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PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

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

**LAND USE HEARING**  
**August 1, 2018**  
**9:30 AM**

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

**HEARING**

**File No.:** ZDO-268: Accessory Dwelling Units

**Applicants:** Clackamas County

**Proposal:** The proposal is for legislative text amendments to the Clackamas County Comprehensive Plan and to the Zoning and Development Ordinance (ZDO) in order to expand opportunities for accessory dwelling units (ADUs) and to newly permit accessory historic dwellings in specific areas.

**Staff Contact:** Martha Fritzie, Senior Planner, 503-742-4529,  
[MFritzie@clackamas.us](mailto:MFritzie@clackamas.us) and Glen Hamburg, Planner II, 503-742-4523,  
[GHamburg@clackamas.us](mailto:GHamburg@clackamas.us).



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

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**File Number:** ZDO-269, Accessory Dwelling Units

**Staff Contact:** Martha Fritzie, Planning and Zoning Division, 503-742-4529 or  
Glen Hamburg, Planning and Zoning Division, 503-742-4523

**Board of County Commissioners Hearing Date:** August 1, 2018

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**PROPOSAL:**

The proposal is for legislative text amendments to the Clackamas County Comprehensive Plan and to the Zoning and Development Ordinance (ZDO) in order to expand opportunities for accessory dwelling units (ADUs) and to newly permit accessory historic dwellings in specific areas.

**Background:**

State law and the County's ZDO allow ADUs only in certain areas. The County's ZDO currently allows only one ADU per lot of record, and only in the County's urban low density residential zoning district and in the Mt. Hood area's Hoodland Residential (HR) District. However, recent state legislation mandated the County expand where it allows ADUs and the potential number of ADUs it allows on a single lot of record, subject to reasonable local regulations related to siting and design. This mandate went into effect on July 1, 2018.

Specifically, the County is now required to allow one ADU per detached single-family dwelling, rather than just one ADU per lot of record, in all areas *within* an urban growth boundary (UGB) where detached single-family dwellings are permitted outright. The mandate will have the effect of newly allowing ADUs on parcels within a UGB and in the FF-10, FU-10, RA-1, RA-2, and RFFF-5 zoning districts.

The ZDO's existing "owner occupancy requirement" obligates a property owner to reside in either their primary dwelling or their ADU; both cannot be rented out separately. Currently, the ZDO also limits the size of an ADU to 720 square feet in most zones, and prohibits a manufactured dwelling from being used as an ADU. These standards and policies are not addressed in or affected by the Legislature's ADU mandate; however, the Planning Commission and Staff are recommending they be modified for consistency with the intent of expanding opportunities for ADUs and providing greater flexibility to property owners.

Similarly, the County is not required to expand ADU allowances in the Mt. Hood area. The County already permits ADUs in the HR District, but unlike in other zones, ADUs in the HR

District are not subject to general ZDO standards such as a maximum size or owner occupancy requirement. Under existing ZDO rules, ADUs are not permitted in the Mountain Recreational Resort (MRR) District, despite that zone permitting detached single-family dwellings outright as a primary use.

Separate from the ADU mandate described above, additional State legislation recently gave the County the *option* of allowing a detached single-family dwelling legally built between 1850 and 1945 to be converted to an accessory dwelling, concurrent with the completion of a new detached single-family dwelling or the placement of a manufactured home, on the same lot of record. This State law only allows these “accessory historic dwellings” on lots located *outside* of a UGB and urban reserve and that are at least two acres in size and zoned to allow a single-family residence as a primary use (FF-10, FU-10, RA-1, RA-2, and RRFF-5 Districts, and *not* the EFU, TBR or AG/F Districts) . The accessory historic dwelling could be altered, renovated, or remodeled but could not be replaced if destroyed.

**Proposed Amendments:**

ZDO-269 proposes legislative text amendments to the Clackamas County Comprehensive Plan (the Plan) and ZDO. The proposed Plan amendments are to Chapter 6 – *Housing*. The proposed ZDO amendments are to Sections 202, 316, 317, and 839 and would create a new Section 843. Conforming amendments are proposed to Chapter 4 – *Land Use* of the Plan and ZDO Sections 824, 1015, 1204, and 1307.

ZDO-269 has six proposals. Five relate to distinct geographic areas and another would apply County-wide, as follows:

**1. Inside UGBs:**

Permit, as mandated by recent state legislation, one ADU per primary single-family or manufactured dwelling unit on all lots inside a UGB that are zoned to allow a single-family or manufactured dwelling as a primary use, subject to existing ADU development standards in Section 839;

**2. County-wide:**

Repeal the “owner occupancy requirement” in ZDO Section 839 to no longer require a property owner reside in either the primary or accessory dwelling unit on their property;

**3. In all zones, except R-2.5 and VTH Districts:**

Increase total maximum allowed ADU size from 720 to 900 square feet, in order to increase flexibility;

**4. In rural residential zones inside UGBs:**

Allow a manufactured dwelling to be used as an ADU in the FF-10, RA-1, RA-2, and RRFF-5 Districts inside UGBs;

**5. In the Mt. Hood area:**

Subject ADUs in the HR District to the same ADU development standards in ZDO Section 839 and permit ADUs in the MRR District, where detached single-family dwellings are already permitted outright; and

**6. Outside UGBs and urban reserves:**

Adopt the accessory historic dwelling policy made available by HB 3012, allowing only in rural residential areas outside of a UGB and outside of an urban reserve the conversion of a lawfully established dwelling built between 1850 and 1945 to an accessory dwelling in conjunction with the development of a new primary single-family home, through a Type I land use decision process subject to the limitations in the proposed new ZDO Section 843.

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**RELATED PRIOR BCC ACTION:**

None.

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**PLANNING COMMISSION ACTION:**

A public hearing was held on June 25, 2018, for Planning Commission consideration of ZDO-269. By a vote of 5 – 0, the Planning Commission recommended approval of the amendments, as originally proposed by Staff, but with the following changes:

1. Increase the total maximum allowed size of an ADU from 720 to 900 square feet; and
2. Have no minimum size requirement for manufactured dwellings serving as ADUs in the FF-10, RA-1, RA-2, and RRFF-5 Districts inside UGBs.

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**CPO AND HAMLET RECOMMENDATIONS:**

All the County’s CPOs and Hamlets were sent notice of this proposal on May 21, 2018. No recommendations or comments have been received from any CPO or Hamlet regarding ZDO-269.

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**SIGNIFICANT ISSUES:**

Staff and the Planning Commission have identified three significant issues concerning these proposals.

1. *Should the County continue to require a property owner reside in either the primary dwelling or the accessory dwelling unit (ADU)? Or, should the County allow the owner to rent out both dwellings to tenants?*

The County is not mandated to change its existing requirement in ZDO Subsection 839.03(C) that a property owner reside in either their primary or accessory dwelling unit; this is commonly referred to as the “owner occupancy” requirement. Repealing this requirement would allow the owner of a property with an ADU to rent out both the primary dwelling and the ADU, to the same or separate tenants, while they reside elsewhere. Considerations for and against this regulation can be summarized as follows.

On the one hand:

- The existing owner occupancy requirement only applies to properties in urban low density residential zoning districts and not to ADUs in the HR District or Sunnyside Village (VR zones), so maintaining the rule only for certain areas may be seen as inequitable, unfair, or unreasoned;
- DLCD and the Planning Commission advise against having an owner occupancy requirement;
- For some, including several consultants for Metro, there is a general belief that the requirement is a “barrier” to ADU development;
- The owner occupancy requirement is already difficult to enforce; and
- Repeal of the requirement could increase the amount of rental housing stock within urban growth boundaries, which would be consistent with the County’s current housing priorities, including the specific housing goal in *Performance Clackamas* to develop 2,000 housing units affordable to a variety of residents by 2022.

On the other hand:

- Repealing the owner occupancy requirement could lead to more landlords living further away from their rental units, which many believe has negative effects on neighborhoods; and
- Planning Staff do not regularly receive complaints about the existing policy and have, so far, seen no quantitative evidence that the existing policy is significantly constraining ADU development in Clackamas County.

Both the Planning Commission and Staff recommend the owner occupancy requirement be repealed.

2. *Should the County choose to adopt the policy authorized by HB 3012(2017) and allow the conversion of a home built between 1850 and 1945 to an “accessory historic dwelling” when a new primary dwelling is built on a minimum two-acre parcel in the rural residential zoning districts outside of an urban growth boundary and urban reserve?*

The County does not have to allow these older homes to be converted by their owners to second “accessory historic dwellings”. If it is allowed, however, it can only be on rural residential lots outside of a UGB and outside of an urban reserve, and those lots must be at least two acres in size. By state law, the accessory historic dwelling could be increased to up to 120 percent of its original size as part of a remodel but could not be rebuilt if lost to fire.

The Planning Commission and Staff recommend the County allow the accessory historic dwelling conversions because it would encourage the preservation and continued use of older homes, thereby helping to preserve the aesthetic character of rural Clackamas County. The policy would also provide the owners of older dwellings in rural residential areas the opportunity to remain on their property, while also having a second home built on the same lot for potential use as an rental income source, farm help, or additional housing space for family or care providers/recipients.

Adopting this policy could increase the density of housing in rural residential areas outside of UGBs; however, Staff expects that increase to be marginal because of the two-acre minimum lot size requirement, the requirements that the converted home be built prior to 1945 and that a new primary dwelling be built, and the practical limitations of setbacks, topography, and utility access that could restrict additional development on any property.

3. *Should the County increase the total maximum size of an ADU from 720 square feet to 900 square feet, in all zones except the R-2.5 and VTH Districts?*

The ZDO currently limits the total size of most ADUs to 720 square feet (though the limit is 500 square feet in two zones with lot sizes  $\leq 2,500$  sq.ft.). The Planning Commission expressed interest in providing more flexibility to property owners and therefore recommended the 720-square-foot limit in applicable zones be increased to 900 square feet.

ADU size limits in other nearby jurisdictions generally range from 400 to 1,000 square feet, with the majority of jurisdictions limiting ADUs to 800 square feet (see Exhibit 2).

Regardless of the maximum size allowed, an ADU would still need to meet applicable Building Code requirements, and meet zoning district setbacks, maximum lot coverage, and maximum building height requirements, and be connected to water and wastewater services.

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#### **STAFF RECOMMENDATION:**

Staff recommends adoption of ZDO-269, as proposed in the attached drafts, as recommended by the Planning Commission, and as summarized here below:

1. Permit one ADU per primary detached single-family or manufactured dwelling unit on all lots inside a UGB that are zoned to allow a single-family or manufactured dwelling as a primary use, subject to proposed ADU development standards in Section 839;
2. Repeal the ADU “owner occupancy requirement” in ZDO Section 839;
3. Where the existing maximum total size for an ADU is 720 square feet, increase the maximum to 900 square feet;
4. Allow a licensed manufactured dwelling to be used as an ADU in the FF-10, RA-1, RA-2, and RRFF-5 Districts inside UGBs, with no square footage minimum;
5. Permit ADUs in the MRR District and subject ADUs in the HR and MRR Districts to the same ADU development standards in ZDO Section 839;
6. Permit “accessory historic dwellings” only in rural residential areas outside of a UGB and outside of an urban reserve, consistent with State law, and in conjunction with the development of a new primary single-family home, through a Type I land use decision process subject to the limitations in the proposed new ZDO Section 843.

# ZDO-269: ACCESSORY DWELLING UNITS



Board of County Commissioners Hearing  
August 1, 2018


## ZDO-269

### **Legislative amendments to Comp Plan + ZDO = Expanded opportunities for accessory dwellings**

- State mandate: Allow ADUs in UGBs
- County choice: Allow ADUs in some other areas too
- State option: Allow “ADU-like” dwellings in certain residential areas not included in the above
- Increased flexibility to property owners
- Clarity, consistency to existing regulations

## BACKGROUND


- What is an accessory dwelling unit (ADU)?
- Currently allowed in urban single-family residential zones and HR zone (Mt Hood)
- Not allowed in MRR zone (Mt Hood)
- Standards depend on location
- Manufactured dwellings *not* currently allowed as ADUs
- Recent legislation **requires** allowing one ADU *per detached single-family dwelling*, and in more locations

ZDO-269 [3] 

## BACKGROUND

### **SB 1051(2017) and HB 4031(2018): Mandatory**

- Expands where ADUs are allowed (inside UGBs only)
- One ADU per primary dwelling
- Subject to reasonable siting, design regulations

ZDO-269 [4] 




## BACKGROUND

### SB 1051(2017) and HB 4031(2018): **Mandatory**

- Expands where ADUs are allowed (*inside* UGBs only)
- One ADU per primary dwelling
- Subject to reasonable siting, design regulations

### HB 3012 (2017): **Optional**


- *Outside* UGBs and urban reserves only
- (Rural) SFR primary use zones only (*not* EFU, TBR, AG/F)
- Conversion of 1850-1945 dwelling to accessory dwelling
- Concurrent with new construction
- Minimum lot size: 2 acres

ZDO-269 [5] 

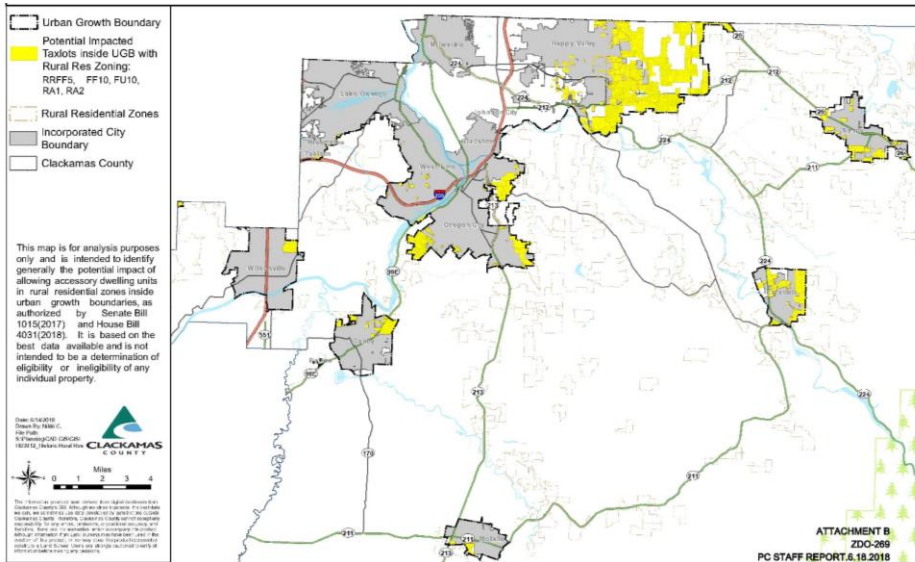
## PROPOSAL (1)

### Implement ADU mandate, with amendments to:

- Allow one per primary detached single-family or manufactured dwelling
- Only in UGBs
- Now also in FF-10, FU-10, RA-1, RA-2, RRRFF-5 zones
- Subject to Section 839 standards

ZDO-269 [6] 

## POTENTIALLY IMPACTED TAX LOTS: ≈4,000



## PROPOSAL (2)

### Repeal "owner occupancy requirement"


- Currently, owner must reside in primary or accessory dwelling
- DLCD and Planning Commission recommend repeal

## PROPOSAL (3)

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### **Increase max ADU floor area to 900 ft<sup>2</sup>**

- Current max is 720 ft<sup>2</sup> (except in R-2.5 and VTH Districts)
- Planning Commission recommendation: 900 ft<sup>2</sup> for more flexibility


ZDO-269 [9] 

## PROPOSAL (4)

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### **Allow manufactured dwellings as ADUs**


- But only in FF-10, RA-1, RA-2, and RRFF-5 Districts inside UGBs
- Subject to same square footage maximums
- Must meet same regulatory standards as other manufactured dwellings

ZDO-269 [10] 

## PROPOSAL (5)

### **Adopt standards, expand allowances for ADUs in Mt Hood area:**

- Apply Sec. 839 standards to HR District ADUs
- Allow ADUs in MRR District, subject to Sec. 839

ZDO-269 [11] 

## PROPOSAL (6)

### **Allow accessory historic dwellings, but only:**

- Outside UGBs and urban reserves
- In FF-10, FU-10, RA-1, RA-2, RR, and RRF-5 zones
- Subject to new Section 843:


Minimum lot size: 2 acres

Existing 1850-1945 dwelling

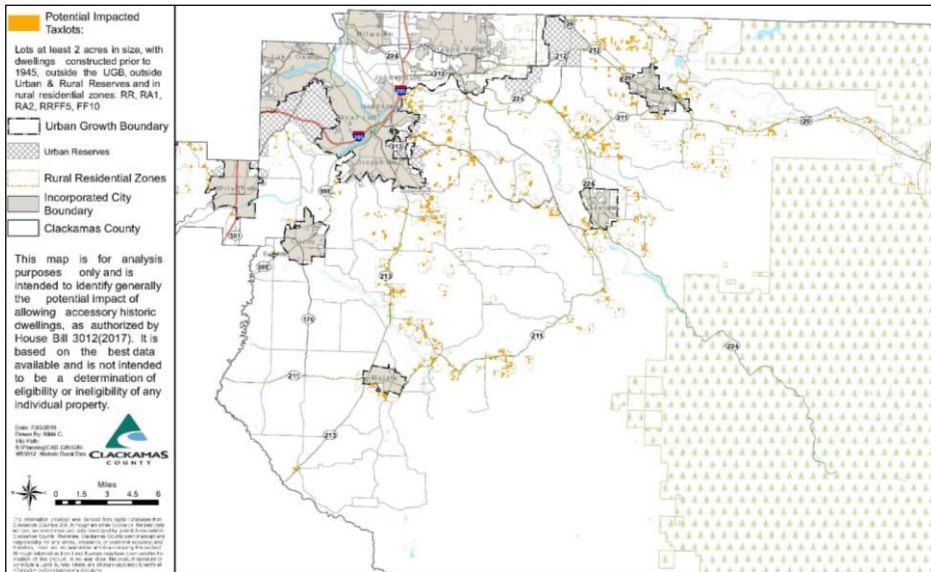
Concurrent with new SFR or manufactured dwelling

May increase up to 120% of existing size

Can't be replaced if destroyed

ZDO-269 [12] 

## POTENTIALLY IMPACTED TAX LOTS: ≈800



## SIGNIFICANT ISSUES

### With owner occupancy requirement:

- Fairness, equity
- More rental options
- Existing enforcement challenges
- Neighborhood character, absentee owners
- Potential barrier to ADU development (?)

## SIGNIFICANT ISSUES

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### **With accessory historic dwellings:**

- Preservation of older homes
- More rental options
- More housing options for extended family
- Fairness, equity
- Unclear policy intent in HB 3012

ZDO-269 [15]



## SIGNIFICANT ISSUES

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### **With increasing allowed size to 900 ft<sup>2</sup>:**


- Provides greater flexibility
- Local range is 400 - 1,000 ft<sup>2</sup>, but commonly 800 ft<sup>2</sup>

ZDO-269 [16]




## PC HEARING

- Planning Commission public hearing: June 25, 2018
- Limited testimony (two parties), neither in opposition
- PC recommended **approval** of ZDO-269, with two changes:
  1. Increase the total maximum allowed size of an ADU from 720 to 900 square feet; and
  2. Have no minimum size requirement for manufactured dwellings serving as ADUs in the FF-10, RA-1, RA-2, and RRF-5 Districts inside UGBs.

ZDO-269 [17] 

## STAFF FINDINGS & RECOMMENDATION

- Proposed amendments comply with all applicable state, regional, and local criteria
- Staff recommends **approval** of ZDO-269, as recommended by Planning Commission:
  1. Permit one ADU per detached SFR or manufactured dwelling, in all areas zoned for detached SFRs in UGBs
  2. Repeal owner occupancy requirement in Sec. 839
  3. Increase 720 ft<sup>2</sup> size maximum to 900 ft<sup>2</sup>
  4. Allow manufactured dwelling as ADU in FF-10, RA-1, RA-2, and RRF-5 Districts inside UGBs
  5. Permit ADUs in MRR District, and subject HR and MRR District ADUs to Sec. 839 standards
  6. Allow accessory historic dwellings, subject to Section 843

ZDO-269 [18] 



THANK YOU







MIKE McCALLISTER  
PLANNING AND ZONING DIRECTOR

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DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

## **STAFF REPORT**

TO: Planning Commission

FROM: Glen Hamburg, Planner II  
Martha Fritzie, Senior Planner

DATE: June 18, 2017

RE: File ZDO-269, Proposed Comprehensive Plan and Zoning and Development Ordinance Amendments: Accessory Dwelling Units

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## **BACKGROUND**

### **Accessory Dwelling Units (ADUs) and Current Regulations:**

An accessory dwelling unit (ADU) is a separate dwelling unit accessory to and smaller than, a permanent single-family dwelling or manufactured dwelling on the same lot of record. An ADU may be physically attached to or detached from the primary dwelling to which it is accessory. An ADU is different from a “guest house” or a detached “studio” in that it is a fully separate dwelling serving as a non-temporary living space with its own kitchen and, often, its own laundry facilities.

