- ²¹ Recyclable drop-off sites are permitted only if accessory to an institutional use.
- ²² The use is subject to the following standards and criteria:
- a. The use shall be located in a planned unit development (PUD) with a minimum of 100 dwelling units. No building permit for the use shall be issued until a minimum of 100 dwelling units are constructed within the PUD.

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- b. The area occupied by all uses subject to Note 22 and located in a single PUD, including their parking, loading, and maneuvering areas, shall not exceed a ratio of one-half acre per 100 dwelling units in the PUD.
 - c. The use shall be an integral part of the general plan of development for the PUD and provide facilities related to the needs of residents of the PUD.
 - d. The use shall be located, designed, and operated to efficiently serve frequent trade and service needs of residents of the PUD and not persons residing elsewhere.
 - e. The use shall not, by reason of its location, construction, manner or hours of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the PUD.
- ²³ Only commercial schools are permitted, and such schools are not subject to Section 805, *Schools*.
- ²⁴ Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- ²⁵ Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

Table 315-2: Dimensional and Building Design Standards in the Urban Low Density Residential Zoning Districts

Standard	R-2.5	R-5	R-7	R-8.5	R-10	R-15	R-20	R-30
District Land Area (DLA) for Calculating Density Pursuant to Section 1012/Minimum Lot Size ^{1,2}	2,500/2,000 square feet	5,000/4,000square feet ³	7,000/5,600 square feet ⁴	8,500/6,800 square feet ⁴	10,000/8,000 square feet ⁴	15,000/12,000 square feet ⁴	20,000/16,000 square feet ⁴	30,000/24,000 square feet ⁴
Maximum Lot Coverage	50 percent ^{5,6}							
Maximum Building Height	Accessory building larger than 500 square feet and accessory to a primary dwelling: 20 feet or the height of the primary dwelling, whichever is greater All other buildings: 35 feet							
Minimum Front Setback	15 feet, except 20 feet to garage and carport motor vehicle entries ⁷							
Minimum Rear Setback	20 feet ^{7,8,9,10,11}							
Minimum Side Setback	5 feet ^{7,8,9,10,11}							
Maximum Building Floor Space for an Accessory Building Larger than 500 Square Feet and Accessory to a Primary Dwelling	Equal to the ground floor area of the primary dwelling and the ground floor area of any non-residential space that shares a common wall with the primary dwelling (e.g., an attached garage)							

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Standard	R-2.5	R-5	R-7	R-8.5	R-10	R-15	R-20	R-30
Building Design Standards for Detached Single-Family Dwellings, Duplexes, and Manufactured Homes ¹²	A minimum of three of the following features are required: a covered porch at least two feet deep; an entry area recessed at least two feet from the exterior wall to the door; a bay or bow window (not flush with the siding); an offset on the building face of at least 16 inches from one exterior wall surface to the other; a dormer; a gable; roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls; a roofline offset of at least 16 inches from the top surface of one roof to the top surface of the other; an attached garage; orientation of the long axis and front door to a street; a cupola; a tile, shake, or composition roof; and horizontal lap siding. The required features must be on the same façade as a front door unless the feature is unrelated to a façade (e.g., roofing material).							
Building Design Standards for Buildings Accessory to a Dwelling	Freight shipping containers shall be located behind the building line of the dwelling, and the exterior shall be painted similar in color to that of the dwelling. Metal buildings greater than 500 square feet in area shall include roof overhangs, gutters, and downspouts, and the exterior shall be painted similar in color to that of the dwelling.							

- ¹ The minimum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except minimum lot size standards of Section 800 apply.
- ² In a planned unit development, there is no minimum lot size. However, the DLA standard applies pursuant to Section 1012, *Lot Size and Density*.
- ³ For townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, there is no minimum lot size and the DLA shall be one-third of the DLA.
- ⁴ For townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters.*, there is no minimum lot size and the DLA shall be one-quarter of the DLA in the applicable zoning district.
- ⁵ Maximum lot coverage in a planned unit development is 65 percent.

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- 6 For development on a middle housing lot, the lot coverage is calculated on the entire parent lot that was divided through a middle housing land division.
- 7 For a swimming pool that is accessory to a dwelling, the minimum front setback is 10 feet, and the minimum side and rear setbacks are three feet.
- 8 In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. In a zero-lot-line development, approved pursuant to Subsection 1105.03(B), there are no minimum rear and side setbacks for detached single-family dwellings, manufactured homes, and structures accessory to such dwellings, except from rear and side lot lines on the perimeter of the final plat. Where either of these standards applies, it supersedes any other rear or side setback standard in Table 315-2.
- 9 On a middle housing lot, there are no minimum setbacks, except from lot lines on the perimeter of the final plat or lot lines abutting a road or access drive.
- 10 The following exceptions apply to a lot of record that is 6,000 square feet or less in area and was created prior to the application of an Urban Low Density Residential District to the subject lot of record:
 - a. The minimum rear setback for a detached single-family dwelling, a manufactured home, or a duplex is 10 feet.
 - b. The minimum side setback for a detached single-family dwelling, a manufactured home, or a duplex is a total of five feet (e.g., five feet from one side lot line and zero from the other, three feet from one side lot line and two feet from the other) except that if the subject lot of record has more than two side lot lines, the minimum side setback from each of the additional side lot lines is five feet.

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¹¹ If an accessory building is located behind the building line of the main building, the applicable minimum rear and side setback standards for that accessory building are based on the accessory building area and accessory building height, as follows:

Building Area	Building Height			
	≤ 8 feet	> 8 feet and ≤ 10 feet	> 10 feet and ≤ 15 feet	> 15 feet
≤ 100 square feet	None	3 feet side and rear	5 feet side and rear	5 feet side, 10 feet rear
> 100 square feet and ≤ 200 square feet	3 feet side and rear	3 feet side and rear	5 feet side and rear	5 feet side, 10 feet rear
> 200 square feet and ≤ to 500 square feet	5 feet side and rear	5 feet side and rear	5 feet side and rear	5 feet side, 10 feet rear
> 500 square feet	5 feet side; 10 feet rear	5 feet side; 10 feet rear	5 feet side, 10 feet rear	5 feet side, 10 feet rear

¹² These building design standards do not apply to temporary dwellings approved pursuant to Section 1204, *Temporary Permits*, or to manufactured homes in manufactured dwelling parks.

Table 315-3: Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts

General Standards			
Standard	VR-5/7	VR-4/5	VTH
District Land Area for Calculating Density Pursuant to Section 1012/Minimum Lot Size ¹	5,000/4,000 square feet	4,000/2,000 square feet	2,000/2,000 square feet ²
Maximum Lot Size ¹	7,000 square feet ^{3,4}	5,000 square feet ^{3,5}	3,000 square feet ^{2,6}
Maximum Lot Coverage	50 percent		65 percent
Maximum Height for Fences and Sight-Obscuring Plantings	6 feet at or behind the building line of the dwelling closest to front lot line(s) or, in the case of non-residential development, of the main building or 4 feet forward of the building line of the dwelling closest to front lot line(s) or, in the case of non-residential development, of the main building.		
Maximum Driveway Width	16 feet at the front lot line, unless the subject property is developed with a garage that has at least three side-by-side (as opposed to tandem) garage bays, in which case the maximum driveway width shall be 24 feet at the front lot line ⁸		See Subsection 1005.12(B)(4).
Minimum Percentage of Lots in a Subdivision that Shall have Alley Motor Vehicle Access Only	50 percent of lots with frontage on an alley		Not Applicable
Garage/Carport Design for Primary Dwellings	A minimum of 50 percent of the primary dwellings in a development shall have a recessed garage/carport or no garage/carport. The remaining 50 percent may have a non-recessed garage/carport. ^{8,9,10}	All garages and carports shall be recessed. ⁹	See Subsection 1005.12(B).

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Standards for Primary Dwellings			
Standard	VR-5/7	VR-4/5	VTH
Maximum Building Height	35 feet ⁸		
Minimum Front Setback	10 feet for a dwelling with a recessed garage/carport or no garage/carport; 19½ feet to the garage door/carport motor vehicle entry for a dwelling with a non-recessed garage/carport ^{8,9,10,11,12,13}	10 feet ^{11,12,13}	10 feet ^{14,15,16}
Maximum Front Setback	18 feet for a dwelling with a recessed garage/carport or no garage/carport; 20½ feet to the garage door/carport motor vehicle entry for a dwelling with a non-recessed garage/carport ^{8,9,10,11,12,17,18, 19}	18 feet ^{7,11,12,17,18,19}	18 feet ¹⁴
Minimum Rear Setback	15 feet ^{8,11,12,20}		15 feet ²⁰
Minimum Side Setback	0 on one side; 5 feet on all other sides ^{8,11,20}		5 feet ^{20,21}

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<p>Building Design Standards^{8,22}</p>	<ul style="list-style-type: none"> • Front facades shall be designed with balconies and/or bays. Facades facing a street shall not consist of a blank wall. • Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill. • Hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited. • If the lot on which the dwelling is located has street frontage on a local or connector street, or a private street that meets local or connector street design standards, then the primary entry to the dwelling shall be accessed directly from and be visible from one of those streets. • A minimum of 50 percent of the dwellings in a subdivision shall have a porch or patio. The porch or patio shall be covered, placed immediately adjacent to the primary entry to the dwelling, have a minimum unobstructed depth of six feet, and have a minimum unobstructed width of 10 feet. 	<p>See Subsections 1005.04(F) and 1005.12(A).</p>
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Standards for Buildings Accessory to a Dwelling

Standard	VR-5/7	VR-4/5	VTH
Maximum Number of Accessory Buildings per Lot of Record	Two		
Minimum Separation Distance Between an Accessory Building and any other Building on the Same Lot of Record	3 feet		
Maximum Building Height	25 feet or the building height of the primary dwelling, whichever is less ²³		

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Maximum Building Area	Only one accessory building may exceed 100 square feet, and it shall have a maximum ground floor area of 600 square feet, or the square footage of the ground floor of the primary dwelling, whichever is less.	Only one accessory building may exceed 100 square feet, and it shall have a maximum ground floor area of 500 square feet, or the square footage of the ground floor of the primary dwelling, whichever is less.	
Minimum Front Setback	Greater than or equal to the front setback of the facade of the primary dwelling (not including porches, patios, bays, garages, and architectural features) ^{8,24}		
Exterior Building Materials	Buildings greater than 100 square feet in area shall be constructed with similar exterior building materials to those of the primary dwelling. ⁸		
Minimum Rear and Side Setback Standards for Buildings Accessory to a Primary Dwelling in the VR-5/7, VR-4/5, and VTH Districts^{9,19}			
Building Area	Building Height		
	≤ 8 feet	> 8 feet and ≤ 20 feet	> 20 feet
≤ 100 square feet	None	No minimum on one side, 3 feet on all other sides; 3 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley ²⁵	No minimum on one side, 5 feet on all other sides; 5 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley ²⁵
> 100 square feet	No minimum on one side, 3 feet on all other sides; 3 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley ²⁵		No minimum on one side, 5 feet on all other sides; 5 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley ^{25,26}

- 1 The minimum and maximum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum and maximum lot size standards, a lot of record may be developed subject to other applicable standards of this Ordinance, except minimum lot size standards of Section 800 apply.
- 2 The minimum and maximum lot size standards apply only to lots or parcels for townhouses.
- 3 The maximum lot size standard applies only to lots or parcels for detached single-family dwellings, manufactured homes, or middle housing, except the maximum lot size standard does not apply to a middle housing land division.
- 4 Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 6,500 square feet.
- 5 Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 5,000 square feet.
- 6 Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 2,500 square feet.
- 7 For development on a middle housing lot, the lot coverage is calculated on the entire parent lot that was divided through a middle housing land division.
- 8 Except for middle housing developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, development on lots in the plat of Sieben Creek Estates (plat no. 3039) is not required to comply with this standard.
- 9 A recessed garage or carport is a garage or carport with a front setback to the garage door or carport motor vehicle entry that is a minimum of five feet greater (i.e., farther from the front lot line) than the front setback to the façade of the primary dwelling living area (not including porches, patios, bays, and architectural features).
- 10 A non-recessed garage or carport shall have a front setback to the garage door or carport motor vehicle entry that is a maximum of five feet less (i.e., closer to the front lot line) than the front setback to the façade of the primary dwelling living area (not including porches, patios, bays, and architectural features).
- 11 The minimum and maximum setback standards do not apply in a Resource Protection Area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*. The maximum setback standards do not apply to cottage clusters developed pursuant to Section 845.
- 12 On a middle housing lot, there are no minimum setbacks, except from lot lines on the perimeter of the final plat or lot lines abutting a road or access drive.
- 13 A porch or patio, whether covered or not, may extend a maximum of four feet into the minimum front yard depth.
- 14 Frontage on an accessway shall be considered a front lot line.
- 15 On a corner lot, the minimum setback from one front lot line is eight feet, provided that the lot line abuts a road with a functional classification of local or connector.

- 16 Awnings, porches, bays, and overhangs may extend a maximum of four feet into the minimum front setback.
- 17 If a public utility easement precludes compliance with the maximum front setback standard, the maximum shall be as close to the front lot line as possible.
- 18 Dwellings located on lots with less than 35 feet of street frontage shall be exempt from the maximum front setback standard.
- 19 If a lot has more than one front lot line, compliance with the maximum front setback standard is required from only two intersecting front lot lines.
- 20 In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 315-3.
- 21 Frontage on a pedestrian connection shall be considered a side lot line.
- 22 For triplexes, quadplexes, and townhouses developed pursuant to Section 845, design standards in Section 845 shall apply in addition to standards in Table 315-3.
- 23 The maximum building height standard applies only to accessory buildings larger than 100 square feet.
- 24 A garage may be required to be recessed, as defined by Note 10, in order to comply with the standard for garage/carport design for primary dwellings.
- 25 Frontage on a pedestrian connection shall be considered a side lot line, and the minimum setback is five feet.
- 26 If the rear lot line abuts an alley, a second-story accessory dwelling unit may cantilever a maximum of four feet into the minimum rear setback.

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Table 315-4: Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts

Standard	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
District Land Area for Calculating Density Pursuant to Section 1012	3,630 square feet	3,630 square feet	2,420 square feet	1,742 square feet	1,500 square feet	726 square feet	Not Applicable
Minimum Density	See Section 1012	See Section 1012	See Section 1012	See Section 1012	See Section 1012	See Section 1012	See Section 1012
Minimum Lot Size	None	None ¹	None ²	None	None	None	None
Minimum Front Setback	15 feet, except 20 feet to garage and carport motor vehicle entries	15 feet, except 20 feet to garage and carport motor vehicle entries ^{3,4}	15 feet, except 20 feet to garage and carport motor vehicle entries ⁴	15 feet ⁵	10 feet ^{6,7}	15 feet	5 feet ⁸
Maximum Front Setback	See Subsections 1005.03(E) and (H).	See Subsections 1005.03(E) and (H).	See Subsections 1005.03(E) and (H).	See Subsections 1005.03(E) and (H).	18 feet ⁶	See Subsections 1005.03(E) and (H).	20 feet ^{8,9}
Minimum Rear Setback	30 feet ¹⁰	20 feet ^{5,10,11,12}	20 feet ^{5,10}	See Subsection 1005.03(L) ⁵	None ^{6,7}	See Subsection 1005.03(L)	See Subsection 1005.03(L) ¹³

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Standard	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Minimum Side Setback	30 feet ¹⁰	One story: five feet; two stories: seven feet; three stories: 15 feet. For each story higher than three, an additional five feet of yard depth shall be required. ^{5,10,11,12,14,15}	One story: five feet; two stories: seven feet; three stories: 15 feet. For each story higher than three, an additional five feet of yard depth shall be required. ^{5,10,14,15}	See Subsection 1005.03(L) ⁵	None	See Subsection 1005.03(L)	See Subsection 1005.03(L) ¹⁶
Maximum Building Height	None	None	None	None	45 feet	None	None
Minimum Building Separation	10 feet	None	None	See Subsection 1005.03(L)	20 feet between multifamily dwellings	See Subsection 1005.03(L)	See Subsection 1005.03(L)

- ¹ The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use is 3,630 square feet.
- ² The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use is 2,420 square feet.
- ³ For a swimming pool that is accessory to a dwelling, the minimum front setback is 10 feet.
- ⁴ On a corner lot developed with a townhouse, the minimum front setback from one front lot line is 10 feet, except that the minimum shall be 20 feet to garage and carport motor vehicle entries.
- ⁵ The minimum setback standards of Table 315-2, *Dimensional and Building Design Standards in the Urban Low Density Residential Districts*, apply to detached single-family dwellings that are nonconforming uses, as well as to structures that are accessory to such dwellings.

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- ⁶ If the front or rear lot line abuts Sunnyside Road, the minimum setback shall be 65 feet from the centerline of Sunnyside Road, and the maximum setback shall be 75 feet from the centerline of Sunnyside Road.
- ⁷ Awnings, porches, and bays may extend a maximum of six feet into the minimum setback.
- ⁸ For dwellings and structures accessory to dwellings, the minimum front setback shall be 15 feet, and there shall be no maximum setback. However, Note 8 does not apply to mixed-use buildings that include dwellings or to structures accessory to such mixed-use buildings.
- ⁹ The maximum setback may be exceeded to accommodate plazas identified on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*.
- ¹⁰ In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 315-4.
- ¹¹ For a swimming pool that is accessory to a dwelling, the minimum side and rear setbacks are five feet, unless the side or rear lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 District, in which case the minimum setback shall be 15 feet from the abutting lot line.

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¹² The minimum rear and side setback standards for an accessory building are based on the building area and height, as follows:

Building Area	Building Height		
	≤ 8 feet	> 8 feet and ≤ 10 feet	> 10 feet
≤ 100 square feet	None, if the accessory building is located behind the building line of the main building; otherwise, 3 feet side and rear	3 feet side and rear	Same as primary building minimum setbacks
> 100 square feet and ≤ 200 square feet	3 feet side and rear	3 feet side and rear	Same as primary building minimum setbacks
> 200 square feet	Same as primary building minimum setbacks	Same as primary building minimum setbacks	Same as primary building minimum setbacks

¹³ If the rear lot line abuts a residential zoning district other than HDR, SHD, or RCHDR, the minimum rear setback is 20 feet.

¹⁴ If the side lot line abuts an Urban Low Density Residential, VR-5/7, or VR-4/5 District, the minimum side setback for a two-story building is 10 feet.

¹⁵ The minimum side setback for a townhouse is five feet from any side lot line where two townhouses do not share a common wall.

¹⁶ If the side lot line abuts a residential zoning district other than HDR, SHD, or RCHDR, the minimum side setback is 15 feet.

[Added by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 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; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22]

316 RURAL AREA RESIDENTIAL 1-ACRE (RA-1), RURAL AREA RESIDENTIAL 2-ACRE (RA-2), RECREATIONAL RESIDENTIAL (RR), RURAL RESIDENTIAL FARM FOREST 5-ACRE (RRFF-5), FARM FOREST 10-ACRE (FF-10), AND FUTURE URBAN 10-ACRE (FU-10) DISTRICTS

316.01 PURPOSE

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

316.02 APPLICABILITY

Section 316 applies to land in the Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Recreational Residential (RR), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10) Districts, hereinafter collectively referred to as the rural residential and future urban residential zoning districts.

316.03 USES PERMITTED

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

316.04 DIMENSIONAL STANDARDS

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

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

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

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Campgrounds	C	C	C	C	C	C
Cemeteries , subject to Section 808	C	C	X	C	C	C
Child Care Facilities	C	C	C	C	C	C ⁵
Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses⁶	X	X	X	C	C	X
Community Halls	CPUD	CPUD	CPUD	CPUD	CPUD	X ⁷
Composting Facilities , subject to Section 834	X	X	X	C	C	X
Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources	P	P	P	P	P	P
Crematories , subject to Section 808	C	C	X	X	X	X
Daycare Services, Adult	C	C	C	C	C	C ⁸
Dwellings, including:						
Accessory Dwelling Units, subject to Section 839	A ¹	A ¹	X	A ¹	A ¹	A ¹
Detached Single-Family Dwellings	P ⁹	P ⁹	P ⁹	P ⁹	P ⁹	P ⁹
Duplexes	C ⁹	X	X	X	X	X
Manufactured Dwellings	P ⁹	P ⁹	P ⁹	P ⁹	P ⁹	P ⁹
Energy Source Development	X	X	C	X	X	X
Farm Uses, including⁶:						
Raising, harvesting, and selling crops	P	P	P ¹⁰	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X ¹¹	P	X ¹¹	P	P	P
Dairying and the sale of dairy products	X ¹¹	P	X ¹¹	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X ¹¹	P	X ¹¹	P	P	P
Preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use	P	P	P ¹⁰	P	P	P

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

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Marijuana Retailing	X	X	X	X	X	X
Marijuana Wholesaling	X	X	X	X	X	X
Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources	X	X	X	C	C	X
Places of Worship , subject to Section 804	C	C	C	C	C	C ¹⁶
Produce Stands	A ¹⁷	A ¹⁷	A ¹⁷	A ¹⁷	A ¹⁷	A ^{17,18}
Public Utility Facilities	C ^{13,19}	C ^{13,19}	C ^{13,19}	C ^{13,19}	C ^{13,19}	C ^{13,19}
Radio and Television Transmission and Receiving Towers and Earth Stations	C ^{13,20}	C ^{13,20}	C ^{13,20}	C ^{13,20}	C ^{13,20}	C ^{13,20}
Recreational Uses , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails ²¹	C ¹³	C ^{13,22}	C ¹³	C ^{13,22}	C ^{13,22}	C ^{13,22}
Recreational Uses, Government-Owned , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses ²¹	P ²³	P ²³	P ²³	P	P	P

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

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Services, Commercial—Personal and Convenience , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	CPUD ²⁵	X	X	X	X	X
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	CPUD ²⁵	X	X	X	X	X
Sewer System Components that Serve Lands Inside an Urban Growth Boundary , subject to ORS 660-011-0060(3)	Type II ²⁸	Type II ²⁸	Type II ²⁸	Type II ²⁸	Type II ²⁸	Type II ²⁸
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community , subject to ORS 660-011-0060(4)	Type II ²⁹	Type II ²⁹	Type II ²⁹	Type II ²⁹	Type II ²⁹	Type II ²⁹
Short-Term Rental in a dwelling unit or guest house permitted by this table	<u>P</u>	<u>P³⁰</u>	<u>P</u>	<u>P³⁰</u>	<u>P³⁰</u>	<u>P³⁰</u>
Signs , subject to Section 1010	A ³⁰¹	A ³⁰¹	A ³⁰¹	A ³⁰¹	A ³⁰¹	A ³⁰¹
Surface Mining , subject to Section 818	X	X	X	C	C	X
Telephone Exchanges	C ¹³	C ¹³	C ¹³	C ¹³	C ¹³	C ¹³
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Transfer Stations , subject to Section 819	X	X	C	X	X	C
Utility Carrier Cabinets , subject to Section 830	P,C ³⁴²	P,C ³⁴²	P,C ³⁴²	P,C ³⁴²	P,C ³⁴²	P,C ³⁴²
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1

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

- 14 A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 316-1.
- 15 The portion of the premises used shall be located a minimum of 200 feet from all property lines.
- 16 This use is limited to alteration or expansion of a lawfully established place of worship.
- 17 A produce stand shall be subject to the parking requirements of Section 1015, *Parking and Loading*.
- 18 In addition to selling produce grown on-site, a produce stand may sell agricultural products that are produced in the surrounding community in which the stand is located.
- 19 Public utility facilities shall not include shops, garages, or general administrative offices.
- 20 The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- 21 This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- 22 Equine facilities are a primary use, subject to the following standards and criteria:
- a. The number of horses shall be limited to no more than one horse per acre or five horses in total, whichever is less. Horses owned by the operator of the equine facility, or owned by a 501(c)(3) organization and being temporarily fostered by the operator of the equine facility, do not count toward the maximum number of horses. The one-horse-per-acre standard shall be calculated based on the area of the lot of record or tract on which the equine facility is located.
 - b. Services offered at the equine facility, such as riding lessons, training clinics, and schooling shows, shall be provided only to the family members and nonpaying guests of the operator of the equine facility, the owners of boarded horses, or the family members and nonpaying guests of the owners of boarded horses.
- 23 Any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- 24 Recyclable drop-off sites are permitted only if accessory to an institutional use.
- 25 The use is subject to the following standards and criteria:
- a. The use shall be located in a planned unit development (PUD) with a minimum of 100 dwelling units. No building permit for the use shall be issued until a minimum of 100 dwelling units are constructed within the PUD.

- b. The area occupied by all uses subject to Note 23 and located in a single PUD, including their parking, loading, and maneuvering areas, shall not exceed a ratio of one-half acre per 100 dwelling units in the PUD.
- c. The use shall be an integral part of the general plan of development for the PUD and provide facilities related to the needs of residents of the PUD.
- d. The use shall be located, designed, and operated to efficiently serve frequent trade and service needs of residents of the PUD and not persons residing elsewhere.
- e. The use shall not, by reason of its location, construction, manner or hours of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the PUD.
- f. The maximum building floor space per commercial use is 4,000 square feet except that no maximum applies to uses authorized under Oregon Statewide Planning Goals 3 and 4 and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

²⁶ Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metropolitan Service District's 2040 Growth Concept Map.

²⁷ This use is limited to alteration or expansion of a lawfully established school.

²⁸ Components of a sewer system that serve land outside urban growth boundaries or unincorporated community boundaries are prohibited.

²⁹ The use is limited to sewer systems that: are designed and constructed so that their capacity does not exceed the minimum necessary to serve the area within the boundaries described under ORS 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6); and do not serve any uses other than those existing or allowed in the identified service area on the date the sewer system is approved.

³⁰ This use is not permitted in an urban or rural reserve established pursuant to OAR 660, Division 27.

³¹⁹ Temporary signs regulated under Subsection 1010.13(A) are a primary use.

³¹³² Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

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

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

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

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

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

317 MOUNTAIN RECREATIONAL RESORT (MRR) AND HOODLAND RESIDENTIAL (HR) DISTRICTS

317.01 PURPOSE

Section 317 is adopted to implement the policies of the Comprehensive Plan for Mountain Recreation areas and Low Density Residential areas regulated by the Mount Hood Community Plan.

317.02 APPLICABILITY

Section 317 applies to land in the Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts.

317.03 USES PERMITTED

A. Uses permitted in the MRR and HR Districts are listed in Table 317-1, *Permitted Uses in the MRR and HR Districts*. Uses not listed are prohibited, except that in the MRR District, uses similar to one or more of the listed limited uses may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

B. As used in Table 317-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “L” means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. “CPUD” means the use is allowed as a conditional use in a planned unit development.
6. “X” means the use is prohibited.
7. “Type II” means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.
8. Numbers in superscript correspond to the notes that follow Table 317-1.

C. Permitted uses are subject to the applicable provisions of Subsection 317.04, *Dimensional Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

317.04 DIMENSIONAL AND BUILDING DESIGN STANDARDS

- A. General: Dimensional and building design standards applicable in the MRR and HR Districts are listed in Table 317-2, *Dimensional and Building Design Standards in the MRR and HR Districts*. As used in Table 317-2, numbers in superscript correspond to the notes that follow the table.
- B. Modifications: Modifications to the standards in Table 317-2 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

Table 317-1: Permitted Uses in the MRR and HR Districts

Use	MRR	HR
Accessory Buildings and Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A
Accessory Kitchens	A ¹	A ¹
Airports, Personal-Use	C	C
Bed and Breakfast Inns , subject to Section 832	P	C
Bed and Breakfast Residences , subject to Section 832	P	C
Bus Shelters	P	P
Campgrounds	C	C
Child Care Facilities	C	C
Civic and Cultural Facilities , including art galleries, museums, and visitor centers	L ²	X
Community Halls	CPUD	CPUD
Composting Facilities	X	X
Daycare Services, Adult	C	C
Dwellings, including:		
Accessory Dwelling Units, subject to Section 839	A	A
Congregate Housing Facilities	P	X
Detached Single-Family Dwellings	P ³	P ³
Duplexes	P	X
Manufactured Dwelling Parks, subject to Section 825	C	X
Manufactured Homes	P ³	P ³
Multifamily Dwellings	P	X
Quadplexes	P	X
Townhouses	P ³	P ^{3,4}
Triplexes	P	X
Energy Source Development	C	C
Farmers’ Markets , subject to Section 840	A	A
Fraternal Organization Lodges	C ⁵	C ⁵

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Use	MRR	HR
Government Uses , unless such a use is listed elsewhere in this table as a primary, accessory, limited, conditional, or prohibited use in the applicable zoning district	C ⁵	C ⁵
Guest Houses , subject to Section 833	X	A
Guest Ranches and Lodges	X	C
Helistops, Personal-Use	C	C
Home Occupations , including bed and breakfast homestays, subject to Section 822 ⁶	A	A
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C	C
Hotels ⁷	P ⁸	X
Hydroelectric Facilities	C	C
Libraries	L ² , CPUD	CPUD
Livestock , subject to Section 821	A	A
Marijuana Processing	X	X
Marijuana Production	X	X
Marijuana Retailing	X	X
Marijuana Wholesaling	X	X
Mobile Vending Units , subject to Section 837	L ^{2,9}	X
Motels ⁷	P ⁸	X
Multi-Use Developments , subject to Section 844	C	C
Nursing Homes	P	C
Parking Structures	A	X
Places of Worship , subject to Section 804	C	C
Produce Stands , subject to Section 815	A	A
Public Utility Facilities	C ⁵	C ^{5,10}
Radio and Television Transmission and Receiving Towers and Earth Stations	C ^{5,11}	C ^{5,11}
Recreational Uses , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails ¹²	C ⁵	C ⁵
Recreational Uses, Government-Owned , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses ¹²	P ¹³	P ¹⁴

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Use	MRR	HR
Recreational Uses, Government-Owned Golf Courses ¹²	P ¹³	P ¹⁴
Recreational Vehicle Camping Facilities , subject to Section 813	C ⁵	C ⁵
Recyclable Drop-Off Sites , subject to Section 819	A ¹⁵	A ¹⁵
Retailing —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, flowers, food, furniture, garden supplies, hardware, interior decorating materials, jewelry, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos.	L ² , CPUD ¹⁶	CPUD ¹⁶
Roads	P	P
Services, Commercial—Food and Beverage , including catering and eating and drinking establishments	L ² , CPUD ¹⁶	CPUD ¹⁶
Services, Commercial—Maintenance and Repair , of any of the following: bicycles and sporting goods	L ² , CPUD ¹⁶	CPUD ¹⁶
Services, Commercial—Personal and Convenience , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	L ² , CPUD ¹⁶	CPUD ¹⁶
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	L ² , CPUD ¹⁶	CPUD ¹⁶
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community , subject to ORS 660-011-0060(4)	Type II ¹⁷	Type II ¹⁷
Schools , subject to Section 805	C	C
Short-Term Rental in a dwelling unit or guest house permitted by this table	<u>P</u>	<u>P</u>
Signs , subject to Section 1010	A ¹⁸	A ¹⁸
Surface Mining , subject to Section 818	X	X
Telephone Exchanges	C ⁵	C ⁵
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
Transit Park-and-Rides	P	P
Transfer Stations , subject to Section 819	C	C
Utility Carrier Cabinets , subject to Section 830	P,C ¹⁹	P,C ¹⁹

Use	MRR	HR
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1	See Table 835-1

- ¹ An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.
- ² The limited use is permitted subject to the following criteria:
 - a. The use shall be incidental to a primary use.
 - b. The use shall be provided for as an integral part of the general plan of the development.
 - c. The use shall not, by reason of its location, construction, manner or timing of operations, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the MRR District or create traffic congestion or hazards to vehicular or pedestrian traffic.
- ³ Except as allowed by Section 839, *Accessory Dwelling Units*, or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: detached single-family dwelling, manufactured home, or townhouse.
- ⁴ Townhouses are permitted on a maximum of 100 percent of the lots in a planned unit development and a maximum of 20 percent of the lots in a subdivision that is not a planned unit development.
- ⁵ Uses similar to this may be authorized pursuant to Section 106.
- ⁶ A use may be permitted as a home occupation, subject to Section 822, *Home Occupations*, even if such use is also identified in another use listing in Table 317-1.
- ⁷ Also permitted are associated convention facilities.
- ⁸ A new hotel or motel in Rhododendron shall be limited to a maximum of 35 units. A new hotel or motel in Government Camp shall be limited to a maximum of 100 units.
- ⁹ Only level three and four mobile vending units are permitted.
- ¹⁰ Public utility facilities shall not include shops, garages, or general administrative offices.
- ¹¹ The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- ¹² This use may include concessions, restrooms, maintenance facilities, and similar support uses.

- 13 Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.
- 14 Any principal building, swimming pool, or use shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- 15 Recyclable drop-off sites are permitted only if accessory to an institutional use.
- 16 The use is subject to the following standards and criteria:
 - a. The use shall be located in a planned unit development (PUD) with a minimum of 100 dwelling units. No building permit for the use shall be issued until a minimum of 100 dwelling units are constructed within the PUD.
 - b. The area occupied by all uses subject to Note 15 and located in a single PUD, including their parking, loading, and maneuvering areas, shall not exceed a ratio of one-half acre per 100 dwelling units in the PUD.
 - c. The use shall be an integral part of the general plan of development for the PUD and provide facilities related to the needs of residents of the PUD.
 - d. The use shall be located, designed, and operated to efficiently serve frequent trade and service needs of residents of the PUD and not persons residing elsewhere.
 - e. The use shall not, by reason of its location, construction, manner or hours of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the PUD.
- 17 The use is limited to sewer systems designed and constructed so that their capacity does not exceed the minimum necessary to serve the area within the boundaries described under ORS 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6). The use is limited to sewer systems that: are designed and constructed so that their capacity does not exceed the minimum necessary to serve the area within the boundaries described under ORS 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6); and do not serve any uses other than those existing or allowed in the identified service area on the date the sewer system is approved.
- 18 Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- 19 Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

Table 317-2: Dimensional and Building Design Standards in the MRR and HR Districts

Standard	MRR	HR
District Land Area for Calculating Density Pursuant to Section 1012	See Table 317-3	10,890 square feet
Minimum Front Setback	15 feet, except 20 feet to garage and carport motor vehicle entries ¹	15 feet, except 20 feet to garage and carport motor vehicle entries ²
Minimum Rear Setback	10 feet ^{3,4,5,6}	15 feet ^{3,4}
Minimum Side Setback	10 feet ^{3,4,5,6}	5 feet ^{3,4}
Maximum Lot Coverage	None	40 percent ⁷
Maximum Building Height	40 feet ^{8,9}	40 feet ⁸
Minimum Building Separation above 3,500 Feet in Elevation	20 feet between buildings with contiguous snow slide areas	20 feet between buildings with contiguous snow slide areas
Maximum Building Floor Space per Commercial Use	4,000 square feet, except 8,000 square feet in Government Camp ¹⁰	4,000 square feet, except 8,000 square feet in Government Camp ¹⁰
Building Design Standards for Single-Family Dwellings and Manufactured Homes ¹¹	A minimum of three of the following features are required: a covered porch at least two feet deep; an entry area recessed at least two feet from the exterior wall to the door; a bay or bow window (not flush with the siding); an offset on the building face of at least 16 inches from one exterior wall surface to the other; a dormer; a gable; roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls; a roofline offset of at least 16 inches from the top surface of one roof to the top surface of the other; an attached garage; orientation of the long axis and front door to a street; a cupola; a tile, shake, or composition roof; and horizontal lap siding. The required features must be on the same façade as the front door unless the feature is unrelated to a façade (e.g., roofing material).	

- ¹ In Government Camp, the minimum front setback is 10 feet, except 20 feet to garage and carport motor vehicle entries.
- ² For a corner lot in Government Camp, one of the minimum front setbacks is 10 feet, except 20 feet to garage and carport motor vehicle entries.
- ³ If the lot line abuts a national forest, there is no minimum setback. If Note 3 and Note 4 conflict, Note 3 prevails.
- ⁴ In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat.
- ⁵ Except as established by Note 3, 4, or 6, if a rear lot line or a side lot line abuts an HR District or abuts a lot in the MRR District developed with a single-family dwelling or a manufactured home, the applicable minimum setback standard for a building is based on the height of that building, as follows:

Building Height	Minimum Setback
≤ 20 feet	10 feet
> 20 feet and ≤ 30 feet	15 feet
> 30 feet and ≤ 40 feet	20 feet
> 40 feet and ≤ 50 feet	25 feet
> 50 feet	30 feet

- ⁶ The minimum rear and side setback standards applicable in the HR District apply to detached single-family dwellings and manufactured homes, as well as to structures that are accessory to such detached single-family dwellings and manufactured homes. The minimum side setback standard applicable in the HR District applies to townhouses, as well as to structures that are accessory to such townhouses.
- ⁷ Maximum lot coverage is 50 percent for a lot of record that is developed with a townhouse.
- ⁸ The maximum building height may be increased to 50 feet to accommodate understructure parking.
- ⁹ For a hotel in Government Camp, the maximum building height shall be 70 feet and may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.