State law and the County’s Zoning and Development Ordinance (ZDO) allow ADUs only in certain areas. Under existing rules, no more than one ADU may be permitted per lot of record, and only in the County’s urban low density residential zoning districts and the Hoodland Residential (HR) District up in the Mt. Hood area. ADUs are not currently permitted in any rural residential zoning district or in the Mountain Recreational Resort (MRR) District – despite these zones also permitting single-family residences of any size outright.

Within the urban low density residential zoning districts, the County’s ZDO limits the size of an ADU to no more than 720 square feet in nearly all areas where they are permitted, and does not currently permit a manufactured dwelling to be used as an ADU. In most areas where ADUs are allowed, the ZDO also requires the owner of the subject property to reside in either the primary dwelling or the ADU, which means one but not both dwellings may be rented out to tenants.

ADUs in HR District are not subject to the same square footage limitations or owner occupancy requirements, however. In the HR District, the size of an ADU has only been indirectly restricted by setbacks, lot coverage limitations, building height maximums, and the unique conditions of the site itself and not by any direct ZDO restriction on the ADU’s total floor area.

**Recent State ADU Mandates:**

Oregon Senate Bill (SB) 1051(2017) and House Bill (HB) 4031(2018) mandate the County expand where it allows ADUs and the potential number of ADUs on a single lot of record.

The legislation requires the County begin to allow one ADU per (legal) detached single-family dwelling in all areas within an urban growth boundary (UGB) where single-family dwellings are permitted outright, starting July 1, 2018. The mandates will have the effect of newly allowing ADUs on parcels in rural residential zoning districts (the FF-10, FU-10, RA-1, RA-2, RR, and RRRF-5 Districts) that are also *inside* of a UGB. Staff estimates that as many as 4,000 properties will qualify for an ADU under the policies required by SB 1051(2017) and HB 4031(2018), the majority (55-60 percent) of which are located in the Damascus area. The mandates will also allow more than one ADU on a lot of record that has more than one lawfully-established, permanent, single-family or manufactured dwelling.

**ADU Policy Options:**

Despite being required to permit ADUs in the areas described above, the County is allowed to adopt “reasonable regulations” governing siting and design. ZDO Section 839 already regulates the maximum floor area and entrance placement of ADUs in the urban low density residential zones and therefore, the most logical and reasonable regulations to apply to ADUs in rural residential areas within a UGB would be the exact same regulations currently being applied elsewhere in the UGB.

Other options under consideration in this proposal that are not required by the mandates but Staff felt were timely to consider while amending allowances for ADUs include:

- Modifying the County’s existing owner occupancy requirement, whereby the owner of the property must themselves reside in either the primary dwelling or the ADU. This regulation has been the topic of discussion both regionally and state-wide as expanded allowances for ADUs are implemented and is often considered as a potential barrier to ADU development.
- Allowing a manufactured home to serve as an ADU in the rural residential zones within the UGB, so long as that manufactured dwelling also meets the minimum square footage requirements (found in ZDO Section 824) for a manufactured home in that zone.
- Applying the development standards for ADUs inside the UGB to ADUs developed in the Hoodland Residential (HR) zoning district. Currently ADUs are allowed in this district but, as noted previously, are not subject to the same standards as other ADUs. In addition to the reasons detailed later in this report, applying those same standards could make reasonable sense as it would create more consistency and ease of administration.
- Allowing ADUs in the Mountain Recreation Resort (MRR) zoning district. Current law would allow the County to permit ADUs in the MRR zone because it is found only within designated unincorporated communities and allows single-family homes as a primary use, but the County has not to date allowed this use in the MRR zone. Allowing ADUs associated with primary single-family or manufactured dwellings in this zone also may make sense to allow for more housing choice options for property owners and renters.

### **Optional Accessory Historic Dwelling Policy:**

Entirely separate from the aforementioned ADU mandates and related ADU policy options, the Oregon Legislature also recently adopted HB 3012(2017). HB 3012 is not a mandate and would not apply to any properties that are currently, or will soon be under the mandates described above, allowed to have an ADU. Rather, HB 3012(2017) provides the County the *option* of allowing the conversion of certain older homes to an accessory dwelling in rural residential zoning districts *outside* of a UGB and *outside* of an urban reserve when a new primary dwelling is built on the same lot of record.

The County is only permitted to allow such conversions of homes built between 1850 and 1945, and only on lots of record that are at least two acres in size in areas prescribed above. Staff estimates that approximately 800 properties have “historic” dwellings that might qualify for conversion to an “accessory historic dwelling” under the described parameters. If allowed, an accessory historic dwelling could be renovated and remodeled, but could not be made larger than 120 percent of its square footage at the time of conversion, and could not be rebuilt if lost to fire.

This staff report presents proposals for legislative text amendments addressing both of these recent changes in State law. Following a summary of the proposals, this report discusses significant issues under consideration, provides findings from an analysis of the proposals’ consistency with applicable laws, and ultimately recommends the amendments proposed in ZDO-269 be adopted.

### **PROPOSAL**

ZDO-269 proposes legislative text amendments to the Clackamas County Comprehensive Plan (the Plan) and Zoning and Development Ordinance (ZDO). The proposed Plan amendments are to Chapter 6 – Housing. The proposed ZDO amendments are to Sections 202, 316, 317, 839 and would create a new Section - 843. Conforming amendments are proposed to Chapter 4 – Land Use of the Plan and ZDO Sections 824, 1015, 1204, and 1307.

This proposal is summarized below four distinct parts, three of which address policies distinct geographic areas and the other two part summarizing proposed policies general in nature:

#### **1. Proposal for inside an Urban Growth Boundary (UGB):**

- a. Allow one accessory dwelling unit (ADU) per primary detached single-family or manufactured dwelling in all areas within a UGB that are also zoned FF-10, FU-10, RA-1, RA-2, and RRFF-5. This provision is mandatory, per SB 1051(2017) and HB 4031(2018).
- b. Apply existing regulations in ZDO Section 839 to all ADUs, with requirements that ADUs in the rural residential zoning districts inside a UGB listed above in Proposal 1(a) be limited to 720 square feet, just like ADUs in most all urban low density residential zoning districts.
- c. Allow a manufactured dwelling between 700 and 720 square feet to be used as a detached ADU, but only in the FF-10, RA-1, RA-2, and RRFF-5 Districts and only subject to ZDO Section 824.

## **2. Proposal for the Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts in the Ht. Hood area:**

- a. Allow ADUs in the Mountain Recreational Residential (MRR) District.
- b. Subject ADUs in the MRR District, as well as those in the HR District where they are already permitted, to regulations found in Section 839, including the same 720-square-foot maximum floor area limitation currently applicable to ADUs in most urban low density residential areas.

## **3. Proposal for outside a UGB and urban reserve:**

- a. Define “accessory historic dwelling” in ZDO Section 202.
- b. Amend ZDO Sections 316, 317, and 1307, and add a new Section 843, in order to permit, through a Type I land use process, the conversion of a home built between 1850 and 1945 to an accessory historic dwelling only in areas outside of a UGB and an urban reserve and zoned either FF-10, RA-1, RA-2, RR, or RRRF-5.
- c. Allow these conversions only on lots of record that are at least two acres in size and only in conjunction with the development of a new single-family home on the same lot.

## **4. County-Wide Proposal:**

- a. Repeal the “owner occupancy” requirement to no longer require the owner of a property with an ADU reside in either the primary or the accessory dwelling on the property.
- b. Amend ZDO Section 1204 to specifically require the evaluation of an ADU or accessory historic dwelling as reasonable housing for a care recipient or care provider in the review of applications for temporary dwellings for care.
- c. Adopt Comprehensive Plan policy language in Chapters 4 (Land Use) and 6 (Housing) to support the proposed amendments and authorize the development of ADUs in the various areas and circumstances proposed by Staff.

## **SIGNIFICANT ISSUES**

The Planning Commission held a study session on ZDO-269 on May 14, 2018. During the study session, two policy issues were introduced to Commission members which merit further consideration and policy direction and can be addressed as part of ZDO-269.

### **1. *Should the County continue to require a property owner reside in either the primary dwelling or the accessory dwelling unit (ADU)? Or, should the County allow the owner to rent out both dwellings to tenants?***

As mentioned earlier, the County is not mandated to change its existing requirement in ZDO Subsection 839.03(C) that a property owner reside in either their primary or accessory dwelling unit. Repealing this requirement would allow the owner of a property with an ADU to rent out both the primary dwelling and the ADU, to the same or separate tenants, while

they reside elsewhere. Considerations for and against this regulation can be summarized as follows.

On the one hand:

- The existing owner occupancy requirement only applies to properties in urban low density residential zoning districts and not to ADUs in the HR District or Sunnyside Village (VR zones), so maintaining the rule only for certain areas may be seen as inequitable, unfair, or unreasoned;
- DLCD advises against having an owner occupancy requirement;
- For some, including several consultants for Metro, there is a general belief that the requirement is a “barrier” to ADU development;
- The owner occupancy requirement is already difficult to enforce; and
- Repeal of the requirement could increase the amount of rental housing stock within urban growth boundaries, which would be consistent with the County’s current housing priorities, including the specific housing goal in *Performance Clackamas* to develop 2,000 housing units affordable to a variety of residents by 2022.

On the other hand:

- Repealing the owner occupancy requirement could lead to more landlords living further away from their rental units;
- Several Planning Commission members have expressed concern about the impact of absentee land owners on neighborhoods;
- Planning Staff do not regularly receive complaints about the existing policy and have so far seen no quantitative evidence that the existing policy is significantly constraining ADU development in Clackamas County.

**2. *Should the County choose to adopt the policy authorized by HB 3012(2017) and allow the conversion of a home built between 1850 and 1945 to an “accessory historic dwelling” when a new primary dwelling is built on a minimum two-acre parcel in the rural residential zoning districts outside of an urban growth boundary and urban reserve?***

The County does not have to allow these older homes to be converted by their owners in to second “accessory historic dwellings”, as explained in the *Background* section of this report. If it is allowed, however, it can only be on rural residential lots outside of an urban growth boundary (UGB) and outside of an urban reserve, and those lots must be at least two acres in size. By state law, the accessory historic dwelling could be increased to up to 120 percent of its original size as part of a remodel but could not be rebuilt if lost to fire.

Staff recommends the County allow the accessory historic dwelling conversions because it would encourage the preservation and continued use of older homes, thereby helping to preserve the aesthetic character of rural Clackamas County. The policy would also provide the owners of older dwellings in rural residential areas the opportunity to remain on their property, while also having a second home built on the same lot for potential use as an rental income source, farm help, or additional housing space for family or care providers/recipients.

Adopting this policy could increase the density of housing in rural residential areas outside of urban growth boundaries; however, Staff would project that increase to be marginal because

of the two-acre minimum lot size requirement, the requirements that the converted home be constructed prior to 1945 and that a new primary dwelling be built, System Development Charges (SDCs), and the practical limitations of setbacks, topography, and utility access that restrict additional development on any property.

If this HB 3012(2017) option is adopted, the County's existing owner occupancy requirement for ADUs would not automatically apply to properties with accessory historic dwellings.

## **PUBLIC NOTICE AND COMMENTS**

Notice of the proposed amendments in ZDO-269 was sent to:

- All cities within the County
- All County Community Planning Organizations (CPOs) and Hamlets
- DLCD, Metro, ODOT and other interested agencies
- All owners of property zoned Hoodland Residential (HR)

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

## **ANALYSIS AND FINDINGS**

### **1. Zoning and Development Ordinance (ZDO)**

The proposed text amendments are legislative. Section 1307 of the ZDO establishes procedural requirements for legislative amendments, which have been or are being followed in the proposal and review of ZDO-269. Notice was mailed at least 35 days before the first scheduled public hearing to the Department of Land Conservation and Development (DLCD), all active Community Planning Organizations (CPO), Metro and other interested agencies to allow them an opportunity to review and comment on the proposed amendments. Advertised public hearings are being held before the Planning Commission and the Board of County Commissioners (BCC) to consider the proposed amendments. The ZDO contains no further specific review criteria that must be applied when considering an amendment to the text of the Comprehensive Plan (the Plan) or ZDO.

### **2. Comprehensive Plan**

- a. Chapter 4 – Land Use:** The amendments to the Plan and to the ZDO proposed in ZDO-269 have been evaluated by Staff for consistency with the relevant land use policies in Chapter 4 of the Plan, and they present the following findings.

The accessory dwelling unit (ADU) provisions in ZDO-269 would allow additional housing development in areas planned for urbanization, as defined by being in an urban growth boundary (UGB), as well as the Mountain Recreational Resort (MRR) District in the Government Camp area where a “high intensity development character” is promoted by the Mt. Hood Community Plan.

The separate accessory historic dwelling provisions also proposed in ZDO-269 affect only lands in rural areas that have been deemed not suitable, necessary, or intended for urban, agricultural, or forest uses.

Neither the ADU nor the accessory historic dwelling provisions will impact commercial, industrial, or open space areas, nor will ZDO-269 change restrictions on development in a floodplain. All ADUs and accessory historic dwellings will still need to meet the County's drinking and wastewater requirements.

ZDO-269 will encourage greater housing density, which in turn will promote efficiency of resources and could help slow the need for outward urban expansion. The text amendments would also forward Chapter 4 goals to provide for lower-cost, energy efficient housing, the efficient use of land, and a variety of living environments by allowing for the development of smaller (maximum 720-square-foot) attached and detached dwellings and encouraging the preservation of existing older housing structures. ZDO-269's application of square-footage limitations on ADUs in the Hoodland Residential (HR) District will also help to forward the Chapter 4 goal of protecting the character of lower density neighborhoods in the Mt. Hood area.

- b. Chapter 6 – Housing:** Staff have also evaluated ZDO-269 for consistency with relevant housing policies in Chapter 6 of the Plan.

As explained previously, Staff finds the proposed text amendments will provide for a greater variety of housing choices across areas of the County intended for residential development and, in the case of the HR District, will help protect the quality of existing neighborhoods by limiting the size of new ADUs. These results would forward broad related policies in Chapter 6 of the Plan.

ZDO-269 could forward the following specific Chapter 6 policies, as well:

- Policy 6.A.4, by increasing the number and variety of rentable housing units;
- Policy 6.A.7, by increasing the number and variety of housing alternatives for the elderly and/or handicapped;
- Policy 6.B.6.8, by allowing for construction of more common wall dwellings;
- Policy 6.B.6.9, by allowing the wider use of manufactured dwellings;
- Policy 6.B.6.12, by allowing the wider use of pre-fabricated housing
- Policy 6.C.3, by providing an incentive to not demolish older dwellings in residential areas that could economically be renovated; and
- Policy 6.D.1.1, by allowing for higher density of housing in areas zoned for single-family dwellings.

Staff finds the amendments to the Plan and to the ZDO proposed by ZDO-269 are consistent with the relevant goals and policies in Chapter 6 of the Plan (Housing).

- c. Chapter 11 – The Planning Process:** Chapter 11 of the Plan includes policies requiring inter-governmental and inter-agency coordination, public involvement, and noticing. As noted previously in this report, all required entities have been notified in accordance with law, and have been invited to participate in duly-advertised public hearings.

Chapter 11 of the Plan also contains the specific requirement that the Plan and ZDO be consistent with Statewide Planning Goals and Guidelines and with Metro's Urban

Growth Management Functional Plan; Chapter 11 is what requires the ZDO itself to be consistent with the Plan, as well.

Sections 2(a) and 2(b) of this report's *Analysis and Findings* on Pages 6 and 7 outlined how ZDO-269 is consistent with relevant chapters of the Plan. ZDO-269's consistency with the Statewide Planning Goals and Guidelines and with Metro's Urban Growth Management Functional Plan are addressed below in Sections 3 and 4, respectively.

### 3. Statewide Planning Goals and Guidelines

- a. **Goal 1 – Citizen Involvement:** The text amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments was provided to all Community Planning Organizations, Hamlets, all owners of property in the HR District, and a list of interested parties. Notice of the Planning Commission and Board of County Commissioners hearings was published in the newspaper, both were advertised through social media, and a press release was issued.
- b. **Goal 2 – Land Use Planning:** Statewide Planning Goal 2 does not apply to ZDO-269 because its text amendments do not propose to change the County's land use planning process. The County will continue to have a comprehensive land use plan and implementing regulations consistent with that plan.
- c. **Goal 3 – Agricultural Lands:** This goal is also not applicable because the ZDO-269 text amendments would not change Plan agricultural land policies or implementing regulations for compliance with Goal 3. None of the properties that would be affected by the proposed text amendments are "Goal 3 lands" reserved for agriculture.
- d. **Goal 4 – Forest Lands:** This goal is not applicable because the ZDO-269 text amendments would not change the Plan forest lands policies or implementing regulations for compliance with Goal 4. None of the properties that would be affected by the proposed text amendments are "Goal 4 lands" reserved for timber.
- e. **Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources:** Goal 5 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations for Goal 5 open spaces, scenic and historic areas, and natural resources within Clackamas County.
- f. **Goal 6 – Air, Water and Land Resources Quality:** Goal 6 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations for compliance with Statewide Planning Goal 6.
- g. **Goal 7 – Areas Subject to Natural Disasters and Hazards:** This Statewide Planning Goal is also not applicable because the text amendments do not propose to change Plan policies or implementing regulations regarding natural disasters and hazards.
- h. **Goal 8 – Recreational Needs:** Goal 8 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations related to recreational needs.



- i. **Goal 9 – Economy of the State:** Goal 9 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations related to economic development and analysis in the County’s urban areas.
- j. **Goal 10 – Housing:** Goal 10 concerns urban lands designated for residential use. ZDO-269 does not propose to rezone land for residential purposes or to reduce the amount of land already zoned for residential development.

It does, however, propose to amend Plan policies and land use regulations that are applicable to residential lands, in certain cases to conform to new state mandates and in others to take advantage of new housing policy options recently made available to the County by the state legislation.

Goal 10 requires Oregon’s county plans to “*encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.*” ZDO-269 proposes to amend Chapter 6 Clackamas County’s Comprehensive Plan (Housing) to comply with the ADU State mandates, which will result in an increase in housing choice in the county. ZDO-269’s ADU provisions will, for example, allow more development of smaller-scale (maximum 720-square-foot) – and thereby potentially more affordable – dwellings in a wider section of the County’s urban areas. Its accessory historic dwelling policy could similarly expand housing stock, and thereby also housing choice, in rural residential areas.

While not expanding the amount of land zoned for single-family residential use, but rather increasing the potential number of dwellings on lots already planned for residential development, the County is also encouraging the more efficient use of its buildable lands inventory through greater density, consistent with Statewide Planning Goal 10.

To implement ZDO-269’s new Comprehensive Plan housing policies, ZDO-269’s proposed ZDO text amendments would allow one ADU per legal, primary detached single-family dwelling in all areas within an urban growth boundary where such detached single-family dwellings are already allowed outright as a primary use. It would also extend that allowed use to the similarly-urbanized Mountain Recreational Resort (MRR) District, where single-family dwellings are also allowed outright, and apply reasonable siting and development standards to all ADUs in the County.

The ZDO text amendments would further implement the respective new Plan policies by establishing ordinances limiting the creation of accessory historic dwellings as required by HB 3012(2017) to lots two acres or more in size outside of urban growth boundaries and urban reserves, only from structures built as dwellings between 1850 and 1945, and only in conjunction with the construction of a new single-family dwelling on the same lot.

Staff finds the proposed amendments to the Plan and ZDO, which will increase the housing options in urban and rural areas, are consistent with Statewide Planning Goal 10.

- k. **Goal 11 – Public Facilities and Services:** Goal 11 is not applicable because the text amendments do not propose to change the County’s Comprehensive Plan policies or implementing regulations regarding public facilities and services. ADUs and accessory

historic dwellings will be required to comply with the requirements of the ZDO for appropriate utility services and access, and development will be subject to System Development Charges (SDCs).

- l. Goal 12 – Transportation:** Goal 12 is implemented by Oregon Administrative Rules (OAR) Chapter 660, Division 12. Local governments are required to adopt a transportation system plan (TSP) and land use regulations to implement the TSP. This proposal does not include amendments to the County’s TSP or transportation-related land use regulations. Nonetheless, OAR 660-012-0060 requires any comprehensive plan and land use regulation amendment to be evaluated according to the terms outlined in that OAR to demonstrate whether they will have a significant impact on the transportation system.