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- ¹⁰ No maximum applies to hotels and motels; uses authorized under Oregon Statewide Planning Goals 3 and 4; and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.
- ¹¹ These building design standards do not apply to temporary dwellings approved pursuant to Section 1204, *Temporary Permits*.

Table 317-3: District Land Area Standards in the MRR District

Location/Dwelling Unit Size	District Land Area
Government Camp	
Dwelling unit of any size	1,980
Rhododendron	
Dwelling unit of 1200 square feet or greater	10,890
Dwelling unit of 1000 to 1199 square feet	8,712
Dwelling unit of 800 to 999 square feet	7,260
Dwelling unit of 600 to 799 square feet	5,445
Dwelling unit of 400 to 599 square feet	3,630
Dwelling unit of less than 400 square feet	1,980
Wemme/Welches	
Dwelling unit of 1200 square feet or greater	7,260
Dwelling unit of 1000 to 1199 square feet	6,223
Dwelling unit of 800 to 999 square feet	5,445
Dwelling unit of 600 to 799 square feet	4,356
Dwelling unit of 400 to 599 square feet	3,111
Dwelling unit of less than 400 square feet	1,361

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

510 NEIGHBORHOOD COMMERCIAL (NC), COMMUNITY COMMERCIAL (C-2), REGIONAL CENTER COMMERCIAL (RCC), RETAIL COMMERCIAL (RTL), CORRIDOR COMMERCIAL (CC), GENERAL COMMERCIAL (C-3), PLANNED MIXED USE (PMU), STATION COMMUNITY MIXED USE (SCMU), OFFICE APARTMENT (OA), OFFICE COMMERCIAL (OC), AND REGIONAL CENTER OFFICE (RCO) DISTRICTS

510.01 PURPOSE

Section 510 is adopted to implement the policies of the Comprehensive Plan for the Neighborhood Commercial zoning district and Community Commercial, Regional Center Commercial, Retail Commercial, Corridor Commercial, General Commercial, Planned Mixed Use, Station Community Mixed Use, Office Apartment, Office Commercial, and Regional Center Office areas.

510.02 APPLICABILITY

Section 510 applies to land in the Neighborhood Commercial (NC) Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OA), and Regional Center Office (RCO) Districts, hereinafter collectively referred to as the urban commercial and mixed-use zoning districts.

510.03 USES PERMITTED

Uses permitted in each zoning district are listed in Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

A. As used in Table 510-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “L” means the use is a limited use and shall be developed concurrently with, or after, a primary use.
4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. “S” means the use may be authorized only pursuant to Section 106; however, identifying a use as “S” does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.

6. “X” means the use is prohibited.
 7. Numbers in superscript correspond to the notes that follow Table 510-1.
- B. If a use is identified in Table 510-1 as prohibited, it is prohibited even if it also falls within a broader use description that is permitted in the applicable zoning district. For example, a car wash may be prohibited even if commercial services in general are permitted.
 - C. If a use is included in more than one use description in Table 510-1, the more specific listing applies. For example, if a car wash is a conditional use, but commercial services in general are a primary use, the car wash shall be reviewed as a conditional use. Notwithstanding this provision, a use may be included in two of the following categories because it is allowed with fewer restrictions in one category than another: primary, accessory, limited, and conditional. In that case, the use may be approved in either category, to the extent that it complies with the respective approval criteria. For example, child care facilities may be permitted as a limited use with a maximum building floor area and as a conditional use without a maximum building floor area.
 - D. Permitted uses are subject to the applicable provisions of Subsection 510.04, *Dimensional Standards*, Subsection 510.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

510.04 DIMENSIONAL STANDARDS

Dimensional standards applicable in the urban commercial and mixed-use zoning districts are listed in Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*. Modifications to the standards of Table 510-2 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*. As used in Table 510-2, numbers in superscript correspond to the notes that follow Table 510-2.

510.05 DEVELOPMENT STANDARDS

The following development standards apply:

- A. Outdoor Operations in the NC District: In the NC District, primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.
- B. Operational Impacts in the C-2 and C-3 Districts: In the C-2 and C-3 Districts, processes and equipment employed and goods processed or sold shall be limited to those that are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried wastes.

- C. Storage in the C-2 District: In the C-2 District, storage of materials and merchandise shall be confined and contained within completely enclosed buildings.
- D. Outdoor Operations in the RCC District: In the RCC District:
1. Primary commercial uses are permitted provided that outdoor display and storage shall be limited to no more than five percent of the building coverage.
 2. Outdoor sales and services are prohibited.
- E. Outdoor Operations in the RTL District: In the RTL District, primary commercial uses and conditional uses are permitted provided that:
1. Outdoor display and storage shall be limited to no more than five percent of the building coverage.
 2. Notwithstanding Subsection 510.05(E)(1), auto body, recreational vehicle, and boat repair businesses shall store within a completely enclosed structure those vehicles and equipment that are damaged or being repaired.
 3. Primary commercial uses shall conduct most activities within a completely enclosed structure.
- F. Outdoor Sales and Storage in the PMU District: In the PMU District, outdoor sales, except temporary sidewalk sales and sidewalk cafes and food vendors, are prohibited. Also prohibited is permanent outdoor storage of materials or products.
- G. Site-Specific Standards in the PMU District: Six sites have a Comprehensive Plan designation of PMU. These sites are designated PMU1 through PMU6 and are identified on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*. When one of these sites is zoned Planned Mixed Use District, a site number corresponding to the number designated by the Comprehensive Plan is assigned. A PMU site shall comply with the specific standards for that site identified in Table 510-3, *Site-Specific Requirements for the PMU District*, except that there are no site-specific standards for PMU6. As used in Table 510-3, numbers in superscript correspond to the notes that follow Table 510-3.
- H. Outdoor Operations in the SCMU District: In the SCMU District, outdoor displays, processes, or storage, except for the storage of solid waste and recyclables either as required by Section 1021, *Solid Waste and Recyclable Material Collection*, or as an accessory use to a townhouse, are prohibited.

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- I. Outdoor Operations in the OA District: In the OA District, all primary and accessory uses associated with office uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure. For the purposes of this provision, “office uses” include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Office and Outpatient Clinics, and Research Facilities and Laboratories.
- J. Outdoor Storage and Display in the OC District: In the OC District, outdoor storage or display of materials or products is prohibited.
- K. Outdoor Sales, Storage, and Display in the RCO District: In the RCO District, outdoor sales, storage, or display of materials or products is prohibited.

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Table 510-1: Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts

Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Accessory Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care home, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms , television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A	A	A	A	A	A
Assembly Facilities , including auditoriums, community centers, convention facilities, exhibition halls, fraternal organization lodges, places of worship, senior centers, and theaters for the performing arts	C	P	P,C ⁴	P	P	P	P	P	S	P,C ⁴	P,C ⁴
Bed and Breakfast Residences and Inns , subject to Section 832	P	P	X	P	P	P	X	X	X	P	X
Bus Shelters	A	A	P	P	P	P	P	P	A	P	P
Child Care Facilities	P	P	P	P	P	P	P	P	P	L ⁵ ,C	L ⁶ ,C

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU¹	SCMU	OA^{2,3}	OC	RCO
Civic and Cultural Facilities , including art galleries, museums, and visitor centers	P	P	P	P	P	P	P	P	P	P	P
Composting Facilities	X	X	X	X	X	X	X	X	X	X	X
Daycare Services, Adult	P	P	P	P	P	P	P	P	P	L ⁵ ,C	L ⁶ ,C
Dog Services , including boarding, daycare, and grooming	S	P	S	S	S	S	S	S	S	S	S
Drive-Thru Window Services , subject to Section 827	C	A	A ⁷	A	A	A	A ⁸	X	X	A ⁸	A ⁸
Dwellings, including:											
Congregate Housing Facilities	X	X	P ^{9,10}	P ¹¹	P ¹¹	P ¹¹	P	P	L	P ¹¹	P ^{9,10}
Detached Single-Family Dwellings	A	A	X	A	X	A	X	X	X	X	X
Duplexes	X	A	X	P	P	P	P	P	L ¹²	P	X
Multifamily Dwellings	X	X	P ⁹	P ¹¹	P ¹¹	P ¹¹	P	P	L ¹²	P ¹¹	P ⁹
Quadplexes	X	X	P ⁹	P ¹¹	P ¹¹	P ¹¹	P	P	L ¹²	P ¹¹	P ⁹
Townhouses	X	A	X	A	X	A	P	P	L ¹³	X	X
Triplexes	X	X	X	P	P	P	P	P	L ¹²	P	X
Electric Vehicle Charging Stations	A,C	P	A	A,C	P	P	A	A	A	A	A
Employee Amenities , such as cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A	A	A	A	A	A	A	A ¹⁴	A ¹⁴	A ¹⁴
Entertainment Facilities , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	C ¹⁵	P ¹⁵	P ¹⁵	P	P	P	P ¹⁵	P ^{15,16}	S	C ^{15,17}	L ^{6,15}
Farmers' Markets , subject to Section 840	P	P	P	P	P	P	P	P	P	P	P

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU¹	SCMU	OA^{2,3}	OC	RCO
Financial Institutions , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P	P	P	P	P	P	P	P	P	P
Fitness Facilities , including athletic clubs, exercise studios, gymnasiums, and health clubs	P ¹⁵	P ¹⁵	P ¹⁵	P	P	P	P ¹⁵	P ^{15,16}	L ^{15,18}	C ¹⁵	L ^{15,19}
Government Uses , including fire stations, police stations, and post offices	C	P	P	P	P	P	P	P	P	P	P
Heliports	X	X	C ²⁰	C	C	C	X	X	X	C ²⁰	C ²⁰
Helistops	X	X	C ²⁰	C	C	C	C	C	X	C ²⁰	C ²⁰
Home Occupations , including bed and breakfast homestays, subject to Section 822	A	A	A	A	A	A	A	A	A	A	A
Hospitals	X	X	X	X	X	X	X	X	X	C	C
Hotels	P	P	P	P	P	P	P	P ¹⁶	S	L ^{5,21} ,C ²¹	P ²¹
Hydroelectric Facilities	X	C	X	C	X	C	X	X	X	X	X
Libraries	P	P	P	P	P	P	P	P	P	P	P
Manufacturing , including the mechanical, physical, or chemical transformation of materials, substances, or components into new products and the assembly of component parts, but excluding the primary processing of raw materials	S ²²	S ²³	S	S	P	P	S	P ^{24,25}	S	P ²⁶	S

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Manufacturing of Edible or Drinkable Products Retailed on the Same Site , including the primary processing of raw materials (e.g., malt, milk, spices) that are ingredients in edible or drinkable products retailled on the same site, and also including the wholesale distribution of edible or drinkable products that are manufactured and retailled on the same site.	S	P	S	S	P	P	S	P ^{24,25}	S	P ²⁶	S
Marijuana Processing	X	X	X	X	P ²⁷	P ²⁷	X	P ^{24,27}	X	P ^{26,27}	X
Marijuana Production	X	X	X	X	X	X	X	X	X	X	X
Marijuana Retailing , subject to Section 841	P	P	P	P	P	P	P	P ¹⁶	X	P ¹⁷	L ⁶
Marijuana Wholesaling	X	X	X	X	X	X	X	X	X	X	X
Mobile Vending Units , subject to Section 837	P	P	P	P	P	P	P	P	A ²⁸	A ²⁸	A ²⁸
Motels	P	P	P	P	P	P	P	P ¹⁶	S	L ^{5,29} ,C ²⁹	L ⁶
Multi-Use Developments , subject to Section 844	X	X	X	X	X	C	X	X	X	C	X
Nursing Homes	X	X	X	X	X	X	P	P	L	X	X
Offices , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer’s representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P	P	P	P	P	P	P	P	P	P

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU¹	SCMU	OA^{2,3}	OC	RCO
Offices and Outpatient Clinics —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P	P	P	P	P	P	P	P	P	P	P
Parking Lots	A	A	A	A	P	P	A	A	A	P ³⁰	A
Parking Structures	X	A ³¹	P ³⁰	P ³⁰	P	P	A	A	A ³¹	P ³⁰	P ³⁰
Parks, Government-Owned , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; nature preserves and wildlife sanctuaries; picnic areas and structures; play equipment and playgrounds; tables and seating; and similar recreational uses. Accessory uses to a park may include concessions, maintenance facilities, restrooms, and similar support uses.	P	P	P	P	P	P	P	P	P	P	P
Pedestrian Amenities	P	P	P	P	P	P	P	P	P	P	P
Public Utility Facilities	S	C	C ³²	C ³²	C	C	S	S	S	S	S
Race Tracks, Outdoor	X	X	X	X	X	C	X	X	X	X	X
Radio and Television Studios , excluding transmission towers	C	P	P	P	P	P	P	P	S	P	P

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Radio and Television Transmission and Receiving Towers and Earth Stations ³³	S	C	S	S	C	C	S	S	S	S	S
Radio and Television Transmission and Receiving Earth Stations	S	C	C	C	C	C	A	S	S	S	S
Recreational Sports Facilities for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: general recreation, instruction, practice, and competitions.	P ¹⁵	P ¹⁵	P ¹⁵	P	P	P	P ¹⁵	P ^{15,16}	S	C ¹⁵	L ^{15,19}
Recyclable Drop-Off Sites , subject to Section 819	A	A	A ³⁴	A ³⁴	A	A	A ³⁴	A ³⁴	A ³⁴	A ³⁴	A ³⁴
Research Facilities and Laboratories , including medical laboratories, medical research, product design and testing, and product research and development	S	S	S	S	P	P	P ²⁶	P	P ³⁵	P ³⁵	P ²⁶
Retailing —whether by sale, lease, or rent—of new or used products	S	S	P	P	P	P	P	P ¹⁶	S	C ¹⁷	L ⁶

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Retailing —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P	P	P	P	P	P	P ¹⁶	L ^{18,36} ,S	L ^{5,36} ,C ¹⁷	L ⁶
Retailing —whether by sale, lease, or rent—of any of the following new or used products: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	P	P	P	P	X	X	X	C ¹⁷	L ⁶
Retailing —whether by sale, lease, or rent—of any of the following new or used products: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Roads	P	P	P	P	P	P	P	P	P	P	P
Schools	P ³⁷	P ³⁷	P	P	P	P	P	P	L ³⁸	P	P
Service Stations	C	P	X	C	P	P	X	X	X	X	X
Services, Business , including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	P	P	P	P	P	P	P	P	P	P	P
Services, Commercial	S	S	P	P	P	P	P	P ¹⁶	S	C ¹⁷	L ⁶
Services, Commercial—Car Washes	S	S	X	C	P	P	P	X	X	X	X
Services, Commercial—Construction and Maintenance , including contractors engaged in construction and maintenance of electrical and plumbing systems	C	P	P	P	P	P	P	S	S	C ¹⁷	L ⁶
Services, Commercial—Food and Beverage , including catering and eating and drinking establishments	P	P	P	P	P	P	P	P ¹⁶	L ¹⁸	L ⁵ ,C ³⁹	L ^{6,40}
Services, Commercial—Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P	P	P	P	P	P	P ¹⁶	S	C ¹⁷	L ⁶
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	C	P	P	P	P	P	X	X	X	C ¹⁷	L ⁶

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Services, Commercial—Maintenance and Repair of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X
Services, Commercial—Miscellaneous , including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P	P	P	P	P	P	P ¹⁶	S	C ¹⁷	L ⁶
Services, Commercial—Personal and Convenience , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	P	P	P	P	P	P	P	P ¹⁶	L ¹⁸	L ⁵	L ⁶
Services, Commercial—Mini-Storage/Self-Storage Facilities	S	S	X	C	P	P	X	X	S	X	X
Services, Commercial—Storage of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	X	C	P	P	X	X	X	X	X

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU¹	SCMU	OA^{2,3}	OC	RCO
Services, Commercial—Storage of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	C	P	P	X	X	X	X	X
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	P	P	P	P	P	P	P	P ¹⁶	S	P	P
Services, Commercial—Truck Stops	X	X	X	X	P	P	X	X	X	X	X
Services, Information , including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	S	S	S	S	P	P	P	P ²⁴	P	P	P
<u>Short-Term Rental in a dwelling unit permitted by this table, except for a dwelling unit that is an accessory use</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Signs , subject to Section 1010	A ⁴¹	A ⁴¹	A ⁴¹	A ⁴¹	A ⁴¹	A ⁴¹	A ⁴¹	A ⁴¹	A ⁴¹	A ⁴¹	A ⁴¹
Stadiums, Outdoor	X	X	X	X	X	C	X	X	X	X	X
Telephone Exchanges	S	C	C	C	C	C	S	S	S	S	S
Temporary Buildings for Uses Incidental to Construction Work , provided that such buildings shall be removed upon completion or abandonment of the construction work	A	A	A	A	A	A	A	A	A	A	A

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A	A	A	A	A	A
Transit Facilities , including transit centers, transit park-and-rides, transit stations, and transit stops	S	S	P	P	P	P	P	P	S	P	P
Utility Carrier Cabinets , subject to Section 830	P,C ⁴²	P,C ⁴²	P,C ⁴²	P,C ⁴²	P,C ⁴²	P,C ⁴²	P,C ⁴²	P,C ⁴²	P,C ⁴²	P,C ⁴²	P,C ⁴²
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1	P	P	P	P	P	P	See Table 835-1	P	P	P

¹ Required primary uses for each Planned Mixed Use site are listed in Table 510-3, *Site-Specific Requirements for the PMU District*.

² A minimum of 60 percent of the total building floor area on a site shall be primary use(s).

³ A maximum of 40 percent of the total building floor area on a site may be limited use(s).

⁴ An assembly facility with a maximum capacity of more than 500 people is a conditional use.

⁵ The maximum combined building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.

⁶ The use is permitted only:

- a. In a multistory building with a primary use, up to a maximum building floor area equal to the building floor area of the first floor; or
- b. On the ground-level floor of a freestanding parking structure.

⁷ Drive-thru window service is prohibited on streets designated as Main Streets on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*.

⁸ Drive-thru window service is permitted only if it is accessory to a financial institution and only if the financial institution is not on a street designated as a Main Street on Comprehensive Plan Map X-CRC-3.

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- ⁹ Freestanding congregate housing facilities, freestanding multifamily dwellings, and freestanding quadplexes (as opposed to congregate housing facilities, multifamily dwellings, and quadplexes in a mixed-use building) are subject to the development and dimensional standards applicable to congregate housing facilities, multifamily dwellings, and quadplexes in the RCHDR District.
- ¹⁰ A congregate housing facility shall have a minimum of four dwelling units.
- ¹¹ Freestanding congregate housing facilities, freestanding multifamily dwellings, and freestanding quadplexes (as opposed to congregate housing facilities, multifamily dwellings, and quadplexes in a mixed-use building) are subject to the development and dimensional standards applicable to congregate housing facilities, multifamily dwellings, and quadplexes in the HDR District, except that the minimum and maximum residential density standards of Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*, apply.
- ¹² Duplexes, triplexes, quadplexes, and multifamily dwellings, subject to the density standards of the MR-2 District, may be developed in the same building as a primary use.
- ¹³ Townhouses, subject to the density standards of the VTH District, may be developed in the same building as a primary use.
- ¹⁴ Employee amenities shall be located in the same structure as the use to which they are accessory.
- ¹⁵ Only indoor facilities are permitted.
- ¹⁶ A maximum of 40,000 square feet of ground-floor building floor area may be occupied by any one business, regardless of the number of buildings occupied by that business. In addition, the total ground-floor building floor area occupied by any combination of uses subject to Note 16 shall not exceed 40,000 square feet in a single building.
- ¹⁷ The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note 17, shall be 20 percent of the building floor area of primary uses in the same development.
- ¹⁸ An individual use shall not exceed 2,500 square feet of building floor area. In addition, the maximum combined building floor area of an individual use, and any other uses subject to Note 18, shall be 10 percent of the total building floor area in the same development.
- ¹⁹ The use may be allowed in conjunction with a primary use on the site, subject to the following criteria:
- a. If the primary use on the site is an office use, the minimum floor area ratio (FAR) standard of Table 510-2 may be modified as follows for a lot of greater than two and one-half acres in size:
 - i. The minimum FAR for the office use shall be 0.75; and
 - ii. The minimum FAR for the fitness facility or recreational sports facility and the office use combined shall be 1.0.
 - b. If the primary use on the site is a multifamily dwelling, the site area developed with the fitness facility or recreational sports facility and any parking or accessory structures used exclusively for the fitness facility or recreational sports facility shall be included in the net acreage when calculating minimum density pursuant to Table 510-2.

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c. The fitness facility or recreational sports facility shall be developed concurrently with, or after, a primary use.

- 20 This use is permitted only in conjunction with a primary or another conditional use.
- 21 Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the hotel.
- 22 In the NC District, sign production is a conditional use.
- 23 In the C-2 District, sign production is a permitted use.
- 24 These uses are permitted with a maximum of 10,000 square feet of building floor area per building, if part of a mixed-use development and if the combined building floor area of the use, and any other uses subject to Note 24, does not exceed 25 percent of the building floor area of the mixed-use development.
- 25 Manufacturing of the following is prohibited: explosive devices; incendiary devices; and renewable fuel resources, such as alcohol, biomass, and methanol.
- 26 This use is permitted only if it has physical and operational requirements that are similar to those of other primary uses allowed in the same zoning district.
- 27 Marijuana processing shall be located entirely within one or more completely enclosed buildings. The processing, compounding, or conversion of marijuana into cannabinoid concentrates or cannabinoid extracts is prohibited.
- 28 Only level one mobile vending units are permitted.
- 29 Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the motel.
- 30 The parking is permitted to serve only developments located in the same zoning district as the subject property.
- 31 This use is limited to understructure parking.
- 32 Only substations are permitted.
- 33 The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- 34 Recyclable drop-off sites are permitted only if accessory to an institutional use.
- 35 No operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions.
- 36 Only retailing of videos is permitted as a limited use. All other retailing in this use category requires review pursuant to Section 106 in the OA District and is a conditional use, subject to Note 17, in the OC District.
- 37 Only commercial schools are permitted.

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- ³⁸ Schools shall be limited to no more than 30 percent of the total building floor area on a site.
- ³⁹ An eating and drinking establishment may be permitted as a conditional use, provided that it complies with a minimum of five of the following criteria:
- a. Has a minimum seating capacity of 75;
 - b. Specializes in gourmet, ethnic, or specialty cuisine;
 - c. Includes banquet facilities and services;
 - d. Provides live entertainment at least two nights a week;
 - e. Utilizes custom architectural design and/or collections of artistic, cultural, or historic items to produce a distinctive thematic decor or atmosphere;
 - f. Has an Oregon Liquor Control Commission license to serve beer and wine; or
 - g. Employs only chefs who have graduated from a recognized culinary institute, or who have outstanding qualifications or reputations for their culinary skills.
- ⁴⁰ Notwithstanding Note 6, a freestanding eating and drinking establishment shall be allowed in conjunction with a primary use in the same development, subject to the following criteria:
- a. The building floor area of the freestanding eating and drinking establishment shall not exceed 5,000 square feet.
 - b. If the primary use in the same development is an office use, as defined in Note 23 to Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*, the floor area ratio of the development, including the eating and drinking establishment, shall comply with the minimum floor area ratio standard for primary office uses in Table 510-2.
 - c. If the primary use in the same development is a multifamily dwelling or a congregate housing facility, the acreage developed with the eating and drinking establishment, and any parking or accessory structures that are used exclusively for the eating and drinking establishment, may be subtracted from the total acreage when calculating minimum density pursuant to Table 510-2.
 - d. The eating and drinking establishment shall be developed concurrently with, or after, a primary use.
- ⁴¹ Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- ⁴² Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

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Table 510-2: Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts

Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Lot Size	7,260 square feet ^{1,2}	None	1 acre ^{2,3}	½ acre ^{2,3}	None	None	PMU1: None PMU2: 2 acres PMU3: 3 acres PMU4: ½ acre PMU5: 10 acres PMU6: 5 acres	½ acre ^{2,4}	None	1 acre ^{2,3}	2½ acres ^{2,3}
Minimum Street Frontage	None	None	None	None	None	None	None	100 feet ⁵	None	None	None
Maximum Front Setback	20 feet ⁶	20 feet ⁶	20 feet ⁷	20 feet ⁶	20 feet ⁶	20 feet ⁶	20 feet ^{7,8}	See Subsection 1005.10	20 feet ⁶	20 feet ⁶	20 feet ⁷
Minimum Front Setback	0	15 feet	5 feet ⁹	15 feet	15 feet	15 feet	0	See Subsection 1005.10	10 feet	15 feet	5 feet ⁹

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Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Rear Setback	0	0 ¹⁰	0 ¹¹	0 ¹²	0 ¹²	0 ¹²	0 ^{8,10}	See Subsection 1005.10	10 feet ¹³	10 feet ¹¹	0 ¹⁴
Minimum Side Setback	0	0 ¹⁵	0 ¹⁵	0 ¹⁶	0 ¹⁶	0 ¹⁶	0 ^{8,15}	See Subsection 1005.10	6 feet ¹⁷	10 feet ¹⁸	0 ¹⁵
Maximum Building Height	35 feet	None ¹⁹	None	None	None	None	None	None	45 feet	None ²⁰	None
Minimum Floor Area Ratio	None	None	0.3 for a retail development; 0.5 for an office development ²¹	None	None	None	See Table 510-3.	None	None	None	0.5 for primary office uses on lots of 2½ acres or less; 1.0 for primary office uses on lots greater than 2½ acres ^{21, 22, 23}
Maximum Building Floor Area per Use	5,000 square feet	None	None	None	None	None	None	None	None	None	None

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Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Residential Density	None	None	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use ²⁴	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	See Table 510-3	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	None	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use or with a limited use other than a fitness facility or a freestanding restaurant ²⁴
Maximum Residential Density	None, but residential density may be limited because dwellings are allowed only as an accessory use.	None, but residential density may be limited because dwellings are allowed only as an accessory use.	None	60 dwelling units per acre ²⁵	60 dwelling units per acre ²⁵	60 dwelling units per acre ²⁵	None	None	Standards in MR-2 District apply. See Table 315-4.	60 dwelling units per acre ²⁵	None

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Notes to Table 510-2:

- ¹ The minimum lot size for land with a Comprehensive Plan land use plan designation of Low Density Residential shall be the same as that allowed by the zoning district that applied to the subject property immediately prior to the application of the NC zoning district.
- ² The minimum lot size standard applies only to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, an undersized lot of record may be developed, subject to other applicable standards of this Ordinance.
- ³ No minimum lot size standard applies to a lot created by partition or subdivision or adjusted through a property line adjustment, provided that the newly created or adjusted lot is developed only with a dwelling classified as a nonconforming use and uses accessory to that dwelling.
- ⁴ The minimum is 2,000 square feet for a lot developed only with a townhouse and uses accessory to that townhouse.
- ⁵ The minimum street frontage standard applies only to subdivisions, partitions, and property line adjustments. The minimum for a lot of record on the outer radius of a curved street or the circular end of a cul-de-sac is 35 feet measured on the arc. The minimum for a lot of record developed only with a townhouse, and uses accessory to that townhouse, shall be 20 feet. A lot of record with frontage on more than one street shall meet the minimum on each street.
- ⁶ The maximum front setback standard applies only if required by Subsection 1005.03(H). However, see Subsection 1005.03(E) for a related standard.
- ⁷ The maximum front setback standard shall be met for all buildings except freestanding parking structures. However, the maximum front setback may be exceeded to the minimum extent necessary to accommodate pedestrian amenities. If a lot has more than one front lot line, the standard must be met for only one. A private road used to satisfy the maximum front setback standard must comply with Subsection 1005.08(G). The maximum front setback from Main Streets identified on Comprehensive Plan Map X-CRC-3 is 10 feet.
- ⁸ In lieu of complying with the standard, an applicant for design review on a site of 25 acres or larger may propose alternate setback standards. The alternate standards, or any part thereof, shall be approved if they are found to be equally effective as the regular standards in establishing a visual image, sense of place, and quality pedestrian environment for the area.
- ⁹ There is no minimum setback from a front lot line that abuts a Main Street identified on Comprehensive Plan Map X-CRC-3.

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- 10 If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet.
- 11 If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet.
- 12 If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.
- 13 If the rear lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: 10 feet for the portion of a building that is 25 feet or less in height; 20 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.
- 14 If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 39 feet.
- 15 If the side lot line abuts a residential zoning district, the minimum shall be 15 feet.
- 16 If the side lot line abuts a residential zoning district, the minimum side yard setback shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.
- 17 If the side lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: six feet for the portion of a building that is 25 feet or less in height; 16 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.
- 18 If the side lot line abuts a residential zoning district, the minimum shall be 35 feet.
- 19 If the subject property abuts a residential zoning district, the maximum building height shall be 35 feet.
- 20 If the building is located less than 100 feet from an Urban Low Density Residential, VR-4/5, or VR-5/7 District, the maximum building height shall be equal to the building's distance from the Urban Low Density Residential, VR-4/5, or VR-5/7 District.

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- ²¹ Floor area ratio shall be calculated pursuant to Subsection 1005.03(K).
- ²² With a master plan approved pursuant to Subsection 1102.03(B), a lot greater than two and one-half acres may be developed in phases provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.
- ²³ For the purposes of this provision, “office uses” include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Offices and Outpatient Clinics, and Research Facilities and Laboratories.
- ²⁴ Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).
- ²⁵ Maximum residential density may be increased pursuant to Table 1012-1, *Bonus Density*. Any partial figure of one-half or greater shall be rounded up to the next whole number.

Table 510-3: Site-Specific Requirements for the PMU District

Land Uses & Areas Required	PMU1
Office uses ¹ , minimum square feet	525,000 square feet
Retail, entertainment, hotel, service commercial, theater, or equivalent, minimum square feet	500,000 square feet
Dwelling units, minimum number	200 dwelling units; demonstrate ability to accommodate 600 dwelling units
Public plaza	one-half- to one-acre plaza
Entertainment/recreational facility	
Transit facilities	
Preserve Phillips Creek and enhance Phillips Creek Greenway	
Land Uses & Areas Required	PMU 2, 3, 4, and 5
Office uses ¹ or residential uses ² , minimum site area	50 percent
Office uses ¹ , minimum floor area ratio (FAR)	0.5 for office uses on lots of two and one-half acres or less; 1.0 for office uses on lots greater than two and one-half acres, calculated pursuant to Subsection 1005.03(K). With a master plan approved pursuant to Subsection 1102.03(B), a lot greater than two and one-half acres may be developed in phases, provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.
Retail uses and service commercial uses, minimum FAR	0.3, calculated pursuant to Subsection 1005.03(K)
Residential density ²	The minimum density for residential development shall be 30 dwelling units per net acre. Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).

Notes to Table 510-3:

- ¹ For the purposes of this provision, “office uses” include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Assembly Facilities, Business Services, Civic and Cultural Facilities, Financial Institutions, Information Services, Libraries, Offices, Offices and Outpatient Clinics, Radio and Television Studios, Research Facilities and Laboratories, and Schools.
- ² For the purposes of this provision, “residential uses” include the following uses from Table 510-1: Congregate Housing Facilities, Multifamily Dwellings, and Nursing Homes. However, nursing homes are excluded from the minimum residential density standard.

[Added by Ord. ZDO-250, 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; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-277, 1/1/22; Amended by Ord. ZDO-282, 7/1/22]

513 RURAL TOURIST COMMERCIAL (RTC) AND RURAL COMMERCIAL (RC) DISTRICTS

513.01 PURPOSE

Section 513 is adopted to implement the policies of the Comprehensive Plan for Community Commercial areas regulated by the Mount Hood Community Plan and for Rural Commercial areas.

513.02 APPLICABILITY

Section 513 applies to land in the Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts.

513.03 USES PERMITTED

A. Uses permitted in the RTC and RC Districts are listed in Table 513-1, *Permitted Uses in the RTC and RC Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

B. As used in Table 513-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. “S” means the use may be authorized only pursuant to Section 106; however, identifying a use as “S” does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.
5. “X” means the use is prohibited.
6. “Type II” means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.
7. Numbers in superscript correspond to the notes that follow Table 513-1.

C. Permitted uses are subject to the applicable provisions of Subsection 513.04, *Dimensional Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

513.04 DIMENSIONAL STANDARDS

A. General: Dimensional standards applicable in the RTC and RC Districts are listed in Tables 513-2, *Dimensional Standards in the RTC and RC Districts, Except in Government Camp*, and 513-3, *Dimensional Standards in Government Camp*. As used in Tables 513-2 and 513-3, numbers in superscript correspond to the notes that follow the tables.

- B. Modifications: Modifications to the standards in Tables 513-2 and 513-3 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

Table 513-1: Permitted Uses in the RTC and RC Districts

Use	RTC	RC
Accessory Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A
Assembly Facilities , including auditoriums, community centers, convention facilities, exhibition halls, fraternal organization lodges, places of worship, senior centers, and theaters for the performing arts	P	P,C ¹
Bed and Breakfast Inns , subject to Section 832	P	P
Bed and Breakfast Residences , subject to Section 832	P	P
Bus Shelters	P	P
Child Care Facilities	P	P
Civic and Cultural Facilities , including art galleries, libraries, museums, and visitor centers	P	P
Composting Facilities	X	X
Contractors, Logging	P	P
Daycare Services, Adult	P	P
Drive-Thru Window Services , subject to Section 827	X	A
Dwellings, Detached Single-Family	P ² ,A	A
Electric Vehicle Charging Stations	P	P
Employee Amenities , including cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A
Entertainment Facilities , including arcades, billiard halls, and movie theaters	P	P
Farmers’ Markets , subject to Section 840	P	P
Financial Institutions , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P
Fitness Facilities , including athletic clubs, exercise studios, gymnasiums, and health clubs	P	P

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Use	RTC	RC
Government Uses , including fire stations, police stations, and post offices	P	P
Government Uses , unless such a use is listed elsewhere in this table as a primary, accessory, conditional, or prohibited use in the applicable zoning district	S	C
Home Occupations , including bed and breakfast homestays, subject to Section 822	A	A
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C	C
Hotels	P ³	S ⁴
Hydroelectric Facilities	C	C
Manufacturing of Edible or Drinkable Products Retailed on the Same Site , including the primary processing of raw materials (e.g., malt, milk, spices) that are ingredients in edible or drinkable products retailed on the same site, and also including the wholesale distribution of edible or drinkable products that are manufactured and retailed on the same site, but excluding the processing, production, and wholesaling of marijuana products.	P	S
Marijuana Processing	X	X
Marijuana Production	X	X
Marijuana Retailing , subject to Section 841	P ⁵	P ⁵
Marijuana Wholesaling	P ⁶	P ⁶
Mobile Vending Units , subject to Section 837	P	P
Motels	P ³	S ⁴
Offices , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer’s representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P
Offices and Outpatient Clinics —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P	P
Parking Lots	A	A
Parking Structures, Community	P ⁷	X
Pedestrian Amenities	P	P
Public Utility Facilities	S	C
Radio and Television Transmission and Receiving Towers and Earth Stations	S ⁸	C ⁸

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Use	RTC	RC
Recreational Uses , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails ⁹	C	C
Recreational Uses, Government-Owned , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses ⁹	P	P
Recreational Uses, Government-Owned Golf Courses ⁹	P	P
Recreational Vehicle Camping Facilities , subject to Section 813	P	X
Recycling Centers , subject to Section 819	C	C
Recyclable Drop-Off Sites , subject to Section 819	A	A
Resort Accommodations	P ¹⁰	S
Retailing —whether by sale, lease, or rent—of any of the following new or used products: Class I, III, and IV all-terrain vehicles, as defined by Oregon Revised Statutes Chapter 801; motorcycles; and snowmobiles	S	P
Retailing —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P
Retailing —whether by sale, lease, or rent—of any of the following new or used products: animal feed, building materials, farm equipment, forestry equipment, and livestock supplies	P	P
Roads	P	P
Schools	P	P,C ^{2,11}
Service Stations	P	P
Services, Commercial—Construction and Maintenance , including contractors engaged in construction and maintenance of buildings, electrical systems, and plumbing systems	P	P

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Use	RTC	RC
Services, Commercial—Food and Beverage , including catering and eating and drinking establishments	P ¹²	P ¹²
Services, Commercial—Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	P	P
Services, Commercial— Maintenance and Repair of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles	S	P
Services, Commercial—Miscellaneous , including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P
Services, Commercial—Mini-Storage/Self-Storage Facilities	C ¹³	C
Services, Commercial—Personal and Convenience , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	P	P
Services, Commercial—Storage of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	C
Services, Commercial—Storage of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles	S	C
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	P	P
Sewer System Components that Serve Lands Inside an Urban Growth Boundary , subject to ORS 660-011-0060(3)	Type II ¹⁴	Type II ¹⁴
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community , subject to ORS 660-011-0060(4)	Type II ¹⁵	Type II ¹⁵
<u>Short-Term Rental in a dwelling unit permitted by this table, except for a dwelling unit that is an accessory use</u>	<u>P</u>	<u>X</u>
Signs , subject to Section 1010	A ¹⁶	A ¹⁶
Telephone Exchanges	S	C
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A

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Use	RTC	RC
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
Theme Parks and Amusement Parks	C	S
Transfer Stations , subject to Section 819	C	C
Transit Park-and-Rides	P	P
Utility Carrier Cabinets , subject to Section 830	P,C ¹⁷	P,C ¹⁷
Wholesaling —whether by sale, lease, or rent—of any of the following new or used products: animal feed, farm equipment, farm materials, farm products, fertilizer, forestry equipment, forestry materials, forestry products, mulch, nursery stock, seeds, and seedlings	P	P
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1	See Table 835-1

- ¹ A fraternal organization lodge, place of worship, or school is a conditional use if the building floor space exceeds 4,000 square feet.
- ² On a lot of record created on or before December 7, 1983, one detached single-family dwelling is a primary use. Otherwise, detached-single family dwellings are permitted only as an accessory use.
- ³ A new hotel or motel in Rhododendron shall be limited to a maximum of 35 units. A new hotel or motel in Government Camp shall be limited to a maximum of 100 units.
- ⁴ If a hotel or motel is authorized as a similar use inside an unincorporated community, it shall be subject to Oregon Administrative Rules 660-022-0030(5).
- ⁵ Marijuana retailing is permitted only inside an unincorporated community.
- ⁶ Marijuana wholesaling shall be located entirely within one or more completely enclosed buildings. A maximum of 4,000 square feet of building floor space may be used for all activities associated with marijuana wholesaling on a lot of record.
- ⁷ Parking structures are permitted only in Government Camp and only if they are consistent with a community parking plan adopted by the Board of County Commissioners.
- ⁸ The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- ⁹ This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- ¹⁰ A resort accommodations development in Government Camp shall be limited to a maximum of 50 units per acre. A resort accommodations development in Rhododendron or Wemme/Welches shall be limited to a maximum number of units per acre calculated pursuant to Table 317-3, *District Land Area Standards in the MRR District*, but is not subject to Section 1012, *Lot Size and Density*.

- 11 Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metropolitan Service District’s 2040 Growth Concept Map.
- 12 Drive-in eating and drinking establishments are prohibited.
- 13 No outside storage shall be permitted.
- 14 Components of a sewer system that serve land outside urban growth boundaries or unincorporated community boundaries are prohibited.
- 15 The use is limited to sewer systems that: are designed and constructed so that their capacity does not exceed the minimum necessary to serve the area within the boundaries described under ORS 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6); and do not serve any uses other than those existing or allowed in the identified service area on the date the sewer system is approved.
- 16 Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- 17 Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

Table 513-2: Dimensional Standards in the RTC and RC Districts, Except in Government Camp

Standard	RTC	RC
Minimum Lot Size	None	None ¹
Minimum Front Setback	25 feet ²	30 feet ²
Minimum Rear Setback	10 feet ^{3,4,5}	10 feet ^{4,6}
Minimum Side Setback	10 feet ^{3,4,5}	10 feet ^{4,6}
Maximum Building Floor Space per Commercial Use in an Unincorporated Community	4,000 square feet ⁷	
Maximum Building Floor Space per Commercial Use outside an Unincorporated Community	Not Applicable	3,000 square feet ⁸
Maximum Building Floor Space per Industrial Use in an Unincorporated Community	40,000 square feet ⁹	

- 1 The minimum lot size inside the Portland Metropolitan Urban Growth Boundary shall be 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.
- 2 In a planned unit development, the minimum front setback is 20 feet.
- 3 If the lot line abuts a national forest, there is no minimum setback. If Note 3 and Note 4 conflict, Note 3 prevails.
- 4 In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat.
- 5 If the lot line abuts an RR or HR District, the minimum is 20 feet except as established by Note 3 or 4.
- 6 If the lot line abuts a residential zoning district, the minimum is 20 feet except as established by Note 3 or 4.
- 7 No maximum applies to hotels and motels; uses authorized under Oregon Statewide Planning Goals 3 and 4; and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.
- 8 A lawfully established commercial use that existed on December 20, 2001, may expand to occupy a maximum of 3,000 square feet of building floor space or 25 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.
- 9 No maximum applies to uses authorized under Statewide Planning Goals 3 and 4; expansion of a use that existed on December 5, 1994; uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a); new uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and uses sited on abandoned or diminished mill sites.

Table 513-3: Dimensional Standards in Government Camp

Standard	RTC
Minimum Front Setback unless the Front Lot Line abuts Government Camp Loop	10 feet, except 20 feet to garage and carport motor vehicle entries
Minimum Front Setback if the Front Lot Line abuts Government Camp Loop	4 feet ¹
Maximum Front Setback if the Front Lot Line abuts Government Camp Loop	10 feet ²
Minimum Rear Setback	10 feet ^{3,4,5}
Minimum Side Setback	None

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Maximum Building Height	70 feet ⁶
Minimum Building Separation above 3,500 Feet in Elevation	20 feet between buildings with contiguous snow slide areas
Maximum Building Floor Space per Commercial Use	8,000 square feet ⁷
Maximum Building Floor Space per Industrial Use	60,000 square feet ⁸

- ¹ There is no minimum front setback for building cantilevers with a minimum vertical clearance of eight feet above any pedestrian pathway, sidewalk, or walkway. Structures less than 10 feet from the front lot line shall be designed to include measures to protect the public and vehicles from snow slide incidents.
- ² The maximum front setback may be exceeded to the minimum extent necessary to accommodate public plaza space. Detached single-family dwellings are exempt from complying with the maximum front setback.
- ³ If the rear lot line abuts a national forest, there is no minimum rear setback. If Note 3 and Note 4 conflict, Note 3 prevails.
- ⁴ In a planned unit development, there is no minimum rear setback except from rear lot lines on the perimeter of the final plat.
- ⁵ If the rear lot line abuts an HR District, the minimum rear setback is 20 feet except as established by Note 3 or 4.
- ⁶ The maximum building height may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.
- ⁷ No maximum applies to hotels and motels; uses authorized under Oregon Statewide Planning Goals 3 and 4; and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.
- ⁸ No maximum applies to uses authorized under Statewide Planning Goals 3 and 4; expansion of a use that existed on December 5, 1994; uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a); new uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and uses sited on abandoned or diminished mill sites.

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-280, 10/23/21]

833 GUEST HOUSES

833.01 STANDARDS

Guest houses shall comply with the following standards:

- A. Use: ~~A guest house shall not be a source of rental income, except that a guest house may be used as a short-term rental.~~ ~~Aa~~ 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~~
- 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; Amended by Ord. ZDO-273, 1/17/21; Amended by Land Use Board of Appeals Remand of Ord. ZDO-273, 1/24/22]

EXHIBIT LIST
IN THE MATTER OF ZDO-273, On Remand: Short-Term Rentals (STRs)
Zoning & Development Ordinance (ZDO) Amendments
BCC Hearing Date: November 2, 2022

Ex. No.	Date Received	Author or Source	Subject & Date of Document (if different than date received)
1	10/12/22	Planning & Zoning Division Staff	1000 Friends of Oregon v. Clackamas County, 320 Or. App. 444 (2022); 06/23/22
			LUBA No. 2021-003; 01/24/22
			Ordinance ZDO-273; adopted 12/17/20
2	10/12/22	Planning & Zoning Division Staff	<i>Short-Term Rentals Have Modest Impact on Home Prices, Study Suggests</i> , www.wsj.com; 11/19/19
			Short-Term Rental Data Report, Clatsop County; 05/18/22
3	10/13/22	Annemarie Spencer	Email in support of allowing STRs
4	10/13/22	rickseven007@gmail.com	Email in support of allowing homeowners to rent their property
5	10/17/22	Britney Colton	Email with 2 letters: (1) Testimony from the Colton family about allowing for rental of home amenities and (2) Testimony from Swimply about including hourly rentals of home amenities as STRs; 11/02/22
6	10/18/22	Cameron Kilberg	Email with letters of testimony from Swimply about including hourly rentals of home amenities as STRs; 11/02/22
7	10/24/22	Dennis Tylka	Email with letter of testimony requesting Board not adopt the STR amendments and suggesting edits to proposal
8	10/25/22	Eddie Dallas	Email in support of allowing STRs

IN THE COURT OF APPEALS OF THE STATE OF OREGON

1000 FRIENDS OF OREGON,
Respondent,

and

DENNIS TYLKA,
Respondent
Cross-Petitioner,

v.

CLACKAMAS COUNTY,
Petitioner
Cross-Respondent.

Land Use Board of Appeals
2021003

A177973

Submitted on April 01, 2022.

Nathan K. Boderman and Stephen L. Madkour and Clackamas County Counsel, filed the briefs for petitioner-cross-respondent.

Dennis Tylka filed the brief, *pro se*.

Andrew Mulkey filed the brief for respondent 1000 Friends of Oregon.

Before Shorr, Presiding Judge, and Mooney, Judge, and Pagán, Judge.

SHORR, P. J.

Affirmed on petition and cross-petition.

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondents on petition; Cross-Respondent on cross-petition

- No costs allowed.
 Costs allowed, payable by Petitioner on petition; Cross-Petitioner on cross-petition.
 Costs allowed, to abide the outcome on remand, payable by

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1 SHORR, P. J.

2 This case involves a dispute related to the use of homes as short-term
3 rentals on farm and forest land in Clackamas County. The county adopted Ordinance
4 ZDO-273, which amended the county's Zoning and Development Ordinance (ZDO) to
5 authorize the short-term rental use of dwelling units and guest houses for up to 30
6 consecutive nights throughout the county, including on farm and forest land. Petitioner
7 1000 Friends of Oregon (1000 Friends) and intervenor-petitioner Dennis Tylka (Tylka)
8 sought review of the county's decision by the Land Use Board of Appeals (LUBA).
9 LUBA agreed, in substantial part, and, accordingly, remanded the county's decision. The
10 county and Tylka each seek judicial review of LUBA's decision. We affirm on Tylka's
11 cross-petition without discussion, and we write to address the assignment of error raised
12 in the county's petition. We review the LUBA order to determine if it is "unlawful in
13 substance," ORS 197.850(9)(a), and conclude that it is not. We therefore affirm on the
14 petition and cross-petition.

15 BACKGROUND

16 We take the pertinent background facts from LUBA's final order and from
17 undisputed evidence in the record. In 2019, the Clackamas County Board of County
18 Commissioners (BCC) instructed county staff to look into ways to allow and regulate
19 short-term occupancies of homes throughout Clackamas County, including homes that
20 are often advertised on websites such as Airbnb, HomeAway, VRBO,
21 VacationRentals.com, or Booking.com. At that time, short-term rentals were not

1 specifically addressed in the county's ZDO. The county thereafter began a two-part
2 project to authorize and regulate the short-term rental use of dwelling units and guest
3 houses. In November 2020, the county completed one part of the project with the
4 adoption of Ordinance No. 09-2020, which created a new chapter in Clackamas County
5 Code (CCC), title 8, Business Regulations. The new chapter establishes a registration
6 program for short-term rentals in the county. It further sets out standards addressing
7 elements such as maximum occupancy and minimum parking requirements, and
8 compliance with the county's garbage requirements, noise control, parking, and towing
9 ordinances. The chapter also includes enforcement mechanisms such as penalties and
10 fines for noncompliance with the terms of the registration program.

11 In December 2020, the county completed the second part of the project
12 with the adoption of Ordinance ZDO-273, which makes amendments to the county's
13 ZDO in chapter 202 (Definitions) and chapter 833 (Special Use Requirements - Guest
14 Houses) to modify the definition of "dwelling unit" and expand the allowed use of guest
15 houses. The amendment to ZDO 202 expanded the definition of "dwelling unit," which
16 had, prior to the amendment, provided that it was "designed for residential occupancy by
17 one family."¹ The amendment added the following italicized language:

¹ ZDO 202 defines a "family" as "[a]ny individual or group of persons, regardless of relationship but not exceeding 15 persons, living together as a single housekeeping unit within a dwelling unit"; a "housekeeping unit" is defined in relevant part as "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 residents by virtue of legal relationship

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

6 In ZDO 833.01, regarding guest houses, the amendments removed a requirement that the
7 "[o]ccupants of the guest house and the primary dwelling shall live together as one
8 housekeeping unit" and removed a prohibition on a guest house being a source of rental
9 income. The following italicized language was added and the language with the
10 strikethrough was deleted:

11 "A. Use: A guest house shall be used only by members of the family
12 residing in the primary dwelling, their nonpaying guests, or their nonpaying
13 employees who work on the premises, ~~A guest house shall not be a source~~
14 ~~of rental income.~~ *or for residential occupancy by one or more paying*
15 *guests for a period that does not exceed 30 consecutive nights by any one*
16 *person. Residential occupancy by paying guests plus occupants of the*
17 *primary dwelling shall not exceed 15 persons.*

18 "* * * * *

19 "E. Facilities: ~~Occupants of the guest house and the primary dwelling shall~~
20 ~~live together as one housekeeping unit, sharing the kitchen and laundry~~
21 ~~facilities in the primary dwelling.~~ The guest house may *contain include* one
22 bathroom plus one additional sink, but shall not include *laundry facilities*, a
23 stove, oven, or other cooking appliances."

24 1000 Friends petitioned for review to LUBA,² raising two assignments of

or mutual agreement."

² Tylka also sought review by LUBA, raising five assignments of error that included assertions that the county's ZDO amendments violated statewide planning Goal 2 and certain Clackamas County Comprehensive Plan policies; Tylka's assignments were not focused solely on resource lands, but rather challenged the county's decision more broadly. Neither party challenged the county's CCC title 8 amendments.

1 error: 1) that the county's expansion of the allowed use of a dwelling unit *on farm and*
2 *forest land* conflicted with the statutory meaning of "dwelling" in ORS 215.283 and that
3 the amendment of the ZDO also conflicted with the provisions of its own zoning
4 ordinance, and 2) that the county's decision to amend the definition of dwelling unit and
5 the scope of the allowed use of a guest house did not comply with the agriculture and
6 forest policies of the county's comprehensive plan or statewide planning Goal 3
7 (Agricultural Lands)³ and Goal 4 (Forest Lands).⁴ 1000 Friends asserted that the county's
8 decision to allow the use on farmland of a dwelling and accessory structures as temporary
9 accommodations for paying overnight guests violates state law and the county's zoning
10 ordinance and that the county's decision misconstrued the uses allowed pursuant to a
11 dwelling approval on forest land. In sum, 1000 Friends' argument was that the county's
12 decision improperly construes applicable portions of ORS chapter 215 and OAR 660-
13 006-0025.

14 As we understand the county's position before LUBA, it disputed 1000
15 Friends' premise that the changes to the ordinances expanded the allowed use of dwelling

³ Goal 3 is "[t]o preserve and maintain agricultural lands."

⁴ Goal 4 is

"[t]o conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."

1 units on farm and forest land. The county argued that, for purposes of the ZDO, "a
2 dwelling remains a dwelling regardless of whether occupancy is on a short-term or long-
3 term basis" and that, under the amended provisions, the "use of dwellings and guest
4 houses [remains] limited to 'residential occupancy.'" The county essentially argued that,
5 if a dwelling was originally approved for residential use on resource land, the fact that it
6 could be used as a short-term rental under the amendments to the ZDO did not change the
7 nature of its use and it remained a permissible use under the applicable statutes and
8 rules.⁵

9 LUBA described the parties' central dispute as "whether a short-term rental
10 is a permitted use of a dwelling unit or guest house on farm or forest land where the
11 dwelling unit or guest house is otherwise allowed under applicable law." LUBA set out
12 the pertinent statutory scheme for its consideration:

13 "The ZDO amendments allow the short-term rental use of dwelling
14 units and guest houses throughout the county, including in the county's
15 Exclusive Farm Use (EFU) zone, governed by ZDO 401; Timber (TBR)
16 zone, governed by ZDO 406; and Ag/Forest (AG/F) zone, governed by
17 ZDO 407. ORS 215.203(1) provides in part, 'Zoning ordinances may be
18 adopted to zone designated areas of land within the county as [EFU] zones.
19 *Land within such zones shall be used exclusively for farm use except as*
20 *otherwise provided in ORS 215.213, 215.283 or 215.284.'* (Emphasis
21 added.) Certain dwellings are allowed on land zoned EFU under ORS

⁵ LUBA explained that, in the county's view, "the ZDO amendments cannot and do not authorize the short-term rental use of an existing dwelling unit if that use would be prohibited by the decision that initially approved the dwelling unit." LUBA pointed to findings by the county in the record that asserted that "[d]wellings that are approved with specific restrictions on occupancy and/or usage would remain ineligible for use as [a short-term rental]. Examples of such dwellings include temporary dwellings for care ('hardship dwellings'), accessory farmworker dwellings, or caretaker dwellings."

1 215.283(1) and others under ORS 215.283(2). ORS 215.284 restricts the
2 establishment of single-family dwellings not provided in conjunction with
3 farm use on land zoned EFU. ORS 215.283(1)(e) allows accessory
4 structures associated with farm and forest use. The uses that are allowed on
5 forest land are set out in OAR 660-006-0025 and include the dwellings
6 authorized by ORS 215.705 to 215.757 as well as other dwellings under
7 prescribed conditions. OAR 660-006-0025(1)(d), (e)."

8 (Footnotes omitted.)

9 LUBA further explained that

10 "ORS 215.283 lists the uses that are allowed on EFU land, and a
11 county cannot allow uses that are not listed under the statute in an EFU
12 zone. OAR chapter 660, division 6, similarly identifies the limited uses
13 that are allowed on forest land. We discuss each below.

14 "The uses listed in ORS 215.283(1) are authorized as of right, and
15 counties may not restrict those uses through additional local standards.
16 *Brentmar v. Jackson County*, 321 Or 481, 496, 900 P2d 1030 (1995). ORS
17 215.283(2) lists nonfarm uses and structures that are conditionally
18 authorized and that must satisfy ORS 215.296(1), which we refer to as the
19 farm impacts test. The farm impacts test requires the local governing body
20 or its designee to find that the use will not:

21 "(a) Force a significant change in accepted farm or forest practices
22 on surrounding lands devoted to farm or forest use; or

23 "(b) Significantly increase the cost of accepted farm or forest
24 practices on surrounding lands devoted to farm or forest use.' ORS
25 215.296(1).

26 "The nonfarm uses listed under ORS 215.283(2) may also be subject to any
27 local standards enacted pursuant to ORS 215.296(10).

28 "ORS 215.283 regulates the use of EFU land. Accordingly, if the
29 county wants to allow the nonfarm short-term rental *use* of a dwelling unit
30 on EFU land, that *use* must be allowed pursuant to either ORS 215.283(1)
31 or (2). * * * [W]e agree with [1000 Friends and Tylka] that, absent any
32 identification by the county of the authority in ORS 215.283, or the Land
33 Conservation and Development Commission's [(LCDC's)] rules
34 implementing that statute, for allowing the short-term rental use of dwelling
35 units or guest houses on EFU land, that use is not allowed under ORS

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1 215.283. The uses that are allowed on forest land are similarly restricted by
2 OAR 660-006-0025 and, absent any identification of authority under OAR
3 660-006-0025 for allowing the short-term rental use of dwelling units or
4 guest houses on forest land, that use is not allowed."

5 (Emphasis in original; footnote omitted.)

6 In reaching its decision to remand the county's decision, LUBA applied the
7 statutory construction analysis set out in *PGE v. Bureau of Labor and Industries*, 317 Or
8 606, 610-11, 859 P2d 1143 (1993) and *State v. Gaines*, 346 Or 160, 171-72, 206 P3d
9 1042 (2009) to determine the intent of the legislature. LUBA began with the text:

10 "ORS Chapter 215 provides no generally applicable definition of 'dwelling'
11 or 'residence,' and we therefore look to the plain, ordinary meaning of those
12 words. 'Dwelling' means 'a building or construction *used for a residence*'
13 and 'residence' means 'a building *used as a home* : DWELLING.' *Webster's*
14 *Third New Int'l Dictionary* 706, 1931 (unabridged ed 2002) (boldface in
15 original; emphases added). As the county points out, the term 'dwelling,'
16 considered alone, does not necessarily require owner occupancy or
17 occupancy of a given duration. However, the term 'residence' refers to 'a
18 building used as a home,' and 'home' is defined not only as 'a private
19 dwelling : HOUSE' but also as 'the house and grounds with their
20 appurtenances habitually occupied by a family : one's principal place of
21 residence : DOMICILE.' *Webster's* at 1082 (boldface in original). The
22 various terms connote a distinction between a building used as a 'home' and
23 a building used as something other than a 'home,' for example, a hotel."

24 LUBA concluded that the text alone did not resolve the question of whether a short-term
25 rental was an allowed use of a dwelling or residence in a resource zone, and it continued
26 on with a contextual analysis. Ultimately, LUBA determined that the county was
27 approaching the issue from the wrong direction. It stated,

28 "ORS 215.283 and related statutes demonstrate that state law strictly
29 regulates transient lodging on resource land with consideration of its effects
30 on accepted farm and forest practices. The question is not whether the
31 short-term rental use of dwellings is expressly *prohibited* on land zoned for
32 resource uses. Instead, the question is whether state law expressly *allows*

1 the short-term rental use of dwellings on land zoned for resource uses. The
2 county has not demonstrated that it does."

3 (Emphasis in original.)

4 ISSUE ON REVIEW

5 On review before us, the county raises a single assignment of error in which
6 it contends that LUBA erred in concluding that state law must explicitly provide for the
7 short-term rental of a dwelling in order for dwellings otherwise legally authorized in
8 resource zones to be used as such. As we understand the county's argument, it reiterates
9 the position that it took before LUBA: In its view, the approval or existence of a lawful
10 "dwelling" on farm or forest land carries with it a right to use that dwelling for ordinary
11 residential purposes, and short-term rental is indistinguishable from ordinary residential
12 use of a dwelling. Thus, the county asserts that "the authorization to maintain and occupy
13 a dwelling includes the right to occupy that dwelling on a short-term basis unless
14 otherwise prohibited by state or local regulation, and that no explicit provision in state
15 law is necessary to authorize the use of existing dwellings for short-term occupancies."

16 1000 Friends defends LUBA's analysis and conclusion. It argues in part
17 that "[t]he use contemplated by the county would allow a dwelling to function as a
18 business operated out of a dwelling to provide customers or paying guests overnight
19 lodging," and that "ORS chapter 215 and its implementing regulations limit the use of
20 non-farm and non-forest businesses on farm and forest land." According to 1000 Friends,
21 the county's amendments do not impose any of the relevant approval criteria in the
22 statutes or regulations that would be required to permit a dwelling on farm or forest land

1 to operate as an overnight lodging business. For that reason, it contends, LUBA was
2 correct to conclude that the county's amendments violated the provisions of ORS chapter
3 215 and its implementing regulations.

4 As noted, we review LUBA's order to determine if it is "unlawful in
5 substance." ORS 197.850(9)(a). "A LUBA order is unlawful in substance if it
6 represented a mistaken interpretation of the applicable law." *Nicita v. City of Oregon*
7 *City*, 317 Or App 709, 716, 507 P3d 804 (2022) (internal quotation marks omitted). At
8 the outset, we agree with LUBA's textual analysis, as recounted above, of the terms
9 "dwelling" and "residence," and with its conclusion that the "various terms connote a
10 distinction between a building used as a 'home' and a building used as something other
11 than a 'home,'" such as a hotel.

12 LUBA stated that its textual analysis "does not, however, resolve the
13 question of whether a short-term rental is an allowed use of a dwelling or residence in a
14 resource zone." We understand the county to take issue with that reasoning. That is, the
15 county contends that a dwelling or residence may always be used for residential purposes,
16 and short-term rental is indistinguishable from ordinary residential use of a dwelling.
17 Accordingly, in the county's view, short-term rental is always allowed regardless of
18 whether it is explicitly allowed by the statutes and rules addressing land uses in resource
19 zones.

20 For purposes of considering the county's argument, we assume, without
21 deciding, that the county is correct that ORS chapter 215 and OAR chapter 660, division

1 6 contemplate that a lawfully established dwelling or residence may always be used for
2 residential purposes. As explained below, the county's argument nevertheless fails,
3 because we disagree with its contention that short-term rental is indistinguishable from
4 ordinary residential use of a dwelling.

5 As LUBA explained, a "dwelling" or "residence" requires use as a home. A
6 home is occupied by a group of people sharing a household--not by individuals and
7 groups who share no social or legal relationship--on a long-term or permanent basis--not
8 in a transitory way. *See Webster's* at 1082 (defining "home" as "the house and grounds
9 with their appurtenances habitually occupied by a family : one's principal place of
10 residence : DOMICILE"). *Cf.* ORS 90.110(6) (excluding "[v]acation occupancy" from
11 application of the Residential Landlord Tenant Act); ORS 90.100(51) (defining
12 "[v]acation occupancy" as "occupancy in a dwelling unit, not including transient
13 occupancy in a hotel or motel, that has all of the following characteristics: (a) The
14 occupant rents the unit for vacation purposes only, not as a principal residence; (b) The
15 occupant has a principal residence other than at the unit; and (c) The period of authorized
16 occupancy does not exceed 45 days.").

17 By defining "dwelling unit" to include buildings or portions thereof that
18 "may be used for residential occupancy by no more than 15 persons for a period that does
19 not exceed 30 consecutive nights by any one person," the county has expanded its
20 definition of "dwelling unit" beyond buildings used as homes. ZDO 202 (as amended).
21 The same is true of its omission of the previous requirement that "[o]ccupants of the

1 guest house and the primary dwelling shall live together as one housekeeping unit." ZDO
2 833.01. Short-term rentals, as addressed by the ordinances, are different from ordinary
3 residential uses because they include groups of strangers who occupy a building in a
4 transitory way--"for a period that does not exceed 30 consecutive nights." Thus,
5 assuming, without deciding, that the existence of a lawful dwelling or residence carries
6 with it the right to ordinary residential use, ordinary residential use does not include
7 short-term rentals as addressed in the county's ordinances.

8 We further observe that the county's newly adopted amendment to its
9 county code regarding short-term rentals, the aforementioned requirements in CCC
10 title 8, includes the definition of "short-term rental" as "a dwelling unit, or portion of a
11 dwelling unit, that is rented to any person or entity for *lodging* or residential purposes, for
12 a period of up to 30 consecutive nights." Ordinance No. 09-2020 (emphasis added). The
13 county's ZDO defines "commercial use" as "[t]he use of land and/or structures for the
14 conduct of retail, service, office, artisan, restaurant, *lodging*, child care, adult daycare,
15 entertainment, private recreational, professional, and similar uses." ZDO 202 (emphasis
16 added). The county recognizes that short-term rentals are often advertised on various
17 websites such as Airbnb and VRBO. The nature of such advertisement and resulting use
18 of the dwelling, or parts thereof, is that the dwelling is to be used for short-term lodging
19 for compensation. The county's proposed use of dwellings as short-term rentals would
20 qualify as a "commercial use" under the county's ZDO. Although it is true that the
21 occupancy itself may be of a residential nature--temporarily living in the dwelling--the

1 use of the dwelling as a short-term rental for compensation is not the same as the use of a
2 dwelling as a home. We are not persuaded by the county's contention that the nature of
3 the use of a dwelling remains as a residential one, and as originally approved or
4 established in the resource zone, when it is used as a short-term rental.

5 We turn to the relevant statutes in ORS chapter 215. ORS 215.203(1)
6 provides, in part:

7 "Zoning ordinances may be adopted to zone designated areas of land within
8 the county as exclusive farm use zones. Land within such zones shall be
9 used exclusively for farm use except as otherwise provided in ORS
10 215.213, 215.283 or 215.284."⁶

11 "Farm use" is defined, in part, as

12 "the current employment of land for the primary purpose of obtaining a
13 profit in money by raising, harvesting and selling crops or the feeding,
14 breeding, management and sale of, or the produce of, livestock, poultry,
15 fur-bearing animals or honeybees or for dairying and the sale of dairy
16 products or any other agricultural or horticultural use or animal husbandry
17 or any combination thereof. 'Farm use' includes the preparation, storage
18 and disposal by marketing or otherwise of the products or by-products
19 raised on such land for human or animal use. 'Farm use' also includes the
20 current employment of land for the primary purpose of obtaining a profit in
21 money by stabling or training equines including but not limited to
22 providing riding lessons, training clinics and schooling shows. 'Farm use'
23 also includes the propagation, cultivation, maintenance and harvesting of
24 aquatic, bird and animal species that are under the jurisdiction of the State
25 Fish and Wildlife Commission, to the extent allowed by the rules adopted
26 by the commission. 'Farm use' includes the on-site construction and

⁶ ORS 215.213 applies in counties that adopted a marginal lands system prior to 1993, and ORS 215.283 applies in nonmarginal lands counties. ORS 215.283 applies in Clackamas County. ORS 215.284 restricts the establishment of single-family dwellings not provided in conjunction with farm use on land zoned EFU; the meaning of that statute is not implicated by the parties' arguments on review before us.

1 maintenance of equipment and facilities used for the activities described in
2 this subsection. * * *

3 ORS 215.203(2)(a).

4 We have previously explained that "[t]he 'exclusively' and 'except as
5 otherwise provided' language [in ORS 215.203(1)] evidences a legislative intent to
6 encourage the use of EFU-zoned land solely for farm use and to treat the permitted
7 nonfarm uses in the listed statutes as exceptions to the use of that land for farming
8 activities." *Warburton v. Harney County*, 174 Or App 322, 328, 25 P3d 978, *rev den*,
9 332 Or 559 (2001). ORS 215.283(1) contains a list of uses that "may be established in
10 any area zoned for exclusive farm use."⁷ ORS 215.283(2) contains a list of nonfarm
11 conditional uses that a county may allow in an EFU zone if the county determines that the
12 use will not significantly affect surrounding lands devoted to farm use under ORS
13 215.296--the "farm impacts test." That is, the uses permitted in ORS 215.283(2) are
14 conditionally allowed if they meet the farm impacts test. In *Warburton*, we stated that
15 "subsection (1) of ORS 215.283 delineates *exceptions* to what normally would be allowed
16 in EFU zones" and that "[i]n keeping with [the legislature's intent], the listed nonfarm
17 uses in ORS 215.283(1) should not be expansively interpreted to encompass uses that

⁷ For example, ORS 215.283(1)(d) provides, in part, that "a dwelling" may be established "on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse * * * if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator," and ORS 215.283(1)(e) provides, in part, that "primary or accessory dwellings and other buildings customarily provided in conjunction with farm use" may be established.

1 would subvert the goal of preserving land for agriculture use." 174 Or App at 328
2 (emphasis in original); *see also Central Oregon LandWatch v. Deschutes County*, 276 Or
3 App 282, 289, 367 P3d 560 (2016) (applying same legislative intent to subsection (2) of
4 ORS 215.283). Our prior explanation that the uses delineated in ORS 215.283 are meant
5 to be read as *exceptions* to use of EFU land supports LUBA's conclusion that the correct
6 question here is whether state law expressly allows the short-term rental use of dwellings
7 on land zoned for resource uses.

8 The conditional uses outlined in ORS 215.283(2) provide contextual
9 support for the conclusion that the legislature specifically provides for vacation use or
10 transient lodging, subject to the farm impacts test, when it intends to allow such uses in a
11 resource zone. ORS 215.283(2)(c) permits campgrounds; ORS 215.283(2)(t) allows a
12 "destination resort that is approved consistent with the requirements of any statewide
13 planning goal relating to the siting of a destination resort"; and ORS 215.283(2)(cc)
14 allows "[g]uest ranches in eastern Oregon, as described in ORS 215.461." ORS
15 215.283(2) also specifies certain uses of existing dwellings that are conditionally
16 allowed, subject to the farm impacts test in ORS 215.296, on EFU land: ORS
17 215.283(2)(u) permits "[r]oom and board arrangements for a maximum of five unrelated
18 persons in existing residences"; ORS 215.283(2)(o) provides for "[r]esidential homes as
19 defined in ORS 197.660,^[8] in existing dwellings"; and ORS 215.283(2)(i) authorizes

⁸ ORS 197.660(2) defines "residential home" as "a residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides

1 "home occupations as provided in ORS 215.448."⁹ We agree with LUBA's assessment
2 that those express regulations of uses and living arrangements within existing dwellings
3 "undermines the county's broad contention that *any* residential use of an existing dwelling
4 is allowed, subject only to existing statutory restrictions." (Emphasis in original.)

5 There is similar contextual support in regard to uses that are authorized in
6 forest zones. OAR 660-006-0025 provides, in part,

7 "(1) Goal 4 requires that forest land be conserved. Forest lands are
8 conserved by adopting and applying comprehensive plan provisions and
9 zoning regulations consistent with the goals and this rule. In addition to
10 forest practices and operations and uses auxiliary to forest practices, as set
11 forth in ORS 527.722, the Commission has determined that five general
12 types of uses, as set forth in the goal, may be allowed in the forest
13 environment, subject to the standards in the goal and in this rule. These
14 general types of uses are:

15 "* * * * *

16 "(d) Dwellings authorized by ORS 215.705 to 215.757 (ORS 215.757); and

17 "(e) Other dwellings under prescribed conditions."

18 As an example of the kind of dwelling authorized by the rule, ORS 215.705 permits a
19 single-family dwelling to be established under certain circumstances if the "lot or parcel

residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home."

⁹ We note that 1000 Friends suggests that ORS 215.448 provides a pathway to permit overnight lodging businesses and vacation rentals on resource land. LUBA did not address whether a short-term rental could be conditionally permitted as an accessory use through a home occupation approval. We do not address it either.

1 on which the dwelling will be sited was lawfully created and was acquired by the present
2 owner * * * prior to January 1, 1985" or "[b]y devise or by intestate succession from a
3 person who acquired the lot or parcel prior to January 1, 1985." ORS 215.705(1)(a).
4 ORS 215.755 allows replacement dwellings, "hardship" dwellings where a hardship is
5 suffered by the existing resident or a relative of the resident, and "[c]aretaker residences
6 for public parks and public fish hatcheries."

7 ORS 215.757, which was adopted in 2019, allows a county to approve,
8 subject to certain restrictions noted in the statute, an accessory dwelling to be constructed
9 that is occupied by the owner or a relative "to allow the relative to assist in the
10 harvesting, processing or replanting of forest products or in the management, operation,
11 planning, acquisition or supervision of forest lots or parcels of the owner."

12 Notably, ORS 215.757(3) states that "[i]f a new single-family dwelling unit
13 is constructed under this section, a county may not allow the new or existing dwelling
14 unit to be used for vacation occupancy as defined in ORS 90.100." The county argues
15 that "[i]f, as LUBA concludes, any use of land whatsoever must be explicitly set out in
16 [a] statute otherwise it is prohibited, then the restriction in [subsection (3)] is entirely
17 unnecessary." We understand the county to argue by extension that the legislature knows
18 how to explicitly prohibit vacation uses of dwellings, and therefore that it would have
19 done so throughout the land use laws it if had intended to prohibit them.

20 In ORS 215.757, the legislature allowed an accessory dwelling to be built
21 so that family could assist with certain forest uses; by specifically prohibiting the

1 accessory dwelling to be used for vacation occupancy, it prevents the particular accessory
2 dwelling to be built for one purpose and then later turned into a vacation rental. That is,
3 even if short-term rentals are at some point allowed, this particular accessory dwelling
4 will be excluded from that use. We are not persuaded that this specific prohibition as to a
5 particular type of approved unit for family members undermines our conclusion, which is
6 based on the text and context of all of the relevant statutes, that the intent of the
7 legislature is to prohibit the types of uses of land in resource zones that are addressed by
8 the county's amendments.