At the same time, the state has mandated, through SB 1051(2017) and HB 4031(2018) that the County begin to allow ADUs in all areas zoned for single-family dwellings that are with a UGB beginning July 1, 2018, regardless of the impacts on transportation systems. For this reason, Planning Staff have not conducted a formal analysis of the potential traffic impacts of implementing ZDO-269; however potential impacts will be considered in the forthcoming update of the County’s TSP for the Damascus area.

Given the relatively small number of properties (up to approximately 800) that would be newly eligible for an accessory historic dwelling by ZDO-269, if the proposed amendments are adopted, and the fact that they are dispersed fairly widely across the rural county area (see Attachment B, Map 2), the additional traffic impact from allowing accessory historic dwellings is not expected to be significant.

- m. Goal 13 – Energy Conservation:** Goal 13 is not applicable because the text amendments do not propose to change the Plan’s energy conservation policies or implementing regulations.
- n. Goal 14 – Urbanization:** Goal 14 is not applicable to ZDO-269 because the text amendments do not propose to change Plan policies or implementing regulations regarding urbanization.
- o. Goal 15 – Willamette River Greenway:** Goal 15 is not applicable because the text amendments do not propose to change Plan policies or implementing regulations regarding the Willamette River Greenway (WRG). Development of ADUs or accessory historic homes in the WRG would be subject WRG regulations in ZDO Section 705.
- p. Goals 16-19 – (Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources):** Clackamas County is not subject to these four Statewide Planning Goals.

The Department of Land Conservation and Development (DLCD) was notified of this proposal, but no response has been received.

#### **4. Metro Urban Growth Management Functional Plan**

The Metro Urban Growth Management Functional Plan (UGMFP) concerns only those areas

within the Metro service district boundary, the Metro area UGB, and within a Metro urban reserve, which do not include any areas eligible to exercise the proposed accessory historic dwelling provisions of ZDO-269, or the Mountain Recreational Resort (MRR) or Hoodland Residential (HR) Districts affected by the separate ADU provisions in ZDO-269.

Most of the requirements in the UGMFP pertain only to areas that are within the Portland Metropolitan Urban Growth Boundary (PMUGB), and the urban low density residential zoning districts within the PMUGB already permit ADUs. Therefore, the impact of the ADU mandates implemented by ZDO-269 will be only on the rural residential zoning districts within the PMUGB and within the Metro service district. Providing these additional opportunities for ADUs within the PMUGB will further the policies in the UGMFP under Section 3.07.730 that require counties to include strategies and plans to ensure a diverse range of housing types and to increase opportunities for more affordable housing within their jurisdictions. In addition, as noted previously, ZDO-269 would not reduce the County's minimum zoned residential capacity and would not jeopardize the County's affordable housing production goals. The text amendments have been proposed and evaluated in accordance with UGMFP requirements, and Staff finds that they comply.






Metro was notified of this proposal, but no response has been received.

## **RECOMMENDATION**

Staff recommends approval of ZDO-269, as proposed in the text amendments included in Attachment A, in order to:

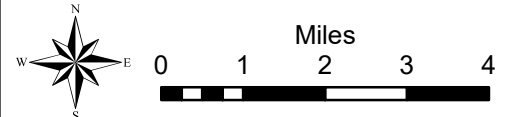
1. Permit, as mandated, one ADU per primary single-family or manufactured dwelling unit on all lots inside a UGB that are zoned to allow a single-family or manufactured dwelling as a primary use, subject to existing ADU development standards in Section 839;
2. Permit ADUs in the MRR District, and subject those ADUs and those in the HR District to existing ADU development standards in Section 839;
3. Repeal the owner occupancy requirement currently found in Section 839;
4. Allow a manufactured dwelling to be used as an ADU, subject to existing minimum square footage requirements for all manufactured homes in specific zoning districts and subject to the square footage maximums of Section 839 that would only practically allow manufactured homes as ADUs in the FF-10, RA-1, RA-2, and RRF-5 Districts.
5. Adopt the accessory historic dwelling policy made available by HB 3012(2017), allowing only in rural residential areas outside of a UGB and outside of an urban reserve the conversion of a lawfully established dwelling built between 1850 and 1945 to an accessory dwelling in conjunction with the development of a new primary single-family home, subject to the limitations in the proposed new ZDO Section 843.

# Potential for New Accessory Dwelling Units Inside the Urban Growth Boundary

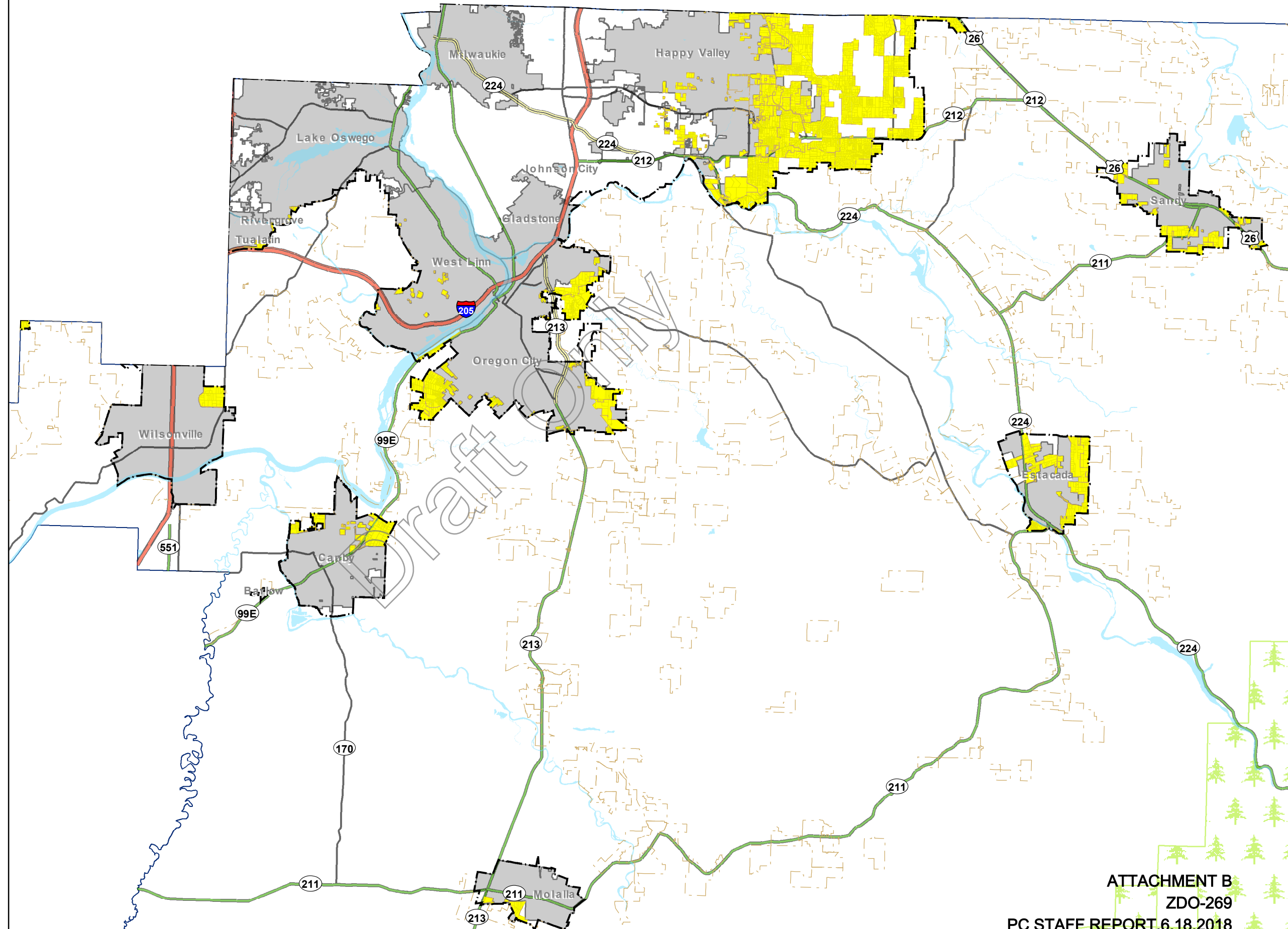
-  Urban Growth Boundary
-  Potential Impacted Taxlots inside UGB with Rural Res Zoning: RRF5, FF10, FU10, RA1, RA2
-  Rural Residential Zones
-  Incorporated City Boundary
-  Clackamas County

This map is for analysis purposes only and is intended to identify generally the potential impact of allowing accessory dwelling units in rural residential zones inside urban growth boundaries, as authorized by Senate Bill 1015(2017) and House Bill 4031(2018). It is based on the best data available and is not intended to be a determination of eligibility or ineligibility of any individual property.

Date: 6/14/2018  
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The information provided was derived from digital databases from Clackamas County's GIS. Although we strive to provide the best data we can, we sometimes use data developed by jurisdictions outside Clackamas County. Therefore, Clackamas County cannot accept any responsibility for any errors, omissions, or positional accuracy, and therefore, there are no warranties which accompany this product. Although information from Land Surveys may have been used in the creation of this product, in no way does this product represent or constitute a Land Survey. Users are strongly cautioned to verify all information before making any decisions.






# Potential for Accessory Historic Dwellings Outside the Urban Growth Boundary

 Potential Impacted Taxlots:

Lots at least 2 acres in size, with dwellings constructed prior to 1945, outside the UGB, outside Urban & Rural Reserves and in rural residential zones: RR, RA1, RA2, RRFF5, FF10

 Urban Growth Boundary

 Urban Reserves

 Rural Residential Zones

 Incorporated City Boundary

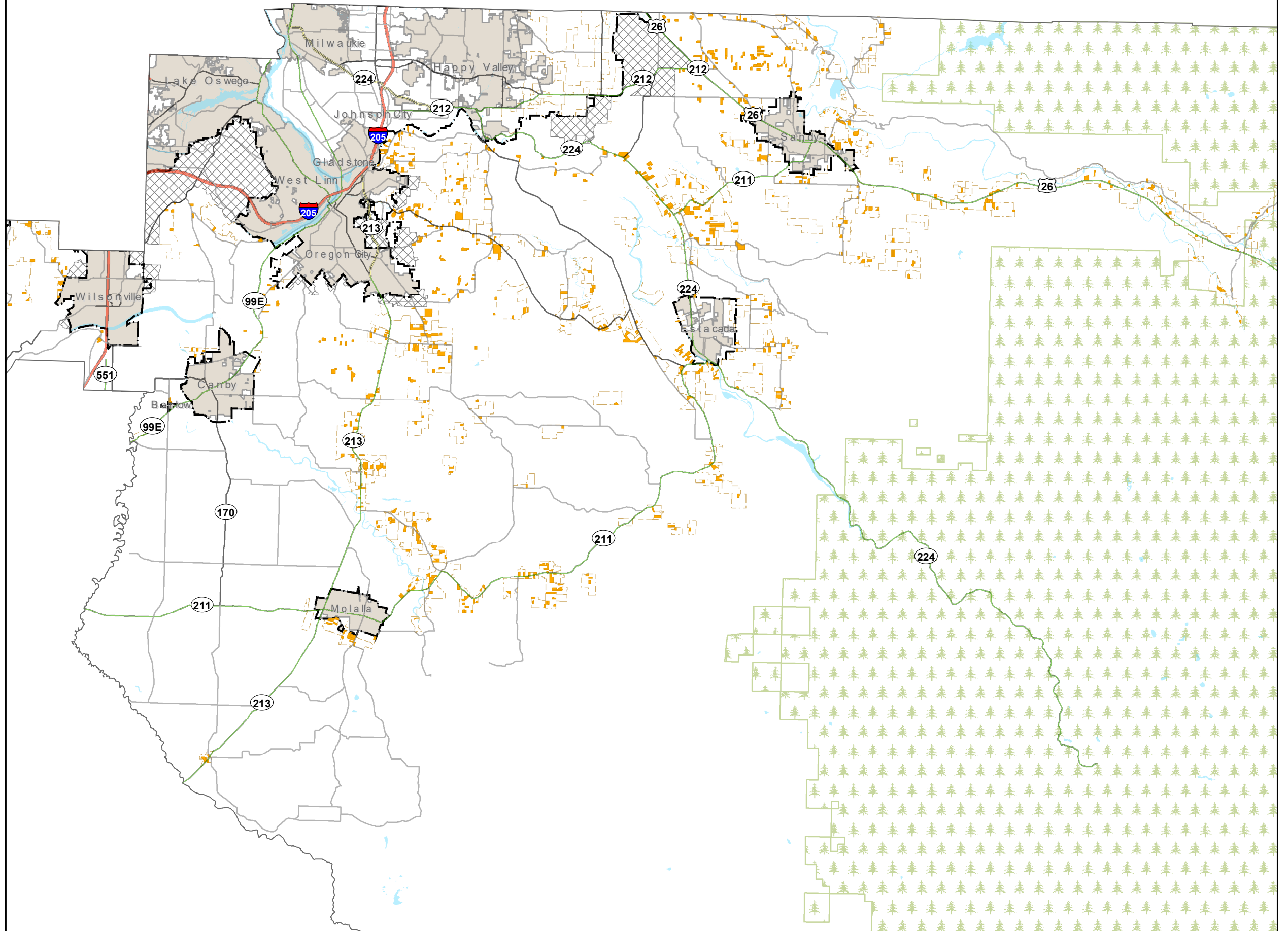
 Clackamas County

This map is for analysis purposes only and is intended to identify generally the potential impact of allowing accessory historic dwellings, as authorized by House Bill 3012(2017). It is based on the best data available and is not intended to be a determination of eligibility or ineligibility of any individual property.

Date: 7/25/2018  
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**PLANNING COMMISSION  
MINUTES**

June 25, 2018  
6:30 p.m., DSB Auditorium

Commissioners present: Brian Pasko, Mary Phillips, Michael Wilson, Mark Fitz, Christine Drazan

Commissioners absent: Tom Peterson

Staff present: Marth Fritzie, Glen Hamburg, Mike McCallister, Darcy Renhard

1. Commission Chair Pasko called the meeting to order at 6:35 p.m.
2. Grover Bornfeld, Jennings Lodge: Mr. Bornfeld has great concern when he reads that 40% of our population cannot afford a one-bedroom apartment. He is concerned about the restrictions to ADUs in terms of SDCs. Where he lives, it would cost over \$20000 in permit fees and SDCs to build an 840 sf ADU. He doesn't think that we are looking at it from the right perspective. We need to do things that are broader and more effective to address the issues facing us. Existing restrictions are an impediment to keeping up with the housing needs.
3. Chair Pasko opened the public hearing. Glen Hamburg provided an explanation of the staff report. Exhibit 1 and Attachment 1 are new. ZDO-269 is a proposed legislative amendment to the Comprehensive Plan and the ZDO. It is intended to expand opportunities for ADUs. Part of the amendment package is a State mandate for the County to allow ADUs in areas where we currently do not allow them. The County is proposing to allow ADUs in areas not mandated by the State as well. The standards will depend on the location, but manufactured homes are not allowed currently. Legislation mandates that we move from allowing one ADU per lot of record to allowing one per legal dwelling inside UGBs. We are proposing to allow manufactured homes as ADUs, but only in the FF-10, RA-1, RA-2, and RRFF-5 zones. They must also be between 700-720 sf. We are proposing to expand the allowances to include the MRR zone up on Mt. Hood, and to apply these same standards to the HR zone. Staff is recommending that there no longer be an owner occupancy requirement, that they be a maximum of 720 sf, and that there are standards for entrances on attached ADUs.

The State has also said that another optional possibility is to allow accessory dwellings on properties with what are referred to as historic dwellings, but only outside the UGBs and urban reserves; only in FF-10, FU-10, RA-1, RA-2, RR, and RRFF-5 zones. There would also be a minimum lot size of 2 acres and the existing "historic dwelling" must have been built between 1850 and 1945. The need not have an official designation as a historical structure, just be considered historic based on the criteria in the proposed amendments. An ADU that is built on a site with one of these "historic" homes may actually be built up to 120% of the existing size of the historic home, which would make the historic home the accessory dwelling. One caveat is that they cannot be replaced if they are somehow destroyed. There would not be an owner occupancy requirement for these types of dwellings. Staff reminds the Commission that this proposal is an option, it is not required. Approval of these proposals may open up rental options and options for extended family members to remain on the property with other family members, but there might also be a question of fairness and equity. Staff has no idea why the 1945 cut off, other than possibly pre-war housing and historic preservation. Staff recommends approval of ZDO-269 as submitted in this packet.

Commissioner Fitz asked if there are options for other sizes to be allowed. Glen answered that the County has the discretion to choose. They must be able to meet current building codes, though. Commissioner Fitz would reduce the minimum size requirements so that tiny houses would meet standards, Commissioner Drazan asked if 700-720 sf is the standard size of a single wide manufactured home. Glen explained that we are proposing to apply the same standards as we have in other zones. 720 sf maximum has been in our code for urban low density residential zones since the late 90s, and at this point we did not consider making the standard larger because it seems to have worked so far. We also have to consider that if we allow ADUs that are larger than what the cities allow, then when annexation happens the ADUs may be larger than what is allowed in the city. 700 sf is the minimum for primary manufactured dwellings, so it makes sense to Commissioner Phillips to reduce the minimum requirement for accessory dwellings. For existing homes between 1850 and 1945, what are the protections for historic designated homes? Glen answered that for the purpose of this proposal, the term historic does not mean that the home is actually on the historic registry. It is simply a home built between these years. If the home did have historic designation, then the historic overlay applies to the entire property. Commissioner Phillips is concerned that where

there are significant or potentially historic properties that there be some sort of sighting requirement to preserve the nature of what might make that home a historic structure.

There were no agencies, CPOs, hamlets, of villages who wished to testify.

Joan Zuber, South Clackamas: She cannot see doubling the population for whomever wants it. She does not think that it will make anything more affordable. Once taxes and expenses are paid, then they will not be rented at lower rates than what is already out there. South of Molalla there is an area that is very limited water. If you have someone in that area who to build an ADU, then they would be drawing more from the aquifer and having to drill another septic. Her understanding is that the County can actually be more restrictive than the State if it so chooses.

Grover Bornfeld, Jennings Lodge: Tiny homes are 160 sf and meet all kinds of requirements. He is concerned that the State spoke to allowing 800-900 sf and waiving SDCs. He doesn't feel that our proposed 700 sf mandate doesn't address the State's intent. Glen clarified that if something is a manufactured dwelling, then it must meet the 700 sf requirement. A tiny home can be pre-fab and assembled onsite, but it would still have to meet building codes.

Chair Pasko closed the public testimony portion of the hearing and opened deliberations.

Chair Pasko proposed that these recommendations be split into 2 segments. Commissioner Wilson is concerned about the limitation on manufactured homes. He thinks that the upper limit should be larger in order to meet then intent, and that it should also be a smaller minimum requirement to allow for tiny houses. Commissioner Phillips supports most of staff's recommendations. Tiny houses are manufacture d off site and would not meet the standards, which she feels is over limiting if we are trying to increase housing stock. She would also like the minimum to be reduced for ADUs. She thinks that removing the owner occupancy requirement is a good idea. Commissioner Fitz concurs that the needed housing is exceeding inflation, and the supply is just not there. He would recommend that we get as flexible as we can and come back in a couple of years after this housing crisis is alleviated and see where we are at. Commissioner Drazan agrees that the more flexibility the better. If there are health safety issues, then they should be considered, but she would like to allow for as much flexibility as possible. Chair Pasko asked what staff thinks of the proposed numbers. Glen answered that in the urban zones, a manufactured home must be at least 700 sf. There is no maximum. Commissioner Fitz stated that from a historical aspect, owner occupancy is a really hot issue in the Damascus area. Martha Fritzie said that we need to have a conversation with building codes to clarify what the requirements are. If it is a stick-built home, then there is no minimum for an ADU. She's not sure if there is a minimum in building codes for manufactured homes. Maybe the solution is to not have a minimum size, because ultimately what they are going to have to meet are the building codes. Mike McCallister said that using the work 'tiny homes' is really confusing. They are one of three things: recreational, manufactured, or modular. They meet no regulations whatsoever. The issue here is that any structure that is an ADU has to meet building codes. Commissioners Drazan and Phillips would like to have no minimum, and Commissioner Drazan would like the maximum to be smaller than the primary dwelling. Commissioner Philips thinks that there should be a maximum. The intent is that the ADU is smaller and incidental to the primary dwelling.