9 In addition, OAR 660-006-0025(4) lists certain uses that "may be allowed
10 on forest lands" subject to review standards in OAR 660-006-0025(5)--similar to the
11 conditional uses in ORS 215.283(2). For example, OAR 660-006-0025(4)(e) allows
12 "[p]rivate parks and campgrounds," where a campground is "an area devoted to overnight
13 temporary use for vacation, recreational or emergency purposes, but not for residential
14 purposes." OAR 660-006-0025(4)(p) provides that "[p]rivate seasonal accommodations
15 for fee hunting operations may be allowed" subject to other rule provisions and a
16 restriction that accommodations "are limited to no more than 15 guest rooms." OAR
17 660-006-0025(4)(w) similarly allows for "[p]rivate accommodations for fishing occupied
18 on a temporary basis" subject to certain conditions. Those conditional uses are all
19 temporary or seasonal and evidence an intent to restrict vacation and recreation activities
20 on resource land except as specified.

21 Having reviewed the statutory scheme as it relates to the use of resource

1 land, we conclude that regardless of whether the question is whether the short-term rental
2 use of dwellings is implicitly included in the allowance of "dwellings" or "residences" on
3 that land or, instead, whether state law expressly allows the short-term rental use of
4 dwellings on land zoned for resource uses, the answer is the same: It does not.
5 Accordingly, the county's ordinances conflict with state law, and LUBA correctly
6 remanded the decision to the county.

7 Affirmed on petition and cross-petition.

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON

3
4 1000 FRIENDS OF OREGON,
5 *Petitioner,*

6
7 and

8
9 DENNIS TYLKA,
10 *Intervenor-Petitioner,*

11
12 vs.

13
14 CLACKAMAS COUNTY,
15 *Respondent.*

16
17 LUBA No. 2021-003

18
19 FINAL OPINION
20 AND ORDER

21
22 Appeal from Clackamas County.

23
24 Andrew Mulkey filed a petition for review and reply brief and argued on
25 behalf of petitioner.

26
27 Dennis Tylka filed a petition for review and argued on behalf of
28 themselves.

29
30 Nathan K. Boderman and Alyxandria Peterson filed the response brief and
31 argued on behalf of respondent. Also on the brief was Stephen L. Madkour.

32
33 RUDD, Board Member; ZAMUDIO, Board Chair; RYAN, Board
34 Member, participated in the decision.

35
36 REMANDED

01/24/2022

1 You are entitled to judicial review of this Order. Judicial review is
2 governed by the provisions of ORS 197.850.

NATURE OF THE DECISION

Petitioner appeals the board of county commissioners' adoption of Ordinance ZDO-273, which amends the county's zoning and development ordinance to authorize the short-term rental use of dwelling units and guest houses.

BACKGROUND

In 2019, the county began a two-part project to authorize and regulate the short-term rental use of dwelling units and guest houses. In November 2020, the county concluded the first part of the project with the adoption of Ordinance 09-2020, amending Clackamas County Code (CCC) title 8, Business Regulations. Record 41, 93. The CCC title 8 amendments established a registration program for short-term rentals in the county and set out standards addressing elements such as maximum occupancy, minimum parking requirements, and compliance with the county's general noise control, parking, and towing ordinances, and garbage requirements. Under the CCC title 8 amendments, short-term rentals are exempt from the registration program if they qualify for an exception to the county's transient room tax under CCC 8.02.060(C) as an incidental use of property.¹ Record 99.

¹ CCC 8.02.060 provides that the county's transient room tax shall not be imposed upon:

1 In December 2020, the county completed the second part of the project
2 with the adoption of Ordinance ZDO-273. Ordinance ZDO-273 amends
3 Clackamas County Zoning and Development Ordinance (ZDO) 202 and 833.01
4 to modify the definition of dwelling unit and expand the allowed use of guest
5 houses (the ZDO amendments). The amendments to ZDO 202 add to the
6 definition of “dwelling unit” the italicized language shown below:

7 “A building, or portion thereof, with one or more rooms designed
8 for residential occupancy by one family. *A dwelling unit may be*
9 *occupied by one family or, except as otherwise provided in this*

-
- “A. Any person who rents a room or facility for more than thirty (30) successive calendar days; (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient);
 - “B. Any person whose rent is of a value less than \$15.01 per day;
 - “C. Any person who rents a private home, vacation cabin, or like facility from any owner who personally rents such facilities incidentally to the owner’s use thereof. A personal rental is not incidental to an owner’s own use if the private home, vacation cabin, or like facility is publicly advertised for rent by the owner or any other person or entity including, but not limited to, rental management agencies or transient lodging intermediaries, as defined by ORS 320.300;
 - “D. Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home or home for aged people, that are licensed, registered, or certified by the Oregon Department of Human Services; or
 - “E. Employees, officials or agents of the U. S. Government occupying a hotel in the course of official business.”

1 *Ordinance, may be used for residential occupancy by no more than*
2 *15 persons for a period that does not exceed 30 consecutive nights*
3 *by any one person.”* Record 9 (emphasis added).

4 The amendments to ZDO 833.01 remove from ZDO 833.01(A) a
5 prohibition on generating rental income from a “guest house,” which is defined
6 in ZDO 202 as “[a]n accessory building, or portion thereof, that includes at least
7 one bedroom and is—with the exception of bathrooms, closets, and halls—
8 constructed as habitable space under the Oregon Residential Specialty Code,”
9 and which, pursuant to ZDO 833.01(E), as amended, “may contain one bathroom
10 plus one additional sink, but shall not include laundry facilities, a stove, oven, or
11 other cooking appliances.”² The amendments to ZDO 833.01 also remove from
12 ZDO 833.01(E) a requirement that “[o]ccupants of the guest house and the
13 primary dwelling shall live together as one housekeeping unit.” Record 31.

14 Petitioner appeals the county’s adoption of the ZDO amendments.

² The amendments to ZDO 833.01 add to ZDO 833.01(A) the italicized language shown 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, *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.*” Record 31 (emphasis added).

1 **PETITIONER’S FIRST ASSIGNMENT OF ERROR AND**
2 **INTERVENOR-PETITIONER’S FIRST AND SECOND ASSIGNMENTS**
3 **OF ERROR**

4 Petitioner’s assignments of error are directed at the ZDO amendments’
5 impact on the county’s zones that implement Statewide Planning Goals 3
6 (Agricultural Lands) and 4 (Forest Lands).³ To the extent that intervenor-
7 petitioner’s first and second assignments of error are also directed at those county
8 zones, we address them here as well.⁴

9 The ZDO amendments allow the short-term rental use of dwelling units
10 and guest houses throughout the county, including in the county’s Exclusive
11 Farm Use (EFU) zone, governed by ZDO 401; Timber (TBR) zone, governed by
12 ZDO 406; and Ag/Forest (AG/F) zone, governed by ZDO 407.⁵ ORS 215.203(1)

³ Goal 3 is “[t]o preserve and maintain agricultural lands.” Goal 4 is:

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

⁴ Generally, intervenor-petitioner’s assignments of error challenge the county’s decision more broadly. They are discussed later in this opinion.

⁵ ZDO 401 is “adopted to implement the policies of the Comprehensive Plan for Agriculture areas” and applies to land zoned EFU. ZDO 401.01; ZDO 401.02. ZDO 406 and 407 are “adopted to implement the policies of the Comprehensive

1 provides, in part, “Zoning ordinances may be adopted to zone designated areas
2 of land within the county as [EFU] zones. *Land within such zones shall be used*
3 *exclusively for farm use except as otherwise provided in ORS 215.213, 215.283*
4 *or 215.284.”* (Emphasis added.) Certain dwellings are allowed on land zoned
5 EFU under ORS 215.283(1) and others under ORS 215.283(2).⁶ ORS 215.284
6 restricts the establishment of single-family dwellings not provided in conjunction
7 with farm use on land zoned EFU. ORS 215.283(1)(e) allows accessory
8 structures associated with farm and forest use. The uses that are allowed on forest
9 land are set out in OAR 660-006-0025 and include the dwellings authorized by
10 ORS 215.705 to 215.757 as well as other dwellings under prescribed conditions.
11 OAR 660-006-0025(1)(d), (e).⁷

Plan for Forest and Agriculture areas.” ZDO 406.01; ZDO 407.01. ZDO 406
applies to land zoned TBR. ZDO 407 applies to land zoned AG/F.

⁶ ORS 215.213 contains parallel provisions for marginal lands counties.

⁷ Goal 4 provides:

“Forest operations, practices and auxiliary uses are allowed on forest
lands subject only to such regulation of uses as are found in ORS
527.722.

“Uses which may be allowed subject to standards set forth in [Goal
4 and its implementing] administrative rule are: (1) uses related to
and in support of forest operations; (2) uses to conserve soil, water
and air quality, and to provide for fish and wildlife resources,
agriculture and recreational opportunities appropriate in a forest
environment; (3) locationally dependent uses; (4) dwellings
authorized by law.”

1 The parties’ central dispute is whether a short-term rental is a permitted
2 use of a dwelling unit or guest house on farm or forest land where the dwelling
3 unit or guest house is otherwise allowed under applicable law.

4 **A. ORS chapter 215 and OAR chapter 660, division 6**

5 Petitioner argues in the first subassignment of error under its first
6 assignment of error that the ZDO amendments impermissibly allow uses of
7 dwellings and guest houses on farm and forest land that are not consistent with
8 the uses of dwellings and accessory structures allowed by ORS 215.283(1) and
9 (2) and OAR chapter 660, division 6, and impermissibly allow a commercial use
10 of resource land. Intervenor-petitioner argues generally in their first assignment
11 of error that the county must demonstrate “that allowing [short-term rentals]
12 within the zones in the unincorporated parts of the county is consistent with the
13 Statewide Planning Goals” and that “[t]he county cannot ignore the requirements
14 of statewide planning goals simply by changing the definitions of ‘Dwelling
15 Units’ to include the use of Short Term Rentals as an additional residential
16 occupancy use in a dwelling unit in all Residential and Natural Resource Zones.”⁸
17 Intervenor-Petitioner’s Petition for Review 3-5. Intervenor-petitioner also argues
18 in their first assignment of error that the county has subverted Statewide Planning
19 Goal 2 (Land Use Planning) because, while bed and breakfasts, campgrounds,

⁸ Intervenor-petitioner does not develop an argument that the amendments are inconsistent with Goals 3 and 4.

1 guest ranches, lodges, and recreational vehicle camping facilities all have
2 implementing regulations in the ZDO, there are no findings explaining why short-
3 term rentals, described by intervenor-petitioner as “a new commercial and
4 business use,” are not also provided implementing regulations. Intervenor-
5 Petitioner’s Petition for Review 6-7.

6 As we understand it, the county’s position is that the ZDO amendments
7 cannot and do not authorize the short-term rental use of an existing dwelling unit
8 if that use would be prohibited by the decision that initially approved the dwelling
9 unit. The findings assert that “[d]wellings that are approved with specific
10 restrictions on occupancy and/or usage would remain ineligible for use as [a
11 short-term rental]. Examples of such dwellings include temporary dwellings for
12 care (‘hardship dwellings’), accessory farmworker dwellings, or caretaker
13 dwellings.” Record 46.

14 ORS 215.283 lists the uses that are allowed on EFU land, and a county
15 cannot allow uses that are not listed under the statute in an EFU zone. OAR
16 chapter 660, division 6, similarly identifies the limited uses that are allowed on
17 forest land. We discuss each below.

18 The uses listed in ORS 215.283(1) are authorized as of right, and counties
19 may not restrict those uses through additional local standards. *Brentmar v.*
20 *Jackson County*, 321 Or 481, 496, 900 P2d 1030 (1995). ORS 215.283(2) lists
21 nonfarm uses and structures that are conditionally authorized and that must
22 satisfy ORS 215.296(1), which we refer to as the farm impacts test. The farm

1 impacts test requires the local governing body or its designee to find that the use
2 will not:

3 “(a) Force a significant change in accepted farm or forest practices
4 on surrounding lands devoted to farm or forest use; or

5 “(b) Significantly increase the cost of accepted farm or forest
6 practices on surrounding lands devoted to farm or forest use.”
7 ORS 215.296(1).

8 The nonfarm uses listed under ORS 215.283(2) may also be subject to any local
9 standards enacted pursuant to ORS 215.296(10).

10 ORS 215.283 regulates the use of EFU land. Accordingly, if the county
11 wants to allow the nonfarm short-term rental *use* of a dwelling unit on EFU land,
12 that *use* must be allowed pursuant to either ORS 215.283(1) or (2). For the
13 reasons explained below, we agree with petitioner and intervenor-petitioner that,
14 absent any identification by the county of the authority in ORS 215.283, or the
15 Land Conservation and Development Commission’s rules implementing that
16 statute, for allowing the short-term rental use of dwelling units or guest houses
17 on EFU land, that use is not allowed under ORS 215.283. The uses that are
18 allowed on forest land are similarly restricted by OAR 660-006-0025 and, absent
19 any identification of authority under OAR 660-006-0025 for allowing the short-
20 term rental use of dwelling units or guest houses on forest land, that use is not
21 allowed.⁹

⁹ In addition, OAR 660-006-0050 provides:

1 We will reverse or remand a land use decision if the local government
2 exceeded its jurisdiction or improperly construed the applicable law. ORS
3 197.835(9)(a)(A), (D). Petitioner argues that the county’s decision improperly
4 construes applicable portions of ORS chapter 215 and OAR 660-006-0025.

5 In construing the law, we will consider the text and context of the law at
6 issue to determine the intent of the enacting legislature. *PGE v. Bureau of Labor*
7 *and Industries*, 317 Or 606, 610-11, 859 P2d 1143 (1993); *State v. Gaines*, 346
8 Or 160, 171, 206 P3d 1042 (2009). We are required to correctly interpret the
9 legislature’s intent, independently of the parties’ arguments. *See* ORS 197.805
10 (providing the legislative directive that LUBA “decisions be made consistently
11 with sound principles governing judicial review”); *Stull v. Hoke*, 326 Or 72, 77,
12 948 P2d 722 (1997) (“In construing a statute, this court is responsible for

“(1) Governing bodies may establish [AG/F] zones in accordance with both Goals 3 and 4, and OAR chapter 660, divisions 6 and 33.

“(2) *Uses authorized in [EFU] Zones in ORS Chapter 215, and in OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any [AG/F] zone. The county shall apply either OAR chapter 660, division 6 or 33 standards for siting a dwelling in an [AG/F] zone based on the predominant use of the tract on January 1, 1993.*

“(3) Dwellings and related structures authorized under section (2), where the predominant use is forestry, shall be subject to the requirements of OAR 660-006-0029 and 660-006-0035.” (Emphases added.)

1 identifying the correct interpretation, whether or not asserted by the parties.”) We
2 must interpret the statutes governing the uses that are allowed in EFU zones, “to
3 the extent possible, as being consistent with the overriding policy of preventing
4 ‘agricultural land from being diverted to non-agricultural use.” *McCaw*
5 *Communications, Inc. v. Marion County*, 96 Or App 552, 555, 773 P2d 779
6 (1989) (quoting *Hopper v. Clackamas County*, 87 Or App 167, 172, 741 P2d 921
7 (1987), *rev den*, 304 Or 680 (1988)).

8 We begin with the text. ORS chapter 215 provides no generally applicable
9 definition of “dwelling” or “residence,” and we therefore look to the plain,
10 ordinary meaning of those words. “Dwelling” means “a building or construction
11 *used for a residence*” and “residence” means “a building *used as a home* :
12 DWELLING.” *Webster’s Third New Int’l Dictionary* 706, 1931 (unabridged ed
13 2002) (boldface in original; emphases added). As the county points out, the term
14 “dwelling,” considered alone, does not necessarily require owner occupancy or
15 occupancy of a given duration. However, the term “residence” refers to “a
16 building used as a home,” and “home” is defined not only as “a private dwelling
17 : HOUSE” but also as “the house and grounds with their appurtenances habitually
18 occupied by a family : one’s principal place of residence : DOMICILE.” *Webster’s*
19 at 1082 (boldface in original). The various terms connote a distinction between a
20 building used as a “home” and a building used as something other than a “home,”
21 for example, a hotel. The text does not, however, resolve the question of whether
22 a short-term rental is an allowed use of a dwelling or residence in a resource zone.

1 We next consider the context. As noted, some dwellings are allowed under
2 ORS chapter 215. For example, ORS 215.283(1)(e) permits on EFU land
3 “primary or accessory dwellings * * * customarily provided in conjunction with
4 farm use.” ORS 215.283(1)(d) permits “[a] dwelling on real property used for
5 farm use if the dwelling is occupied by a relative of the farm operator or the farm
6 operator’s spouse.” The county has not, however, identified a provision under
7 ORS 215.283(1) that expressly authorizes the short-term rental use of a dwelling.

8 The types of uses of dwellings that are allowed under ORS 215.283(2)
9 suggest that, if a short-term rental is an allowed use of an existing dwelling, it is
10 an ORS 215.283(2)-type use. ORS 215.283(2) identifies the uses of existing
11 dwellings that are conditionally allowed on EFU land. ORS 215.283(2)(o)
12 provides that a county may conditionally allow “[r]esidential homes as defined
13 in ORS 197.660, in existing dwellings.”¹⁰ ORS 215.283(2)(u) provides that a
14 county may conditionally allow “[r]oom and board arrangements for a maximum

¹⁰ ORS 197.660(2) defines “residential home” as

“a residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.”

1 of five unrelated persons in an existing residence.”¹¹ ORS 215.283(2)(i)
2 authorizes “home occupations,” and it is at least possible that a short-term rental
3 could be characterized as a home occupation. However, home occupations are
4 authorized only “as provided in ORS 215.448.” ORS 215.283(2)(i).¹²
5 Importantly, those provisions expressly allow and regulate certain uses and living
6 arrangements within existing dwellings, which undermines the county’s broad
7 contention that *any* residential use of an existing dwelling is allowed, subject only
8 to existing statutory restrictions.

9 Moreover, uses that are allowed pursuant to ORS 215.283(2) must satisfy
10 the farm impacts test and, pursuant to ORS 215.296(10), any additional standards
11 that the local government has elected to impose. Under the current version of the
12 ZDO, this requires a review process with notice and an opportunity for comment.
13 ZDO 401.05 and Table 401-1, for example, establish that the farm impacts test is
14 applied to room and board and residential home uses in the EFU zone through a

¹¹ ORS chapter 215 does not define “room and board.” *Webster’s* provides that “room and board” means “lodging and food usu. specifically earned or furnished <receives wages plus *board and room*>.” *Webster’s* at 1972 (emphasis in original). Definitions of “lodging” include “a place to live,” “a place in which to settle or come to rest,” and “a temporary place to stay.” *Id.* at 1329. As illustrated by these examples, some definitions of “lodging” have an element of temporariness and others do not.

¹² We do not address whether a short-term rental could be conditionally permitted as an accessory use through a home occupation approval pursuant to ORS 215.283(2)(i).

1 Type II review.¹³ Here, the ZDO amendments may allow the short-term rental
2 use of resource land without any requirement to obtain specific authorization at
3 all, let alone a requirement to satisfy the farm impacts test.

4 As additional context, we look to the uses that are allowed on Goal 4 land
5 under OAR 660-006-0025(1)(d), namely the dwellings authorized by ORS
6 215.705 to 215.757. For example, ORS 215.705 to 215.730 govern lot-of-record
7 dwellings, ORS 215.740 governs large-tract dwellings, and ORS 215.750
8 governs template dwellings. ORS 215.755 allows replacement dwellings,
9 hardship dwellings, and caretaker residences for public parks and public fish
10 hatcheries. In addition, OAR 660-006-0025(1)(e) authorizes “[o]ther dwellings

¹³ ZDO 1307.09 sets out the requirements for Type II reviews, requires notice that the application is under consideration, and further provides:

“B. Decision: The review authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. * * *

“* * * * *

“C. Notice of Decision: A copy of the decision shall be mailed to those identified in Subsection 1307.09(A)(1).

“D. Appeal: The review authority’s decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.13.” (Underscoring in original.)

1 under prescribed conditions,” and OAR 660-006-0025(4) authorizes a variety of
2 uses that may be allowed subject to review under the standards in OAR 660-006-
3 0025(5), including hunting lodges and fishing accommodations with guest
4 rooms. OAR 660-006-0025(4)(p), (w). OAR 660-006-0025(5)(a) requires a
5 finding similar to the farm impacts test, that “[t]he proposed use will not force a
6 significant change in, or significantly increase the cost of, farming or forest
7 practices on agriculture or forest lands.”¹⁴

8 ORS 215.757, adopted in 2019, allows, subject to restrictions, county
9 approval of an accessory dwelling supporting family forestry on a lot or parcel
10 zoned for forest use containing exactly one existing single-family dwelling. ORS
11 215.757(3) provides, “If a new single-family dwelling unit is constructed under
12 this section, a county may not allow the new or existing dwelling unit to be used
13 for vacation occupancy as defined in ORS 90.100.” Although this express
14 prohibition lends some support to the argument that the legislature expressly
15 *prohibits* vacation occupancy of single-family dwellings when that is the

¹⁴ The uses other than dwellings that are allowed on forest land are listed in OAR 660-006-0025 and include, but are not limited to, “[u]ses related to and in support of forest operations;” “[u]ses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;” “locationally-dependent uses, such as communication towers, mineral and aggregate resources, etc;” and “[t]emporary forest labor camps.” OAR 660-006-0025(1)(a) - (c), (3)(l).

1 legislature’s intent, we are persuaded that other provisions of ORS chapter 215
2 are properly read to limit short-term, vacation-style uses.

3 A variety of vacation and recreation activities are expressly identified as
4 being conditionally allowed in farm and forest zones, subject to a demonstration
5 that the use meets the farm impacts test. For example, ORS 215.283(2)(cc)
6 conditionally allows “[g]uest ranches in eastern Oregon, as described in ORS
7 215.461.” “‘Guest ranch’ means a facility for guest lodging units, passive
8 recreational activities described in [ORS 215.461(6)] and food services described
9 in [ORS 215.461(7)] that are incidental and accessory to an existing and
10 continuing livestock operation that qualifies as a farm use.” ORS 215.461(1)(b).
11 “‘Guest lodging unit’ means *a guest room in a lodge, bunkhouse, cottage or cabin*
12 *used only for transient overnight lodging and not for a permanent residence.*”
13 ORS 215.461(1)(a) (emphasis added).

14 Temporary occupancy of private campgrounds and private seasonal
15 accommodations for hunting and fishing are conditionally allowed under ORS
16 215.283(2)(c); OAR 660-006-0025(4)(e), which defines campground as “an area
17 devoted to *overnight temporary use for vacation, recreational or emergency*
18 *purposes, but not for residential purposes;*” OAR 660-006-0025(4)(p),
19 subparagraph (C) of which requires that private seasonal accommodations for
20 hunting be “*occupied temporarily* for the purpose of hunting during either or both
21 game bird or big game hunting seasons authorized by the Oregon Fish and
22 Wildlife Commission;” and OAR 660-006-0025(4)(w), subparagraph (C) of

1 which requires that private seasonal accommodations for fishing be “*occupied*
2 *temporarily* for the purpose of fishing during fishing seasons authorized by the
3 Oregon Fish and Wildlife Commission.”¹⁵ (Emphases added.)

4 Although ORS 215.283 and OAR 660-006-0025 do not directly address
5 the short-term rental use of a dwelling on resource land, the treatment of private
6 campgrounds and hunting and fishing lodges as conditionally allowed uses, along
7 with the fact that providing “room and board” accommodations is a conditional
8 use under ORS 215.283(2)(u), suggests a legislative intent to strictly regulate
9 transient lodging on resource land with consideration of its effects on accepted
10 farm and forest practices.

11 The regulation of destination resorts provides additional context for our
12 conclusion that the legislature specifically provides for vacation rentals when it
13 intends to allow that use in a resource zone, including within a dwelling. The
14 conditional uses that are allowed in EFU zones include “[a] destination resort that
15 is approved consistent with the requirements of any statewide planning goal
16 relating to the siting of a destination resort.” ORS 215.283(2)(t). “Destination
17 resorts reviewed and approved pursuant to ORS 197.435 to 197.467 and
18 [Statewide Planning] Goal 8 [(Recreational Needs)]” are allowed on forest land
19 under OAR 660-006-0025(3)(n). ORS 197.435(5) defines “overnight lodgings”

¹⁵ The definitions of “accommodation” include “lodging, food, and services (as at a hotel).” *Webster’s* at 12.

1 as “permanent, separately rentable accommodations *that are not available for*
2 *residential use*, including hotel or motel rooms, cabins and time-share units” but
3 not including “[t]ent sites, recreational vehicle parks, manufactured dwellings,
4 dormitory rooms and similar accommodations.” (Emphasis added.) In western
5 Oregon, “[i]ndividually owned units may be considered overnight lodgings if
6 they are available for overnight rental use by the general public for at least 45
7 weeks per calendar year through a central reservation and check-in service.” ORS
8 197.435(5)(a) (emphasis added). In eastern Oregon, as defined in ORS 321.805,
9 “[i]ndividually owned units may be considered overnight lodgings
10 if they are available for overnight rental use by the general public
11 for at least 38 weeks per calendar year through a central reservation
12 system operated by the destination resort or by a real estate property
13 manager, as defined in ORS 696.010.” ORS 197.435(5)(b)
14 (emphasis added).

15 Therefore, destination resorts may include individually owned residences and
16 hotel/motel units. Individually owned units may be considered part of the
17 “overnight lodging” pool of accommodations if they are available for occupancy
18 by the general public for at least 38 or 45 weeks per calendar year, based on
19 whether the destination resort is located in eastern or western Oregon and based
20 on the use of some sort of central reservation system.¹⁶

¹⁶ The county’s findings recognize that “[s]hort-term rentals are often advertised on websites such as Airbnb, HomeAway, VRBO, VacationRentals.com, or Booking.com.” Record 45.

1 The above definition of “overnight lodgings” and the legislature’s strict
2 regulation of vacation and recreational uses on resource land indicate that the
3 duration of occupancy is relevant to the characterization of the use. The county’s
4 allowance of the short-term rental use of dwelling units and guest houses allows
5 overnight, transient lodging as an outright permitted use on resource lands, and,
6 as noted, the county has not identified a provision in ORS 215.283(1) or (2) or
7 OAR chapter 660, division 6, that allows such a use.

8 Ordinance ZDO-273 includes a recital that, “except under specific
9 circumstances that require land use approvals, such as temporary dwellings for
10 care or farmworker dwellings, there is nothing in state or county regulations that
11 limit dwellings to owner-occupancy or specifies a minimum time for rental.”
12 Record 1. The findings assert that “[d]wellings that are approved with specific
13 restrictions on occupancy and/or usage would remain ineligible for use as [a
14 short-term rental]. Examples of such dwellings include temporary dwellings for
15 care (‘hardship dwellings’), accessory farmworker dwellings, or caretaker
16 dwellings.” Record 46. The county argues that, once a dwelling is allowed on
17 resource land, with limited exceptions such as hardship dwellings, accessory
18 farmworker dwellings, and caretaker dwellings, the occupancy of the dwelling is
19 not a relevant consideration under ORS 215.283. Record 19. According to the
20 county, if a dwelling *was* approved subject to use restrictions, then those
21 restrictions remain. Response Brief 22. In other words, if any applicable code
22 provision, rule, statute, or related condition of approval restricts the use of an

1 existing dwelling to specific living arrangements that preclude short-term rental
2 use, then a short-term rental use could be subject to an enforcement action.

3 The problem with that argument is that it approaches the issue from the
4 wrong direction. As we explained above, ORS 215.283 and related statutes
5 demonstrate that state law strictly regulates transient lodging on resource land
6 with consideration of its effects on accepted farm and forest practices. The
7 question is not whether the short-term rental use of dwellings is expressly
8 *prohibited* on land zoned for resource uses. Instead, the question is whether state
9 law expressly *allows* the short-term rental use of dwellings on land zoned for
10 resource uses. The county has not demonstrated that it does.

11 According to the county, its position “that the leasing of one’s private
12 residence is a fundamentally residential, and not commercial, use of land is
13 consistent with” the court’s holding in *City of Portland v. Carriage Inn*, 67 Or
14 App 44, 676 P2d 943 (1984). Response Brief 12. In *Carriage Inn*, the city sued
15 to enjoin the defendant’s use of an apartment building for transient occupancy.
16 The area was zoned Apartment Residential (AO), and the city argued that the AO
17 zone, which allowed “apartment dwellings,” prohibited the use of the apartment
18 building for transient occupancy. The court interpreted the zoning code,
19 recognizing that the primary function of the courts is to discern and declare the
20 intent of the legislature. The zoning code defined “apartment dwelling” as “a
21 building or portion thereof, designed for occupancy by three or more families
22 living independently of each other.” The zoning code defined “dwelling unit” as

1 a “single unit providing complete, independent living facilities for one or more
2 persons, including permanent provisions for living, sleeping, eating, cooking and
3 sanitation.” Duration of occupancy was not part of the zoning code, and the court
4 concluded that the fact that hotels and motels were conditionally allowed in the
5 AO zone did not mean that the transient use of an apartment building was
6 prohibited. The court concluded that, *in the context of the city’s zoning code*,
7 “residential” referred to a facility in which one could stay as little as a week.

8 *Carriage Inn* did not involve resource land stringently regulated by ORS
9 chapter 215. For that reason, it provides little assistance to the county here, where
10 the ZDO amendments must be consistent with ORS chapter 215, Goals 3 and 4,
11 and their implementing regulations. The ZDO amendments allow a person to stay
12 in a dwelling unit or guest house overnight on a transient basis. For the reasons
13 explained above, we agree with petitioner that the county has not identified any
14 provision of ORS 215.283(1) or (2) or OAR chapter 660, division 6, that allows
15 short-term, transient occupancy of a dwelling on resource land.¹⁷

16 Intervenor-petitioner’s second assignment of error is that Goal 2 requires
17 that short-term rentals be listed “as a new separate and distinct allowable primary,
18 accessory, or conditional land use that is regulated with clear and precise ‘Land
19 use regulation.’” Intervenor-Petitioner’s Petition for Review 8. We explained

¹⁷ We do not address the lawfulness of the rental of dwellings on resource land for longer than 30 days because that issue is not presented in this appeal.

1 above why the ZDO amendments are inconsistent with ORS 215.283 and OAR
2 660-006-0025. To the extent that intervenor-petitioner argues that Goal 2
3 required the county to adopt implementing regulations as part of the ZDO
4 amendments, we agree that, if short-term rentals are allowed pursuant to ORS
5 215.283(2) or OAR 660-006-0025, a review process considering the farm
6 impacts test must be incorporated into the ZDO.

7 The first subassignment of error under petitioner’s first assignment of error
8 is sustained. Intervenor-petitioner’s first and second assignments of error are
9 sustained, in part.

10 **B. ZDO 401, 406, and 407**

11 ZDO 401, 406, and 407 implement state law applicable to farm and forest
12 land. The second subassignment of error under petitioner’s first assignment of
13 error is that the ZDO amendments effectively authorize hotel and motel uses in
14 the EFU, TBR, and AG/F zones in contravention of ZDO 401.06, 406.06, and
15 407.05, which prohibit hotels and motels in those zones. ZDO 202 defines
16 “hotel,” in part, as a “building which is designed or used to offer short-term
17 lodging for compensation, with or without meals, for six or more people.” ZDO
18 202 defines “motel,” in part, as a “building or series of buildings in which lodging
19 only is offered for compensation[,] * * * which may have more than five sleeping
20 units for this purpose,” and which “provid[es] direct independent access to and
21 adjoining parking for each rental unit designed primarily for automobile tourist
22 and transient persons.”

1 We sustained the first subassignment of error under petitioner’s first
2 assignment of error because the ZDO amendments allow overnight, transient
3 lodging on resource land without authorization in ORS 215.283(1) or (2) or OAR
4 660-006-0025. Accordingly, the ZDO amendments are inconsistent with ZDO
5 401, 406, and 407 to the extent that they authorize a hotel or motel on resource
6 land.

7 The second subassignment of error under petitioner’s first assignment of
8 error is sustained.

9 Petitioner’s first assignment of error is sustained. Intervenor-petitioner’s
10 first and second assignments of error are sustained, in part.

11 **PETITIONER’S SECOND ASSIGNMENT OF ERROR**

12 Petitioner’s second assignment of error is that the ZDO amendments (1)
13 do not comply with the county’s comprehensive plan policies for agriculture and
14 forest areas, which implement Goals 3 and 4, and, relatedly, (2) are not in
15 compliance with the statewide planning goals. Petitioner’s Petition for Review
16 28. Pursuant to ORS 197.835(7), we may reverse or remand an amendment to a
17 land use regulation if:

18 “(a) The regulation is not in compliance with the comprehensive
19 plan; *or*

20 “(b) The comprehensive plan does not contain specific policies or
21 other provisions which provide the basis for the regulation,
22 and the regulation is not in compliance with the statewide
23 planning goals.” (Emphasis added.)

1 **A. Second Subassignment of Error**

2 Petitioner argues that the ZDO amendments are not in compliance with
3 Clackamas County Comprehensive Plan (CCCP) Agriculture Policy 4.NN.3 and
4 Forest Policy 4.OO.3. CCCP Agriculture Policy 4.NN.3 provides, “Land uses
5 that conflict with agricultural uses shall not be allowed.” CCCP Forest Policy
6 4.OO.3 is to “[p]rohibit land uses that conflict with forest uses.” The county
7 repeats its position that short-term rentals are residential uses, which are already
8 allowed in residential structures such as dwelling units and guest houses, and they
9 therefore do not conflict with agricultural and forest uses.

10 We concluded in our resolution of the first assignment of error that the
11 ZDO amendments are not consistent with ORS 215.283(1) and (2) and OAR
12 chapter 660, division 6, absent identification by the county of something in those
13 provisions that allows the short-term rental use of dwelling units or guest houses
14 on resource land. We conclude that the ZDO amendments are also inconsistent
15 with the CCCP policies implementing those provisions. For that reason, we also
16 agree with petitioner that the allowance of the short-term rental use of dwelling
17 units and guest houses, a nonfarm and nonforest use, on resource land is not in
18 compliance with CCCP policies prohibiting uses that conflict with agricultural
19 and forest uses.

20 The second subassignment of error under petitioner’s second assignment
21 of error is sustained.

1 **B. First Subassignment of Error**

2 Petitioner also argues that the CCCP does not contain specific policies or
3 other provisions that provide the basis for the ZDO amendments. The county
4 apparently agrees, stating, “Petitioner has identified nothing in the [CCCP] that
5 would be applicable to the ZDO amendments adopted by the [board of county
6 commissioners].” Response Brief 25. We therefore conclude, for purposes of
7 ORS 197.835(7)(b), that the CCCP does not contain specific policies or other
8 provisions that provide the basis for the ZDO amendments.

9 The first subassignment of error under petitioner’s second assignment of
10 error is sustained.

11 **C. Third Subassignment of Error**

12 Petitioner states that it “challenges the following findings made by the
13 county in its decision to avoid conflict with Petitioner’s other assignments of
14 error.” Petitioner’s Petition for Review 34-35. The challenged findings include
15 the county’s finding that Goals 3 and 4 are not applicable and that the ZDO
16 amendments are consistent with the CCCP and statewide planning goals. We
17 understand those findings to be derivative of and dependent on the county’s
18 central premise that ORS 215.283 and OAR chapter 660, division 6, do not
19 regulate short-term rentals. For the reasons set forth above in our resolution of
20 petitioner’s first assignment of error, we sustain this assignment of error.

21 The third subassignment of error under petitioner’s second assignment of
22 error is sustained.

1 Petitioner’s second assignment of error is sustained.

2 **REMAINDER OF INTERVENOR-PETITIONER’S FIRST AND**
3 **SECOND ASSIGNMENTS OF ERROR AND INTERVENOR-**
4 **PETITIONER’S THIRD AND FIFTH ASSIGNMENTS OF ERROR**

5 Intervenor-petitioner argues in their first, second, third, and fifth
6 assignments of error that the ZDO amendments fail to comply with Goal 2
7 because (1) the county did not identify CCCP provisions demonstrating that there
8 is an unmet need for short-term, overnight tourist accommodations; (2) unlike
9 uses such as hotels, motels, and bed and breakfast lodging, regulations
10 implementing the short-term rental provisions were not adopted into the ZDO;
11 and (3) certain CCCP policies are not met. We addressed intervenor-petitioner’s
12 first and second assignments of error to the extent that they concern resource
13 lands above. We address the remainder of those assignments of error, and
14 intervenor-petitioner’s third assignment of error, together. We address
15 intervenor-petitioner’s fifth assignment of error separately.

16 We will reverse or remand a land use decision if it is not in compliance
17 with the goals. ORS 197.835(6). As explained above, we will also reverse or
18 remand a new or amended land use regulation under ORS 197.835(7) if:

19 “(a) The regulation is not in compliance with the comprehensive
20 plan; or

21 “(b) The comprehensive plan does not contain specific policies or
22 other provisions which provide the basis for the regulation,

1 and the regulation is not in compliance with the statewide
2 planning goals.”¹⁸

3 Intervenor-petitioner argues generally that the county must demonstrate
4 that allowing short-term rentals “within the zones in the unincorporated parts of
5 the county is consistent with Statewide Planning Goals” and specifically that the
6 county’s decision is inconsistent with Goal 2. Intervenor-Petitioner’s Petition for
7 Review 3. Goal 2 is “[t]o establish a land use planning process and policy
8 framework as a basis for all decision and actions related to use of land and to
9 assure an adequate factual base for such decisions and actions.” Intervenor-
10 petitioner argues that the county was required “to cite some factual basis such as
11 Policies or Goals within [the CCCP] that demonstrates there was a need for short-
12 term overnight tourist accommodations that wasn’t being met by current
13 allowable regulated short-term overnight accommodations.” Intervenor-
14 Petitioner’s Petition for Review 3. As we explained in *OCAPA v. City of Mosier*,

15 “the Goal 2 requirement for an adequate factual base is not met
16 unless a legislative land use decision is supported by substantial
17 evidence, *i.e.*, evidence a reasonable person would believe.

18 “[However,] the Goal 2 requirement for an adequate factual base
19 does not exist in a vacuum. In alleging a Goal 2 factual base
20 inadequacy at LUBA, a petitioner must establish that some
21 applicable statewide planning goal or other criterion imposes
22 obligations that are of such a nature that a factual base is required to
23 determine if the zoning ordinance amendment is consistent with the

¹⁸ A land use regulation is required to comply with ORS 197.835(7)(a) or (b), not both.

1 goal or other criterion.” 44 Or LUBA 452, 462 (2003).

2 We agree with the county that intervenor-petitioner does not identify any
3 criterion in a goal or elsewhere providing that a use may only be allowed if a need
4 for the use is established. This element of the assignments of error is denied.

5 Intervenor-petitioner also argues that the amendments are inconsistent
6 with Goal 2 because the county amended its code to allow short-term rentals
7 without incorporating implementing regulations into the ZDO. We understand
8 intervenor-petitioner to argue that implementing regulations are required by the
9 following CCCP Amendments and Implementation Policies:

10 “11.B.6 Implement this Plan through appropriate ordinances and
11 action.

12 “11.B.6.1 Amend existing ordinances and adopt new
13 ordinances to carry out the policies of this
14 Plan.

15 “11.B.6.2 Apply zoning in a timely manner that is
16 consistent with this Plan.

17 “11.B.6.3 Require all zoning and subdivision
18 ordinances to be consistent with the intent of,
19 and based on, this Plan.

20 “11.B.6.4 Require all actions of the County on
21 conditional uses, variances, and zone changes
22 to be consistent with the intent of this Plan.”

23 Intervenor-petitioner argues that implementing regulations are also required by
24 CCCP Housing Policy 6.C.1, which is to “[p]rovide for a variety of housing types
25 that are complimentary or compatible with existing neighborhoods.” Intervenor-
26 petitioner maintains that those CCCP policies are not met because (1) no

1 implementing provisions were added to the ZDO, (2) similar uses such as hotels,
2 motels, and bed and breakfast operations are regulated as commercial uses in the
3 ZDO, and (3) residential neighborhoods are not protected from short-term rentals,
4 which intervenor-petitioner argues are a conflicting use. The county found, “Goal
5 2 does not apply to Ordinance ZDO-273 because its text amendments do not
6 change the County’s land use planning process. The County will continue to have
7 a comprehensive land use plan and implementing regulations consistent with that
8 plan.” Record 48. Although we agree with the county that the adopted
9 amendments do not change the land use planning process and that implementing
10 regulations were adopted into CCC title 8, that does not end our inquiry, and we
11 discuss intervenor-petitioner’s arguments in more detail below.

12 In resolving petitioner’s first assignment of error, we explained that ORS
13 215.283 and OAR 660-006-0025 restrict the use of dwellings located on resource
14 lands and that the farm impacts test must be applied to uses that are conditionally
15 allowed on those lands. Intervenor-petitioner has not, however, identified any
16 requirement in statute, the CCCP, or the ZDO that restricts short-term rentals on
17 nonresource land. Intervenor-petitioner also argues that “[t]he fact that [short-
18 term rentals] are regulated as a business use demonstrates that they are not a
19 ‘residential’ use,” but they do not explain why a short-term rental may not be
20 considered by the county to be a residential use in the ZDO and also be subject
21 to regulation as a business in CCC title 8. Intervenor-Petitioner’s Petition for
22 Review 7.

1 Intervenor-petitioner argues that (1) Goal 2 requires that short-term rentals
2 be separately identified as a permitted use in the various sections of the ZDO that
3 regulate different zoning districts, as opposed to identified and passively allowed
4 pursuant to a definition, and (2) the regulations governing short-term rentals must
5 be located within the ZDO so that they are easily located by interested parties.
6 “Goal 2 does not dictate the manner in which a local government must make its
7 ultimate policy choices or the form in which the [local government] must express
8 ultimate policy choices.” *Home Builders Assoc. v. City of Eugene*, 52 Or LUBA
9 341, 366 (2006). Intervenor-petitioner does not develop their argument that Goal
10 2 prohibits authorizing a use within a zoning code definition or requires, on
11 nonresource lands, that hotel, motel, and bed and breakfast operations and short-
12 term rentals generally be regulated in a similar fashion. Accordingly, we do not
13 address those arguments further. *Deschutes Development v. Deschutes Cty.*, 5 Or
14 LUBA 218, 220 (1982). These elements of the assignments of error are denied.

15 In their fifth assignment of error, intervenor-petitioner argues that the ZDO
16 amendments are inconsistent with the following CCCP Affordable Housing
17 Policies:

18 “6.B.1 Encourage development of affordable housing (including
19 public subsidized housing) to produce a range of housing
20 prices and rent ranges commensurate with the range of the
21 County’s household incomes.

22 “6.B.2 Encourage the development of low- and moderate-income
23 housing with good access to employment opportunities.”

1 Intervenor-petitioner argues that the ZDO amendments are inconsistent with
2 those policies because the county did not address the adverse impacts of short-
3 term rentals on affordable housing.¹⁹

4 A local government is not necessarily required to adopt findings
5 supporting a legislative decision; nonetheless, the record on appeal must be
6 sufficient to demonstrate that “required considerations were indeed considered.”
7 *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 16 n 6, 38 P3d
8 956 (2002). The county’s decision incorporates the November 16, 2020 staff
9 report to the planning commission as findings, and those findings include
10 conclusions relevant to the provision of housing in the county. Record 1. The
11 November 16, 2020 staff report findings conclude that short-term rentals already
12 exist. Record 45. The November 16, 2020 staff report also concludes that families
13 may need the supplemental income generated by short-term rentals in order to
14 improve their primary dwellings. Record 52. As we explained in *Columbia*
15 *Pacific v. City of Portland*,

16 “given the generally-worded language of most of the goals and
17 policies at issue, and the leeway a governing body has in balancing
18 and weighing consistency of a zoning text amendment with a variety
19 of sometimes competing policy objectives, petitioners and
20 [intervenor-petitioner] must do more than simply disagree with the
21 [local government’s] conclusions. Petitioners and [intervenor-

¹⁹ Intervenor-petitioner argues that allowing the short-term rental use of any dwelling within the county will decrease the stock of affordable housing by increasing the cost of home purchases and long-term rental rates.

1 petitioner] must demonstrate that the [governing body] failed to
2 meaningfully consider a reasonably specific and pertinent
3 [comprehensive plan] goal or policy.” 76 Or LUBA 15, 27-28
4 (2017), *rev’d and rem’d on other grounds*, 289 Or App 739, 412 P3d
5 258, *rev den*, 363 Or 390 (2018).

6 The county considered housing impacts generally, but it did not address
7 *affordable housing*. Intervenor-petitioner has established that the county did not
8 meaningfully consider the CCCP Affordable Housing Policies that it was
9 required to consider.

10 The remainder of intervenor-petitioner’s first and second assignments of
11 error and intervenor-petitioner’s third assignment of error are denied. Intervenor-
12 petitioner’s fifth assignment of error is sustained.

13 **INTERVENOR PETITIONER’S FOURTH ASSIGNMENT OF ERROR**

14 Intervenor-petitioner’s fourth assignment of error is that the ZDO
15 amendments are

16 “not supported by substantial evidence within the record because the
17 County’s decision does not make a distinction as to when a
18 ‘Dwelling Unit’ being used for a [short-term rental] is a private
19 personal use incidental to the owner’s use of the Dwelling for
20 Residential Occupancy and when the [short-term rental] use is a
21 more intense rental use where the intent is a short term transient
22 lodging for the conduct of a business of Lodging as a Commercial
23 Use.” Intervenor-Petitioner’s Petition for Review 25.

24 Intervenor-petitioner also argues that the county was required by ORS
25 197.835(9)(a)(C) to adopt findings or rely on substantial evidence to conclude
26 that all short-term rentals are residential uses, as opposed to commercial uses.
27 Intervenor-Petitioner’s Petition for Review 26.

1 Although intervenor-petitioner describes their fourth assignment of error
2 as a substantial evidence challenge, we understand them to argue, at least in part,
3 that the county misconstrued the law. ORS 320.300 to 320.365 address transient
4 lodging taxes, and ORS 320.300(11) provides that, as used therein, “transient
5 lodging” means:

6 “(a) Hotel, motel and inn dwelling units that are used for
7 temporary overnight human occupancy;

8 “(b) Spaces used for parking recreational vehicles or erecting tents
9 during periods of human occupancy; or

10 “(c) Houses, cabins, condominiums, apartment units or other
11 dwelling units, *or portions of any of these dwelling units*, that
12 are used for temporary human occupancy.” (Emphasis
13 added.)

14 Intervenor-petitioner argues that the county erred because the ZDO definition of
15 “dwelling unit” is not congruent with the definition in ORS 320.300(11).
16 Intervenor-Petitioner’s Petition for Review 29. Intervenor-petitioner cites the
17 November 16, 2020 staff report, which explains that the board of county
18 commissioners directed staff to “look into the most effective ways to potentially
19 allow and regulate [short-term rentals],” in part because some existing short-term
20 rentals were not paying the county’s transient room tax, which is applicable to
21 short-term rentals, hotels, motels, and other lodging establishments. Record 45.
22 The November 16, 2020 staff report goes on to say, “*Establishing a [short-term
23 rental] registration program, linking the registration to a requirement to pay the
24 [county’s transient room tax]*, and funding the enforcement of the new

1 regulations could help level the playing field for all lodging establishments,
2 ensuring they are all paying their fair share.” Record 45 (emphasis added). The
3 staff report then explains that the registration and regulation program is proposed
4 for inclusion in CCC title 8, with enabling amendments to the ZDO.²⁰ Intervenor-
5 petitioner does not develop their argument that the definition of “transient
6 lodging” in ORS 320.300(11) bars the amended definition of “dwelling unit” in
7 the ZDO, and we do not address that argument further.

8 Intervenor-petitioner also argues that, to the extent that short-term rentals
9 are charged transient lodging taxes, they are commercial uses and therefore
10 cannot be considered residential uses within the ZDO. The county’s Business
11 Regulations in CCC title 8 require operators of short-term rentals to register their
12 facilities and pay the county’s transient room tax unless the short-term rental is
13 an incidental use of the operator’s private home, vacation cabin, or like facility.
14 According to intervenor-petitioner, nonincidental use of a dwelling as a short-
15 term rental is a commercial occupancy, similar to occupancy of a hotel or motel,
16 and should be subject to additional regulations, such as those found in ZDO 800,
17 which governs special uses. Intervenor-Petitioner’s Petition for Review 28-31.
18 Intervenor-petitioner argues that nonincidental short-term rentals are a

²⁰ The “enabling amendments” to the ZDO allow the short-term rental use of dwelling units and guest houses but do not require payment of the county’s transient room tax. Rather, it is CCC title 8 that links the operation of a short-term rental to the requirement to pay the county’s transient room tax.

1 commercial use and, therefore, cannot be considered residential uses for ZDO
2 purposes. *Id.*

3 We sustained petitioner’s first assignment of error concerning the county’s
4 allowance of the short-term rental use of dwelling units and guest houses on
5 resource lands because ORS 215.283 and OAR chapter 660, division 6, strictly
6 regulate the uses that are allowed on resource land. Intervenor-petitioner
7 maintains, but does not develop their argument, that short-term rentals are also
8 restricted by law on nonresource land. Legislative decisions are not required to
9 be supported by findings, and intervenor-petitioner has not identified any
10 provision of law requiring that the ZDO regulate nonincidental short-term rentals
11 in the same manner as uses such as hotels and motels. As discussed above in our
12 resolution of intervenor-petitioner’s Goal 2 argument, Goal 2 does not restrict the
13 form in which local governments must express ultimate policy choices. Here, the
14 county elected to require the registration of and tax short-term rentals in CCC
15 title 8, and to regulate them as residential uses in the ZDO. Intervenor-petitioner
16 may intend to argue that the decision must provide an explanation for why short-
17 term rentals are not regulated in the same manner as hotels or motels, but
18 intervenor-petitioner does not develop an argument establishing that the law
19 requires short-term rental uses to be regulated in the same manner as hotel or
20 motel uses or requires the county to explain its reasoning for a different approach.

21 Intervenor-petitioner’s fourth assignment of error is denied.

22 The county’s decision is remanded.

ORDINANCE NO. ZDO-273

An Ordinance Amending Sections 202 and 833 of the Clackamas County Zoning and Development Ordinance (ZDO)

WHEREAS, in 2019, the Board of County Commissioners directed Planning staff to look into the most effective ways to potentially allow and regulate short-term rentals, which are defined as dwelling units or portions of dwelling units that are rented to a person or entity for a period of up to 30 days, in the unincorporated areas of the county; and

WHEREAS, on November 25, 2020, the Board of County Commissioners adopted a new section into the County Code, *Section 8.10, Short-Term Rentals*, which will take effect on July 1, 2021 and contains a registration program for short-term rentals, including all the regulations specific to short-term rentals; the short-term rental application processes and requirements; and enforcement processes and actions for short-term rentals, and it specifically allows short-term rentals in legal dwellings and guest houses in unincorporated Clackamas County; and

WHEREAS, the county's Zoning & Development Ordinance (ZDO) does not clearly identify short-term rentals as allowed in any dwellings and it specifically prohibits the use of a guest house as a source of rental income, and therefore to fully implement the adopted short-term rental program, amendments need to be made to the ZDO to specifically allow short-term rentals; and

WHEREAS, the county finds that, except under certain specific circumstances that require land use approvals, such as temporary dwellings for care or farmworker dwellings, there is nothing in state or county regulations that limit dwellings to owner-occupancy or specifies a minimum time for rental; and

WHEREAS, the proposed ZDO amendments are consistent with the Clackamas County Comprehensive Plan, the Statewide Planning Goals and Guidelines, and the Metro Urban Growth Management Functional Plan; and

WHEREAS, after a duly-noticed public hearing on November 23, 2020, the Planning Commission recommended approval of the amendments to the ZDO, by a vote of 7-1; and

WHEREAS, after a duly-noticed public hearing on December 9, 2020, the Board of County Commissioners orally approved the amendments to the ZDO, as drafted, by a vote of 5 - 0; now therefore

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: This Board adopts as its findings and conclusions the "STAFF REPORT" document addressed to the Clackamas County Planning Commission dated November 16, 2020.

Note: THIS DOCUMENT IS INCLUDED FOR REFERENCE AND DOES NOT REPRESENT THE CURRENT PROPOSAL FOR CONSIDERATION.

This document contains the ZDO amendments that were the subject of the LUBA appeal. These amendments are not in effect.

Section 2: Sections 202 and 833 of the Clackamas County Zoning and Development Ordinance (ZDO) are hereby amended, as shown in Exhibit A, hereto attached.

Section 3: This ordinance shall be effective on January 17, 2021.

ADOPTED this 17th day of December, 2020.

BOARD OF COUNTY COMMISSIONERS



Chair



Recording Secretary

Exhibit A
Ordinance ZDO-273
Zoning and Development Ordinance Amendments

Text to be added is underlined. Text to be deleted is ~~struck through~~.

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:

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

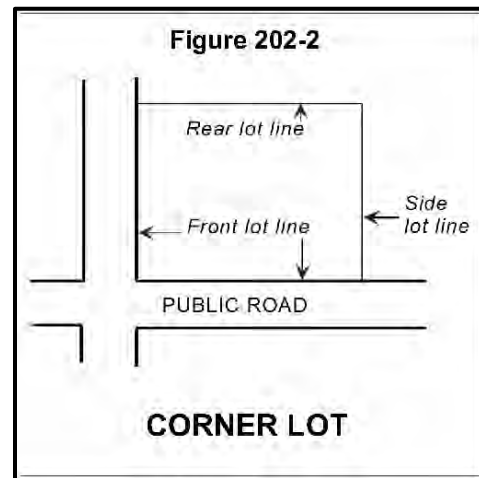
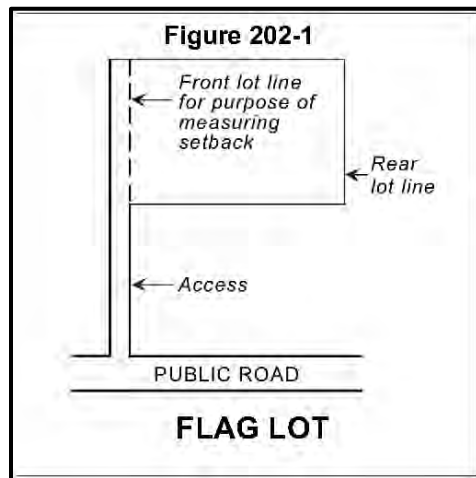
a percentage of the total lot area. Swimming pools are not considered buildings for the purpose of this definition.

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.

**Note: THIS DOCUMENT IS INCLUDED FOR REFERENCE AND
DOES NOT REPRESENT THE CURRENT PROPOSAL FOR CONSIDERATION.**

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

This document contains the ZDO amendments that were the subject of the LUBA appeal. These amendments are not in effect.

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]

<https://www.wsj.com/articles/short-term-rentals-have-modest-impact-on-home-prices-study-suggests-11574180940>

[U.S.](#)

Short-Term Rentals Have Modest Impact on Home Prices, Study Suggests

For home sales, increase is less than \$9 on average monthly mortgage payment



By *Will Parker* [Follow](#)

Updated Nov. 19, 2019 11:57 am ET

Short-term vacation rentals haven't significantly contributed to the rise in American housing costs, according to a nationwide study by Oxford Economics that was commissioned by booking website Expedia Group Inc.

In the first such study to cover every U.S. county where data was available, the report found that over a four-year period only 0.2 percentage point of the 4.3% rise in inflation-adjusted rent could be attributed to the effects of short-term rentals. For home sales, the increase amounts to less than \$9 on the average monthly mortgage payment.

Expedia is the owner of short-term vacation rental platform Vrbo, one of the larger short-term brands in a growing field that includes Airbnb, Sonder and others. Oxford Economics is an Oxford, U.K.-based forecasting and quantitative analysis firm that said it compiled a data set with more than 70 variables for the study.

Short-term rental companies have come under intense scrutiny from local governments across the country. Housing advocates and other critics have argued that short-term listings reduce housing supply when investors buy up apartment units or homes and rent them out to tourists on short-term rental sites.

Some local officials recently have taken these complaints seriously and enacted new protections. Jersey City, N.J., recently decided to restrict short-term rentals by requiring units to be owner-occupied. The city of Austin, Texas, said in July it plans to crack down on listings after a report it commissioned found that 75% of short-term rentals in Austin were illegally operated.

Previous research of the industry has come to a different conclusion than Oxford Economics, finding that limiting short-term rentals would relieve pressure on home prices.

In Los Angeles County, where more than a dozen municipalities introduced short-term rental ordinances in recent years, a study by three Dutch researchers estimated that a 50% reduction in short-term rental listings brought down home prices and rents in the affected areas by 2%.

A 2017 study by University of California, Los Angeles economics professor Edward Kung found a three times greater impact on rent than the Expedia report found, but it looked at ZIP Codes in the country's 100 largest metropolitan areas, and not every county in the country.

"Using larger geographies as the unit of analysis may mask the impact of STR growth in particularly impacted neighborhoods," Mr. Kung said of the Expedia report.

Expedia said that local governments should consider the nationwide averages and not just reports that highlight select cities and neighborhoods.

“I think it’s important to have a comprehensive view to help these cities understand it,” said Philip Minardi, Expedia’s director of policy communications.

Write to Will Parker at will.parker@wsj.com

Appeared in the November 20, 2019, print edition.



Short-Term Rental Data Report

MAY 18, 2022

PREPARED BY:

County Manager's Office | Legal Counsel | Assessment and Taxation | GIS | Community Development

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SECTION 1: BACKGROUND

On April 13, 2022, your Board directed staff to collect and analyze additional data documenting the impact of short-term rental units on housing prices and availability within Clatsop County.

County Management, County Counsel, and staff from Assessment and Taxation, GIS and Community Development met on April 21 to identify what data was required and what data was accessible by staff. On April 28, staff again met to review the data that had been compiled. This information consists of documentation regarding:

- Number, location and zoning of permitted short-term rental units
- 2018 Certified Values Countywide
- Single-Family Residential Sales Countywide
- Single-Family Residential Median Values for STR and non-STR properties
- Summary of Residential Market Appreciation 2021-2022
- Clatsop County Median Income

This information is documented and discussed in further detail below.

SECTION 2: DATA

The data provided below demonstrates that there is not a correlation between the issuance of short-term rental permits and housing prices. The data illustrates that the increased housing prices have occurred and continue to occur for both short-term rental properties and non-short-term rental properties. Communities such as Cannon Beach, which has severely curtailed short-term rentals, saw the largest real market value increase between 2018 and 2021 for properties holding an STR permit. This is likely due to the value placed on what is perceived as a limited and scarce ownership opportunity, thus commanding a higher price.

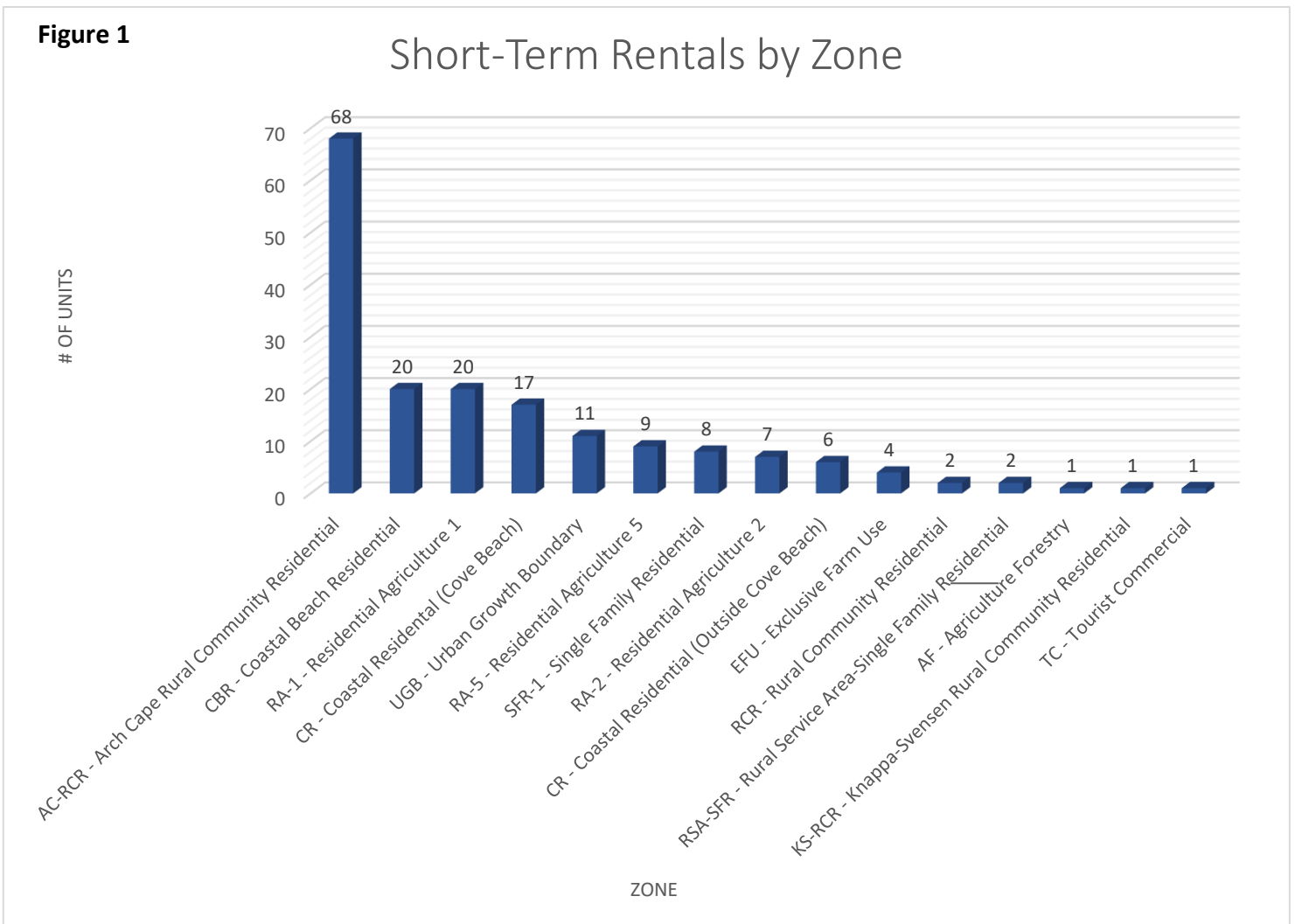
SECTION 2A: NUMBER OF PERMITTED STRs

Per information from Clatsop County Assessment and Taxation, there are 177 permitted short-term rental units in unincorporated Clatsop County. This area also includes properties within the unincorporated Urban Growth Boundary (UGB) of the City of Gearhart.

Figure 1 provides information regarding the zones where short-term rentals are located. **Figure 2** documents the annual rental activity for short-term rentals during 2021. This data shows that 67% of transient room tax accounts rented 100% of the year. Ten percent of the transient room tax account did not rent during 2021. **Figures 3-15**, below, detail the general location and numbers of short-term rental units. Sixty-eight (38.4%) of short-term rental units are located

within the Arch Cape – Rural Community Residential (AC-RCR) zone. Per Assessment and Taxation, in 2004 there were 55 transient room tax accounts with a situs city of Arch Cape. Those accounts included properties within the Arcadia Beach/Arch Cape/Cove Beach area. Per information shown on **Figures 4-6** there are currently 95 licensed short-term rentals in this same approximate area. Twenty-seven of those rental units have been continuously permitted since 2004, although they may not have been continually rented during that time.

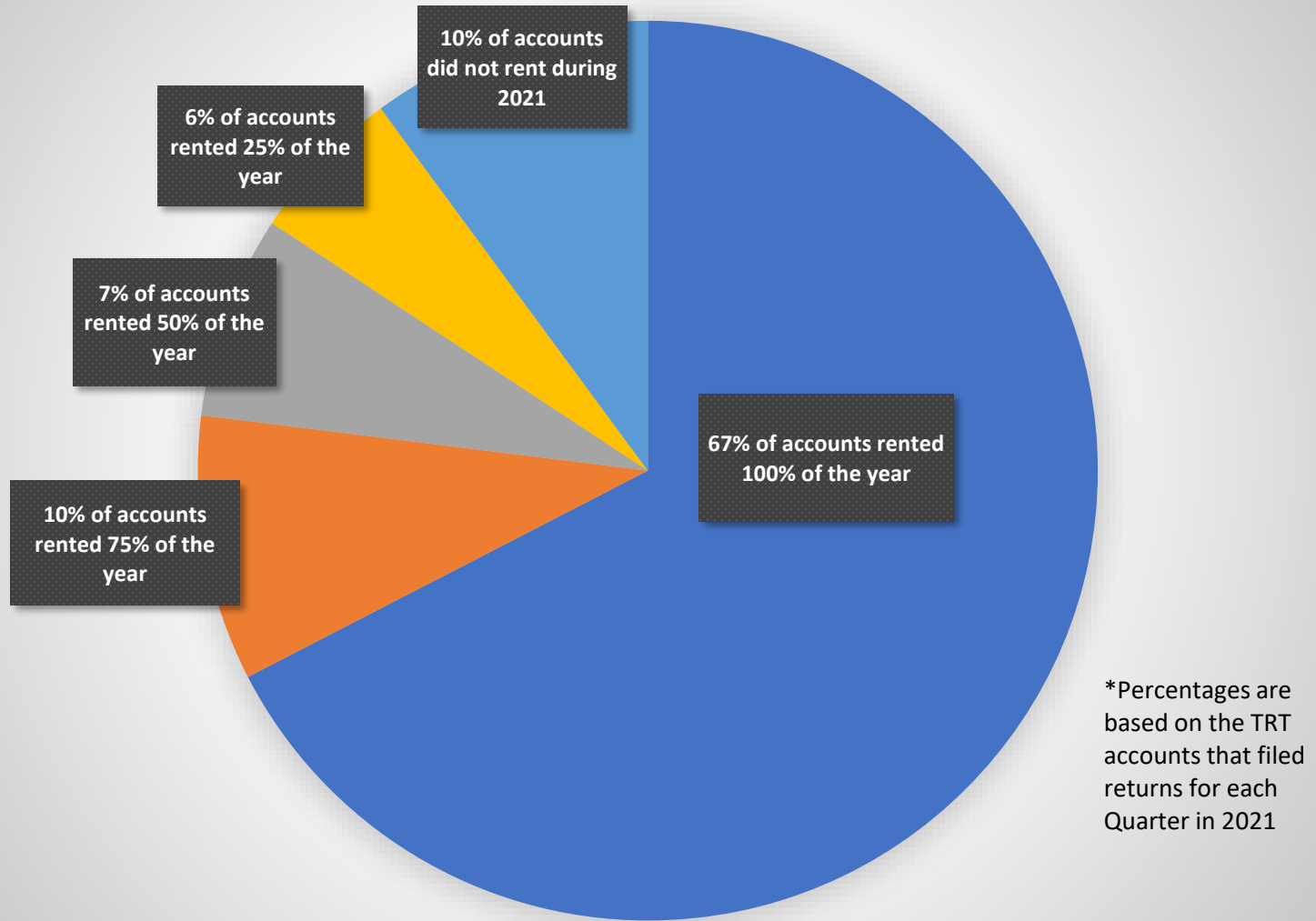
There are 17 licensed STRs in Cove Beach, constituting 9.6% of the total number of short-term rentals within unincorporated Clatsop County. The remaining 92 short-term rental units are dispersed throughout the county, with 53 (29.9%) units located in the Clatsop Plains and 11 (6.2%) within the Gearhart UGB. It should not be surprising that the majority of STRs are located in close proximity to the Pacific Ocean, as the state’s beaches are highly desirable vacation areas.