Commissioner Fitz moved to recommend adoption of ZDO-269 as recommended by staff with an increase in the ADU size limit to 900 sf in all zones, amend to read that manufactured homes will have no limit on minimum size, and a that the existing primary residence will not be smaller than the ADU. *Ayes=5; Nays=0. Motion passes.*

Regarding the historic dwelling portion of the proposal, Commissioner Wilson has no comments, and Commissioner Fitz has no real concerns as anyone who proposed one is going to have to show that they have adequate water to support a second dwelling. Commissioner Drazan thinks that it would be helpful to understand why they chose the cutoff dates that they did. It seems like it would be beneficial to know how much people are going to take advantage of it. Commissioner Phillips supports staff's proposal for this. It adds more options for increasing housing stock, and it encourages maintenance and preservation of potential historic structures. We should take a look at what impacts adding an ADU might have on these properties and would want to make sure that the second dwelling doesn't detract from the potential historic significance of the property. Commissioner Drazan disagrees. The property owner should have rights. If they seek historic designation, then so be it. But it should not be forced on owners who have not chosen to seek historic designation. Chair Pasko hates these take it or leave it things, but feels

that overall it will do more good than harm. Commissioner Fitz moved to the code change to allow for a new residence if a house was built between 1850 and 1945 as staff proposed. Commissioner Wilson seconds. *Ayes=5; Nays=0. Motion passes.*

Commissioner Fitz moved to recommend approval of staff's recommendation to allow 900 sf ADUs in the HR and MRR zones, and to apply the standards in Section 839 of the ZDO to those zones as well. Commissioner Wilson seconds. *Ayes=5; Nays=0. Motion passes.*

The next meeting is July 23<sup>rd</sup>.

The only other business is that the BCC did follow up interviews for new PC members. Hopefully we will have new appointments soon.

Planning Director recruitment closes at 11 pm tonight.

There being no further business, the meeting was adjourned at 8:18 p.m.



**202 DEFINITIONS**

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**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.

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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 ESTABLISHMENT: A use carried on in a structure designed for a single-family dwelling, except as provided under Section 832, which provides rooms for rent on a daily basis to the public and which includes a breakfast meal as part of the cost of the room. Bed and breakfast establishments do not include other similar uses, such as motels, health or limited care facilities, boarding houses, group quarters, hostels, or rescue missions. All bed and breakfast establishments require tourist facility licensing by the appropriate agency. Bed and breakfast residences and inns, as defined below, must also satisfy the State Health Division requirements. Three levels of bed and breakfast establishments are as follows:

"Bed and Breakfast Homestay" provides overnight accommodations plus breakfast in an owner-occupied dwelling that provides one or two guest rooms for occasional bed and breakfast guests, not exceeding five guests at one time. Primary use of the dwelling remains as a dwelling, not as a lodging establishment. All reservations are made in advance. Income derived from bed and breakfast activity does not generally represent a primary source of income. Bed and breakfast homestays are major home occupations, subject to Section 822.

"Bed and Breakfast Residence" provides overnight accommodations plus breakfast and occasional family-style meals for guests, in an operator- or owner-occupied

dwelling that provides up to five rooms on an occasional or regular basis. Income derived from the bed and breakfast activity may represent a primary source of income. Bed and breakfast residences are subject to Section 832, and all requirements of the underlying district.

"Bed and Breakfast Inn" provides accommodations plus breakfast on a daily or weekly basis in an operator- or owner-occupied dwelling that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a major source of income to the proprietors. This level includes inns that operate restaurants offering meals to the general public as well as to overnight guests. Bed and breakfast inns are subject to Section 832 and all requirements of the underlying district.

**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.

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, 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 areas as described in Section 202 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. Composting facilities or sites may include sales of the finished product, as well as accessory products limited to topsoil, barkdust and aggregate commonly used in landscaping to wholesale and retail customers. The area utilized for the sale of said accessory products shall not exceed 10% of the area used for composting, or two (2) acres, whichever is less subject to the provisions of Subsection 834.03 and 834.04.

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.

DAYCARE FACILITY: A facility that provides regular daycare services to children under 13 years of age, including a day nursery, nursery school group, or similar unit operating under any name. A daycare facility shall not include services provided by a physician or nurse, or facilities operated primarily for education or supervised training or instruction, or daycare provided by a "babysitter" or "family daycare provider".

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.

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 DAYCARE PROVIDER:** A daycare provider who regularly provides daycare to 16 or fewer children, or as amended by ORS 329A.440, including the children of the provider, regardless of full-time or part-time status, in the provider's home in the family living quarters. Provision of daycare to more than 16 children, including the children of the provider, regardless of full-time or part-time status, in the provider's home in the family living quarters shall constitute the operation of a "daycare facility" and shall be subject to the requirements of this Ordinance for daycare facilities.

**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: Are defined as including yard debris, non-treated wood waste, vegetative food waste, produce waste, vegetative restaurant waste, vegetative food processor by-products, crop waste and livestock manure. For the purpose of these provisions, "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/STUDIO: A guest house or studio is a separate accessory structure, or portion thereof, which is built to residential (R-3 occupancy) building code requirements and which is used by members of the family residing in the primary dwelling or their nonpaying guests or employees on the premises. A "guest house" or "studio" shall be a temporary living area, and shall not be used for boarders or lodgers.

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 unit 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/or 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 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 in an agricultural setting to produce commodities such as food, fiber, and labor. The term "livestock" includes miniature livestock, poultry, 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.

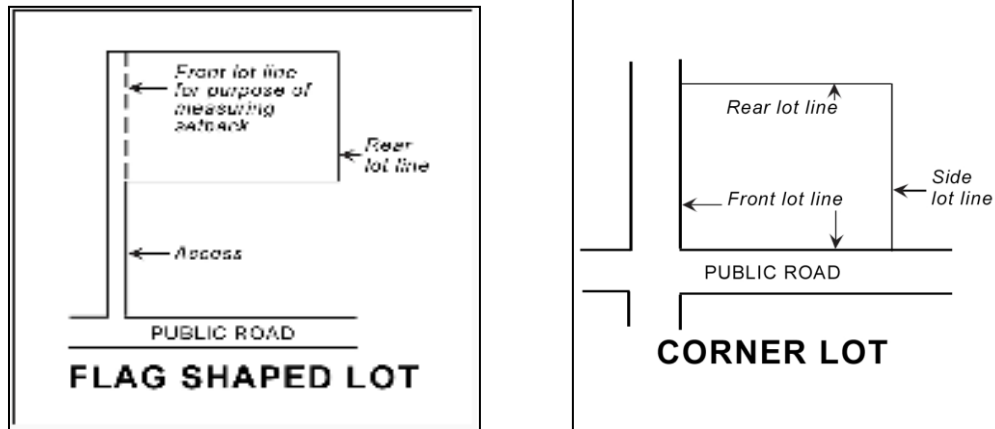
LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line of a lot.

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

MANUFACTURED HOME PARK: Any place where four or more manufactured homes 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, lease or barter the use of such facilities. A manufactured home park does not include a lot or lots located within a subdivision.

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 between January 1, 1962 and June 15, 1976, for movement on the public highways that has sleeping, cooking and plumbing facilities, that is designed, intended to be and/or being used for human occupancy by a family for residential purposes 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.

NUDITY OR NUDE: Being devoid of a covering for the male or female genitalia consisting of an opaque material which does not simulate the organ covered and, in the case of a female, exposing to view one or both breasts without a covering over the nipple that is at least three inches in diameter and does not simulate the organ covered.

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 (or similar), 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 as determined by the Planning Director, but not including

marijuana or processed foods such as jams or jellies, that are produced on the same site at 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 Oregon State Department of Motor Vehicles, with or without motive power, which is designed, intended to be and/or used for temporary human occupancy for recreation, 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 prior to January 1, 1962, for movement on the public highways that has sleeping, cooking and plumbing facilities, that is designed, intended to be and/or being used for human occupancy by a family 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 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 on 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 and/or supported by taxation.

SCHOOL, PRIVATE: Includes private kindergartens, nurseries, play schools, and church-related schools.

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 boarder 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:** Solid waste shall include all putrescible and non-putrescible waste, including, but not limited to: garbage; compost; organic waste; yard debris; brush and branches; land clearing debris; sewer sludge; residential, commercial and industrial building demolition or construction waste; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicles or vehicle parts and vehicle tires; special vehicles and equipment that are immobile and/or inoperable; manufactured dwellings or residential trailers which are dilapidated, partially dismantled or fire damaged; manure; feces; vegetable or animal solid and semi-solid waste and dead animals; and infectious waste. Waste shall mean useless, unwanted or discarded materials. The fact that materials which would otherwise come within the definition of Solid Waste may, from time to time, have value and thus be utilized shall not remove them from the definition. The terms “solid waste” or “waste” do not include:

- A. Environmentally hazardous wastes as defined in ORS 466.055;
- B. Materials used for fertilizer or for other productive purposes on land in agricultural operations in the growing and harvesting of crops or the raising of fowl or animals. This exception does not apply to the keeping of animals on land which has been zoned for residential non-agricultural purposes;
- C. Septic tank and cesspool pumping or chemical toilet waste;
- D. For purposes of Article V of this Ordinance, reusable beverage containers as defined in ORS 459A;
- E. Source separated, principal recyclable materials as defined in ORS 459A and the Rules promulgated thereunder and under this Ordinance, which have been purchased or exchanged for fair market value, unless said principal recyclable materials create a public nuisance pursuant to Article II of this Ordinance;
- F. Applications of industrial sludges or industrial waste by-products authorized through a Land Use Compatibility Statement of Management Plan approval and that have been applied to agricultural lands according to accepted agronomic practices or accepted method approved by the Land Use Compatibility Statement or Management Plan, but not to exceed 100 dry tons per acre annually;

- G. Stabilized municipal sewage sludge applied for accepted beneficial uses on land in agricultural, non-agricultural, or silvicultural operations;
- H. Sludge derived products applied for beneficial uses on land in landscaping projects.

**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, MINERALS: Includes 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. This definition does not include solid waste collection vehicles.

TRANSIT STOP: Any posted bus or light rail stop.

TRANSITIONAL SHELTER COMMUNITY: Temporary shelters for houseless people. The operator also may provide the transitional shelter residents with food, clothing, and other support services on the transitional shelter site.<sup>1</sup>

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 offsite service, such as electrical transformer boxes, telephone cable boxes, cable TV 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.

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<sup>1</sup> Provisions for transitional shelter communities adopted by Ordinance ZDO-267 are repealed on the earlier of:

- August 28, 2019; or
- The day after the County renders a final decision approving a conditional use permit for the third of three separate transitional shelter communities.

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.

WASTE-RELATED USES: Waste-related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site for transfer to another location, uses which collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material. Waste-related uses also includes uses which receive hazardous wastes from others and which are subject to the regulations of OAR 340.100-110, Hazardous Waste Management.

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.*

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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]

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

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316.01 PURPOSE

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

316.02 APPLICABILITY

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

316.03 USES PERMITTED

- A. Uses permitted in each rural residential and future urban residential zoning district are listed in Table 316-1, *Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts*. Uses not listed are prohibited.
- B. As used in Table 316-1:
  - 1. “P” means the use is a primary use.
  - 2. “A” means the use is an accessory use.
  - 3. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
  - 4. “CPUD” means the use is allowed as a conditional use in a planned unit development.
  - 5. “X” means the use is prohibited.
  - 6. 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
<b>Accessory Buildings and Uses, Customarily Permitted</b> , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family daycare providers, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A
<b><u>Accessory Dwelling Units, subject to Section 839</u></b>	<u>A<sup>1</sup></u>	<u>A<sup>1</sup></u>	<u>X</u>	<u>A<sup>1</sup></u>	<u>A<sup>1</sup></u>	<u>A<sup>1</sup></u>
<b><u>Accessory Historic Dwellings, subject to Section 843</u></b>	<u>A<sup>2</sup></u>	<u>A<sup>2</sup></u>	<u>A<sup>2</sup></u>	<u>A<sup>2</sup></u>	<u>A<sup>2</sup></u>	<u>A<sup>2</sup></u>
<b>Accessory Kitchens</b>	A <sup>43</sup>	A <sup>43</sup>	A <sup>43</sup>	A <sup>43</sup>	A <sup>43</sup>	A <sup>43</sup>



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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Aircraft Land Uses</b>	X	X	X	C	C	C
<b>Aircraft Landing Areas</b>	X	C	C <sup>24</sup>	X	X	X
<b>Bed and Breakfast Inns</b> , subject to Section 832	C	C	C	C	C	X
<b>Bed and Breakfast Residences</b> , subject to Section 832	C	C	C	C	C	C
<b>Bus Shelters</b> , subject to Section 823	P	P	P	P	P	P
<b>Campgrounds</b>	C	C	C	C	C	C
<b>Cemeteries</b> , subject to Section 808	C	C	X	C	C	C
<b>Churches</b> , subject to Section 804	C	C	C	C	C	C <sup>35</sup>
<b>Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses</b> <sup>46</sup>	X	X	X	C	C	X
<b>Community Halls</b>	CPUD	CPUD	CPUD	CPUD	CPUD	X <sup>57</sup>
<b>Composting Facilities</b> , subject to Section 834	X	X	X	C	C	X
<b>Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources</b>	P	P	P	P	P	P
<b>Crematories</b> , subject to Section 808	C	C	X	X	X	X
<b>Daycare Facilities</b> , subject to Section 807	C	C	C	C	C	C <sup>68</sup>
<b>Daycare Services, Adult</b>	C	C	C	C	C	C <sup>79</sup>
<b>Dwellings, Detached Single-Family</b>	P <sup>810</sup>	P <sup>810</sup>	P <sup>810</sup>	P <sup>810</sup>	P <sup>810</sup>	P <sup>810</sup>
<b>Dwellings, Two-Family</b>	C <sup>810</sup>	X	X	X	X	X
<b>Energy Source Development</b>	X	X	C	X	X	X
<b>Farmers' Markets</b> , subject to Section 840	A	A	A	A	A	A
<b>Farm Uses, including</b> <sup>46</sup> :						
Raising, harvesting, and selling crops	P	P	P <sup>911</sup>	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X <sup>1012</sup>	P	X <sup>1012</sup>	P	P	P
Dairying and the sale of dairy products	X <sup>1012</sup>	P	X <sup>1012</sup>	P	P	P

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X <sup>+012</sup>	P	X <sup>+012</sup>	P	P	P
Preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use	P	P	P <sup>911</sup>	P	P	P
Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species that are under the jurisdiction of the Oregon Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission	X <sup>+012</sup>	P	X <sup>+012</sup>	P	P	P
Growing cultured Christmas trees	P	P	P <sup>911</sup>	P	P	P
<b>Fish or Wildlife Management Programs</b>	X	X	X	P	P	P
<b>Forest Practices</b> , including the following operations conducted on or pertaining to forestland: reforestation of forestland, road construction and maintenance, harvesting of forest tree species, application of chemicals, disposal of slash, and removal of woody biomass	P <sup>+13</sup>	P <sup>+13</sup>	P	P <sup>+13</sup>	P <sup>+13</sup>	P <sup>+13</sup>
<b>Fraternal Organization Lodges</b>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>
<b>Government Uses</b> , unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>
<b>Guest Houses and Studios</b> , subject to Section 833	A	A	A	A	A	A
<b>Guest Ranches and Lodges</b>	X	X	C	X	X	X
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>+315</sup>	A	A	A	A	A	A
<b>Home Occupations to Host Events</b> , subject to Section 806	C	C	C	C	C	C

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Hydroelectric Facilities</b> , subject to Section 829	C	C	C	C	C	C
<b>Kennels</b>	C <sup>+416</sup>	C <sup>+416</sup>	X	C <sup>+416</sup>	C <sup>+416</sup>	X
<b>Libraries</b>	CPUD	CPUD	CPUD	CPUD	CPUD	X <sup>57</sup>
<b>Livestock</b> , subject to Section 821	P	X <sup>+412</sup>	A	X <sup>+412</sup>	X <sup>+412</sup>	X <sup>+412</sup>
<b>Manufactured Dwellings</b> , subject to Section 824	P <sup>810</sup>	P <sup>810</sup>	P <sup>810</sup>	P <sup>810</sup>	P <sup>810</sup>	P <sup>810</sup>
<b>Marijuana Processing</b>	X	X	X	X	X	X
<b>Marijuana Production</b> , subject to Section 841	X	X	X	A	A	X
<b>Marijuana Retailing</b>	X	X	X	X	X	X
<b>Marijuana Wholesaling</b>	X	X	X	X	X	X
<b>Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources</b>	X	X	X	C	C	X
<b>Produce Stands</b>	A <sup>+517</sup>	A <sup>+517</sup>	A <sup>+517</sup>	A <sup>+517</sup>	A <sup>+517</sup>	A <sup>+517,1618</sup>
<b>Public Utility Facilities</b>	C <sup>+214,4719</sup>	C <sup>+214,4719</sup>	C <sup>+214,4719</sup>	C <sup>+214,1719</sup>	C <sup>+214,4719</sup>	C <sup>+214,1719</sup>
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	C <sup>+214,1820</sup>	C <sup>+214,1820</sup>	C <sup>+214,1820</sup>	C <sup>+214,1820</sup>	C <sup>+214,1820</sup>	C <sup>+214,1820</sup>
<b>Recreational Uses</b> , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails <sup>+921</sup>	C <sup>+214</sup>	C <sup>+214,2022</sup>	C <sup>+214</sup>	C <sup>+214,2022</sup>	C <sup>+214,2022</sup>	C <sup>+214,2022</sup>

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Recreational Uses, Government-Owned</b> , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses <sup>1921</sup>	P <sup>2123</sup>	P <sup>2123</sup>	P <sup>2123</sup>	P	P	P
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>1921</sup>	P <sup>2123</sup>	P <sup>2123</sup>	P <sup>2123</sup>	P	P	P
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	C <sup>1214</sup>	C <sup>1214</sup>	C <sup>1214</sup>	C <sup>1214</sup>	C <sup>1214</sup>	X

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, flowers, food, furniture, garden supplies, hardware, interior decorating materials, jewelry, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos.	CPUD <sup>22</sup> <sub>24</sub>	X	X	X	X	X
<b>Sanitary Landfills and Debris Fills</b> , subject to Section 819	X	X	X	C	C	X
<b>Schools</b> , subject to Section 805	C <sup>2325</sup>	C <sup>2325</sup>	C	C <sup>2325</sup>	C <sup>2325</sup>	C <sup>2426</sup>
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	CPUD <sup>22</sup> <sub>24</sub>	X	X	X	X	X
<b>Services, Commercial—Personal and Convenience</b> , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	CPUD <sup>22</sup> <sub>24</sub>	X	X	X	X	X
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	CPUD <sup>22</sup> <sub>24</sub>	X	X	X	X	X
<b>Signs</b> , subject to Section 1010	A <sup>2527</sup>	A <sup>2527</sup>	A <sup>2527</sup>	A <sup>2527</sup>	A <sup>2527</sup>	A <sup>2527</sup>

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Surface Mining</b> , subject to Section 818	X	X	X	C	C	X
<b>Telephone Exchanges</b>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>	C <sup>+214</sup>
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A	A	A	A	A	A
<b>Transfer Stations</b> , subject to Section 819	X	X	C	X	X	C
<b>Utility Carrier Cabinets</b> , subject to Section 830	P	P	P	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsections 835.04 and 835.05(A)(2) and (3), subject to Section 835	P	P	P	P	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsection 835.06(A), subject to Section 835	C	C	C	C	C	C

<sup>1</sup> This use is permitted only inside of an urban growth boundary.

<sup>2</sup> This use is permitted only outside of both an urban growth boundary and an urban reserve.

<sup>43</sup> An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.

<sup>24</sup> Aircraft landing areas are permitted for use by emergency aircraft (e.g., fire, rescue) only.

<sup>35</sup> This use is limited to alteration or expansion of a lawfully established church.

<sup>46</sup> As used in Table 316-1, farm uses do not include marijuana production, marijuana processing, marijuana wholesaling, or marijuana retailing. See separate listings in Table 316-1 for these uses.

<sup>57</sup> Even though it is prohibited in this category, this use is included in the “government use” category.

<sup>68</sup> This use is limited to alteration or expansion of a lawfully established daycare facility.

<sup>79</sup> This use is limited to alteration or expansion of a lawfully established adult daycare service.

<sup>810</sup> Except as limited by Note 1(b) to Table 316-2 or as allowed by Section 1204, *Temporary Permits* or *Section 839, Accessory Dwelling Units*, each lot of record may be developed with only one of the following: detached single-family dwelling, two-family dwelling (only if approved as a conditional use in the RA-1 District), or manufactured dwelling.

<sup>911</sup> This use is permitted only on lots larger than five acres.

<sup>4012</sup> In the RA-2, RRFF-5, FF-10, and FU-10 Districts, livestock is permitted as described under the use category of farm uses. In the RA-1 and RR Districts, livestock is permitted as described under the use category of livestock.

<sup>413</sup> For land inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02 regarding a development restriction that may apply if excessive tree removal occurs.

<sup>4214</sup> Uses similar to this may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

<sup>4315</sup> A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 316-1.

<sup>4416</sup> The portion of the premises used shall be located a minimum of 200 feet from all property lines.

<sup>4517</sup> A produce stand shall be subject to the parking requirements of Section 1015, *Parking and Loading*.

<sup>4618</sup> 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.

<sup>4719</sup> Public utility facilities shall not include shops, garages, or general administrative offices.

<sup>4820</sup> The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.

<sup>4921</sup> This use may include concessions, restrooms, maintenance facilities, and similar support uses.

<sup>2022</sup> 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.

<sup>2123</sup> Any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in a residential zoning district.

<sup>2224</sup> 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.

<sup>2325</sup> Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metropolitan Service District's 2040 Growth Concept Map.

<sup>2426</sup> This use is limited to alteration or expansion of a lawfully established school.

<sup>2527</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.



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

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

- <sup>1</sup> The minimum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except:

  - a. Minimum lot size standards of Section 800 apply; and
  - b. A lot of record smaller than 3,000 square feet may not be developed with a dwelling unless the lot of record was created as part of a planned unit development in the RA-1 District or pursuant to Subsection 1012.02(B), (D), or (F).
- <sup>2</sup> In a planned unit development, there is no minimum individual lot size. However, the minimum average lot size is one acre except for lots to be developed with a two-family dwelling, in which case the minimum average lot size is two acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.
- <sup>3</sup> The minimum lot size inside the Portland Metropolitan Urban Growth Boundary is 20 acres. The 20-acre minimum lot size is applicable to subdivisions, partitions, and Type II replats, but not to Type I replats or property line adjustments. Where this standard applies, it supersedes any other minimum lot size standard in Table 316-2.
- <sup>4</sup> For the purpose of complying with the minimum lot size standard, lots with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the County or public road right-of-way.
- <sup>5</sup> The minimum lot size inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy is five acres.
- <sup>6</sup> The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed partition, subdivision, or replat.
- <sup>7</sup> In a planned unit development, the minimum individual lot size is two acres, except inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy, where the minimum individual lot size is five acres. In all cases, the minimum average lot size is 10 acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.
- <sup>8</sup> In a planned unit development, the minimum front setback is 20 feet.
- <sup>9</sup> For a corner lot located above 3,500 feet in elevation, one of the minimum front setbacks is 10 feet, except 20 feet to garage and carport motor vehicle entries.

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- <sup>10</sup> In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 316-2.
- <sup>11</sup> The minimum rear setback for an accessory building shall be five feet except as established by Note 10.
- <sup>12</sup> The minimum rear setback for an accessory building shall be 10 feet except as established by Note 10.
- <sup>13</sup> 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]

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

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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. 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*; Subsection 317.05, *Development Standard*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

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

Use	MRR	HR
<b>Accessory Buildings and Uses, Customarily Permitted</b> , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family daycare providers, 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
<b>Accessory Dwelling Units</b> , subject to Section 839	<del>A</del>	A
<b>Accessory Kitchens</b>	A <sup>1</sup>	A <sup>1</sup>
<b>Airports, Personal-Use</b>	C	C
<b>Bed and Breakfast Inns</b> , subject to Section 832	P	C
<b>Bed and Breakfast Residences</b> , subject to Section 832	P	C
<b>Bus Shelters</b> , subject to Section 823	P	P
<b>Campgrounds</b>	C	C
<b>Churches</b> , subject to Section 804	C	C
<b>Civic and Cultural Facilities</b> , including art galleries, museums, and visitor centers	L <sup>2</sup>	X
<b>Community Halls</b>	CPUD	CPUD
<b>Congregate Housing Facilities</b>	P	X
<b>Daycare Facilities</b> , subject to Section 807	C	C
<b>Daycare Services, Adult</b>	C	C
<b>Dwellings, Attached Single-Family</b>	P <sup>3</sup>	P <sup>3,4</sup>
<b>Dwellings, Detached Single-Family</b>	P <sup>3</sup>	P <sup>3</sup>
<b>Dwellings, Multifamily</b>	P	X
<b>Dwellings, Three Family</b>	P	X
<b>Dwellings, Two-Family</b>	P	X
<b>Energy Source Development</b>	C	C
<b>Farmers’ Markets</b> , subject to Section 840	A	A
<b>Fraternal Organization Lodges</b>	C <sup>5</sup>	C <sup>5</sup>
<b>Government Uses</b> , 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 <sup>5</sup>	C <sup>5</sup>
<b>Guest Houses and Studios</b> , subject to Section 833	X	A
<b>Guest Ranches and Lodges</b>	X	C

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Use	MRR	HR
<b>Helistops, Personal-Use</b>	C	C
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>6</sup>	A	A
<b>Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events</b>	C	C
<b>Hotels</b> <sup>7</sup>	P <sup>8</sup>	X
<b>Hydroelectric Facilities</b> , subject to Section 829	C	C
<b>Libraries</b>	L <sup>2</sup> , CPUD	CPUD
<b>Livestock</b> , subject to Section 821	A	A
<b>Manufactured Homes</b> , subject to Section 824	P <sup>3</sup>	P <sup>3</sup>
<b>Manufactured Home Parks</b> , subject to Section 825	C	X
<b>Marijuana Processing</b>	X	X
<b>Marijuana Production</b>	X	X
<b>Marijuana Retailing</b>	X	X
<b>Marijuana Wholesaling</b>	X	X
<b>Mobile Vending Units</b> , subject to Section 837	L <sup>2,9</sup>	X
<b>Motels</b> <sup>7</sup>	P <sup>8</sup>	X
<b>Multi-Use Developments</b> , subject to Section 1016	C	C
<b>Nursing Homes</b> , subject to Section 810	P	C
<b>Parking Structures</b>	A	X
<b>Produce Stands</b> , subject to Section 815	A	A
<b>Public Utility Facilities</b>	C <sup>5</sup>	C <sup>5,10</sup>
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	C <sup>5,11</sup>	C <sup>5,11</sup>
<b>Recreational Uses</b> , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails <sup>12</sup>	C <sup>5</sup>	C <sup>5</sup>
<b>Recreational Uses, Government-Owned</b> , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses <sup>12</sup>	P <sup>13</sup>	P <sup>14</sup>
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>12</sup>	P <sup>13</sup>	P <sup>14</sup>
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	C <sup>5</sup>	C <sup>5</sup>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	MRR	HR
<b>Retailing</b> —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, flowers, food, furniture, garden supplies, hardware, interior decorating materials, jewelry, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos.	L <sup>2</sup> , CPUD <sup>15</sup>	CPUD <sup>15</sup>
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	L <sup>2</sup> , CPUD <sup>15</sup>	CPUD <sup>15</sup>
<b>Services, Commercial—Maintenance and Repair</b> , of any of the following: bicycles and sporting goods	L <sup>2</sup> , CPUD <sup>15</sup>	CPUD <sup>15</sup>
<b>Services, Commercial—Personal and Convenience</b> , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	L <sup>2</sup> , CPUD <sup>15</sup>	CPUD <sup>15</sup>
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	L <sup>2</sup> , CPUD <sup>15</sup>	CPUD <sup>15</sup>
<b>Schools</b> , subject to Section 805	C	C
<b>Signs</b> , subject to Section 1010	A <sup>16</sup>	A <sup>16</sup>
<b>Surface Mining</b> , subject to Section 818	X	X
<b>Telephone Exchanges</b>	C <sup>5</sup>	C <sup>5</sup>
<b>Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker</b>	A	A
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
<b>Transit Park-and-Rides</b>	P	P
<b>Transfer Stations</b> , subject to Section 819	C	C
<b>Utility Carrier Cabinets</b> , subject to Section 830	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsections 835.04(B) and (C) and 835.05(A)(2) and (3), subject to Section 835	P	P
<b>Wireless Telecommunication Facilities</b> listed in Subsection 835.06(A), subject to Section 835	C	C

<sup>1</sup> An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.

<sup>2</sup> 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.
- <sup>3</sup> Except as allowed by Subsection 317.05 or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: attached single-family dwelling, detached single-family dwelling, or manufactured home.
- <sup>4</sup> Attached single-family dwellings 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.
- <sup>5</sup> Uses similar to this may be authorized pursuant to Section 106.
- <sup>6</sup> A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 317-1.
- <sup>7</sup> Also permitted are associated convention facilities.
- <sup>8</sup> 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.
- <sup>9</sup> Only level three and four mobile vending units are permitted.
- <sup>10</sup> Public utility facilities shall not include shops, garages, or general administrative offices.
- <sup>11</sup> The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- <sup>12</sup> This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- <sup>13</sup> Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.
- <sup>14</sup> Any principal building, swimming pool, or use shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- <sup>15</sup> 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.

<sup>16</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

#### 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 317-2: 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 <sup>1</sup>	15 feet, except 20 feet to garage and carport motor vehicle entries <sup>2</sup>
Minimum Rear Setback	10 feet <sup>3,4,5,6</sup>	15 feet <sup>3,4</sup>
Minimum Side Setback	10 feet <sup>3,4,5,6</sup>	5 feet <sup>3,4</sup>
Maximum Lot Coverage	None	40 percent <sup>7</sup>
Maximum Building Height	40 feet <sup>8,9</sup>	40 feet <sup>8</sup>
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 <sup>10</sup>	4,000 square feet, except 8,000 square feet in Government Camp <sup>10</sup>
Building Design Standards for Single-Family Dwellings and Manufactured Homes <sup>11</sup>	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).	

<sup>1</sup> In Government Camp, the minimum front setback is 10 feet, except 20 feet to garage and carport motor vehicle entries.

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- 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:

<b>Building Height</b>	<b>Minimum Setback</b>
≤ 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 attached single-family dwellings, as well as to structures that are accessory to such attached single-family dwellings.
- 7 Maximum lot coverage is 50 percent for a lot of record that is developed with an attached single-family dwelling.
- 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.

- 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

317.05 DEVELOPMENT STANDARD

Any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record; however, attached single-family dwellings must be attached at a wall (as they would be if a lot line separated the dwellings) rather than ceiling to floor.

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[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]

**824 MANUFACTURED DWELLINGS**

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**824.01 MINIMUM STANDARDS**

Manufactured dwellings shall be subject to the following requirements in all of the zoning districts in which they are allowed:

- A. The manufactured dwelling shall satisfy the requirements for a manufactured dwelling as defined in Section 202 of this Ordinance.
- B. If the manufactured dwelling is to be located in a Rural or Natural Resource zoning district, it shall contain at least 700 square feet of living space. If the manufactured dwelling is to be located in an R-5 through R-30, RR, HR, FU-10, VR-4/5, or VR-5/7 zoning district or in a manufactured home park or manufactured dwelling park, it shall contain at least 1,000 square feet of living space and shall be subject to Subsection 824.03 and Section 825. Living space is measured from the exterior of the manufactured dwelling, excluding any hitch and any extension of, or attachment to the manufactured dwelling which is not part of the original factory manufactured dwelling. This provision does not apply to manufactured dwellings approved pursuant to Section 1200 or manufactured dwellings, residential trailers, and recreational vehicles located within pre-existing mobile home parks.
- C. County approved final inspection for the installation of a sewage disposal system.
- D. Placement of the manufactured dwelling upon a foundation or footings according to the requirements of the Oregon Manufactured Dwelling Standards.
- E. Placement of manufactured skirting in those areas around the perimeter of the home which are not developed with a solid wall foundation.
- F. Any extension of, or attachment to the manufactured dwelling which is not part of the original factory manufactured dwelling and which is intended for use either as part of the dwelling or for storage purposes shall be subject to a County building permit if so required by the appropriate state statutes and regulations.
- G. The applicant must obtain an installation/setup permit for the manufactured dwelling from the County Department of Transportation and Development.
- H. ~~Manufactured-A manufactured~~ dwelling shall not be ~~allowed as accessory structures or to be~~ attached to another dwelling.
- I. A manufactured dwelling shall not be allowed as an accessory structure, except as permitted by Section 1204, Temporary Permits, or by Section 839, Accessory Dwelling Units.

**824.02 STANDARDS FOR MANUFACTURED HOMES IN MANUFACTURED HOME PARKS IN THE URBAN AREA**

Manufactured homes in manufactured home parks in the MR-1 and PMD Districts shall be subject to Subsection 824.01 and the following:

- A. The factory design of the manufactured home shall include a roof pitched at a minimum of two inches in 12 inches.
- B. An onsite paved parking area shall be provided for each manufactured home.
- C. Skirting shall be compatible with exterior design and siding materials of the manufactured home.
- D. Play Areas. A separate play area shall be provided in all manufactured home parks that accommodate children under 14 years of age unless each space has a minimum size of 4,000 square feet. Such play area shall be not less than 2,500 square feet of area with at least 100 square feet of play area provided for each manufactured home lot. If the play area abuts a railroad, a street, steep slope, or other similar hazard, then a suitable separation (i.e. fence, large setback, etc.) or other safeguards shall be required.

824.03 STANDARDS FOR MANUFACTURED HOMES TO BE USED AS A PERMANENT DWELLING LOCATED ON INDIVIDUAL LOTS IN THE URBAN AREA

Manufactured homes to be used as a permanent dwelling located on individual lots in the urban area including the R-5 through R-30, RR, HR, FU-10, VR-4/5, and VR-5/7 zoning districts shall be subject to Subsection 824.01 and the following:

- A. The factory design of the manufactured home shall include a roof pitched at a minimum of nominal three inches in 12 inches.
- B. The manufactured home shall be placed on an permanent, excavated and back-filled foundation, enclosed at the perimeter with no more than 12 inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 12 inches do not apply.

In addition, the foundation shall include concrete strip footings placed to accommodate interior supports. All transportation mechanisms, including wheels, axles, and hitches, shall be removed.

- C. The manufactured home shall have no bare, unpainted, or galvanized metal roofing or siding materials.
- D. An enclosed garage or carport shall be provided and constructed of like materials and designed for automobile storage with at least 250 square feet of floor area.
- E. A manufactured home is a multiple sectionalized structure which shall contain at least 1,000 square feet of living space. Living space is measured from the exterior of

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the manufactured home, excluding any hitch and any extension of or attachment which is not part of the original manufactured home.

- F. Either the manufactured home was constructed after April 1, 1992 or was manufactured under one of Bonneville Power Administration's energy conservation programs (either the Super Good Cents or the Manufactured Housing Acquisition Program).

[Amended by Ord. ZDO-249, 10/13/14]



839 ACCESSORY DWELLING UNITS

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~~839.01~~ ~~APPLICABILITY~~

~~Section 839 applies to accessory dwelling units.~~

839.01~~2~~ ~~GENERAL STANDARD~~NUMBER ALLOWED

Only one accessory dwelling unit shall be allowed ~~on a lot of record~~per primary attached or detached single-family dwelling, and per primary manufactured dwelling, on the same lot of record.

839.02~~3~~ ~~GENERAL STANDARDS IN THE URBAN LOW DENSITY RESIDENTIAL DISTRICTS~~

~~In the Urban Low Density Residential Districts~~Except in the VR-4/5, VR-5/7, and VTH Districts, accessory dwelling units shall comply with the following standards:

- A. Maximum Area: The maximum floor area of an accessory dwelling unit shall be ~~720900~~ square feet, except in the R-2.5 District, where the maximum shall be 500 square feet. In no case shall the total floor area of an accessory dwelling unit be larger than that of the primary dwelling unit.
- B. Entrances: If an accessory dwelling unit is attached to a primary dwelling, the accessory dwelling entrance(s) shall be on the side or rear of the building structure. An exception to this requirement may be granted if there is no ground-level access to the accessory dwelling unit, or if the primary dwelling has additional front entrances prior to the development of an accessory dwelling unit and the total number of entrances is not increased.
- ~~C. Owner Occupancy: Owner occupancy of either the accessory dwelling unit or the primary dwelling shall be required. A deed restriction requiring owner occupancy of one of the dwelling units shall be recorded prior to issuance of a building permit for the accessory dwelling unit.~~

839.03~~4~~ ~~STANDARDS IN THE VR-4/5 AND VR-5/7 DISTRICTS~~

In the VR-4/5 and VR-5/7 Districts, accessory dwelling units shall comply with the following standards:

- A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling ~~unit~~.
- B. If the accessory dwelling unit is located above a detached garage:
  - 1. The maximum floor area of the accessory dwelling unit shall be ~~720900~~ square feet.

2. The accessory dwelling unit shall be subject to the ~~dimensional~~ standards in Table 315-3, Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts, that apply to accessory structures in the VR-4/5 and VR-5/7 Districts ~~listed in Table 315-4 and to Subsections 315.05(H) and (M)~~.
- C. If the accessory dwelling unit is integral to a primary dwelling unit, it shall be subject to the ~~dimensional~~ standards in Table 315-3 that apply to primary dwellings in the VR-4/5 and VR-5/7 Districts ~~listed in Table 315-4 and to Subsections 315.05(H) and (I)~~.

#### 839.045 STANDARDS IN THE VTH DISTRICT

In the VTH District, accessory dwelling units shall comply with the following standards:

- A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling ~~unit~~.
- B. If the accessory dwelling unit is located above a detached garage:
  1. The maximum floor area of the accessory dwelling unit shall be 500 square feet.
  2. The accessory dwelling unit shall be subject to the dimensional standards in Table 315-3, Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts, that apply to accessory structures in the VTH District ~~listed in Table 315-4 and to Subsection 315.05(M)~~.
- C. If the accessory dwelling unit is integral to a primary dwelling ~~unit~~, it shall be subject to the ~~dimensional~~ standards in Table 315-3 that apply to primary dwellings in the VTH District ~~listed in Table 315-4~~ and to Subsection 1005.12(A).

#### 839.05 MANUFACTURED DWELLINGS

A manufactured dwelling may not be used as an accessory dwelling unit in any zoning district except the FF-10, RA-1, RA-2, and RRF-5 Districts. A manufactured dwelling used as an accessory dwelling unit is not subject to Section 824, Manufactured Dwellings.

**843**      **ACCESSORY HISTORIC DWELLINGS**

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**843.01**    **PROCEDURE**

An accessory historic dwelling requires review as a Type I application pursuant to Section 1307, *Procedures*.

**843.02**    **MINIMUM LOT SIZE**

An accessory historic dwelling may only be permitted on a lot of record at least two acres in size.

**843.03**    **CONVERSION IN CONJUNCTION WITH NEW DWELLING**

A. A detached single-family dwelling legally built between 1850 and 1945 may be converted from a primary dwelling to an accessory dwelling upon completion of a new detached single-family dwelling, or the placement of a manufactured dwelling, on the same lot of record.

B. As used in Subsections 843.03(A) and 843.04(A):

1. “New” means that the single-family dwelling being constructed did not previously exist in residential or nonresidential form; “new” does not include the acquisition, alteration, renovation, or remodeling of an existing structure;
2. “Placement of a manufactured dwelling” means the placement of a manufactured dwelling that did not previously exist on the subject lot of record; it may include the placement of a manufactured dwelling that was previously used as a dwelling on another lot and moved to the subject lot of record.

**843.04**    **ALTERATION AND REPLACEMENT**

A. An accessory historic dwelling may not be altered, renovated, or remodeled so that its square footage is more than 120 percent of its square footage at the time construction of the new detached single-family dwelling, or placement of a manufactured dwelling, commenced.

B. An accessory historic dwelling may not be replaced if it is lost to fire, destroyed, or removed for any reason.

**1015      PARKING AND LOADING**

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1015.01    GENERAL STANDARDS

- A. Inside the Portland Metropolitan Urban Growth Boundary (UGB), parking, loading, and maneuvering areas shall be hard-surfaced, unless a permeable surface is required for surface water management pursuant to the regulations of the surface water management authority or in order to comply with Subsection 1006.06.
- B. Outside the UGB, areas used for parking, loading, and maneuvering of vehicles shall be surfaced with screened gravel or better, and shall provide for suitable drainage.
- C. Parking and loading requirements for uses and structures not specifically listed in Tables 1015-1, *Automobile Parking Space Requirements*; 1015-2, *Minimum Required Bicycle Parking Spaces*; and 1015-3, *Minimum Required Off-Street Loading Berths* shall be subject to the requirements for the most similar use.
- D. Motor vehicle parking, bicycle parking, and loading areas shall be separated from one another.
- E. Required parking spaces and loading berths shall not be:
  - a. Rented, leased, or assigned to any other person or organization, except as provided for under Subsection 1015.02(D)(2)(a) for shared parking or Subsection 1015.04(C) for shared loading berths.
  - b. Used for storing or accumulating goods or storing a commercial or recreational vehicle, camper, or boat, rendering the space(s) useless for parking or loading operations.
  - c. Occupied by the conducting of any business activity, except for permitted temporary uses (e.g., farmers' markets).