Source: Clatsop County GIS

Figure 2

STR Accounts Annual Rental Activity



*Percentages are based on the TRT accounts that filed returns for each Quarter in 2021

Figure 3

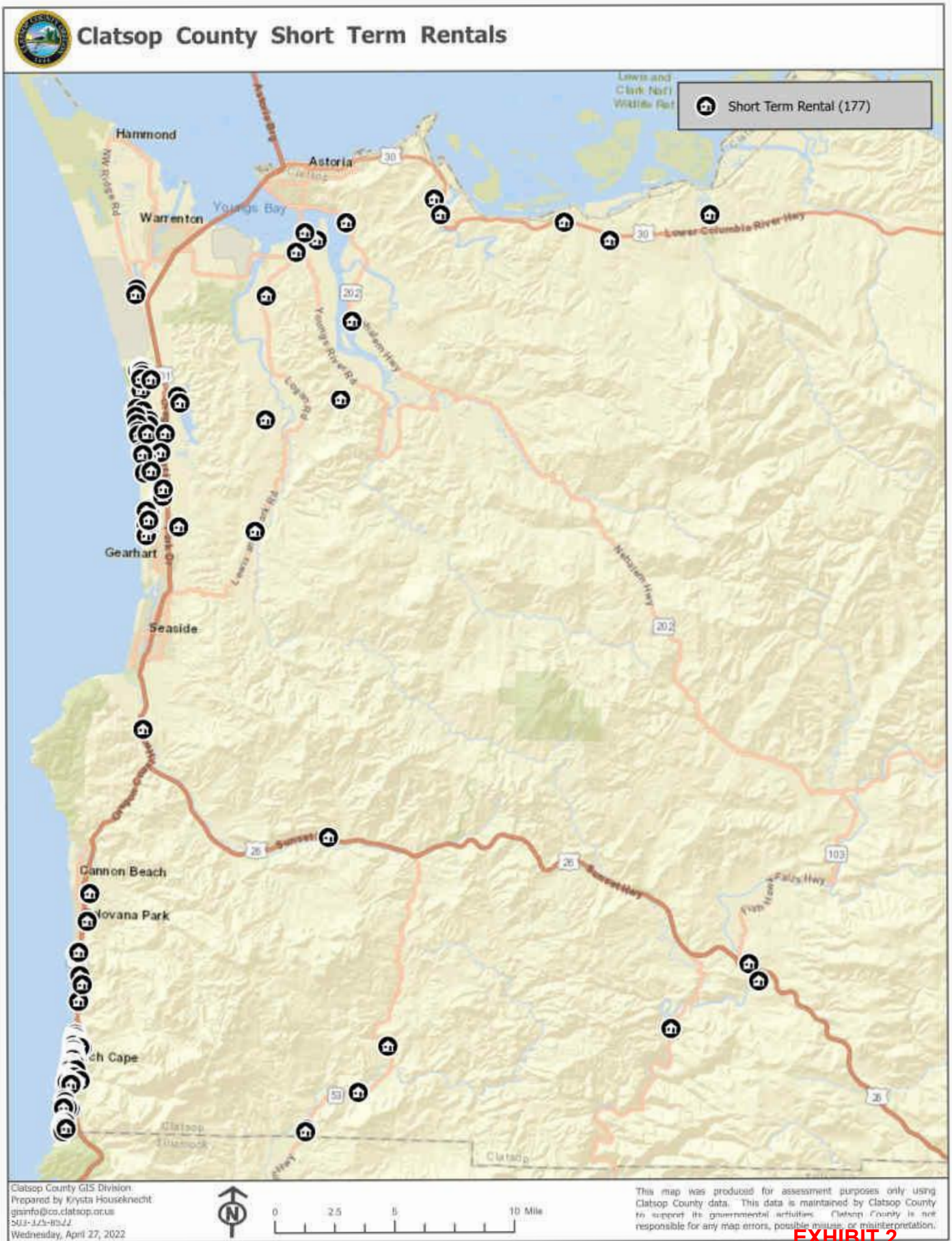


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Figure 4

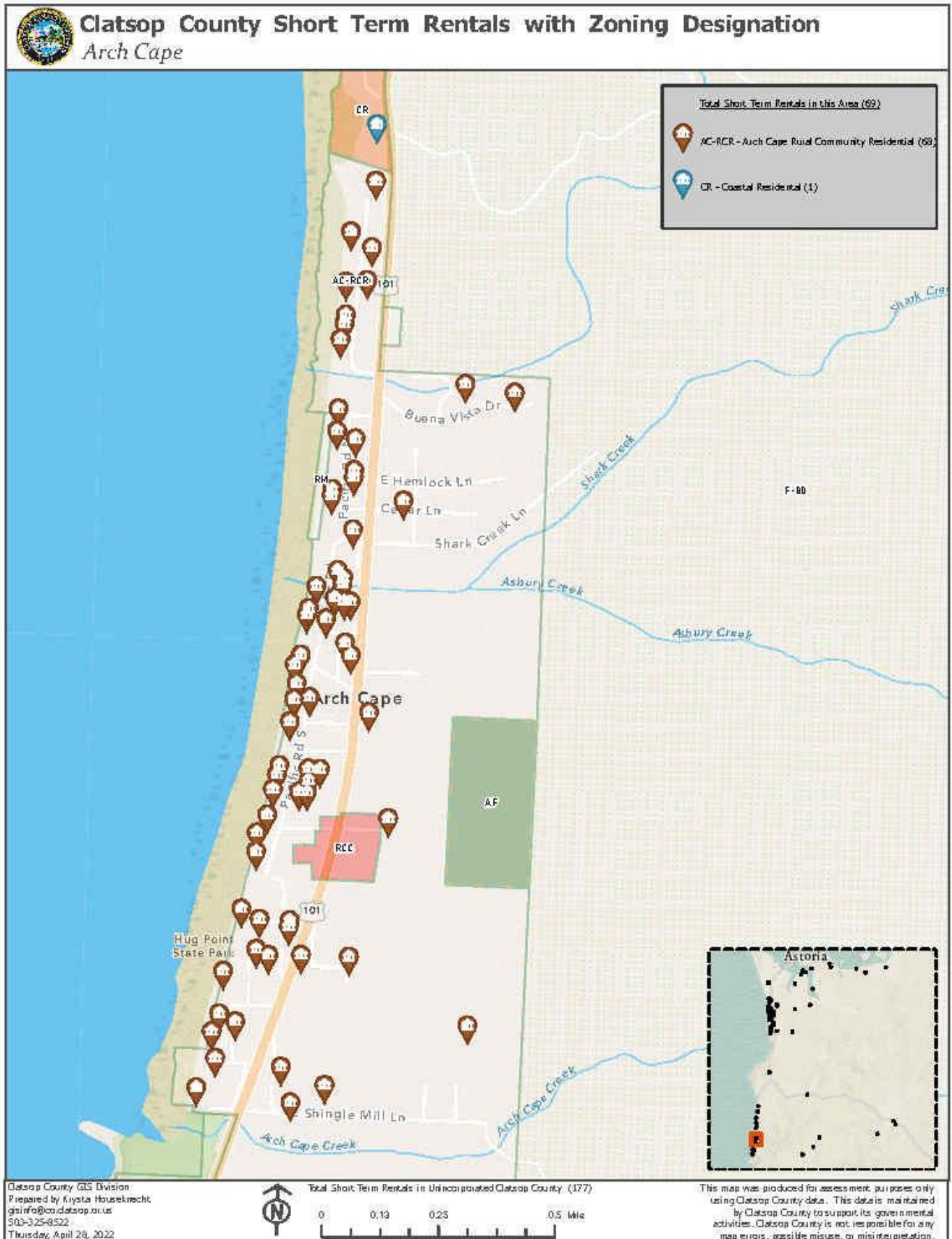


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Figure 5



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Figure 6

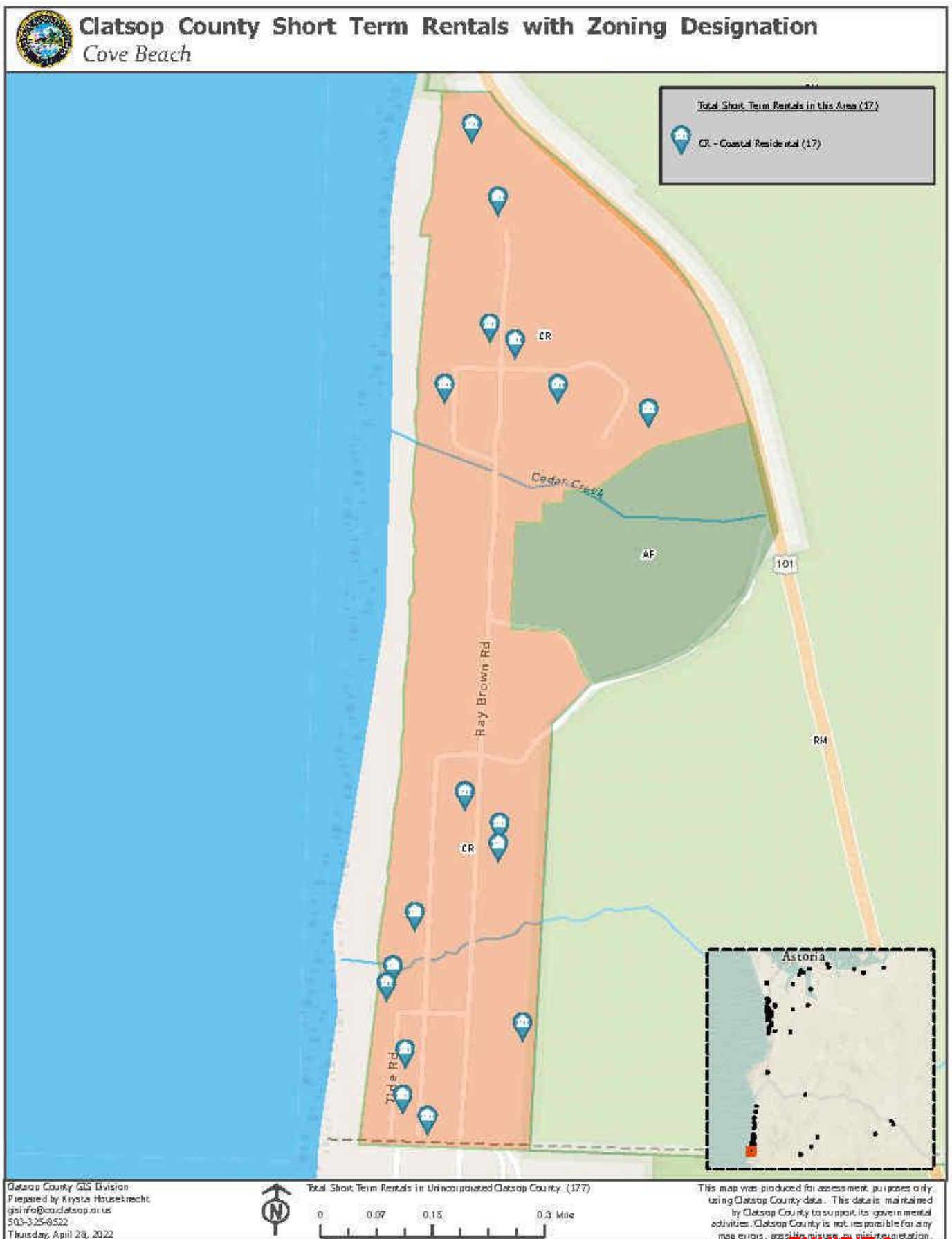


Figure 7

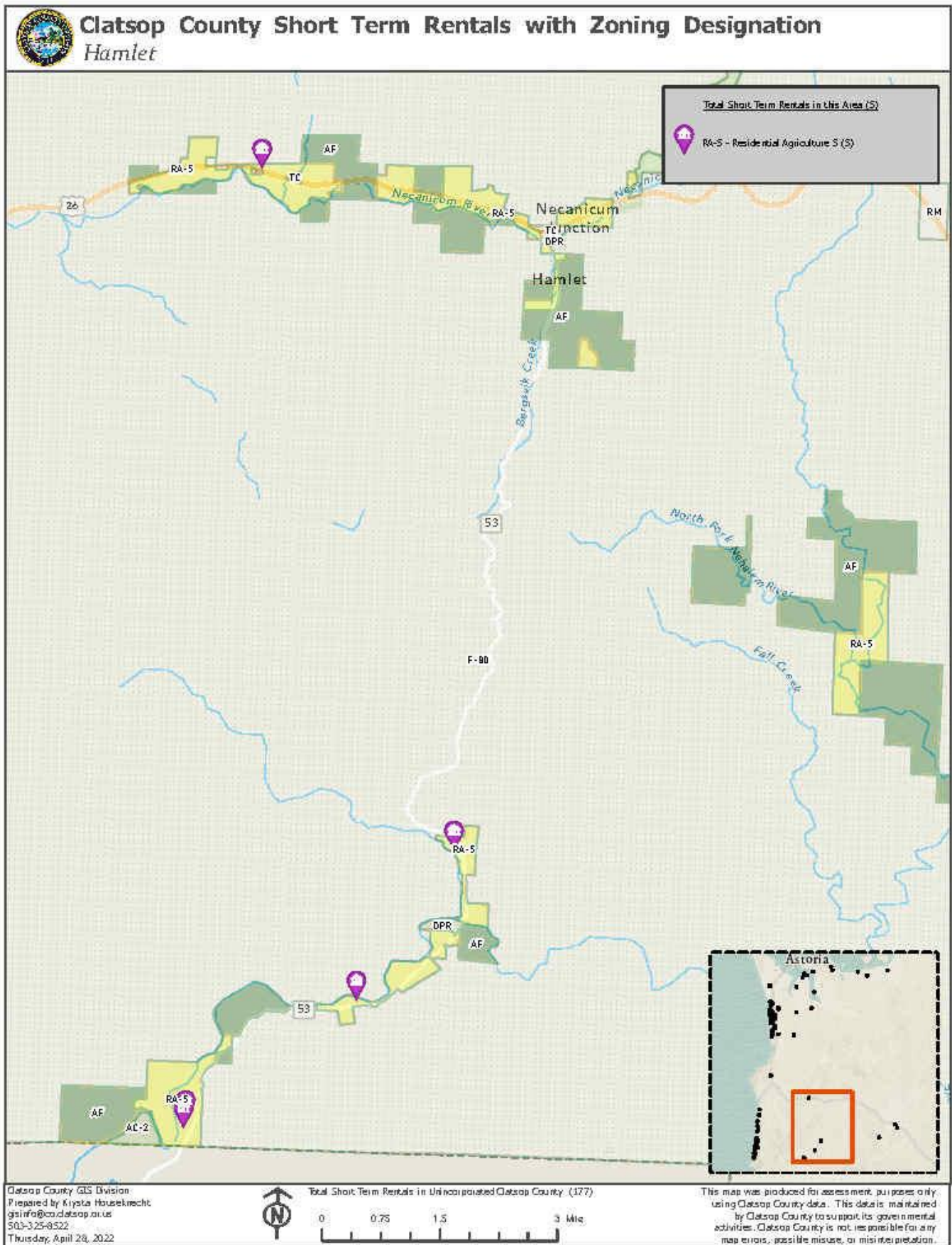


Figure 8

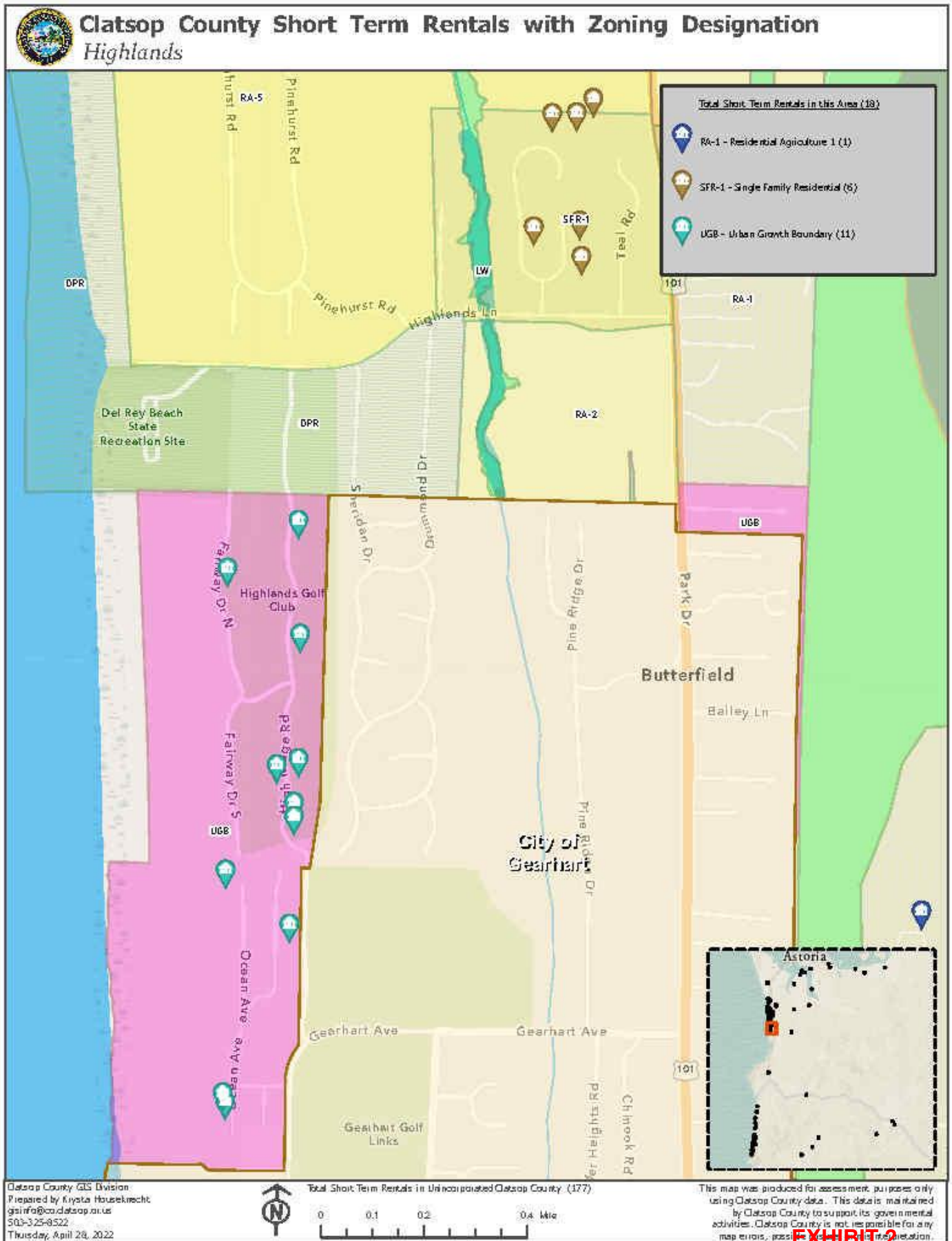


EXHIBIT 2

Figure 9

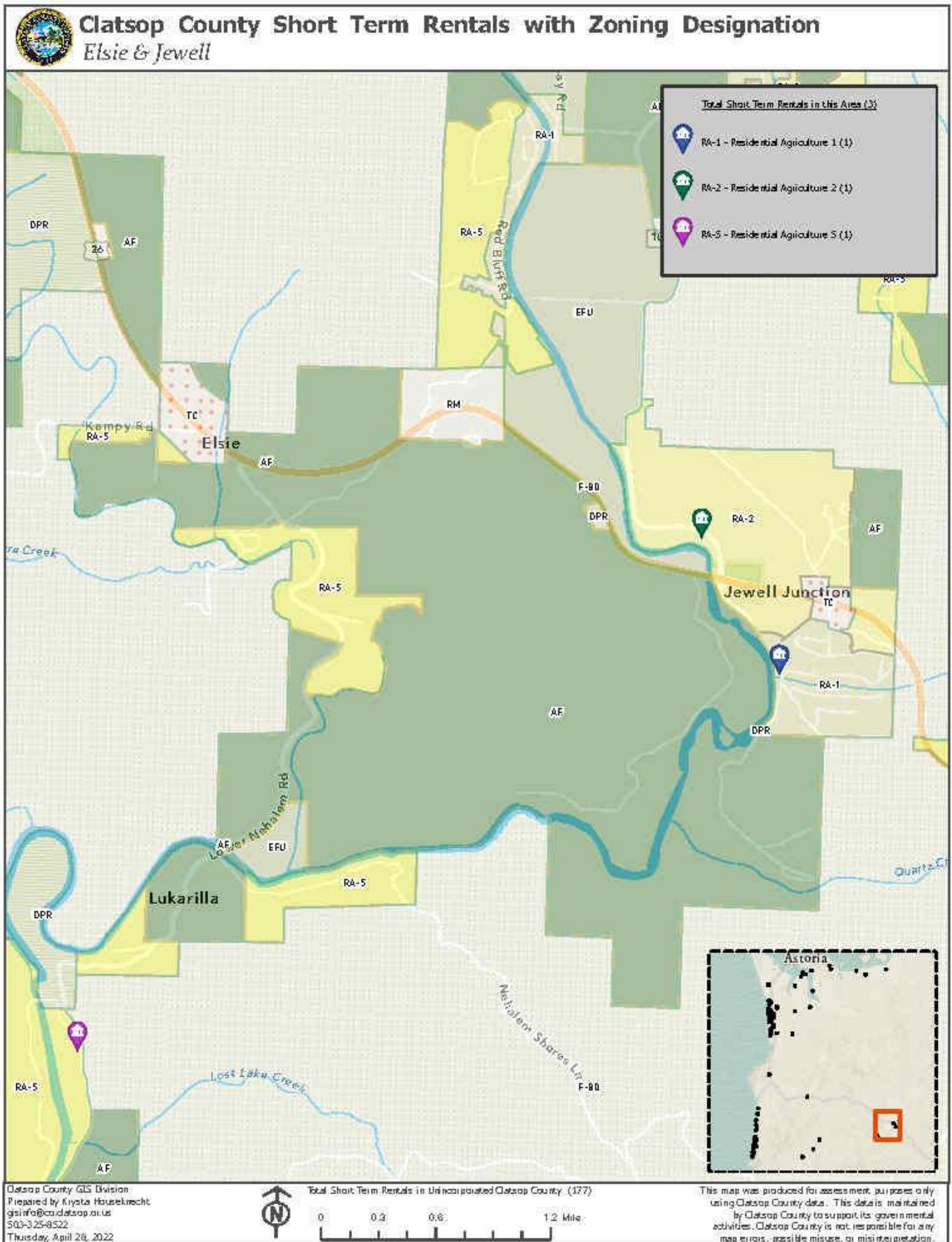


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Figure 10

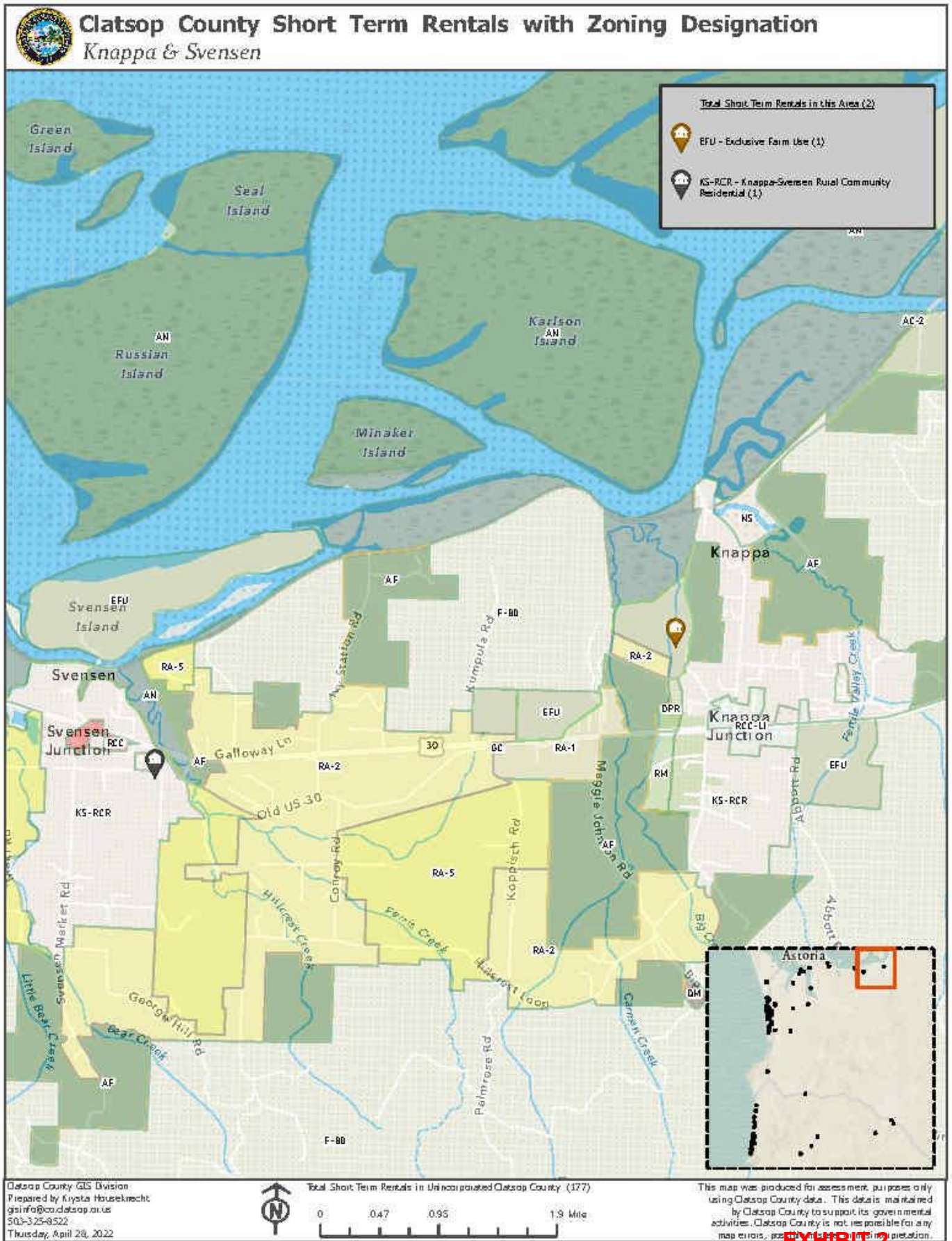


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Figure 11

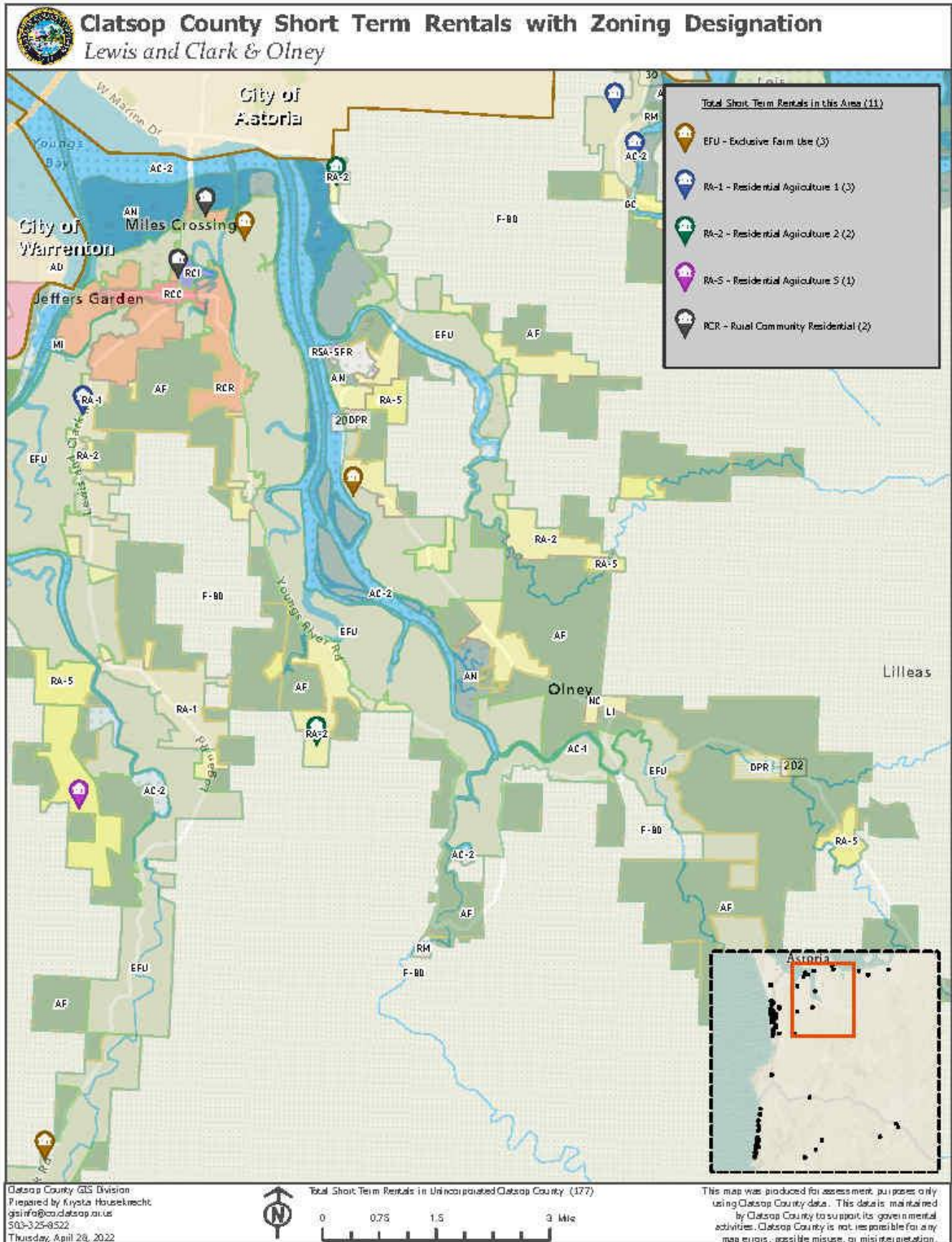


Figure 12

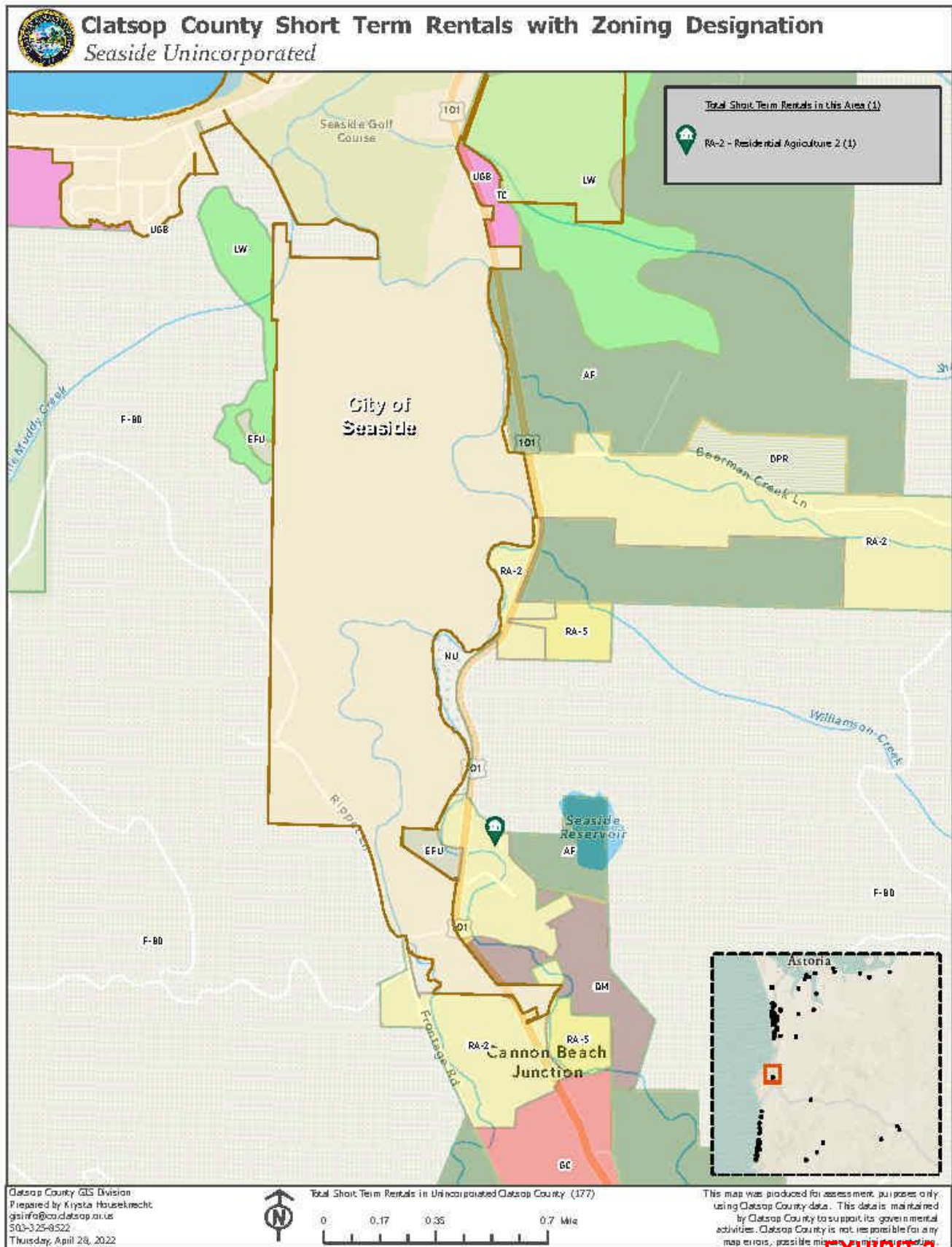


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Figure 13

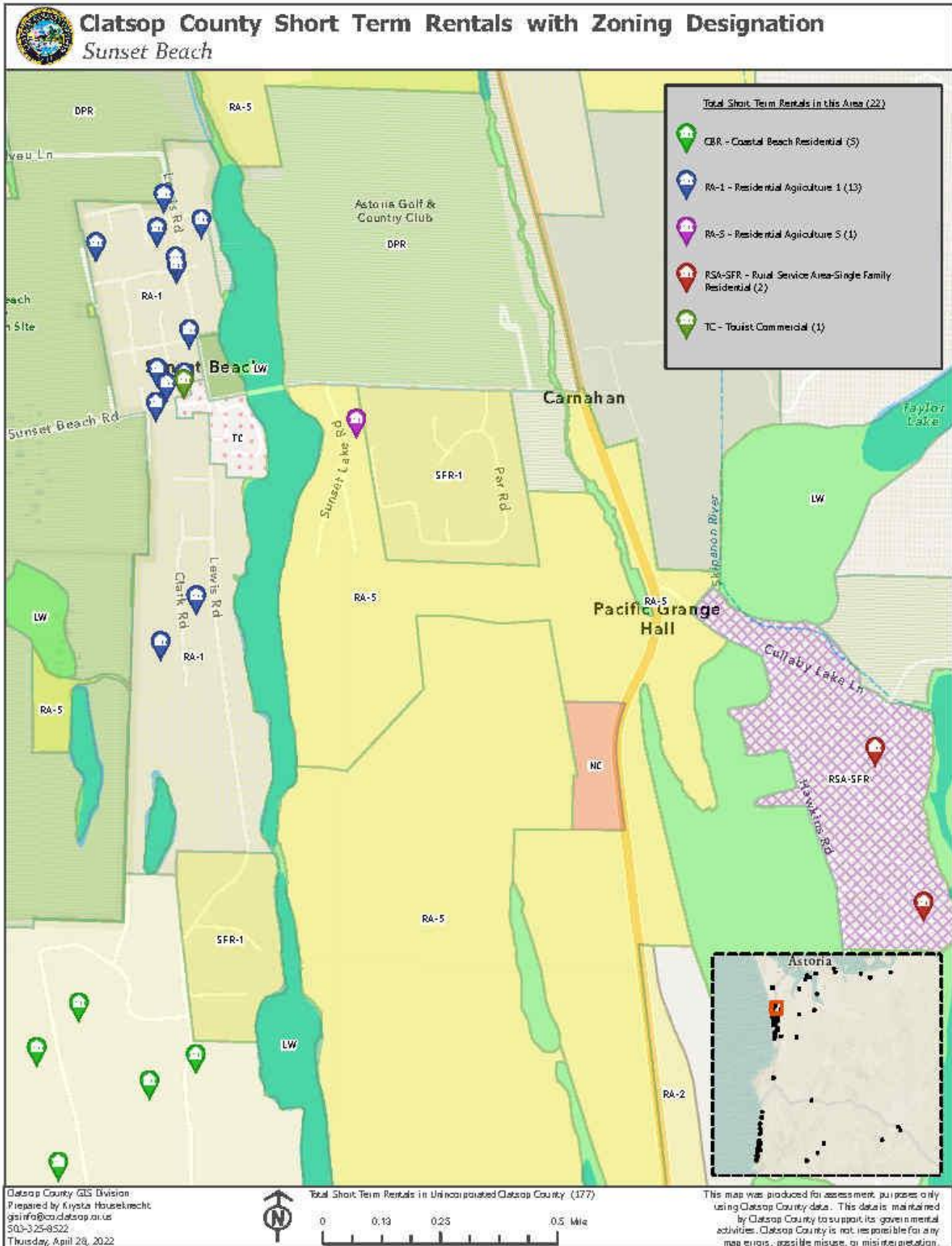


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Figure 14

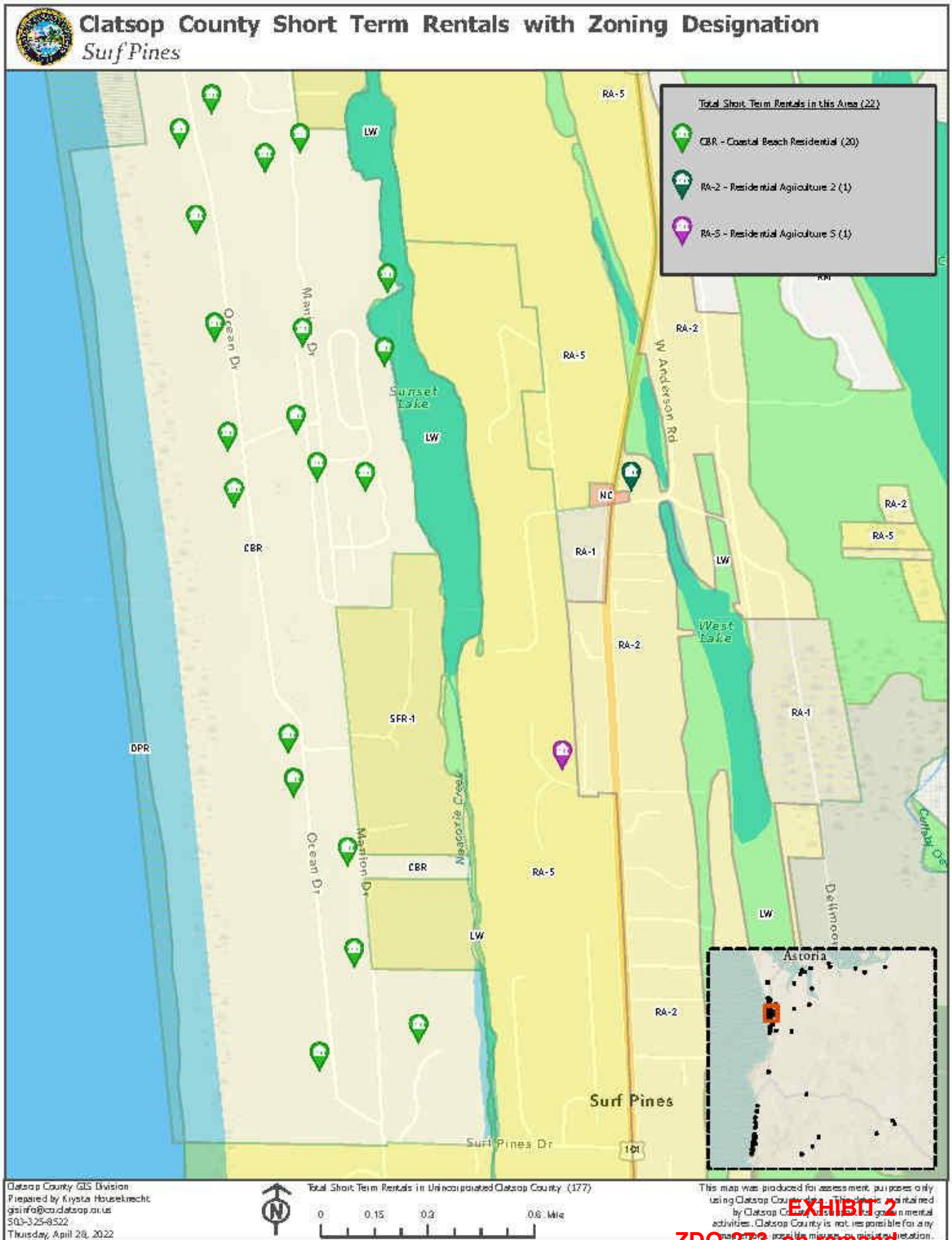


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Figure 15

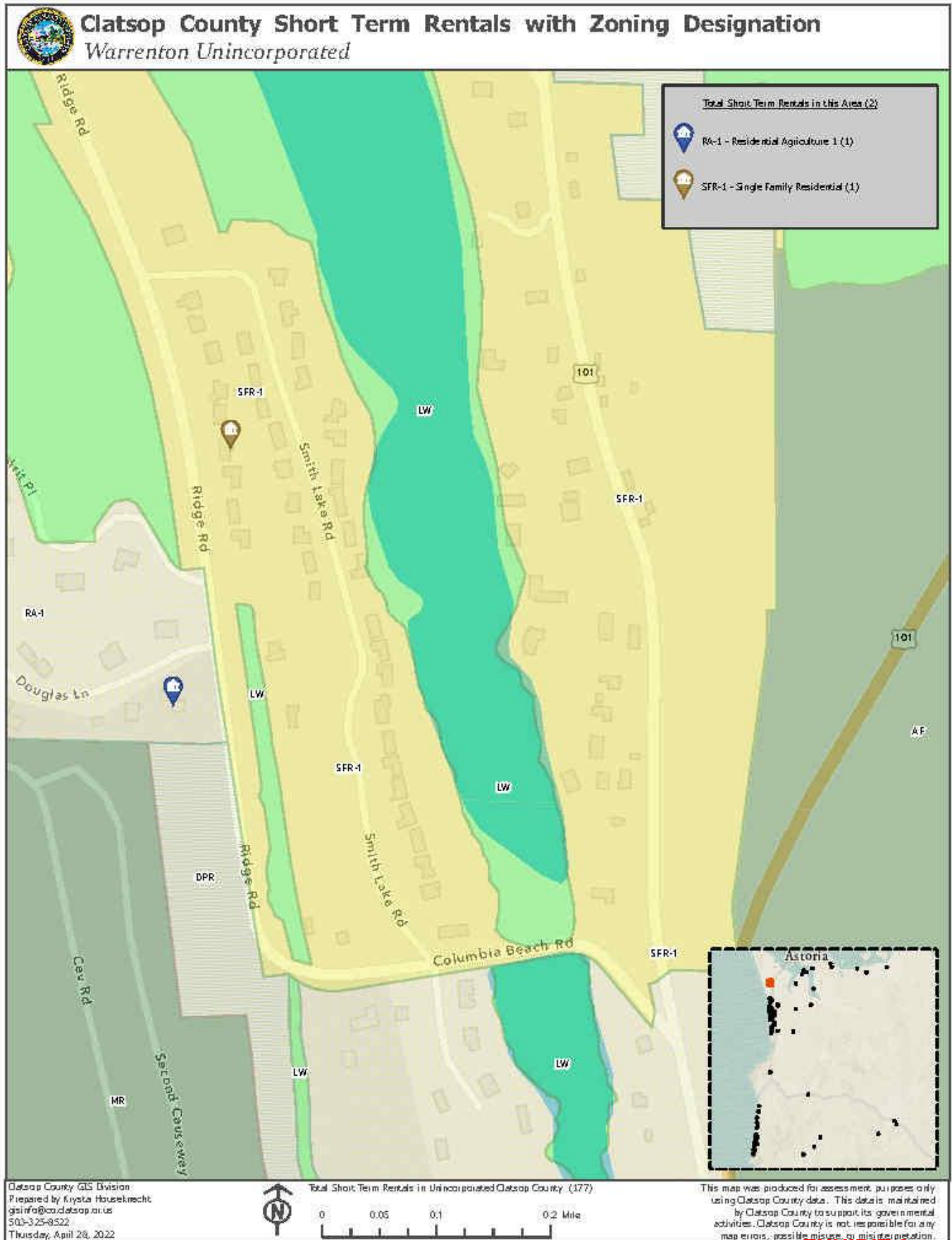


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SECTION 2B: PROPERTY VALUES

Figure 16 details sales information on properties located in the Arch Cape and Cove Beach areas between January 2018 and March 2022. Overall, 12 properties with STR permits were sold during that period. Eight of those properties sold for a higher price than the Real Market Value (RMV). Conversely, 31 non-STR-permitted properties sold during that same time period. Twenty-one of those properties had a sales price higher than RMV. Sixty-seven percent of properties with STR permits were sold above RMV, while 68% of the properties without STR permits were purchased at a sale price above RMV.