1015.02    MOTOR VEHICLE PARKING AREA STANDARDS

- A. Off-street parking areas shall be designed to meet the following requirements:
  - 1. Off-street motor vehicle parking areas shall be provided in defined areas of the subject property. No area shall be considered a parking space unless it can be shown that the area is accessible and usable for that purpose and has required maneuvering area for vehicles. Required backing and maneuvering areas shall be located entirely onsite.
  - 2. Automobile parking spaces shall be a minimum of 8.5 feet wide and 16 feet long, except that parallel spaces shall be a minimum of 8.5 feet wide and 22 feet long.

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3. A minimum of 25 percent of required parking spaces shall be no larger than 8.5 feet wide and 16 feet long.
  4. Parking areas shall comply with minimum dimensions for curb length, stall depth, and aisle width established by the Clackamas County Roadway Standards; these dimensions are based on the orientation (e.g., 45-degree, 90-degree), length, and width of the spaces.
  5. Double-loaded, ninety-degree angle parking bays shall be utilized where possible.
  6. A minimum of one parking space or five percent of the required spaces, whichever is greater, shall be marked and signed for use as carpool/vanpool spaces. These spaces shall be the closest employee automobile parking spaces to the building entrances normally used by employees, but shall not take priority over any spaces required for individuals with disabilities.
  7. In parking lots greater than one acre, major onsite circulation drive aisles and lanes crossing to adjacent developments shall not have parking spaces accessing directly onto them.
  8. Where feasible, shared driveway entrances, shared parking and maneuvering areas, and interior driveways between adjacent parking lots shall be required.
  9. Except for parallel spaces, parking spaces heading into landscaped areas or along the perimeter of a parking lot shall be provided with a sturdy tire stop at least four inches high and located two feet within the space to prevent any portion of a car within the lot from extending over the property line.
  10. For parking spaces heading into a landscaped area, the area in front of the tire stop that is included in the parking space dimension may be landscaped instead of paved or graveled according to the following standards:
    - a. Landscaping shall be ground cover plants only;
    - b. The area in front of the tire stop that is included in the parking space dimension shall be in addition to the required minimum dimension for a landscape planter; and
    - c. The landscaped area in front of the tire stop may count toward overall site landscaping requirements established in Table 1009-1, *Minimum Landscaped Area*. However, it may not count toward perimeter landscaping requirements established in Section 1009.03(B)(1).
- B. Parking Minimums: The minimum number of parking spaces listed in Table 1015-1, *Automobile Parking Space Requirements*, applies unless modified in Subsection 1015.02(D).

1. In case of expansion of a building or use that, prior to the expansion, does not meet the minimum parking space requirements in Table 1015-1, the following provisions shall apply:
  - a. The minimum number of additional parking spaces required shall be based only on the floor area or capacity added and not the area or capacity existing prior to the expansion.
  - b. If the enlargement covers any of the pre-expansion parking spaces, lost parking spaces shall be replaced, in addition to any required additional spaces.
2. In the event more than one use occupies a single structure or parcel, the total minimum requirement for parking shall be the sum of the minimum requirements of the several uses computed separately.

C. Parking Maximums:

1. Within the UGB, the parking maximums listed in Table 1015-1, Urban Zone A, apply when an area has 20-minute peak hour transit service within one-quarter mile walking distance for bus transit or one-half mile walking distance for light rail transit.
2. Within the UGB, areas not meeting the requirements of Subsection 1015.02(C)(1), are subject to the parking maximums listed in Table 1015-1, Urban Zone B.
3. In case of expansion of a building or use with more parking spaces than the maximum allowed by Table 1015-1:
  - a. Existing parking spaces may be retained, replaced, or eliminated, provided that after the expansion, the total number of remaining spaces complies with the minimum parking space requirement of Table 1015-1 for the entire development; and
  - b. Additional parking spaces are allowed only if required to comply with the minimum parking space requirement of Table 1015-1 for the entire development after the expansion.

**Table 1015-1: Automobile Parking Space Requirements<sup>1</sup>**

Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Amusement Parks, Riding Academies, and Camps (per 1000 square feet of serving area)	0.8	None	None
Bank with Drive-in	4.3	5.4	6.5
Bowling Alleys (per alley)	3	None	None
Daycare Facilities	0.5  In addition, a passenger-loading area shall be provided on the site.	None	None
<u>Dwellings, including:</u>			
<u>Accessory Dwelling Unit, Manufactured Dwelling, or Single-Family Dwelling in RA-1, RA-2, Urban Low Density Residential, VR-4/5 or VR-5/7 District (per dwelling unit)</u>	<u>1, located behind the front setback line</u>	<u>None</u>	<u>None</u>
<u>HR District (per primary dwelling unit 800 square feet or less or per unit for accessory dwelling units)<sup>2</sup></u>	<u>1</u>	<u>None</u>	<u>None</u>
<u>HR District (per primary dwelling unit greater than 800 square feet)<sup>2</sup></u>	<u>2</u>	<u>None</u>	<u>None</u>
<u>MRR District, except congregate housing facilities (per 600 square feet of residential building area for primary dwellings or per unit for accessory dwelling units)</u>	<u>1</u>	<u>None</u>	<u>None</u>
<u>Attached Single-Family Dwelling in MR-1 or MR-2 District (per dwelling unit)</u>	<u>2</u>	<u>None</u>	<u>None</u>

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Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
<u>Attached Single-Family Dwelling in SCMU District (per dwelling unit)</u>	<u>1 onsite</u>	<u>2 onsite</u>	<u>NA</u>
<u>Attached Single-Family Dwelling in VTH District (per dwelling unit)</u>	<u>1, located in a garage</u>	<u>None</u>	<u>None</u>
<u>Two- and Three-Family Dwellings (per dwelling unit)</u>	<u>1.5</u>	<u>None</u>	<u>None</u>
<u>Manufactured Dwelling Park (per dwelling unit)</u>	<u>2</u>	<u>None</u>	<u>None</u>
<u>Multifamily Dwelling (per one-bedroom dwelling unit)</u>	<u>1.25</u>	<u>None</u>	<u>None</u>
<u>Multifamily Dwelling (per two-bedroom dwelling unit)</u>	<u>1.5</u>	<u>None</u>	<u>None</u>
<u>Multifamily Dwelling (per three-bedroom dwelling unit)</u>	<u>1.75</u>	<u>None</u>	<u>None</u>
<u>Congregate Housing Facilities (per resident)</u>	<u>0.25</u>	<u>None</u>	<u>None</u>
Hospitals	0.5	None	None
Hotels and Motels (per unit)	1	None	None
Industrial, Manufacturing, and Processing Facilities			
Zero to 24,999 square feet	1.5	None	None
25,000 to 49,999 square feet	1.42	None	None
50,000 to 79,999 square feet	1.25	None	None
80,000 square feet and greater	1	None	None
Medical and Dental Clinics	3.5	4.9	5.9



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Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Movie Theaters (per seat)	0.3	0.4	0.5
Nursing Homes, Welfare or Correctional Institutions, and Institutions for Children (per bed)	0.2	None	None
Office Uses (includes Office Park, “Flex-Space”, Government Office and Miscellaneous Services)	2.7	3.4	4.1
Places of Worship (per seat located in main assembly room), unless a school, daycare, or similar facility is proposed in conjunction with primary use, in which case it shall have separate parking requirement	0.5, or 1 per 5.3 feet of bench length in main assembly room	0.6	0.8
Produce Stands (per stand)	4	None	None
<del>Dwellings, including</del>			
<del>Single Family Dwelling or Manufactured Dwelling in Urban Low Density Residential, VR 4/5, VR 5/7, RA 1, or RA 2 District (per dwelling unit)</del>	<del>1, located behind the front yard setback line</del>	<del>None</del>	<del>None</del>
<del>Hoodland Residential District (per dwelling unit 800 square feet or less)<sup>2</sup></del>	<del>1</del>	<del>None</del>	<del>None</del>
<del>Hoodland Residential District (per dwelling unit greater than 800 square feet)<sup>2</sup></del>	<del>2</del>	<del>None</del>	<del>None</del>
<del>Mountain Recreational Resort District, except congregate housing facilities (per 600 square feet of residential building area)</del>	<del>1</del>	<del>None</del>	<del>None</del>
<del>Attached Single Family Dwelling in Medium or Medium High Density Residential District (per dwelling unit)</del>	<del>2</del>	<del>None</del>	<del>None</del>

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Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
<del>Attached Single Family Dwelling in Station Community Mixed Use District (SCMU) District (per dwelling unit)</del>	<del>1 onsite</del>	<del>2 onsite</del>	<del>NA</del>
<del>Attached Single Family Dwelling in Village Townhouse District (per dwelling unit)</del>	<del>1, located in a garage</del>	<del>None</del>	<del>None</del>
<del>Two and Three Family Dwellings (per dwelling unit)</del>	<del>1.5</del>	<del>None</del>	<del>None</del>
<del>Manufactured Dwelling Park (per dwelling unit)</del>	<del>2</del>	<del>None</del>	<del>None</del>
<del>Multifamily Dwelling (per one bedroom dwelling unit)</del>	<del>1.25</del>	<del>None</del>	<del>None</del>
<del>Multifamily Dwelling (per two bedroom dwelling unit)</del>	<del>1.5</del>	<del>None</del>	<del>None</del>
<del>Multifamily Dwelling (per three bedroom dwelling unit)</del>	<del>1.75</del>	<del>None</del>	<del>None</del>
<del>Congregate Housing Facilities (per resident)</del>	<del>0.25</del>	<del>None</del>	<del>None</del>
<del>Accessory Dwelling Units (per dwelling unit)</del>	<del>1, located behind the front yard setback line</del>	<del>None</del>	<del>None</del>
Restaurants: Fast Food with drive-thru window service	9.0	12.4	14.9
Restaurants: With no drive-thru window service, Taverns	15.0	19.1	23
Retail/Commercial, including shopping centers	4.1, except in the Clackamas Regional Center Area, 3.0	5.1	6.2

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<b>Land Use Category</b>	<b>Minimum Parking Spaces</b>	<b>Maximum Parking Spaces (Urban Zone A)</b>	<b>Maximum Parking Spaces (Urban Zone B)</b>
Retail stores with bulky merchandise, such as furniture, appliances, automobiles, service/repair shops	2	5.1	6.2
Schools: Colleges, Universities, and High Schools (per student or staff member)	0.2	0.3	0.3
Schools: Elementary and Junior High Schools (per school)	15, or 2 per classroom, whichever is less	None	None
Service Stations (per employee at peak employment period)	1	None	None
Sports Clubs/Recreation Facilities	4.3	5.4	6.5
Surface Mining	On-site vehicular parking for employees, customers and visitors, determined through Conditional Use process.	None	None
Tennis and Racquetball Courts	1	1.3	1.5
Theaters, Dance Halls, Community Clubs, Skating Rinks, Public Meeting Places (per seat, or 1 per 100 sq. ft. exclusive of stage)	0.25	None	None
Warehouse and Storage Distribution, and Terminals (air, rail, truck, water, etc.) **Maximum parking requirements apply only to warehouses 150,000 gross square feet or greater.			
Zero to 49,999 square feet	0.3	None	None
50,000 square feet and over	0.2	0.4**	0.5**

- <sup>1</sup> Parking ratios are based on spaces per 1,000 square feet of gross leasable area, unless otherwise stated.
- <sup>2</sup> On land above 3,500 feet in elevation, covered parking shall be provided for structures containing three or more dwelling units.

D. Exceptions to Parking Requirements:

1. Parking maximums in Table 1015-1 may be increased for the following:
  - a. Parking spaces in parking structures;
  - b. Fleet parking spaces;
  - c. Designated employee carpool spaces;
  - d. User-paid spaces; and
  - e. Parking spaces for vehicles for sale, lease, or rent.
2. Parking minimums in Table 1015-1 may be reduced for the following:
  - a. The total minimum requirement for parking spaces may be reduced up to 20 percent per use when shared parking is utilized.
  - b. In commercial and industrial zoning districts, available permitted on-street parking spaces on a development's street frontage may be counted toward required parking. To count as an on-street parking space, the space must comply with the minimum dimensions for a parking space established by Subsections 1015.02(A)(2) and (4).
  - c. Motorcycle parking may substitute for required automobile parking spaces as follows:
    - i. Up to five spaces or five percent of required automobile parking, whichever is less, may be utilized.
    - ii. For every four motorcycle parking spaces provided, the automobile parking requirement is reduced by one space.
    - iii. Each motorcycle space must be at least four feet wide and eight feet deep.
  - d. Electric vehicle charging stations may be installed according to the following standards:

- i. Two spaces or five percent of the minimum required parking spaces, whichever is greater, may be utilized for electric vehicle charging stations and identified exclusively for such use.
  - ii. Additional parking spaces of the minimum required parking may be utilized for electric vehicle charging stations, provided they are not identified exclusively for such use.
  - iii. Any portion of parking spaces provided that are beyond the required minimum number of parking spaces may be utilized for electric vehicle charging stations, regardless of whether they are identified exclusively for such use.
3. A parking cap applies in the SCMU District. The total number of parking spaces provided for nonresidential development (either onsite or offsite) shall not exceed the parking cap, regardless of the number of pre-existing parking spaces. Parking maximums and minimums established by Table 1015-1 shall be adjusted to the extent necessary to comply with the parking cap. The parking cap shall be calculated by the following formula:

$\text{Parking Cap} = \text{Gross Acres of the Development Site} \times 67 \text{ Parking Spaces}$
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1015.03 BICYCLE PARKING STANDARDS

A. Bicycle parking areas shall meet the following on-site locational requirements:

1. Bicycle parking racks shall be located in proximity to an entrance but shall not conflict with pedestrian needs.
2. At least 75 percent of the bicycle parking spaces shall be located within 50 feet of a public entrance to the building.
3. Bicycle parking may be provided within a building, if the location is easily accessible for bicycles.
4. Bicycle parking for multiple uses, or a facility with multiple structures, may be clustered in one or several locations within 50 feet of each building's entrance.
5. If the bicycle parking is not easily visible from the street or main building entrance, then a sign must be posted near the building entrance indicating the location of the parking facilities.

B. Bicycle parking shall be designed to meet the following requirements:

1. When more than seven bicycle parking spaces are required, a minimum of 50 percent of the spaces shall be covered. All of the required bicycle spaces for schools, park-and-ride lots, congregate housing facilities, and

multifamily dwellings shall be covered.

2. Cover for bicycle parking may be provided by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings, or freestanding shelters.

3. When more than 15 covered bicycle parking spaces are required, 50 percent of the required covered spaces shall be enclosed and offer a high level of security, e.g., bicycle lockers or a locked cage or room with locking facilities inside, to provide safe long-term parking.
4. Required bicycle parking spaces shall be illuminated.
5. Required bicycle parking areas shall be clearly marked and reserved for bicycle parking only.
6. Bicycle parking space dimensions and standards:
  - a. Bicycle parking spaces must be at least six feet long and two feet wide, and in covered situations the overhead clearance must be at least seven feet.
  - b. An aisle a minimum of five feet wide must be provided for bicycle maneuvering.
  - c. Bicycle racks must hold bicycles securely by the frame and be securely anchored.
  - d. Hanging bicycle racks and/or enclosed, stackable bike lockers may be substituted for surface racks if comparable dimensions, maneuvering, and clearance are provided to the user.
  - e. Bicycle racks must accommodate both:
    - i. Locking the frame and one wheel to the rack with a high-security U-shaped shackle lock; and
    - ii. Locking the frame and both wheels without removal of wheels to the rack with a chain or cable not longer than six feet.
7. The minimum number of bicycle parking spaces listed in Table 1015-2, *Minimum Required Bicycle Parking Spaces*, are required. If a listed use is located within the Portland Metropolitan Urban Growth Boundary (UGB), it shall have a minimum of two bicycle parking spaces or the number required by Table 1015-2, whichever is greater.
8. New multifamily residential, commercial, and institutional developments within the UGB shall designate short-term bicycle parking (less than four hours) and long-term bicycle parking (four or more hours) spaces as needed for the development.

**Table 1015-2: Minimum Required Bicycle Parking Spaces**

Land Use Category	Minimum Bicycle Parking Spaces <sup>1</sup>
Elementary Schools, Junior High Schools, Middle Schools, Senior High Schools, and Colleges (per classroom)	2  (maximum required spaces – 100)
Multifamily Dwellings (per dwelling unit)	0.5
Park-and-Ride Lots, Transit Centers, and Community Parks (per acre)	5
Preschools	4
Residential Care Facilities, Nursing Homes, and Hospitals (per 8 beds)	1
Retail and Commercial including offices and clinics	
Per 2,500 square feet, up to 50,000 square feet	1
Per each additional 5,000 square feet	1
Theaters, Places of Worship, Auditoriums, Dance Halls and other Public Assembly Places (per 40 seats or per 40 persons of design capacity, whichever is greater)	1
Warehouses and industrial buildings without attached offices, automotive service uses such as service stations and tire stores, and businesses selling large items such as major appliances, furniture, cars, or boats (per 10,000 square feet of building area)	1

<sup>1</sup> Minimums outside the UGB are 20 percent of the requirement listed in Table 1015-2.

1015.04 OFF-STREET LOADING STANDARDS

- A. No area shall be considered a loading berth unless it can be shown that the area is accessible and usable for that purpose, and has maneuvering area for vehicles.
- B. In cases of expansion of a building or use, that prior to the expansion, does not meet the minimum loading berth requirements in Table 1015-3, *Minimum Required Off-Street Loading Berths*, the following provisions shall apply:



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1. The minimum number of additional loading berths required shall be based only on the floor area or capacity added and not on the area or capacity existing prior to the expansion.
  2. If the expansion covers any pre-expansion loading berths, lost loading berths shall be replaced, in addition to any required additional berths.
- C. In the event several uses occupy a single structure or parcel of land and share the same loading berths, the total requirement for off-street loading shall be reduced by up to 25 percent of the sum of the requirements of the several uses computed separately.
- D. The minimum off-street loading berths listed in Table 1015-3 are required.

**Table 1015-3: Minimum Required Off-Street Loading Berths**

<b>Land Use Category</b>	<b>Unit of Measurement</b>	<b>Number of Loading Berths</b>	<b>Minimum Required Dimension</b>
Multifamily Dwellings	Number of Dwelling Units		25 feet x 12 feet x 14 feet high
	Below 50	None	
	50 to 100	1	
	101 to 200	2	
	201 or more	3	
Hotels and Motels	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 50,000	1	
	50,001 to 150,000	2	
	150,001 to 300,000	3	
	300,001 to 500,000	4	
	For each additional 200,000	1 additional berth	

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<b>Land Use Category</b>	<b>Unit of Measurement</b>	<b>Number of Loading Berths</b>	<b>Minimum Required Dimension</b>
Institutional Uses			
Nursing Homes, Welfare or Correctional Institutions, and Institutions for Children	Number of beds		35 feet x 12 feet x 14 feet high
	Less than 25	0	
	More than 25	1	
Assisted Living Facilities	Square feet of floor area		
	Below 10,000	None	
	10,000 to 60,000	1	
	60,001 to 160,000	2	
	160,001 to 264,000	3	
	388,001 to 520,000	5	
	520,001 to 652,000	6	
	652,001 to 784,000	7	
	784,001 to 920,000	8	
	For each additional 140,000	1 additional berth	
Schools	Per each school bus	0.5	

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<b>Land Use Category</b>	<b>Unit of Measurement</b>	<b>Number of Loading Berths</b>	<b>Minimum Required Dimension</b>
Hospitals	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 16,000	1	
	16,001 to 40,000	2	
	40,001 to 64,000	3	
	64,001 to 96,000	4	
	96,001 to 128,000	5	
	128,001 to 160,000	6	
	160,001 to 196,000	7	
	For each additional 36,000	1 additional berth	
Commercial Uses	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 24,999	1	
	25,000 to 49,999	2	
	50,000 to 100,000	3	
	Each additional 50,000	1	

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<b>Land Use Category</b>	<b>Unit of Measurement</b>	<b>Number of Loading Berths</b>	<b>Minimum Required Dimension</b>
Industrial, Manufacturing, Warehousing, Storage, Processing, and Terminals	Square feet of floor area		60 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 16,000	1	
	16,001 to 40,000	2	
	40,001 to 64,000	3	
	64,001 to 96,000	4	
	96,001 to 128,000	5	
	128,001 to 160,000	6	
	160,001 to 196,000	7	
	For each additional 36,000	1 additional berth	

[Added by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-266, 5/23/18]

**1204 TEMPORARY PERMITS**

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1204.01 PURPOSE AND APPLICABILITY

Section 1204 is adopted to provide standards, criteria, and procedures under which a temporary permit may be approved. Temporary permits may be approved in any zoning district, except that temporary permits for uses otherwise prohibited are not permitted in the EFU, TBR, and AG/F Districts.

1204.02 TEMPORARY USE OTHERWISE PROHIBITED

- A. A temporary permit for a use otherwise prohibited requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:
1. The use for which a temporary permit is requested is not listed as a primary, accessory, limited, or conditional use in the applicable zoning district;
  2. There is no reasonable alternative to the temporary use;
  3. The permit will be necessary for a limited time;
  4. The temporary use will not include the construction of a substantial structure or require a permanent commitment of the land; and
  5. The temporary use will not have a materially adverse effect on the surrounding area.
- B. A temporary permit for a use otherwise prohibited may be approved for a period not to exceed one year. The permit may be renewed, subject to review as a Type II application pursuant to Section 1307, for a period not to exceed one year. A renewal shall be subject to the same approval criteria as an initial permit. A temporary permit for a use otherwise prohibited may be renewed an unlimited number of times.

1204.03 TEMPORARY DWELLING WHILE BUILDING

- A. A temporary permit for a dwelling while building shall require review as a Type I application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:
1. The temporary dwelling will be a manufactured dwelling that does not comply with all applicable requirements for a permanent dwelling, a residential trailer, or a recreational vehicle.
  2. A building permit to construct a permanent dwelling has been issued for the lot of record or tract on which the temporary dwelling will be located; and

3. The temporary dwelling will be occupied by the owner of the subject lot of record or tract.
- B. If a valid building permit for a permanent dwelling on the subject lot of record or tract is not maintained, the temporary permit shall become void on the day the building permit lapses.
- C. A temporary permit for a dwelling while building shall be subject to the following conditions of approval:
1. The temporary dwelling shall be connected to a sanitary sewer system or to an on-site wastewater treatment system approved by the County.
  2. The temporary dwelling shall comply with the minimum yard depth standards for primary buildings in the applicable zoning district.
  3. If the temporary dwelling is a manufactured dwelling or residential trailer, it shall be removed from the subject property when the permit expires or the permanent dwelling is occupied, whichever first occurs. If the temporary dwelling is a recreational vehicle, it shall be removed from the subject property or placed in a stored condition when the permit expires or the permanent dwelling is occupied, whichever first occurs. A recreational vehicle shall be deemed to be placed in a stored condition when it ceases to be used for residential purposes and is disconnected from any on-site wastewater treatment system and all utilities other than temporary electrical connections for heating necessary to avoid physical deterioration. Storage of a recreational vehicle shall comply with all other applicable requirements of this Ordinance.
- D. A temporary permit for a dwelling while building may be approved for a period not to exceed two years. The permit may not be renewed. A renewal shall be the same or any substantially similar application filed within two years of the date a previous temporary permit for a dwelling while building expired.

1204.04 TEMPORARY DWELLING FOR CARE

- A. A temporary permit for a dwelling for care requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:
1. The temporary dwelling will be a manufactured dwelling, residential trailer, or recreational vehicle.
  2. The temporary dwelling will be occupied by a person or persons who require(s) care or who will provide care. This provision shall not prevent persons in addition to the care recipient(s) or the care provider(s) from occupying the temporary dwelling provided such occupancy is consistent with the remaining provisions of Subsection 1204.04.

3. The temporary dwelling will be located on the same lot of record or tract as a lawfully established permanent dwelling. The permanent dwelling will be occupied by the person(s) receiving care from the occupant(s) of the temporary dwelling or by the person(s) providing care to the occupant(s) of the temporary dwelling. This provision shall not prevent persons in addition to the care recipient(s) or the care provider(s) from occupying the permanent dwelling, provided such occupancy is consistent with the remaining provisions of Subsection 1204.04.
  4. There exists a need for care. The need shall be documented by a signed statement from a licensed healthcare provider. The statement shall be dated within 90 days preceding the date the application is submitted and shall identify the care recipient, generally indicate that an age-related and/or medical condition results in a need for care, and substantiate that the type of assistance required by the patient is consistent with the type of assistance identified in the definition of care in Subsection 1204.04(B).
  5. There exists no reasonable housing alternative in the form of adequate housing on the subject lot of record or tract. A determination regarding the reasonableness of the care recipient and the care provider occupying the permanent dwelling together, and the reasonableness of either residing in an existing accessory dwelling unit or an existing accessory historic dwelling on the subject lot of record or tract, shall be made based on the size and floor plan of the permanent dwelling, and of any accessory dwelling unit(s) or accessory historic dwellings(s) on the lot of record or tract, with consideration for maintaining a degree of privacy and independence for both the care recipient and the care provider; and
  6. There exists no reasonable alternative care provider. Alternative care providers who shall be considered include:
    - a. Other adults who live with the care recipient; and
    - b. Other relatives of the care recipient who live nearby. This alternative shall only be considered in cases where the care recipient currently resides on the subject lot of record or tract; and
  7. There is no other temporary dwelling for care on the subject lot of record or tract.
- B. As used in Subsection 1204.04, care means assistance, required as a result of age or poor health, that is given to a specific person in the activities of daily living, which may include, but are not necessarily limited to, bathing, grooming, eating, medication management, ambulation, and transportation, or care means daily supervision of a specific person when such supervision is required due to cognitive impairment. As used in Subsection 1204.04, care does not include assistance with improvement or maintenance of property in the absence of a



documented need for assistance with personal activities or a need for personal supervision due to cognitive impairment. Care does not include financial hardship alone.

- C. A temporary permit for a dwelling for care shall be subject to the following conditions of approval:
1. The temporary dwelling shall be connected to a sanitary sewer system or to an on-site wastewater treatment system approved by the County. The temporary dwelling shall use the same on-site wastewater treatment system used by the permanent dwelling, if that system is adequate to accommodate the additional dwelling. An exception may also be granted if more than one lawfully established on-site wastewater treatment system exists on the subject lot of record or tract.
  2. The temporary dwelling shall comply with the minimum yard depth standards for primary buildings in the applicable zoning district.
  3. All water, electricity, natural gas, and sanitary sewer service for the temporary dwelling shall be extended from the permanent dwelling services. No separate meters for the temporary dwelling shall be allowed. An exception may be granted if the utility provider substantiates that separate service is required or if more than one lawfully established service exists on the subject lot of record or tract.
  4. The temporary dwelling shall use the same driveway entrance as the permanent dwelling, although the driveway may be extended. An exception may be granted if more than one lawfully established driveway entrance to the subject lot of record or tract exists.
  5. The temporary dwelling shall be located within 100 feet of the permanent dwelling. This distance shall be measured from the closest portion of each structure. This distance may be increased if the applicant provides evidence substantiating that steep slopes, significant natural features, significant existing landscaping, existing structures, other physical improvements, or other similar constraints prevent compliance with the separation distance standard. The increase shall be the minimum necessary to avoid the constraint. An exception may also be granted if the temporary dwelling will be sited in the same or substantially similar location as a previous, lawfully established temporary dwelling for care.
  6. A written statement shall be recorded in the County deed records recognizing that a dwelling approved pursuant to Subsection 1204.04 is temporary and that the temporary permit is not transferable when the property is conveyed to another party.
  7. The temporary dwelling shall not be a source of rental income.

8. If the temporary dwelling is a manufactured dwelling or residential trailer, it shall be removed from the subject property when the permit expires or the need for care ceases, whichever first occurs. An exception to this provision may be granted if a temporary manufactured dwelling is converted to a permanent dwelling. Such a conversion shall be allowed only if the temporary dwelling complies with all applicable standards of this Ordinance for a permanent dwelling, including any that limit the number of dwelling units permitted on the subject property. If the temporary dwelling is a recreational vehicle, it shall be removed from the subject property or placed in a stored condition when the permit expires or the need for care ceases, whichever first occurs. A recreational vehicle shall be deemed to be placed in a stored condition when it ceases to be used for residential purposes and is disconnected from any on-site wastewater treatment system and all utilities other than temporary electrical connections for heating necessary to avoid physical deterioration. Storage of a recreational vehicle shall comply with all other applicable requirements of this Ordinance.
- D. A temporary permit for a dwelling for care may be approved for a period not to exceed two years in the EFU, TBR, and AG/F Districts and for a period not to exceed three years in any other zoning district. The permit may be renewed, subject to review as a Type II application pursuant to Section 1307, for a period not to exceed two years in the EFU, TBR, and AG/F Districts and three years in any other zoning district. A temporary permit for a dwelling for care may be renewed an unlimited number of times.
  - E. In lieu of Subsections 1204.04(A) and (B), a renewal application shall be subject to the following standards and criteria:
    1. The circumstances that provided the basis on which the previous permit was granted remain substantially similar.
    2. A renewal application shall be accompanied by a signed statement from a licensed healthcare provider. The statement shall be dated within 90 days preceding the date the application is submitted and shall identify the care recipient and substantiate that the level of assistance required is substantially similar to, or greater than, the level required when the previous permit was granted.
  - F. An application shall be evaluated as a renewal application rather than a new application if the permit is requested for the same lot of record or tract and the same care recipient as the previous permit.

1204.05 TEMPORARY EMERGENCY SHELTER

- A. A temporary permit for emergency shelter requires review as a Type I application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

1. A lawfully established dwelling or business located on the subject lot of record or tract has been destroyed, substantially damaged, or rendered unsafe to occupy due to fire or natural disaster.
  2. The temporary shelter will be a manufactured dwelling that does not comply with all applicable requirements for a permanent dwelling, a residential trailer, or a recreational vehicle for residential purposes, or a commercial office trailer for business purposes.
- B. A temporary permit for emergency shelter shall be initially approved for 60 days. If replacement or repair of the dwelling or business is lawfully commenced within 60 days of the date the permit is initially approved, the approval shall automatically be extended for two years from the date of initial approval. Lawfully commenced means the filing of a complete application for a land use, building, on-site wastewater treatment, grading, manufactured dwelling, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin replacement or repair of the destroyed or damaged structure. If replacement or repair is not lawfully commenced within 60 days of the date the temporary permit is initially approved, the temporary permit shall become void on the sixty-first day.
- C. A temporary permit for emergency shelter shall be subject to the following conditions of approval:
1. The temporary shelter shall be connected to a sanitary sewer system or to an on-site wastewater treatment system approved by the County.
  2. The temporary shelter shall comply with the minimum yard depth standards for primary buildings in the applicable zoning district.
  3. If the temporary shelter is a manufactured dwelling, residential trailer, or commercial office trailer, it shall be removed from the subject property when the permit expires or the permanent building is occupied, whichever first occurs. If the temporary shelter is a recreational vehicle, it shall be removed from the subject property or placed in a stored condition when the permit expires or the permanent building is occupied, whichever first occurs. A recreational vehicle shall be deemed to be placed in a stored condition when it ceases to be used for residential purposes and is disconnected from any on-site wastewater treatment system and all utilities other than temporary electrical connections for heating necessary to avoid physical deterioration. Storage of a recreational vehicle shall comply with all other applicable requirements of this Ordinance.
- D. A temporary permit for emergency shelter may not be renewed. A renewal shall be the same or any substantially similar application filed within two years of the date a previous temporary permit for emergency shelter expired.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-248, 10/13/14]

**1307 PROCEDURES**

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1307.01 PURPOSE

Section 1307 is adopted to:

- A. Implement the goals and policies of the Comprehensive Plan for citizen involvement and the planning process;
- B. Establish uniform procedures for the review of land use applications and legislative land use proposals;
- C. Facilitate timely review of land use applications by the County;
- D. Clarify the land use application review process for applicants; and
- E. Enable the public to effectively participate in the County's land use permit decision-making process.

1307.02 APPLICABILITY

Section 1307 applies to all land use permit applications and all legislative land use proposals under this Ordinance.

- A. No person shall engage in or cause development to occur without first obtaining the necessary land use permit approvals required by, and according to the procedures in, Section 1307.
- B. Where the provisions of Section 1307 conflict with other provisions of this Ordinance, the more specific provisions shall control.

1307.03 REVIEW AUTHORITIES

- A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding land use permit applications and legislative land use proposals. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and establishes:
  - 1. The review authority charged with making the initial decision;
  - 2. The review authority charged with making the decision on the initial County-level appeal, if any;
  - 3. The review authority charged with making the decision on the second County-level appeal, if any; and

4. Those circumstances where an additional review authority is charged with making a recommendation on the application or proposal to the decision maker.
- B. Planning Director: Pursuant to Oregon Revised Statutes 215.042, the Planning Director is the County official designated to administer land use planning in the County. In this role, the Planning Director administers the Comprehensive Plan and this Ordinance, issues decisions on certain land use permit applications, and provides administrative support to other review authorities. As used in this Ordinance, the term Planning Director includes any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by this Ordinance.
- C. Hearings Officer: Pursuant to ORS 215.406, the Hearings Officer is appointed by the Board of County Commissioners to conduct public hearings and issue decisions on certain land use permit applications.
- D. Historic Review Board: The Historic Review Board is designated as an advisory body on matters pertaining to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district and has the powers and duties described in Sections 707 and 1307.
1. The Historic Review Board shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
  2. Historic Review Board members shall have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of historic preservation. Three positions on the Historic Review Board shall be filled as follows:
    - a. One architect, with knowledge in historic restoration;
    - b. One contractor, with expertise in construction techniques applied to historic structures; and
    - c. One representative from a historic group in the County.
  3. Unless otherwise provided for, members of the Historic Review Board shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
  4. If a member of the Historic Review Board does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Historic Review Board until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(D)(3).
  6. The Historic Review Board shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
  7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- E. Design Review Committee: The Design Review Committee is designated as an advisory body on matters pertaining to the design review process and has the powers and duties described in Sections 1102 and 1307.
1. The Design Review Committee shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
  2. Five positions on the Design Review Committee shall be filled as follows:
    - a. One landscape architect;
    - b. One architect;
    - c. One registered engineer;
    - d. One graphic design representative; and
    - e. One representative from the field of finance or the construction and development industry.
  3. Unless otherwise provided for, members of the Design Review Committee shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
  4. If a member of the Design Review Committee does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
  5. A member whose term has ended may continue to serve on the Design Review Committee until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(E)(3).

6. The Design Review Committee shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
  7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- F. Planning Commission: The Planning Commission is designated as the land use planning advisory body to the Board of County Commissioners and acts as the decision maker on an initial appeal of the Planning Director's interpretation of the Comprehensive Plan. The Planning Commission shall have the powers and duties described in Section 1307 and such other powers and duties as may be imposed on it by County, state, or federal law.
1. The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.
  2. Members of the Planning Commission shall be residents of the various geographic areas of the County. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.
  3. Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
  4. If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
  5. A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(F)(3).
  6. The Planning Commission shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.



7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

G. Board of County Commissioners: The Board of County Commissioners is the governing body of the County and is the final County decision maker on legislative land use proposals and certain land use permit applications.

#### 1307.04 REVIEW PROCEDURE TYPES

- A. Land use permits and legislative land use proposals provided for under this Ordinance are classified as one of four types, each of which is subject to a corresponding review procedure. The four types are described as follows:
  1. Type I permits are ministerial in nature and involve land use actions governed by non-discretionary standards and clear and objective approval criteria. Approval of a Type I permit may require imposition of conditions of approval to ensure compliance with this Ordinance. The Type I procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
  2. Type II permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
  3. Type III permits are quasi-judicial in nature, and involve land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.
  4. Type IV proposals are legislative in nature, and involve the creation, broad-scale implementation, or revision of public policy. These include amendments to the text of the Comprehensive Plan or this Ordinance. Large-scale changes in the Comprehensive Plan Land Use Plan maps and zoning maps also may be characterized as legislative where a larger number of property owners are directly affected.

B. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and assigns a procedure type to each. In the event that the procedure type for a land use permit application is not identified in Table 1307-1, specified elsewhere in this Ordinance, or otherwise required by law, the Planning Director shall determine the applicable procedure based on the guidelines in Subsection 1307.04(A). Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

1. As used in Table 1307-1:
  - a. “PD” means Planning Director.
  - b. “HO” means Hearings Officer.
  - c. “PC” means Planning Commission.
  - d. “BCC” means Board of County Commissioners.
  - e. Numbers in superscript correspond to the notes that follow Table 1307-1.

**Table 1307-1: Land Use Permits by Procedure Type**

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
<u>Accessory Historic Dwelling</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
AG/F District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(C)]	I	No	PD	No County-Level Appeal
AG/F District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(5)]	III	No	HO	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 407-1	II	No	PD	HO

**CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE**

<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Comprehensive Plan Map Amendment <sup>1</sup>	III or IV	Type III Only	BCC	No County-Level Appeal
Comprehensive Plan Text Amendment	IV	No	BCC	No County-Level Appeal
Conditional Use	III	Yes	HO	No County-Level Appeal
Condominium Plat <sup>2</sup>	I	No	PD	No County-Level Appeal
Conversion of a Manufactured Dwelling Park or a Mobile Home Park to a Subdivision	I	No	PD	No County-Level Appeal
Design Review <sup>3</sup>	II	Yes	PD	HO
EFU District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(C)]	I	No	PD	No County-Level Appeal
EFU District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(5)]	III	No	HO	No County-Level Appeal
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1	II	No	PD	HO
Farmers' Market	II	No	PD	HO

**CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE**

<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Floodplain Development	II	No	PD	HO
Floodway, Fish Enhancement Project [pursuant to Subsection 703.07(F)]	I	No	PD	No County-Level Appeal
Gathering subject to review under Oregon Revised Statutes 433.763	III	Yes	PC	BCC
Habitat Conservation Area District	See Subsection 706.06	No	See Subsection 706.06	See Subsection 706.06
Historic Landmark, Historic District, and Historic Corridor, Maintenance	I	No	PD	No County-Level Appeal
Historic Landmark, Historic District, and Historic Corridor, Major Alteration <sup>4</sup>	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Minor Alteration	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Moving or Demolition <sup>4</sup>	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction <sup>4</sup>	II	Yes	PD	HO
Home Occupation, Major, New, with an Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, New, without an Exception	II	No	PD	HO

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Home Occupation, Major, Renewal, with a New Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, Renewal, without a New Exception	II	No	PD	HO
Interpretation, Comprehensive Plan <sup>5</sup>	II	No	PD	PC
Interpretation, Zoning and Development Ordinance <sup>6</sup>	II	No	PD	HO
Marijuana Processing in the AG/F and EFU Districts	II	No	PD	HO
Marijuana Production, if regulated by Section 841, <i>Marijuana Production, Processing, and Retailing</i>	I	No	PD	No County-Level Appeal
Marijuana Retailing	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Extraction Area Permit	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Impact Area Permit	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Two	I	No	PD	No County-Level Appeal

**CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE**

<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Mobile Vending Unit, Level Three	II	Yes	PD	HO
Modification	II	No	PD	HO
Nonconforming Use, Alteration not Required by Law	II	No	PD	HO
Nonconforming Use, Verification	II	No	PD	HO
Open Space, Conflict Resolution for Wetlands and Significant Natural Areas	II	No	PD	HO
Open Space Review	II	No	PD	HO
Partition	II	Yes	PD	HO
Principal River Conservation Area	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, Expansion of Existing Use [pursuant to Subsection 712.05(B)]	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, New Use [pursuant to Subsection 712.06]	III	No	HO	No County-Level Appeal
Public Use Airport and Safety Overlay Zones, Use Permitted Subject to Review [pursuant to Subsection 713.05]	III	No	HO	No County-Level Appeal
Property Line Adjustment [except pursuant to Subsection 1107.04(C)(2)(b), 1107.04(C)(2)(c), or 1107.04(D)(3)]	I	No	PD	No County-Level Appeal

**CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE**

<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Property Line Adjustment [pursuant to Subsection 1107.04(C)(2)(b), 1107.04(C)(2)(c), or 1107.04(D)(3)]	II	No	PD	HO
Replat (number of lots or parcels proposed to increase)	II	Yes	PD	HO
Replat (number of lots or parcels proposed to decrease or remain the same)	I	No	PD	No County-Level Appeal
Sensitive Bird Habitat District, Alteration or Development	II	No	PD	HO
Sign Permit	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.01(A)]	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.01(B)]	II	No	PD	HO
Stream Conservation Area	II	No	PD	HO
Subdivision, Major	III	Yes	HO	No County-Level Appeal
Subdivision, Minor	II	Yes	PD	HO
TBR District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]	I	No	PD	No County-Level Appeal

**CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE**

<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
TBR District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 406-1	II	No	PD	HO
Temporary Dwelling for Care	II	No	PD	HO
Temporary Dwelling while Building	I	No	PD	No County-Level Appeal
Temporary Structure for Emergency Shelter	I	No	PD	No County-Level Appeal
Temporary Use Otherwise Prohibited	II	No	PD	HO
Time Extension	II	No	PD	HO
Variance	II	No	PD	HO
Vested Right Determination	II	No	PD	HO
Water Quality Resource Area District	See Subsection 709.06	No	See Subsection 709.06	See Subsection 709.06
Willamette River Greenway	II	No	PD	HO
Willamette River Greenway, Timber Harvest [pursuant to Subsection 705.03(I)]	II	No	PD	HO
Wireless Telecommunication Facility [pursuant to Subsection 835.04]	I	No	PD	No County-Level Appeal



CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Wireless Telecommunication Facility, with an Adjustment [pursuant to Subsection 835.05]	III	No	HO	No County-Level Appeal
Wireless Telecommunication Facility, without an Adjustment [pursuant to Subsection 835.05]	II	No	PD	HO
Zone Change <sup>7</sup>	III or IV	Type III Only	HO, Type III BCC, Type IV	No County-Level Appeal
Zoning and Development Ordinance Text Amendment	IV	No	BCC	No County-Level Appeal

Notes to Table 1307-1:

- <sup>1</sup> The Type III procedure shall be modified to include Planning Commission public hearing and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing. In the case of a Comprehensive Plan amendment related to the designation of a Historic Landmark, Historic District, or Historic Corridor, both the Type III and Type IV procedures shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.
- <sup>2</sup> If condominium platting is proposed as part of a design review application, a separate condominium plat application is not required.
- <sup>3</sup> The Type II procedure may be modified, pursuant to Subsection 1102.04(A) or (B), to include Design Review Committee review and recommendation to the Planning Director prior to issuance of the Planning Director’s decision.