Figure 17 details the sale prices of properties in unincorporated areas of Astoria, Warrenton, Gearhart, Seaside and Cannon Beach. The majority of properties sold in these areas **were not** licensed as a short-term rental (19 STR-permitted properties vs. 711 non-STR-permitted properties). Of the 730 total properties in these unincorporated areas that were sold between January 2018 and March 2022, 600 (82.2%) sold above RMV.

The average sale price of STR-permitted properties was \$765,000 with an average RMV of \$707,679. The average sale price of non-STR-permitted properties was \$647,210 with an average RMV of \$565,737. Assuming a 20% down payment on a \$647,210 home with a 30-year mortgage at a fixed rate of 3.633%, the monthly mortgage payment would be \$2,364. That total does not include insurance or taxes. To be considered “affordable” housing costs should not exceed 30% of household income. As noted in Section 2E, below, the median household income in Clatsop County is \$57,466. Based upon this median income, an “affordable” monthly rental payment, including utilities, would be \$1,436.65.

The data in Figures 16 and 17 would appear to indicate that the overall level of demand far exceeds the level of housing supply. This trend, which is occurring nationwide, has been fueled by a combination of factors including low interest rates and increased opportunities for remote work during the pandemic. The data does not demonstrate that short-term rentals have driven up housing prices or that houses are being purchased to be converted to short-term rentals.

The information provided on **Figures 18 and 19** show that single-family housing prices for properties **not** holding an STR permit have risen across the county 22-33% between 2018 and 2021. Single-family residences **with** an STR permit have risen in real market value 5-42% over that same timeframe.

Arch Cape/Cove Beach/Falcon Cove Single Family Residence Sales: Permitted STR vs. Not Permitted
01/01/2018 through 03/21/2022

Figure 16

Acct ID	Year Permitted	STR	Sale Date	Ocean-Front	Year Built	Acres	Mult. Accts Sold	Situs Address	Situs City	Total RMV	Sale Price	Sale Price % above RMV	
2899	2020	Yes	08/28/19	No	1999	0.11	No	79929 W Beach Rd	Arch Cape	522,907	445,000	-15%	4 33%
3255	2019	Yes	11/16/18	No	1995	0.57	No	79209 Ray Brown Rd	Arch Cape	646,642	565,000	-13%	
3108	2019	Yes	08/21/20	Yes	1941	0.46	Yes	79815 Ocean Point Rd	Arch Cape	893,122	850,000	-5%	
2585	2019	Yes	08/28/18	Yes	1951	0.44	No	80416 Carnahan Rd	Arch Cape	1,024,010	985,000	-4%	
3175	2018	Yes	08/06/18	No	1997	0.79	No	31912 Clatsop Ln	Arch Cape	451,140	455,000	1%	8 67%
2728	2020	Yes	05/30/19	Yes	1956	0.20	No	80192 Pacific Rd	Arch Cape	1,185,052	1,200,000	1%	
51983	2018	Yes	05/10/18	No	2008	1.01	No	31971 Clatsop Ln	Arch Cape	710,796	735,000	3%	
55259	2018	Yes	01/09/18	No	2015	0.22	No	79799 E Beach Rd	Arch Cape	358,780	390,000	9%	
3294	2018	Yes	07/15/20	No	1981	0.22	No	78986 Cove Beach Rd	Arch Cape	571,674	655,000	15%	
3251	2020	Yes	06/05/20	No	1994	0.46	Yes	79238 Ray Brown Rd	Arch Cape	663,892	775,000	17%	
3136	2019	Yes	09/28/18	No	1940	0.21	No	31912 E Shingle Mill Ln	Arch Cape	343,708	475,000	38%	
2511	2018	Yes	08/25/21	Yes	1961	1.22	No	79878 Hwy 101	Arch Cape	1,120,426	1,650,000	47%	
												2%	Median

Acct ID	Year Permitted	STR	Sale Date	Ocean-Front	Year Built	Acres	Mult. Accts Sold	Situs Address	Situs City	Total RMV	Sale Price	Sale Price % above RMV	
54572	N/A	No	07/26/19	No	2007	0.30	No	32073 Cedar Ln	Arch Cape	666,152	585,000	-12%	10 32%
3212	N/A	No	03/03/21	Yes	1973	0.63	Yes	79364 Ray Brown Rd	Arch Cape	1,082,730	955,000	-12%	
2792	N/A	No	08/27/19	No	1962	0.32	No	31972 Donlon Ln	Arch Cape	423,346	375,000	-11%	
2658	N/A	No	09/18/20	No	2002	0.60	Yes	32105 Hemlock Ln	Arch Cape	691,703	649,000	-6%	
2636	N/A	No	08/22/19	No	2016	0.11	No	31983 Cedar Ln	Arch Cape	419,769	396,000	-6%	
3022	N/A	No	06/08/18	No	1962	0.23	No	79804 Fire Rock Rd	Arch Cape	346,756	328,000	-5%	
3242	N/A	No	08/19/19	Yes	1965	0.72	Yes	79084 Cove Beach Rd	Arch Cape	832,286	801,200	-4%	
2837	N/A	No	05/18/20	No	1997	0.18	No	31948 Star Mooring Ln	Arch Cape	597,125	575,000	-4%	
3271	N/A	No	01/15/21	Yes	1972	0.41	Yes	79070 Cove Beach Rd	Arch Cape	1,207,842	1,170,000	-3%	
2649	N/A	No	10/15/19	No	2007	0.22	No	32067 Hemlock Ln	Arch Cape	340,940	339,000	-1%	
2912	N/A	No	01/15/19	No	1990	0.11	No	79924 W Beach Rd	Arch Cape	473,526	489,000	3%	21 68%
2767	N/A	No	08/23/18	Yes	1957	0.16	No	80166 PACIFIC RD	Arch Cape	863,482	910,000	5%	
2696	N/A	No	11/20/18	No	1993	0.22	No	32103 Buena Vista Dr	Arch Cape	443,768	475,000	7%	
2901	N/A	No	03/29/18	No	1981	0.09	No	79917 W Beach Rd	Arch Cape	310,529	336,800	8%	
2851	N/A	No	09/25/19	Yes	1990	0.13	No	80090 Pacific Rd	Arch Cape	1,433,533	1,563,000	9%	
3023	N/A	No	05/30/18	No	1986	0.20	No	32001 E Shingle Mill Ln	Arch Cape	319,693	355,000	11%	
53450	N/A	No	03/22/19	No	1950	0.41	No	79435 E Hwy 101	Arch Cape	339,936	385,000	13%	
59438	N/A	No	07/05/18	No	2016	0.23	No	31973 Oceanview Ln	Arch Cape	524,798	595,000	13%	
2833	N/A	No	07/26/18	No	2003	0.15	No	31922 Star Mooring Ln	Arch Cape	686,425	780,000	14%	
2748	N/A	No	11/14/18	No	2006	0.09	No	80105 PACIFIC RD	Arch Cape	527,699	600,000	14%	
2740	N/A	No	02/22/19	No	1955	0.17	No	31960 Montbreacia Ln	Arch Cape	351,957	421,000	20%	
2787	N/A	No	09/06/19	No	1957	0.13	No	80149 Pacific Rd	Arch Cape	473,074	574,000	21%	
2683	N/A	No	12/28/20	No	2003	0.22	No	32088 Buena Vista Dr	Arch Cape	622,903	855,000	37%	
2814	N/A	No	06/22/21	No	1990	0.12	No	79979 Pacific Rd	Arch Cape	471,123	650,000	38%	
2577	N/A	No	12/14/20	Yes	1976	0.28	No	80424 Carnahan Rd	Arch Cape	1,086,384	1,500,000	38%	
2649	N/A	No	05/27/21	No	2007	0.22	No	32067 Hemlock Ln	Arch Cape	333,609	470,000	41%	
2643	N/A	No	09/07/21	No	1978	0.12	No	80331 Pacific Rd	Arch Cape	297,827	500,000	68%	
3039	N/A	No	07/21/21	No	1920	1.35	No	32079 E Shingle Mill Ln	Arch Cape	435,146	750,000	72%	
3118	N/A	No	04/22/21	No	1952	0.13	No	79784 East Beach Rd	Arch Cape	354,542	625,000	76%	
2665	N/A	No	05/26/21	No	1999	0.24	No	32100 Hemlock Ln	Arch Cape	331,749	605,000	82%	
3094	N/A	No	09/28/21	No	1940	0.13	No	79812 Cannon Rd	Arch Cape	247,487	451,500	82%	
												11%	Median

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Clatsop County Single Family Residence Sales: Permitted STR vs. Not Permitted
01/01/2018 through 03/21/2022

Figure 17

Unincorporated Area	Permitted STR	Total Sales	Sold Below RMV		Sold Above RMV	
			# of Sales	%	# of Sales	%
Astoria	Yes	2	0	0%	2	100%
Astoria	No	318	61	19%	257	81%

Unincorporated Area	Permitted STR	Total Sales	Sold Below RMV		Sold Above RMV	
			# of Sales	%	# of Sales	%
Warrenton	Yes	8	1	13%	7	88%
Warrenton	No	250	43	17%	207	83%

Unincorporated Area	Permitted STR	Total Sales	Sold Below RMV		Sold Above RMV	
			# of Sales	%	# of Sales	%
Gearhart	Yes	8	0	0%	8	100%
Gearhart	No	78	13	17%	65	83%

Unincorporated Area	Permitted STR	Total Sales	Sold Below RMV		Sold Above RMV	
			# of Sales	%	# of Sales	%
Seaside	Yes	1	1	100%	0	0%
Seaside	No	44	6	14%	38	86%

Unincorporated Area	Permitted STR	Total Sales	Sold Below RMV		Sold Above RMV	
			# of Sales	%	# of Sales	%
Cannon Beach	Yes	0	0	0%	0	0%
Cannon Beach	No	21	5	24%	16	76%

Figure 18

Clatsop County Median Real Market Values (RMVs) and Assessed Values (AVs), 2018 and 2021

** PROPERTY TAXES ARE CALCULATED BASED ON THE ASSESSED VALUE (AV) **

		Single Family Residence Properties - NOT STR Permitted 79% of SFR Homes in the Area (325 Homes) Median Home Values					
		2018			2021		
Area		RMV	AV	RMV	% change	AV	% change
Arch Cape, Cove Beach, Falcon Cove		489,500	364,014	597,666	22%	407,473	12%

		Single Family Residence Properties - STR Permitted 21% of SFR Homes in the Area (87 Homes) Median Home Values					
		2018			2021		
Area		RMV	AV	RMV	% change	AV	% change
Arch Cape, Cove Beach, Falcon Cove		612,124	404,870	644,150	5%	439,601	9%

		Single Family Residence Properties - NOT STR Permitted 93% of SFR Homes in the Area (114 Homes) Median Home Values					
		2018			2021		
Area		RMV	AV	RMV	% change	AV	% change
Unincorporated Cannon Beach		365,101	270,759	460,622	26%	303,897	12%

		Single Family Residence Properties - STR Permitted 7% of SFR Homes in the Area (8 Homes) Median Home Values					
		2018			2021		
Area		RMV	AV	RMV	% change	AV	% change
Unincorporated Cannon Beach		557,720	348,663	791,929	42%	396,267	14%

		Single Family Residence Properties - Median Home Values					
		2018			2021		
Area		RMV	AV	RMV	% change	AV	% change
Incorporated Cannon Beach		526,533	367,111	654,932	24%	406,077	11%

Figure 19

Catsop County Median Real Market Values (RMVs) and Assessed Values (AVs), 2018 and 2021

** PROPERTY TAXES ARE CALCULATED BASED ON THE ASSESSED VALUE (AV) **

Single Family Residence Properties - NOT STR Permitted 59.6% of SFR Homes in the Area (2,306 Homes) Median Home Values						
2018		2021				
Area	RMV	AV	RMV	% change	AV	% change
Unincorporated Astoria	258,951	173,315	340,626	32%	194,830	12%

Single Family Residence Properties - STR Permitted 0.4% of SFR Homes in the Area (10 Homes) Median Home Values						
2018		2021				
Area	RMV	AV	RMV	% change	AV	% change
Unincorporated Astoria	240,357	158,489	303,433	26%	173,182	9%

Single Family Residence Properties - NOT STR Permitted 55% of SFR Homes in the Area (308 Homes) Median Home Values						
2018		2021				
Area	RMV	AV	RMV	% change	AV	% change
Unincorporated Gearhart	354,459	275,914	463,240	31%	285,103	3%

Single Family Residence Properties - STR Permitted 5% of SFR Homes in the Area (16 Homes) Median Home Values						
2018		2021				
Area	RMV	AV	RMV	% change	AV	% change
Unincorporated Gearhart	531,356	523,183	720,772	36%	573,939	10%

Single Family Residence Properties - NOT STR Permitted 97% of SFR Homes in the Area (1,158 Homes) Median Home Values						
2018		2021				
Area	RMV	AV	RMV	% change	AV	% change
Unincorporated Warrenton	299,623	219,613	398,020	33%	253,286	15%

Single Family Residence Properties - STR Permitted 3% of SFR Homes in the Area (42 Homes) Median Home Values						
2018		2021				
Area	RMV	AV	RMV	% change	AV	% change
Unincorporated Warrenton	340,263	237,559	441,556	30%	274,915	16%

Single Family Residence Properties - NOT STR Permitted 59% of SFR Homes in the Area (415 Homes) Median Home Values						
2018		2021				
Area	RMV	AV	RMV	% change	AV	% change
Unincorporated Seaside	232,554	183,020	284,394	22%	200,910	10%

Single Family Residence Properties - STR Permitted 1% of SFR Homes in the Area (6 Homes) Median Home Values						
2018		2021				
Area	RMV	AV	RMV	% change	AV	% change
Unincorporated Seaside	281,385	160,318	351,545	25%	175,180	9%

SECTION 2C: RENTAL UNIT CHARACTERISTICS (CLATSOP COUNTY AND CITIES)

The 2020 American Community Survey 5-Year Estimates for all of Clatsop County estimates an average monthly rent of \$957. **Table 1** details the number of housing units within all of Clatsop County (incorporated and unincorporated areas) and includes information regarding unit age, size and monthly rental payments. Overall, the county’s housing stock is largely owner-occupied (60.7%). The majority of the housing units is comprised of single-family detached dwellings (15,606; 69%). Over fifty-eight percent of the housing stock (13,250 units) is more than 50 years old. Twenty-three percent of the housing stock is over 80 years old.

TABLE 1: RENTAL RATES AND UNIT CHARACTERISTICS

Clatsop County, Oregon (Incorporated and Unincorporated Areas)

Description	Estimate	Percent
HOUSING OCCUPANCY		
Total housing units	22,609	22,609
Occupied housing units	16,019	70.9%
Vacant housing units	6,590	29.1%
Homeowner vacancy rate	1.4%	(X)
Rental vacancy rate	3.5%	(X)
UNITS IN STRUCTURE		
Total housing units	22,609	22,609
1-unit, detached	15,606	69.0%
1-unit, attached	613	2.7%
2 units	1,218	5.4%
3 or 4 units	1,438	6.4%
5 to 9 units	655	2.9%
10 to 19 units	379	1.7%
20 or more units	1,325	5.9%
Mobile home	1,331	5.9%
Boat, RV, van, etc.	44	0.2%
YEAR STRUCTURE BUILT		
Total housing units	22,609	22,609
Built 2014 or later	690	3.1%
Built 2010 to 2013	387	1.7%
Built 2000 to 2009	2,446	10.8%
Built 1990 to 1999	3,400	15.0%
Built 1980 to 1989	2,436	10.8%
Built 1970 to 1979	3,179	14.1%
Built 1960 to 1969	1,345	5.9%
Built 1950 to 1959	1,680	7.4%
Built 1940 to 1949	1,842	8.1%

TABLE 1: RENTAL RATES AND UNIT CHARACTERISTICS

Clatsop County, Oregon (Incorporated and Unincorporated Areas)

Description	Estimate	Percent
Built 1939 or earlier	5,204	23.0%
ROOMS		
Total housing units	22,609	22,609
1 room	541	2.4%
2 rooms	730	3.2%
3 rooms	2,274	10.1%
4 rooms	4,027	17.8%
5 rooms	4,335	19.2%
6 rooms	4,123	18.2%
7 rooms	2,988	13.2%
8 rooms	1,714	7.6%
9 rooms or more	1,877	8.3%
Median rooms	5.4	(X)
BEDROOMS		
Total housing units	22,609	22,609
No bedroom	789	3.5%
1 bedroom	2,146	9.5%
2 bedrooms	6,751	29.9%
3 bedrooms	9,147	40.5%
4 bedrooms	3,026	13.4%
5 or more bedrooms	750	3.3%
HOUSING TENURE		
Occupied housing units	16,019	16,019
Owner-occupied	9,727	60.7%
Renter-occupied	6,292	39.3%
Average household size of owner-occupied unit	2.57	(X)
Average household size of renter-occupied unit	2.21	(X)
YEAR HOUSEHOLDER MOVED INTO UNIT		
Occupied housing units	16,019	16,019
Moved in 2019 or later	1,139	7.1%
Moved in 2015 to 2018	4,836	30.2%
Moved in 2010 to 2014	3,347	20.9%
Moved in 2000 to 2009	3,124	19.5%
Moved in 1990 to 1999	1,736	10.8%
Moved in 1989 and earlier	1,837	11.5%
VEHICLES AVAILABLE		

TABLE 1: RENTAL RATES AND UNIT CHARACTERISTICS		
Clatsop County, Oregon (Incorporated and Unincorporated Areas)		
Description	Estimate	Percent
Occupied housing units	16,019	16,019
No vehicles available	1,427	8.9%
1 vehicle available	5,836	36.4%
2 vehicles available	5,388	33.6%
3 or more vehicles available	3,368	21.0%
SELECTED CHARACTERISTICS		
Occupied housing units	16,019	16,019
Lacking complete plumbing facilities	27	0.2%
Lacking complete kitchen facilities	338	2.1%
No telephone service available	212	1.3%
GROSS RENT		
Occupied units paying rent	5,868	5,868
Less than \$500	313	5.3%
\$500 to \$999	2,909	49.6%
\$1,000 to \$1,499	1,957	33.4%
\$1,500 to \$1,999	483	8.2%
\$2,000 to \$2,499	157	2.7%
\$2,500 to \$2,999	13	0.2%
\$3,000 or more	36	0.6%
Median (dollars)	957	(X)
No rent paid	424	(X)

GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME (GRAPI)

Occupied units paying rent (excluding units where GRAPI cannot be computed)	5,816	5,816
Less than 15.0 percent	1,022	17.6%
15.0 to 19.9 percent	823	14.2%
20.0 to 24.9 percent	677	11.6%
25.0 to 29.9 percent	714	12.3%
30.0 to 34.9 percent	448	7.7%
35.0 percent or more	2,132	36.7%
Not computed	476	(X)

Source: 2020 ACS 5-Year Estimates

SECTION 2D: VACANT STRUCTURES

Per the 2020 Decennial Census there are 23,017 housing units within incorporated and unincorporated Clatsop County. The 177 licensed STRs in unincorporated Clatsop County represent ~~0.07%~~ 0.7% of those residential units.

The 2020 Decennial Census identified 17,533 of all housing units (76.2%) as occupied, while 5,484 units (23.8%) were categorized as vacant. The 2020 American Community Survey (ACS) 5-Year Estimates estimated that 16,019 housing units in Clatsop County were occupied. The margin of error for that estimate is ± 399 units.

The Current Population Survey and Housing Vacancies and Homeownership data (CPS/HVS) compiled by the U.S. Census Bureau classifies residential dwellings as “Vacant Housing Units” if:

no one is living in it at the time of the interview, unless its occupants are only temporarily absent. In addition, a vacant unit may be one which is entirely occupied by persons who have a usual residence elsewhere. New units that are not yet occupied are classified as vacant housing units if construction has reached a point where all exterior windows and doors are installed and final usable floors are in place. Vacant units are excluded if they are exposed to the elements, that is, if the roof, walls, windows, or doors no longer protect the interior from the elements, or if there is positive evidence (such as a sign on the house or block) that the unit is to be demolished or is condemned. Also excluded are quarters being used entirely for nonresidential purposes, such as a store or an office, or quarters used for the storage of business supplies or inventory, machinery, or agricultural products. Vacant sleeping rooms in lodging houses, transient accommodations, barracks, and other quarters not defined as housing units are not included in the statistics.

Since 1990, the CPS/HVS also included year-round vacant mobile homes as part of the year-round vacant count of housing units. “Year-round units” are those intended for occupancy at any time of the year, even though they may not be in use the year round. In resort areas, a housing unit which is usually occupied on a year-round basis is considered a year-round unit. Year-round units temporarily occupied by persons with usual residence elsewhere are included with year-round vacant units.

The CPS/HVS classifies vacant units into the following categories:

- Vacant units for rent
- Vacant units for sale only
- Vacant units rented or sold (but owner/renter has not yet moved in)
- Vacant units held off the market

- Units held for occasional use:
- Units temporarily occupied by persons with usual residences elsewhere:
- Other vacant:
 - in need of or under repair/renovation
 - in probate
 - foreclosure
 - preparing to rent/sell)
 - abandoned
 - extended absence

Seasonal Vacant Units, as defined by CPS/HVS are “those intended for occupancy only during certain seasons of the year and found primarily in resort areas. Housing units held for occupancy by migratory labor employed in farm work during the crop season are tabulated as seasonable.”

SECTION 2E: CLATSOP COUNTY INCOME LEVELS AND HOUSING COSTS

Table 2 documents income levels, housing costs and percentage of housing costs for households in Clatsop County (Source: 2020 American Community Survey (ACS) 5-Year Estimates). This data includes both incorporated and unincorporated areas. The 2020 ACS 5-Year Estimates estimate the median owner-occupied housing income as \$71,644. The median renter-occupied household income, however, is \$41,225.

As defined by the U.S. Department of Housing and Urban Development, affordable housing is “housing on which the occupant is paying no more than 30 percent of gross income for housing costs, including utilities.”

As shown on the information on Table 1, households earning less than \$35,000 are more likely to pay more than 30% of their income for housing. A household earning \$35,000 per year would be able to pay up to \$875 per month (including utilities) for an “affordable” housing unit. As also shown on Table 2, 7,649 of the estimated housing units within the County are below the \$1,000 per month price range. The remaining 8,370 units are above \$1,000 in monthly costs.

TABLE 2: HOUSING UNITS AND HOUSING COSTS**Clatsop County, Oregon**

	Occupied housing units	Percent occupied housing units	Owner-occupied housing units	Percent owner-occupied housing units	Renter-occupied housing units	Percent renter-occupied housing units
Label	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate
Occupied housing units	16,019	100%	9,727	60.7%	6,292	39.3%
HOUSEHOLD INCOME IN THE PAST 12 MONTHS (IN 2020 INFLATION-ADJUSTED DOLLARS)						
Less than \$5,000	414	2.6%	227	2.3%	187	3.0%
\$5,000 to \$9,999	396	2.5%	100	1.0%	296	4.7%
\$10,000 to \$14,999	575	3.6%	210	2.2%	365	5.8%
\$15,000 to \$19,999	906	5.7%	320	3.3%	586	9.3%
\$20,000 to \$24,999	621	3.9%	288	3.0%	333	5.3%
\$25,000 to \$34,999	1,875	11.7%	933	9.6%	942	15.0%
\$35,000 to \$49,999	2,180	13.6%	1,119	11.5%	1,061	16.9%
\$50,000 to \$74,999	2,922	18.2%	1,891	19.4%	1,031	16.4%
\$75,000 to \$99,999	2,281	14.2%	1,472	15.1%	809	12.9%
\$100,000 to \$149,999	2,564	16.0%	1,960	20.2%	604	9.6%
\$150,000 or more	1,285	8.0%	1,207	12.4%	78	1.2%
Median household income (dollars)	57,466	57,466	71,644	71,644	41,225	41,225
MONTHLY HOUSING COSTS						
Less than \$300	675	4.2%	522	5.4%	153	2.4%
\$300 to \$499	1,551	9.7%	1,391	14.3%	160	2.5%
\$500 to \$799	3,372	21.1%	1,907	19.6%	1,465	23.3%
\$800 to \$999	2,051	12.8%	607	6.2%	1,444	22.9%
\$1,000 to \$1,499	3,962	24.7%	2,005	20.6%	1,957	31.1%
\$1,500 to \$1,999	2,256	14.1%	1,773	18.2%	483	7.7%
\$2,000 to \$2,499	931	5.8%	774	8.0%	157	2.5%

TABLE 2: HOUSING UNITS AND HOUSING COSTS

Clatsop County, Oregon

	Occupied housing units	Percent occupied housing units	Owner-occupied housing units	Percent owner-occupied housing units	Renter-occupied housing units	Percent renter-occupied housing units
Label	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate
\$2,500 to \$2,999	445	2.8%	432	4.4%	13	0.2%
\$3,000 or more	352	2.2%	316	3.2%	36	0.6%
No cash rent	424	2.6%	(X)	(X)	424	6.7%
Median (dollars)	1,017	1,017	1,139	1,139	957	957

MONTHLY HOUSING COSTS AS A PERCENTAGE OF HOUSEHOLD INCOME IN THE PAST 12 MONTHS

Less than \$20,000	2,078	13.0%	791	8.1%	1,287	20.5%
Less than 20 percent	126	0.8%	83	0.9%	43	0.7%
20 to 29 percent	148	0.9%	106	1.1%	42	0.7%
30 percent or more	1,804	11.3%	602	6.2%	1,202	19.1%
\$20,000 to \$34,999	2,440	15.2%	1,221	12.6%	1,219	19.4%
Less than 20 percent	394	2.5%	368	3.8%	26	0.4%
20 to 29 percent	695	4.3%	369	3.8%	326	5.2%
30 percent or more	1,351	8.4%	484	5.0%	867	13.8%
\$35,000 to \$49,999	2,065	12.9%	1,119	11.5%	946	15.0%
Less than 20 percent	736	4.6%	568	5.8%	168	2.7%
20 to 29 percent	622	3.9%	161	1.7%	461	7.3%
30 percent or more	707	4.4%	390	4.0%	317	5.0%
\$50,000 to \$74,999	2,866	17.9%	1,891	19.4%	975	15.5%
Less than 20 percent	1,254	7.8%	870	8.9%	384	6.1%
20 to 29 percent	930	5.8%	495	5.1%	435	6.9%
30 percent or more	682	4.3%	526	5.4%	156	2.5%
\$75,000 or more	6,028	37.6%	4,639	47.7%	1,389	22.1%
Less than 20 percent	4,441	27.7%	3,217	33.1%	1,224	19.5%

EXHIBIT 2

ZDO-273, on remand

Page 31 of 44

TABLE 2: HOUSING UNITS AND HOUSING COSTS**Clatsop County, Oregon**

	Occupied housing units	Percent occupied housing units	Owner-occupied housing units	Percent owner-occupied housing units	Renter-occupied housing units	Percent renter-occupied housing units
Label	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate
20 to 29 percent	1,242	7.8%	1,115	11.5%	127	2.0%
30 percent or more	345	2.2%	307	3.2%	38	0.6%
Zero or negative income	118	0.7%	66	0.7%	52	0.8%
No cash rent	424	2.6%	(X)	(X)	424	6.7%

Source: 2020 ACS 5-Year Estimates

SECTION 2F: HOUSING NEED

The 2019 *Housing Strategies Report* identified a deficit of 1,500 housing units would be required in order to accommodate growth while allowing for a continued supply of vacation rentals.

The recently-completed Regional Housing Needs Analysis, produced by Oregon Housing and Community Services, estimates that 3,020 residential units are needed between the five incorporated cities within Clatsop County over the next 20 years.

TABLE 3: CLATSOP COUNTY INCORPORATED AREAS - NEEDED UNITS

New Units for Each of the Following:

Median Family Income	Single-Family Detached	Single-Family Attached	Manufactured and Other	Multifamily	Total Units	% of Units
+120%	977	0	0	0	977	32.4%
80-120%	466	0	0	0	466	15.4%
50-80%	557	0	0	0	557	18.4%
30-50%	191	0	0	181	372	12.3%
0-30%	36	0	299	313	648	21.5%
Total Units	2,227	0	299	494	3,020	100%

Sources: ECONorthwest analysis; PSU, 2020-2070 Coordinated Population Forecasts; HUD, FY 2018 Income Limits; U.S. Census Bureau, 2018 ACS 1-year PUMS estimates; HUD, 2019 PIT count

SECTION 2G: 2019 HOUSING STUDY

In 2018, Clatsop County partnered with the cities of Astoria, Warrenton, Gearhart, Seaside and Cannon Beach to undertake a [housing study](#). The stated purpose of the study was to find potential solutions to the region's housing crisis.

The study analyzed the existing housing supply, housing and demographic trends, existing plans and data, including an analysis of the local governments housing goals, policies and codes. The completed document included proposals for initiatives to encourage more production of needed housing types, as well as recommendations on building partnerships and capacity-building strategies.

The final report was issued in January 2019. The 10 recommended strategies included in the report focused on five overarching findings:

- Sufficient supply, but not the right types of housing
- Focus strategies on adding the right types of supply
- Control commercial use of residential land
- Use available residential land efficiently
- Focus on workforce housing

The study has never been formally accepted by the Board of Clatsop County Commissioners and no action has been taken by the Board on recommendations forwarded by the Planning Commission.

APPENDIX A

WORK COMPLETED
MORATORIUM WORK PLAN AND SCHEDULE

WORK COMPLETED

STR MEETING LIST

Below is a list of links to meetings that have occurred related to the issue of short-term rentals.

BOARD OF COMMISSIONERS WORK SESSIONS

- [May 18, 2022](#)
- [February 16, 2022](#)
- [January 26, 2022](#)
- [August 3, 2021](#)
- [June 1, 2021](#)
- [April 20, 2021](#)
- [February 24, 2021](#)

BOARD OF COMMISSIONERS MEETINGS

- [April 27, 2022](#)
- [April 13, 2022](#)
- [December 8, 2021](#)
- [August 25, 2021](#)
- [August 11, 2021](#)

PLANNING COMMISSION WORK SESSIONS

- November 12, 2019

PLANNING COMMISSION MEETINGS

- [March 8, 2022](#)

PUBLIC TOWN HALL MEETINGS

- [January 22, 2022](#)
- [November 12, 2021](#)
- [September 24, 2021](#)
- [July 16, 2021](#)
- [July 9, 2021](#)
- [January 28, 2021](#)
- [January 27, 2021](#)
- [January 26, 2021](#)
- [November 13, 2020](#)
- [October 30, 2020](#)
- [October 14, 2020](#)
- [July 28, 2020](#)

Moratorium Work Plan and Schedule

	2021							2022							
	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG
DLCD 45-Day Notice for Moratorium	✓	✓													
Prepare Draft Moratorium Ordinance	✓	✓													
Public Town Hall Meetings – Moratorium Ordinance		✓													
14-Day Public Comment Period – Moratorium Ordinance		✓													
1 st Public Hearing – Moratorium Ordinance (August 11)			✓												
2 nd Public Hearing – Moratorium Ordinance (August 25)			✓												
Moratorium in Effect until December 29, 2021				✓	✓	✓	✓								
Prepare Draft #1 - Combined Ordinance and Revisions	✓	✓	✓												
Public Town Hall Meeting – Draft #1				✓											
14-Day Written Public Comment Period – Draft #1				✓											
Prepare Draft #2 – Combined Ordinance and Revisions					✓										
Public Town Hall Meeting – Draft #2						✓									
14-Day Written Public Comment Period – Draft #2						✓									
Moratorium Extended Until April 28, 2022								✓	✓	✓	✓				
Prepare Draft #3 – Combined Ordinance and Revisions							✓								
Public Town Hall Meeting – Draft #3								✓							
14-Day Written Public Comment Period – Draft #3								✓							
BOC Work Session								✓							
1 st Public Hearing – Combined Ordinance (February 9, 2022)									✓						
ITEM REMOVED FROM AGENDA															
BOC Work Session									✓						
Planning Commission Review of Proposed Amendments										✓					
1 st Public Hearing – Zoning Amendments											✓				
BOARD DIRECTS STAFF TO COLLECT DATA											✓				
1 st Public Hearing – Operating Standards Amendments											✓				
2 nd Public Hearing – Operating Standards Amendments											✓				
Moratorium Extended Until August 26, 2022												✓	✓	✓	✓
BOC Work Session – STR Data												✓			

Public Meeting
 Staff
 Moratorium

FRAMEWORK

During work session held on February 24 and April 20, your Board provided the following direction to staff:

- Combine the STR operating standards for Arch Cape with the operating standards for the remainder of unincorporated Clatsop County
- Discontinue transferability of STR permits
- Maintain the \$550 STR application fee
- Reduce permit length from 5 years to 2 years
- Revise language to clarify how violations are prioritized and penalties are assessed

During the June 1, 2021, work session, your Board also provided the following direction to staff:

- Bring forward an ordinance declaring a temporary moratorium on the issuance of new short-term rental permits

Your Board did not express an interest in:

- Forming a task force to review the operating standards for short-term rentals
- Developing a cap on the overall number of short-term rentals that would be permitted
- Prohibiting new short-term rentals
- Eliminating existing short-term rentals

Based upon your direction, staff developed the following parameters that were utilized during the three short-term rental town hall meetings that were conducted on September 24 and November 12, 2021, and January 22, 2022:

- No blanket STR prohibition
- No “grandfathering out” of STR units
- One ordinance for entire unincorporated county
- Some complaints and violations not under jurisdiction of County Code Compliance
 - Burn-ban and open fire violations
 - Animals
 - Trespassing
 - Drug/Alcohol Violations
 - Public Urination/Masturbation
- Some complaints are not inherent to STRs – these rules apply to all properties in unincorporated County
 - Lighting (not addressed in STR ordinance, Chapter 8.20, CCC)
 - Noise (quiet hours 10PM-7AM, Chapter 8.12, CCC)
 - Solid Waste Accumulation (Chapter 1.12, CCC)
 - Nuclear Weapons (Chapter 8.08, CCC)
- Common Sense!

On February 16, 2022, the Clatsop Board of County Commissioners directed staff to prepare an ordinance that would add short-term rentals as a permitted use in unincorporated residential zones. Staff prepared the requested revisions as directed by the Board and presented the item to the Planning Commission on March 8, 2022. More detailed background information is included as **Appendix C**.

APPENDIX B

MARCH 8, 2022 PLANNING COMMISSION RECOMMENDATION

PLANNING COMMISSION RECOMMENDATIONS

At its March 8 meeting, the Planning Commission approved the following recommendations to the Board of Commissioners:

- Allow STRs in the AC-RCR, TC, GC, NC, RCC, RSA-MFR, and RC-MFR zones as a Type IIA use (Approved 5-2, with Planning Commissioners Kraushaar and Johnson dissenting)
- Support staff recommendations, but establish a limit on the number of future STRs at a level to be determined (Motion failed 3-4, with Planning Commissioners Orr, Farrar, Powers, and Gardner dissenting)
- Repeal Sections 5.4900-5.4970 and revise Section 4.2620(12), LAWDUC (Approved 7-0)

The table below details the difference between the proposed amendments presented by staff as directed by the Board and the recommendation of the Planning Commission. The table also includes estimated costs to enact the Planning Commission’s recommendations.

APPENDIX B TABLE 1: RECOMMENDATION COMPARISON MATRIX		
	STAFF RECOMMENDATION	PLANNING COMMISSION RECOMMENDATION
PROPOSED AMENDMENT	Allow STRs in the following zones: <ul style="list-style-type: none"> • AC-RCR • TC • GC • NC • RCC • RSA-MFR • RC-MFR • RCR • KS-RCR • RSA-SFR • CBR • CR • SFR-1 • RA-1 • RA-2 • RA-5 • RA-10 	Allow STRs in the following zones: <ul style="list-style-type: none"> • AC-RCR • TC • GC • NC • RCC • RSA-MFR • RC-MFR
POTENTIAL FISCAL IMPACT	\$0	SEE APPENDIX B TABLE 2 BELOW

APPENDIX B TABLE 1: RECOMMENDATION COMPARISON MATRIX

	STAFF RECOMMENDATION	PLANNING COMMISSION RECOMMENDATION
PROPOSED AMENDMENT	Allow STRs as a Type I use: <ul style="list-style-type: none"> no public notice; no public hearing included in \$550 STR permit application fee 	Allow as a Type IIA use: <ul style="list-style-type: none"> mandatory public hearing \$1,500 non-refundable application fee in addition to \$550 STR permit fee; published notice; mailed public notice; sign posted on property; applicant-neighborhood meeting (optional)
POTENTIAL FISCAL IMPACT	\$0	<ul style="list-style-type: none"> Additional staff time per STR application: 5 HR Total Staff Time for 77 STR cases: 385 HR Total Staff Time Cost: \$22,330 Hearings Officer Cost: \$207/HR Total Hearings Officer Cost for 77 1-hour hearings: \$15,939 Cost per sign: \$55 77 Additional signs: \$4,235 Postage: \$13.75/ hearing average Total postage for 77 hearings: \$1,059 Newspaper Ads: \$155-250 per legal ad Total cost 77 newspaper ads: \$11,935-\$19,250
PROPOSED AMENDMENT	Repeal Sections 5.4900-5.4970	Repeal Sections 5.4900-5.4970
POTENTIAL FISCAL IMPACT	\$0	\$0
PROPOSED AMENDMENT	Revise Section 4.0620(12) to indicate that the operating standards have been transferred to the Clatsop County Code	Revise Section 4.0620(12) to indicate that the operating standards have been transferred to the Clatsop County Code
POTENTIAL FISCAL IMPACT	\$0	\$0
TOTAL POTENTIAL FISCAL IMPACT	\$0	\$55,498 - \$62,813
COST PER CASE	\$0	\$720.75 - \$815.75

If the Board chooses to implement the Planning Commission’s recommendations, staff would recommend that the additional costs be transferred to the short-term rental applicant.

In addition to the immediate costs under the Planning Commission’s recommendations that would be incurred by Community Development, there would be transient room tax that would also be potentially be lost as permits expired and were not able to be renewed. These estimated costs are detailed in **Appendix B Table 2**, below.

APPENDIX B TABLE 2: TRANSIENT ROOM TAX ESTIMATES	
Current # of Licensed STRs:	177
FY 2020/21 Transient Room Tax (TRT) ¹:	\$937,223
# STR Permits That Could Renew Under Staff Recommendation²:	172
# STR Permits That Could Renew Under PC Recommendation:	69
Potential TRT Generated Under PC Recommendation:	\$434,956
Potential TRT Loss Under PC Recommendation:	\$502,267

¹ FY 20/21 reported transient room tax

² STRs in resource zones would not be eligible to renew

Source: Clatsop County Assessment Taxation

NOTE: This table does not assume any new applications for dwellings that are not currently licensed as an STR.

APPENDIX C

2019 HOUSING STRATEGIES REPORT

Fritzie, Martha

From: annemarie spencer <annemariespencer@yahoo.com>
Sent: Thursday, October 13, 2022 2:26 PM
To: Rogalin, Ellen
Cc: Fritzie, Martha
Subject: Re: Public hearing on short-term rental ZDO amendments on Nov. 2

Follow Up Flag: Follow up
Flag Status: Flagged

Warning: External email. Be cautious opening attachments and links.

Thank you. I certainly hope they are an allowed use. It will kill our local Welches economy if tourists aren't allowed to STR. They eat in our restaurants, shop in our stores, and rent. I live in a condo that is half STR and half residents and we've never had an issue.

I think the crux of the issue is Timberline Rim. They are very against STR, while most of us understand the economic value. They have posted signs and even in one case made a threat. Frankly we're tired of this handful of dissenters.

Thanks for all you do!

[Sent from Yahoo Mail for iPhone](#)

On Thursday, October 13, 2022, 12:38 PM, Rogalin, Ellen <EllenRog@clackamas.us> wrote:

Good morning,

In December 2020 the Board of County Commissioners adopted amendments to the Zoning & Development Ordinance (ZDO) to clarify that short-term (vacation) rentals are an allowed residential use in unincorporated Clackamas County. Those amendments were appealed to the Oregon Land Use Board of Appeals (LUBA), which remanded (sent back) the amendments to the county to correct several assignments of error.

At **10 a.m., Wednesday, Nov. 2**, the Board of Commissioners will hold a public hearing on proposed ZDO amendments to respond to the findings of error. The hearing will be held both in person (Public Services Building, 2051 Kaen Rd, Oregon City) and on Zoom (www.clackamas.us/meetings/bcc/landuse).

Attached you will find the official notice about the hearing with additional details about the amendments and opportunities to testify. The full text of the amendments is available online at www.clackamas.us/planning/zdo273, or by contacting Martha Fritzie at mfritzie@clackamas.us or calling the Planning & Zoning Division at 503-742-4500.

PLEASE NOTE: *The November 2 hearing is about the ZDO amendments that are intended to clarify where short-term rentals are an allowed use in the county. This hearing is **not** about the registration and regulation program that had been adopted into the county code, but was repealed by the Board of Commissioners at a public hearing on Sept. 8, 2022. The minutes of the September 8 public hearing are available here: <https://dochub.clackamas.us/documents/drupal/fd155e44-4f57-490e-8580-8aa4669a5d5f>.*

Ellen Rogalin

Senior Community Relations Specialist

Clackamas County Public & Government Affairs

Supporting the Department of Transportation & Development

150 Beaver Creek Road, Oregon City, OR 97045

503-742-4274 | 971-276-2487 (cell)

Office hours: 9 am – 6 pm, Monday-Friday

(she/her) [why pronouns matter?](#)

Follow Clackamas County: [Facebook](#) | [Twitter](#) | [YouTube](#) | [Nextdoor](#)

Fritzie, Martha

From: Rogalin, Ellen
Sent: Thursday, October 13, 2022 4:27 PM
To: Fritzie, Martha
Subject: FW: Public hearing on short-term rental ZDO amendments on Nov. 2

For you and the BCC. I'll respond thanking him for the email.

Ellen Rogalin, Community Relations Specialist

971-276-2487 (cell)

Office hours: 9 am – 6 pm, Monday-Friday

From: rickseven007@gmail.com <rickseven007@gmail.com>
Sent: Thursday, October 13, 2022 11:52 AM
To: Rogalin, Ellen <EllenRog@clackamas.us>
Subject: RE: Public hearing on short-term rental ZDO amendments on Nov. 2

Warning: External email. Be cautious opening attachments and links.

Ellen – thank you for sending this communication. Although I do consider short term rentals to occasionally be an inconvenience, I still stand against the county getting involved in what a homeowner can or cannot do with their property. I stand against the radical socialist organization “1000 Friends of Oregon”. They are no friend of mine or any other person in the state who treasures liberty and freedom. I stand in support of the county commissioners who voted to not pursue regulations and unwanted taxation and fee charges if a homeowner decides to rent their property.

As you may remember, I own a property on Twinberry Loop and have never rented it on a short term basis. Please pass along my feelings to the county commissioners.

Thank you,

From: Rogalin, Ellen <EllenRog@clackamas.us>
Sent: Thursday, October 13, 2022 9:38 AM
To: Rogalin, Ellen <EllenRog@clackamas.us>
Cc: Fritzie, Martha <MFritzie@clackamas.us>
Subject: Public hearing on short-term rental ZDO amendments on Nov. 2

Good morning,

In December 2020 the Board of County Commissioners adopted amendments to the Zoning & Development Ordinance (ZDO) to clarify that short-term (vacation) rentals are an allowed residential use in unincorporated Clackamas County. Those amendments were appealed to the Oregon Land Use Board of Appeals (LUBA), which remanded (sent back) the amendments to the county to correct several assignments of error.

At **10 a.m., Wednesday, Nov. 2**, the Board of Commissioners will hold a public hearing on proposed ZDO amendments to respond to the findings of error. The hearing will be held both in person (Public Services Building, 2051 Kaen Rd, Oregon City) and on Zoom (www.clackamas.us/meetings/bcc/landuse).

Attached you will find the official notice about the hearing with additional details about the amendments and opportunities to testify. The full text of the amendments is available online at www.clackamas.us/planning/zdo273, or by contacting Martha Fritzie at mfritzie@clackamas.us or calling the Planning & Zoning Division at 503-742-4500.

PLEASE NOTE: *The November 2 hearing is about the ZDO amendments that are intended to clarify where short-term rentals are an allowed use in the county. This hearing is **not** about the registration and regulation program that had been adopted into the county code, but was repealed by the Board of Commissioners at a public hearing on Sept. 8, 2022. The minutes of the September 8 public hearing are available here: <https://dochub.clackamas.us/documents/drupal/fd155e44-4f57-490e-8580-8aa4669a5d5f>.*

Ellen Rogalin

**Senior Community Relations Specialist
Clackamas County Public & Government Affairs**

*Supporting the Department of Transportation & Development
150 Beaver Creek Road, Oregon City, OR 97045
503-742-4274 | 971-276-2487 (cell)
Office hours: 9 am – 6 pm, Monday-Friday
(she/her) [why pronouns matter?](#)*

Follow Clackamas County: [Facebook](#) | [Twitter](#) | [YouTube](#) | [Nextdoor](#)

=

Fritzie, Martha

From: Colton, Britney A. <britney.colton@stoel.com>
Sent: Monday, October 17, 2022 12:45 PM
To: Rogalin, Ellen
Cc: Fritzie, Martha
Subject: RE: Public hearing on short-term rental ZDO amendments on Nov. 2
Attachments: Swimply Clackamas County Land Use Testimony .pdf; Ltr to hearing commission(117010408.1) (004).pdf

Warning: External email. Be cautious opening attachments and links.

Good afternoon,

Attached please find two separate pieces of written testimony for the November 2 hearing.

Can you kindly confirm receipt, and also that each of these will be included in the written testimony packet?

Thank you,

Britney

From: Rogalin, Ellen <EllenRog@clackamas.us>
Sent: Thursday, October 13, 2022 9:38 AM
To: Rogalin, Ellen <EllenRog@clackamas.us>
Cc: Fritzie, Martha <MFritzie@clackamas.us>
Subject: Public hearing on short-term rental ZDO amendments on Nov. 2

Good morning,

In December 2020 the Board of County Commissioners adopted amendments to the Zoning & Development Ordinance (ZDO) to clarify that short-term (vacation) rentals are an allowed residential use in unincorporated Clackamas County. Those amendments were appealed to the Oregon Land Use Board of Appeals (LUBA), which remanded (sent back) the amendments to the county to correct several assignments of error.

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November 2, 2022

Re: November 2nd Hearing On Ordinance ZDO-273, On Remand

Commissioners Smith, Fischer, Savas, Schrader, and Shull:

Please accept this written public testimony in support of the continuation of short-term rentals (STRs) in Clackamas County. This testimony should be considered in conjunction with the legal argument and testimony submitted by Swimply (attached for reference). We support their position and legal argument supporting STRs and the clarification of allowing home amenity rentals. We offer our own perspective as hosts on this platform to bring the human element before you.

We are native Oregonians and have been living in Clackamas County on and off for over 40 years. Our children (ages 14, 11, and 8) are fourth generation Clackamas County residents. We love this State, this County, and our neighborhood.

Three years ago, we moved into our current home in unincorporated Clackamas County. We live at the end of a dead-end street. We have a long, winding driveway leading up to our house, which sits on nearly 7 acres in RRFF5 (non-resource zone). You can barely see any of our home structure from the base of our driveway (which is the only access to our property), let alone see our backyard. You also cannot hear any activity emanating from our home or backyard from the base of our driveway.

During COVID, we put in a swimming pool in our backyard, which was fully permitted. Shortly after putting in the pool, we heard about Swimply, and did some research. We learned that Oregon is one of Swimply's top markets, and some of their most popular and well-known hosts are in Clackamas County. We think Oregon is so popular for this because we have an extremely temperate climate year-round, summers can still be hot, and unlike the southern states, having a pool is not a common home feature.

Swimply is touted as the "Airbnb for pools." As it sounds, hosts rent out their swimming pools for guests to use, mostly on a day basis. It is **not** a public commercial business, just as Airbnb is not. As with Airbnb, guest requests to reserve the pool, and the host is free to accept or decline and put any restrictions on the use it wants. The space is being used in a residential manner and in the same manner an Airbnb guest would use the pool during their stay.

After discussing with our insurance broker, we agreed to give it a try. We were immediately overwhelmed by the number of requests we received. There was clearly a community need and demand for private pool access. The requests came in all different flavors from swimming lessons for children to children's birthday parties. We have even hosted several groups of autistic children for whom a loud public pool is simply not an option. We also regularly hosted a family whose elderly mother was going into hospice, and others with immunocompromised

conditions who simply cannot access congested public pools. People were so grateful that this community benefit was out there for them. Most people don't have access to a pool, let alone a private pool, and found it was an affordable and convenient option for many who didn't want to be around crowds, or who wanted a quiet and remote space to spend with family and friends.

Don't get us wrong, this is a lot of work. We work very hard to ensure a safe environment for our guests. The pool is regularly maintained and in superior condition. But, we also really like providing this benefit to the community. Just as STRs, like Airbnbs, benefit the community by enhancing tourism and also providing an alternative place other than a hotel for families to sneak away for a night or a week, amenity STRs like private pools open access to many people who otherwise would not be able to have the opportunity. In addition, Swimplify and other sites allow community members to rent other amenities like basketball courts, pickleball courts, tennis courts, etc. Again, unless you are a member of an expensive athletic club, having private access to these sorts of privileges simply isn't available to most people. And, for the same reason people elect an Airbnb over a hotel, they would like the option to go to a private pool or sport court vs. a community or public park or playground.

It never dawned on us that this was something that was viewed as not being allowed. We regularly had neighbors over, who never indicated any concern with this use (and certainly didn't have a problem sending their children over for swimming lessons). We were open and forthright with them about what we were doing.

Then, just recently when a couple of our neighbors learned that we were also planning to put in a sport court, which is primarily for our family use, but is adjacent to the pool, we started to hear some grumblings from a couple neighbors who live at the base of our driveway (again, the same ones who also enjoyed sending their children over to use the pool). The only concern they vocalized was traffic – vehicles entering and exiting our driveway.

This was a speculative concern, because they couldn't distinguish between which vehicles were coming to our home for personal hosting (e.g., family/friend gatherings), or for our three very active children, or contractors working. Also, no vehicles ever parked on the street or near their home.

In any case, we wanted to work with them to keep the peace. We reduced the number of guests allowed, and even agreed to limit the number of rentals allowed, thus the number of vehicles that would be entering our driveway. We have offered to meet with them to discuss further, but they have not responded. It should also be noted that any short-term rental which allows 15 guests (per the zoning amendment) would undoubtedly have a handful of cars coming and going, which would be no more traffic than for hourly rentals.

We have also been working with Code Enforcement and Planning, trying to figure out a workable solution. We happen to have a studio apartment that meets the previous and newly proposed definition of an STR on its own, so we are able to have that be the primary rental under the proposed zoning regulations. However, most other hosts presently operating in Clackamas County do not. Thus, unless something is done on the zoning side, you have many, many hosts operating outside of your zoning purview.

We understand that Swimply is new, just like Airbnb was years ago. We also understand that zoning codes can be slow to catch up to actual land usages. However, you have a prime opportunity now to address this burgeoning issue, because it's not going away. So, it seems as if you either take the opportunity to address it head on now, or you will be in the same position as you have been with Airbnb: a rampant operating use that doesn't fit neatly into any code provision, so you are playing catch up years later. As an aside, we have reviewed much of the public comment in opposition to Airbnb use in Clackamas County, and the #1 concern from neighbors appeared to be hosts who were not home and the rental turning into an out of control party. As a host for over a year now who has been in contact with hundreds of other hosts through the platform, **the vast majority of homeowners are home during the rental of the pool, as are we.** So this concern that presently exists with Airbnb does not exist with Swimply.

In conclusion, we ask you to please either: 1) allow the primary rental of a home's amenities, under the proposed STR zoning amendment— please see Swimply's legal argument for support; or 2) if you choose not to amend the proposed zoning amendment that you acknowledge the allowance and continuation of home amenity rentals as is – please also see Swimply's letter. If you elect the latter option, we ask that you treat the primary rental of swimming pools in Clackamas County the same as you have been treating Airbnb's for years – as unenforceable in the interim. The analysis is no different.

One web tour of the Swimply site or review of any of the countless news articles out there will reveal that this is in high community demand. The residents of Clackamas County want this use. Please do not take it away from them or force the hosts into some drawn out land use process that you did not require other short term rental hosts to go through.

We believe it is the role of our local zoning code drafters to find ways to allow uses that the community wants and needs. We understand guardrails need to be put in place so that the character of a community remains intact, but none of those guardrails should be used to shut down a use that the community is demanding.

Thank you for considering,

The Colton Family



November 2, 2022

Board of County Commissioners
2051 Kaen Road
Oregon City, OR 97045

Re: November 2nd Hearing On Ordinance ZDO-273, On Remand

Commissioners Smith, Fischer, Savas, Schrader, and Shull:

On behalf of Swimply, I am writing to support short-term and home amenity rentals in Clackamas County.

Swimply is a home amenity rental platform, which allows homeowners to share underutilized portions of their home with their neighbors. While Swimply has started with the sharing of swimming pools, all underutilized spaces which are not sleeping quarters can be shared, be it your yard for a dog to run, an art studio, or sharing your garage for someone to tinker on their car. We are an extension of short-term rentals and of the home sharing economy.

Clackamas County saw the need, use, and support for short-term rentals. While there have been issues with implementing registration requirements, the zoning changes should remain. The Oregon Land Use Board of Appeals (LUBA) and the Court of Appeals confirmed the zoning change specifically for resource lands was in violation of state law and that the issue was thus remanded back to the County. Today the County has a variety of options to ensure the continuation of home sharing: they may continue to allow it on non-resource lands by amending the zoning code to clarify resource zones are prohibited, they may repeal the zoning code amendment and allow short-term rentals to continue to function on non-resources lands as they have been prior to this amendment, or ensure such allowance of short-term rentals while also amending the County code to address short term rentals on resource lands within the scope of state regulations¹. Home amenity rentals should be included in each of these three options.

Currently the County has stated that home amenity sharing is a commercial entity, is not explicitly granted in the code, and is not a short-term rental.

1. *Home amenity rentals are not commercial.* They are residential in nature. The amenities of the home are used in the same capacity as the home is intended to be used and the

¹ The Court stated that neither they nor LUBA addressed whether a short-term rental on resource lands could be conditionally permitted as an accessory use through a home occupation approval, but they noted that the petitioners suggest this is a pathway to allowance. 1000 FRIENDS OF OREGON vs CLACKAMAS COUNTY, 320 Or App 444 (2022), Footnote 9.

homes are not open to the public but rather all guest access is by invitation only and controlled by the homeowner. Home amenity rentals are residential in nature, just like short-term rentals, which the County has agreed are residential and not commercial entities. In the LUBA case the County argued that a dwelling “used as a short-term rental under the amendments to the ZDO did not change the nature of its use”², and that they remained residential.³

2. *Home amenity rentals do not explicitly exist in the County’s code, but that does not make the activity in of itself illegal.* The County itself acknowledged this concept when in the short-term rental zoning ordinance it was stated in the preamble that the code “does not clearly identify short-term rentals as allowed in any dwellings”, but “there is nothing in state or county regulations that limit dwellings to owner occupancy or specifies a minimum time for rental”.⁴ This applies to home amenity rentals too as there are no restrictions in the state or county code which restricts rental use to overnight versus hourly.
3. *Arguably home amenity rentals fell under the County’s zoning ordinance ZDO-273 and thus should be amended into the new zoning amendments.* The County originally amended the zoning code’s definition of a dwelling unit to clarify its inclusion of short-term rentals and be defined as: “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.**”⁵ As discussed above, home amenity rentals are residential and the zoning code does not define occupancy, and each rental is less than 30 consecutive nights. Merriam Webster defines occupancy as “the fact or condition of holding, possessing, or residing in or on something” – a guest renting a home’s amenity is possessing that amenity and residing in that space during their rental time, occupancy does not require an overnight accommodation.⁶

The County previously ensured home amenity rentals could fit under this dwelling definition and they should continue to do so with the proposed amendments. The proposed amendments define a short-term rental and leave a dwelling unit definition untouched. A Short-Term Rental is defined as “[t]he rental of a dwelling unit, portion of a dwelling unit, or guest house for overnight residential purposes, for a period of up to 30 consecutive nights. Overnight occupancy of the dwelling unit plus any guest house shall not exceed 15 persons. A short-term rental may include use of accessory structures,

² 1000 FRIENDS OF OREGON vs CLACKAMAS COUNTY, 320 Or App 444 (2022), Page 449

³ The Court of Appeals argued under the County’s drafted code, rentals were not per se residential as the County’s short-term rental regulations allowed for ‘lodging or residential purposes’ [emphasis added], and lodging is deemed commercial in the County’s code. The short-term rental regulations have been repealed and the zoning code amendment defines short-term rentals as being used for residential purposes. Furthermore, home amenity rentals do not encompass ‘lodging’ and thus would continue to not be commercial in nature under the County’s zoning code. *Id.*, page 454.

⁴ ORDINANCE NO. ZDO-273

⁵ *Id.*

⁶ <https://www.merriam-webster.com/dictionary/occupancy>

*such as decks or patios, that are located on the same lot as the dwelling unit or guest house being rented.*⁷ This definition addresses the use of the home's amenities but states that the home must be rented for an overnight stay. This is irrational. When you rent a home you by default have access to the home's amenities and therefore this need not be stated. Thus, the implication is that the County is acknowledging home amenity sharing but with no rational basis restricting it to one platform which shares the amenities with overnight access versus by the hour.

We respectfully request that the County amend this Short-Term Rental definition to clarify the inclusion of home amenity rentals and we recommend the following edit: “[t]he rental of a dwelling unit, portion of a dwelling unit, or guest house for overnight residential purposes for a period of up to 30 consecutive nights, **or the rental of a home's amenities, which does not include sleeping quarters, by the hour not to exceed 10 hours in one day.** Overnight Occupancy of the dwelling unit plus any guest house, **or home amenity,** shall not exceed 15 persons. ~~A short term rental may include use of accessory structures, such as decks or patios, that are located on the same lot as the dwelling unit or guest house being rented.~~

No matter how the County chooses to address home amenity rentals, they should not be restricted in Clackamas County and they should be treated equally to short-term rentals, which the County has agreed are residential in nature and their lack of existence did not per se ban them. Short-term vacation rentals have been active for generations in Clackamas County, but more so modern era short-term rentals came into existence in 2008 with the launch of Airbnb and they have been prevalent in the County ever since and until the County opted to clarify their legality there was little fanfare or regulatory action about their activities.

Furthermore, restricting home amenity rentals will not remove the activity and they will continue to operate under short-term rental allowances. A quick search on Airbnb can show you 100s of local homes with a variety of amenities, including pools and spas and Airbnb itself has made it easier to find homes with amazing pools, creative spaces, chef's kitchens, and even grand pianos.⁸ Airbnb has also put out a commercial advertising to use its platform to find an amazing pool.⁹ It is impossible to know if Airbnb guests are staying for a handful of hours or overnight to use these advertised amenities and as long as the home would be listed on a platform deemed a short-term rental platform these rentals would be allowed. There is no rational basis to restrict a home rental because the home is listed on one platform versus another.

If the County disagrees that the zoning amendment may be amended to include home amenity rentals, or if the County opts to repeal the zoning amendment and return to acknowledging short-term rentals are not restricted in code, the County should be willing to treat home amenity rentals equal to short-term rentals and let them operate in the same capacity. In addition, if the

⁷ File ZDO-273, on remand,

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Home amenities, like short-term rentals, serve a purpose. They help offset costs for homeowners (home amenity rentals are rarely investment properties as logistics for such rentals are less favorable than consistent overnight stays), they help families afford the rising costs of day to day living, and they ensure equitable access to resources.

Based on all of the above, we respectfully request that the Board continue to not only allow short-term rentals, but apply this allowance to include home amenity rentals. And if the Board opts to repeal their zoning code amendment much like they did their original short-term regulations we respectfully argue the County has already defended the fact that barring any restrictions on these activities their lack of explicitly in code does not deem them illegal on non-resources lands.

Thank you for your time and consideration on this important matter.

A handwritten signature in black ink that reads "Cameron Kilberg".

Cameron Kilberg
Head of Government Relations and Legal Affairs

Fritzie, Martha

From: Cameron Kilberg <cameron@swimply.com>
Sent: Tuesday, October 18, 2022 6:00 AM
To: Fritzie, Martha
Subject: Ordinance ZDO-273, on remand, Public Testimony Submission
Attachments: Swimply Clackamas County Land Use Testimony .pdf

Warning: External email. Be cautious opening attachments and links.

Martha:

While one of our Swimply hosts, Britney Colton, has submitted our testimony as an attachment to her own testimony, I am submitting Swimply's testimony for the Ordinance ZDO-273, on remand hearing on November 2nd. Please see attached.

As for testifying, will we be able to express interest to testify via zoom or must you be in person?

Thank you!



Cameron Kilberg

Head of Government Relations
cameron@swimply.com | 571-214-8611
Swimply.com



November 2, 2022

Board of County Commissioners
2051 Kaen Road
Oregon City, OR 97045

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Thank you for your time and consideration on this important matter.

A handwritten signature in black ink that reads "Cameron Kilberg".

Cameron Kilberg
Head of Government Relations and Legal Affairs

Fritzie, Martha

From: Dennis Tylka <dennistylka@wbcable.net>
Sent: Monday, October 24, 2022 1:28 PM
To: Fritzie, Martha
Subject: RE: attached STR testimony for the BCC hearing packet
Attachments: Testimony for STRs Remand.docx

Warning: External email. Be cautious opening attachments and links.

Martha,
I didn't scroll down far enough to see all the amendments.

Attached is a copy of my testimony to the BCC, will you please include them in their hearing packets.

Thanks Dennis

From: Fritzie, Martha [mailto:MFritzie@clackamas.us]
Sent: Monday, October 24, 2022 5:14 AM
To: Dennis Tylka; Boderman, Nathan
Cc: andrew@friends.org
Subject: RE: STR

Good morning Dennis. As part of the proposed amendments under ZDO-273, on remand; the language in 833.01(A) that you reference below would also be amended so that STRs could be allowed. You can find all of the proposed amendments [here](#).

Martha

Martha Fritzie, Principal Planner
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From: Dennis Tylka <dennistylka@wbcable.net>

Sent: Sunday, October 23, 2022 4:39 PM

To: Fritzie, Martha <MFritzie@clackamas.us>; Boderman, Nathan <NBoderman@clackamas.us>

Cc: andrew@friends.org

Subject: STR

Warning: External email. Be cautious opening attachments and links.

I think you are going to have to amend ZDO 316, Table 316-1: Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts that allows Guest Houses subject to ZDO 833.

ZDO 833 would prohibit STRs because of the text

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.**

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 include one bathroom plus one additional sink but shall not include a stove, oven, or other cooking appliances.**

Let me know what you think

Dennis Tylka

Testimony for STRs Remand 10/24/2022

I would recommend that the BCC tables any legislation that would legitimize STR at this time without any way to regulate all of the associated adverse impacts that have been articulated to the Board until the Board can come up with some common sense regulation for STRs. If the Board amends the Ordinance to allow STRs as Primary uses the Board will create all of the current STRs as either non-conforming uses or non-conforming development when this Board or future Boards are force to regulate STRs as the adverse impacts and complaints will only increase.

I read a very thoughtful argument against Clackamas County's Measure 3-588 in the voter pamphlet were Commissioners Tootie Smith and Martha Schrader want the voters to vote yes to approve a temporary ban on Psilocybin Mushroom related businesses until more thought and common sense can be applied. In this amendment the Board knows from all the complainants and testimony STRs create adverse impact that are different than a normal residential use and is still purposing to legitimize STR without any common sense regulation.

County's purposed definition in ZDO 202

SHORT-TERM RENTAL: The rental of a dwelling unit, portion of a dwelling unit, or guest house for overnight residential purposes, for a period of up to 30 consecutive nights. Overnight occupancy of the dwelling unit plus any guest house shall not exceed 15 persons. A short-term rental may include use of accessory structures, such as decks or patios, that are located on the same lot as the dwelling unit or guest house being rented.

I would suggest changing the text of the definition for STR to the following:

SHORT-TERM RENTAL: The rental of a lawfully created dwelling unit, portion of a dwelling unit, or guest house, constructed as habitable space under the Oregon Residential Specialty

Code, for overnight residential purpose, for no more than a period of up to 30 consecutive nights. The total occupancy at any one time for the tax lot that contains the STR including but not limited to any and all dwelling units and guest house shall not exceed the carrying capacity of the onsite septic tank or public sewer, and shall never exceed 15 persons at any one time. STR's shall have onsite parking spaces for all vehicles on the same tax lot as the STR, no vehicle shall be parked on the Right-A-Way. STR's are not RECREATIONAL VEHICLE, RESIDENTIAL TRAILER, RV Campsite, and any accessory structure not constructed as habitable space under the Oregon Residential Specialty Code.

I suggested the change in text based on the words in the county's text that I've underlined and how the meaning of those words could be changed using the definitions within the Ordinance to create a giant loophole that could have unforeseen consequences.

1 DWELLING UNIT: A building, or portion thereof, with one or more rooms designed for residential occupancy by one family.

As Dwelling Unit doesn't require the building to be lawfully built or constructed as habitable space under the Oregon Residential Specialty Code, someone could place a bed in the corner of their garage and say it's for residential occupancy in their own personal opinion.

2 Building as used in the definition of dwelling unit is defined in ZDO 202:

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

Again the definition of "Structure" does not require the structure to be built or constructed as habitable space under the Oregon Residential Specialty Code, and specifically list a structure is

intended for supporting or sheltering any use or occupancy, a garage, treehouse, barn, chicken coop, , carport are all buildings.

3 Structure is defined within ZDO 202 as

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

Again since the definition of structure includes anything contracted or erected that is located on the ground or something having a location on the ground opens up a whole can of worms. A RV is a structure that requires location on the ground, a RV is designed for human occupancy, and to be used for temporarily for recreational, seasonal, or emergency purposes. Is it the County intent to allow RVs as STR?

ZDO 202 defines 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.”

Again is it the intent of the BCC to allow to park trailers, travel trailers, pickup campers, motor homes, fifth wheel trailers, camping and tent trailers.” To be used for STRs?

4 The county’s purposed definition for STRs also states: “A short-term rental may include use of accessory structures, such as decks or patios, that are located on the same lot as the dwelling unit or guest house being rented.”

As driveways for RVs are an allowable accessory structure could a RV driveway be converted to a RV campsite with hookups and be rented out as a STR?

5 As a dwelling unit used as a STR has a maximum of 15 persons that can spend the night but there is no limit on how many people can occupy a STR that doesn't spend the night. Many of the complaints about STR's were about parties, weddings, and other large gatherings. There need to be a limit on how many people can be on the same Tax lot of a STR at any one time.

Fritzie, Martha

From: Eddie Dallas <eddie.dallas@gmail.com>
Sent: Tuesday, October 25, 2022 4:31 PM
To: Fritzie, Martha
Subject: ZDO 273, on remand - HR district testimony

Warning: External email. Be cautious opening attachments and links.

Hi Martha,

I saw the recent amendments to ZDO 273.

I am a property owner in the HR zoning district near Mt Hood.

I support the amendments and encourage adoption.

202 Definitions:

Short Term Rental restrictions of 30 consecutive days and a maximum of 15 people is very reasonable and industry standard. Including the accessory structures such as decks is prudent.

Table 317-1: Permitted Uses in the MRR and HR Districts:

Allowing short term rentals in the HR zoned areas is consistent with the original purpose of these small community lots. They were set up for recreational purposes and one would argue that permanent occupancy or permanent long term rental is actually counter to its intended original purpose. The houses are small, many without garages, and not really configured for normal residential purposes. There is a community swimming pool and tennis courts. Short term rentals in the HR zone fit recreational use and allow a greater portion of the NW Oregon population access to the beautiful mountain area.

Vacationers provide a large economic boost to the Mt Hood Village shops and eateries. As this area is near national forest and wilderness, its primary use is recreation. Lumber mills and manufacturing is not a driver anymore. These short term rentals provide jobs for management personnel, repair contractors and house keepers.

The argument that it takes away from "affordable housing" is not in reality what happens here in the HR zone. Being close to the mountain, even modest 800 square foot homes sell for \$600k and up. Local HR home owners are trying to offset high mortgages, high expenses and taxes by generating some additional income so they can keep their homes.

I am currently building a NSFR in an HR zoned neighborhood directly across from 2 short term rentals. I am at the site every weekend and in the past year, I have only witnessed one time when guests were a little noisy and with one quick heads up as it was after 10pm, they quieted down and apologized. Several of my fellow permanent residents are much noisier, clean up less around their homes and drive much faster down the street. I believe guests causing problems is very over stated based on my personal experience. If you ask some

neighbors, they will say it's terrible, but if you ask them to provide proof of dates and times, that reality is not supported.

833 GUEST HOUSES:

Restricting guest houses to primarily sleeping and not living (kitchen and laundry) is consistent with single family zoning that has not yet allowed Accessory Dwelling Units where occupants reside long term. Guest houses as defined and allowing them to be short term rental structures makes sense.

Please include my testimony if you can.

Best regards,

Eddie Dallas

E Sandy River Ln, Rhododendron OR.