- 4 The Type II procedure shall be modified to include Historic Review Board review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.
  - 5 The Type II procedure shall be modified to allow the Planning Commission's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(1).
  - 6 The Type II procedure shall be modified to allow the Hearings Officer's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(2).
  - 7 In the case of a zone change related to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district, the Type III procedure shall be modified to designate the Board of County Commissioners as the initial decision review authority and to include Historic Review Board review and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing, and the Type IV procedure shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.
- C. Notwithstanding any other provision in Section 1307, except for an application for an interpretation of the Comprehensive Plan, an applicant may choose to process a Type II land use permit application using the Type III procedure, and the Hearings Officer shall be the review authority for the initial decision. The decision of the Hearings Officer shall be the final decision of the County, except for an application for an interpretation of this Ordinance, in which case appeal to the Board of County Commissioners is allowed pursuant to Subsection 1307.13(E)(2).

#### 1307.05 PRE-APPLICATION CONFERENCE

- A. Purpose: Pre-application conferences are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.
- B. Applicability: Table 1307-1 identifies the land use permit applications for which pre-application conferences are mandatory. Pre-application conferences are voluntary for all other land use permit applications.

- C. Submittal Requirements: Pre-application conference requests shall include:
1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:
    - a. The names, mailing addresses, and telephone numbers of the applicant(s);
    - b. The address of the subject property, if any, and its assessor's map and tax lot number;
    - c. The size of the subject property;
    - d. The Comprehensive Plan designation and zoning district of the subject property;
    - e. The type of application for which the pre-application conference is requested;
    - f. A brief description of the proposal for which the pre-application conference is requested; and
    - g. Signature(s) of the applicant(s), authorizing the filing of the pre-application request.
  2. Additional information necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow County staff to review and comment; and
  3. Payment of the applicable fee, pursuant to Subsection 1307.15.
- D. Scheduling: Upon receipt of a complete application, the Planning Director will schedule the pre-application conference. The Planning Director will coordinate the involvement of other County departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.
- E. Summary: Subsequent to the pre-application conference, the Planning Director will provide the applicant with a written summary of the conference. The purpose of the written summary is to provide a preliminary assessment of the proposal, but shall not be deemed to be a recommendation by the County or any other outside agency or service provider on the merits of the proposal.
- F. Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences: A follow-up pre-application conference is required for those mandatory pre-application conferences that have already been held when:
1. A complete application relating to the proposed development has not been submitted within one year of the pre-application conference; or

2. The proposed use, layout, or design of the proposed development has changed significantly.

1307.06 REVIEW OF MULTIPLE APPLICATIONS

When multiple land use permits for the same property are required or proposed by an applicant, all of the applications may be filed concurrently. Each application shall be processed separately using the procedure identified in Table 1307-1 for that application, except that applications filed concurrently shall be processed through a consolidated procedure if:

- A. One of the applications is a Type III application for a Comprehensive Plan map amendment, in which case the Type III Comprehensive Plan map amendment procedure shall be used;
- B. Multiple land use permit applications are subject to the same procedure type with the same initial decision and appeal review authorities. Applications for an interpretation of this Ordinance are excluded from this consolidation provision; or
- C. The applicant elects to process multiple applications through a consolidated procedure, if such consolidation is consistent with Subsection 1307.04(C).

1307.07 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

- A. Initiation of Applications: Type I, II, and III land use permit applications may be initiated by:
  1. The owner of the subject property;
  2. The contract purchaser of the subject property, if the application is accompanied by proof of the purchaser's status as such;
  3. The agent of the owner or contract purchaser of the subject property, if the application is duly authorized in writing by the owner or the contract purchaser, and accompanied by proof of the agent's authority; or
  4. If the application is for Comprehensive Plan designation or zoning of a Historic District or Historic Corridor, the owners or contract purchasers of at least 60 percent of the property within the area to be so designated or zoned.
- B. Initiation of Legislative Proposals: Type IV legislative land use proposals may be initiated by the Board of County Commissioners, the Planning Commission, or the Planning Director. However, initiation of a legislative proposal does not obligate the County to further processing of the proposal pursuant to Subsection 1307.11, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.

- C. Application Submittal: Type I, II, and III land use permit applications are subject to the following submittal requirements:
1. The following shall be submitted for an application to be complete:
    - a. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:
      - i. The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
      - ii. The address of the subject property, if any, and its assessor's map and tax lot number;
      - iii. The size of the subject property;
      - iv. The Comprehensive Plan designation and zoning district of the subject property;
      - v. The type of application being submitted;
      - vi. A brief description of the proposal; and
      - vii. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.
    - b. A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval criterion and standard and each item on the supplemental application form;
    - c. Any additional information required under this Ordinance for the specific land use permit sought; and
    - d. Payment of the applicable fee, pursuant to Subsection 1307.15.
  2. The Planning Director, at his or her sole discretion, may waive a submittal requirement of Subsection 1307.07(C)(1)(b) or (c), if the Planning Director determines that the requirement is not material to the review of the application.
  3. Each application, when received by the Planning Director, shall be date-stamped with the date the application was received.

- D. Completeness of a Type I Application: If a Type I application is not complete when submitted, and the applicant does not make it complete within 60 days of submittal, the application is void.
- E. Completeness Review for Type II and III Applications: After it is submitted, a Type II or III land use permit application shall be reviewed for completeness, as follows:
1. Except as otherwise provided under Oregon Revised Statutes 215.427, the Planning Director shall review an application for completeness within 30 days of its receipt.
  2. Determination of completeness shall be based upon the submittal requirements of Subsection 1307.07(C)(1) and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.
  3. If an application is determined to be complete, review of the application shall commence.
  4. If an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:
    - a. All of the missing information;
    - b. Some of the missing information and written notice from the applicant that no other information will be provided; or
    - c. Written notice from the applicant that none of the missing information will be provided.
  5. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(4), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
  6. On the 181st day after first being submitted, the application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(4) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(4).

1307.08 TYPE I MINISTERIAL PROCEDURES

Type I land use permit applications are subject to the following procedure:

- A. Notice of Application: Notice of application is not provided.
- B. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision.
- C. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof.
- D. Appeal: The review authority's decision is the final decision of the County.

1307.09 TYPE II ADMINISTRATIVE PROCEDURES

Type II land use permit applications are subject to the following procedures:

- A. Notice of Application: Notice of application shall be provided as follows:
  - 1. A minimum of 20 days prior to the issuance of a decision, written notice of application shall be mailed to:
    - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
    - b. All property owners of record, pursuant to Subsection 1307.16(C), within:
      - i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;
      - ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or
      - iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district;
    - c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.
    - d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

- e. Cities, as prescribed in applicable urban growth management agreements;
  - f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
  - g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
  - h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and
  - i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
2. At a minimum, notice of application shall include:
- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
  - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - e. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  - f. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and
  - g. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.
3. A minimum of 20 days prior to the issuance of a decision, a copy of the submitted application shall be mailed to those identified in Subsections 1307.09(A)(1)(d) through (i).



- 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. The decision also shall include:
1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
  2. The conditions of approval, if any;
  3. The street address or other easily understood geographical reference to the subject property;
  4. The name and telephone number of the County staff member to contact where additional information may be obtained;
  5. A statement that the complete application file is available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  6. The date the review authority's decision becomes effective, unless appealed;
  7. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;
  8. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Subsection 1307.09(C) may appeal the decision by filing a written appeal, and including the date and time by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and
  9. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- 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.

1307.10 TYPE III QUASI-JUDICIAL PROCEDURES

Type III land use permit applications are subject to the following procedures:

- A. Notice of Application and Public Hearing: Notice of application and public hearing shall be provided as follows:
1. Notice shall be provided to the Oregon Department of Land Conservation and Development (DLCD), if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.
  2. A minimum of 35 days prior to the first evidentiary hearing on the application, a copy of the submitted application shall be mailed to:
    - a. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
    - b. Cities, as prescribed in applicable urban growth management agreements;
    - c. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
    - d. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
    - e. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and
    - f. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
  3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:
    - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
    - b. All property owners of record, pursuant to Subsection 1307.16(C), within:
      - i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;

- ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or
  - iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district.
  - iv. If the application is for a zone change to apply the MAO District, the distances set forth in Subsections 1307.10(A)(3)(b)(i) through (iii) shall be increased to 1,000 feet from the outer boundary of the proposed impact area under Section 708;
- c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.
  - d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
  - e. Cities, as prescribed in applicable urban growth management agreements;
  - f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
  - g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
  - h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;
  - i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416; and
  - j. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.
4. At a minimum, notice of application and hearing shall include:

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- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
  - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - e. Date, time, and location of the hearing;
  - f. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;
  - g. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - h. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  - i. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;
  - j. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and
  - k. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.10(E).
5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

- B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.
- C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.
- D. Decision: The review authority shall consider the record 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. The decision also shall include:
1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
  2. The conditions of approval, if any;
  3. The street address or other easily understood geographical reference to the subject property;
  4. The date the review authority's decision becomes effective, unless appealed; and
  5. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision by filing a written appeal; the date by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- E. Notice of Decision: A copy of the decision shall be mailed to:
1. Those identified in Subsections 1307.10(A)(3)(a) and (d) through (i);
  2. Anyone who provided evidence, argument, or testimony as part of the record;
  3. Anyone who made a written request for notice of decision; and
  4. DLCD, if required pursuant to ORS 197.615. Procedures for the giving of the required notice to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.

- F. Appeal: The review authority's decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.13(E). Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

1307.11 TYPE IV LEGISLATIVE PROCEDURES

Type IV legislative land use proposals are subject to the following procedures:

- A. Notice of Proposal and Public Hearing: Notice of proposal and hearing shall be provided as follows:
1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.
  2. Notice shall be provided to the Metropolitan Service District, if required pursuant to Section 3.07.820 of the Code of the Metropolitan Service District. Procedures for the giving of the required notice shall be those established by Section 3.07.820 of the Code of the Metropolitan Service District.
  3. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, a minimum of 35 days prior to the first public hearing, a copy of the text, showing proposed additions and deletions, shall be made available to the public for review. All active community planning organizations, hamlets, and villages that are recognized by the County shall be notified when it becomes available.
  4. A minimum of 20 days prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:
    - a. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, all active community planning organizations, hamlets, and villages that are recognized by the County;
    - b. For proposed Comprehensive Plan Land Use Plan map amendments and zone changes, any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
    - c. Cities, as prescribed in applicable urban growth management agreements; and
    - d. Those special districts and government agencies deemed by the Planning Director to have an interest in the proposal.

5. At a minimum, notice of proposal and hearing shall include:
    - a. An explanation of the nature of the proposal;
    - b. Date, time, and location of the hearing;
    - c. The name and telephone number of the County staff member to contact where additional information may be obtained; and
    - d. For Comprehensive Plan Land Use Plan map amendments and zone changes, a copy of the proposed map change(s).
  6. Notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first public hearing, by publication in a newspaper of general circulation in the County. However, if the legislative land use proposal applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.
- B. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the proposal, comments received to-date, and the relevant issues associated with the proposal. Each staff report shall make a recommendation to the review authority.
- C. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission, for the purpose of receiving testimony regarding the proposal.
- D. Planning Commission Recommendation: The Planning Commission shall consider the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission and no extension is granted by the Board of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.
- E. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the proposal.
- F. Decision: The Board of County Commissioners shall consider the record and may adopt, adopt with modifications, or decline to adopt the proposal; remand the matter back to the Planning Commission for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance.

G. Notice of Decision: Notice of decision shall be provided as follows:

1. A maximum of 20 days after the decision is made it shall be submitted to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.
2. On the same day the decision is submitted to DLCD, the County shall mail, or otherwise deliver, notice to persons who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change. The notice shall:
  - a. State how and where the materials described in ORS 197.615(2) may be obtained;
  - b. Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;
  - c. List the locations and times at which the public may review the decision and findings; and
  - d. Explain the requirements for appealing the land use decision under ORS 197.830 to 197.845.

H. Appeal: The Board of County Commissioners' decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals or the Oregon Land Conservation and Development Commission, as determined by state law.

1307.12 PUBLIC HEARINGS

Subsection 1307.12 applies to public hearings held pursuant to Section 1307, except that only Subsections 1307.12(A), (B), (E) through (H), and (J) apply to public hearings in a Type IV proceeding.

- A. Procedure, Generally: Public hearings shall be conducted in accordance with Oregon Revised Statutes (ORS) 197.763, Subsection 1307.12, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.12 authorizes the Hearings Officer, Planning Commission, and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.
- B. Parties: Any interested party shall be entitled to participate in a public hearing.
- C. Order of Proceeding: The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted bylaws or rules of procedure of the review authority, as appropriate.



1. Jurisdictional Objections: Before receiving the staff report or testimony on the application, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the review authority has the discretion to proceed or terminate the hearing.
2. Disclosure Statement: The review authority (or individual member thereof), or its designee, shall read the land use disclosure statement, which shall include:
  - a. A list of the applicable substantive criteria, or a reference to the staff report, where a list of the criteria can be found;
  - b. A statement that testimony, argument, and evidence must be directed toward the criteria described in Subsection 1307.12(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;
  - c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and
  - d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, he or she shall declare any ex parte contacts and state for the record the nature and content of the contact.
4. Call for Abstentions: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises. If the review authority is the Hearings Officer, he or she shall declare any potential conflicts of interest. The Hearings Officer shall state the nature of the conflict, and if the nature of the conflict is such that the Hearings Officer cannot fulfill his or her duty to be a fair and impartial decision maker, the Hearings Officer shall recuse himself or herself from hearing the matter.

5. Staff Report: The Planning Director shall present a report and recommendation concerning the proposal.
  6. Presentation of the Application:
    - a. Applicant's case;
    - b. Community planning organizations, hamlets, and villages. Appearance by a representative from any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village, to present the organization's position on the proposal;
    - c. Public testimony; and
    - d. Rebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters that were introduced during the hearing.
  7. Close of Hearing: No additional testimony, evidence, or argument shall be accepted after the close of the hearing unless the record is held open by the review authority.
  8. Reopened Hearing: The hearing may be reopened by the review authority, prior to decision, to receive additional testimony, evidence, or argument. Notice shall be provided to the same persons who received notice of the original hearing and to anyone who provided evidence, argument, or testimony as part of the record.
  9. Deliberations: If the review authority is the Planning Commission or Board of County Commissioners, deliberations shall immediately follow the hearing, except that deliberations may be delayed to a subsequent date and time certain. If the review authority is the Hearings Officer, deliberations will not occur, and the Hearings Officer will instead take the matter under advisement.
  10. Remand: The Board of County Commissioners may remand any matter previously considered by the Planning Commission back to the Planning Commission for further review.
  11. Recommendation or Decision: When the review authority is the Planning Commission or Board of County Commissioners, the recommendation or decision, as applicable, will be voted on and announced during a public meeting.
- D. Ex Parte Contact:
1. The review authority shall not do any of the following:

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- a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;
  - b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular application, unless the parties are afforded an opportunity to contest the material so noted; or
  - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. Individuals representing the review authority may inspect the site alone but must put the circumstances of the inspection on record.
2. A party may challenge the review authority, or individual member thereof, on the grounds of Subsection 1307.12(D)(1), or that such individual has a legal conflict of interest as defined by ORS 244.020(1) or ORS 244.120. A challenge and the decision thereon by the review authority shall be entered in the record of the application.
  3. While every effort must be made to avoid ex parte contact, no decision of the review authority shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1307.12(D)(1), if the review authority (or individual member thereof) receiving the contact:
    - a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and
    - b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
  4. A communication between County staff and the review authority (or individual member thereof) shall not be considered an ex parte contact for purposes of Subsection 1307.12(D)(1).

E. Evidence and Exhibits:

1. All evidence may be received unless excluded by the review authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the approval of the land use permit or legislative land use proposal more or less probable than it would without the evidence. Evidence may be received subject to a later ruling regarding its admissibility.

2. The review authority may exclude cumulative, repetitious, or immaterial evidence, but erroneous admission of evidence by the review authority shall not preclude action by the review authority or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.
  3. All evidence shall be offered and made a part of the record in the application or legislative proceeding; and, except for matters stipulated to and except as provided in Subsection 1307.12(E)(4), no other factual information or evidence shall be considered in the recommendation or decision.
  4. The review authority may take notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within specialized knowledge. Except in a Type IV proceeding, interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The review authority may utilize experience, technical competence, and specialized knowledge in evaluation of the evidence presented.
  5. All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.
- F. Time Limits: The review authority may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing. No person may speak more than once without obtaining permission from the review authority.
- G. Questioning: The review authority (or individual member thereof) or County staff may question any person who testifies. The applicant and other parties to the proceeding shall not have the right to question or cross-examine any person who testifies.
- H. Scope of Testimony: Except in a Type IV proceeding, testimony shall be directed towards the applicable standards and criteria that apply to the proposal. The review authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the review authority may call for those in favor and those in opposition to rise, and the review authority shall note the numbers of such persons for the record.

I. Continuances and Open Record Periods:

1. All documents or evidence relied upon by the applicant shall be submitted to the County and be made available to the public. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the review authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.427 and ORS 215.429.
2. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. The review authority shall either continue the public hearing, pursuant to Subsection 1307.12(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.12(I)(2)(b).
  - a. If the review authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, argument, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, argument, or testimony for the purpose of responding to the new written evidence. Only one continuance is available of right under Subsection 1307.12(I)(2)(a); provided, however, nothing in Subsection 1307.12(I)(2)(a) shall restrict the review authority, in its discretion, from granting additional continuances.
  - b. If the review authority leaves the record open for additional written evidence, argument, or testimony, the record shall be left open for at least seven days. The review authority may leave the record open for an additional period of at least seven days for any participant to respond to new evidence submitted during the prior open-record period. However, if the review authority has not provided for this additional open-record period, any participant may file a written request with the Planning Director for an opportunity to respond to new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is left open. If such a request is filed, the review authority may reopen the record pursuant to Subsection 1307.12(I)(4).

- c. A continuance or extension granted pursuant to Subsection 1307.12(I)(2) shall be subject to the limitations of ORS 215.427 and ORS 215.429, unless the continuance or extension is requested or agreed to by the applicant.
  3. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and place certain, in which case notice of the continued hearing shall be given as though it were the initial hearing.
  4. If the record is reopened to admit new evidence, argument, or testimony, any person may raise new issues which relate to the new evidence, argument, testimony, or criteria for decision-making which apply to the matter at issue. Notice of the reopened record shall be provided to any person who presented evidence, argument, or testimony as part of the record prior to the date the record was reopened.
  5. Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written argument in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 and ORS 215.429.
- J. Record of Hearing:
  1. A verbatim record of the proceeding shall be made by written, mechanical, or electronic means, which record need not be transcribed except upon review on the record.
  2. The record of proceedings is comprised of:
    - a. The Comprehensive Plan and this Ordinance, all of which shall be automatically incorporated into the record;
    - b. The application or legislative proposal that initiated the proceeding;
    - c. All testimony, argument, evidence, and exhibits submitted prior to the close of the record of the proceeding;
    - d. Any staff reports submitted prior to the close of the record of the proceeding;
    - e. Any electronic presentation used by either staff, applicant, or other participant in the proceeding;
    - f. The verbatim record, as provided in Subsection 1307.12(J)(1);

- g. Minutes, if any, of the hearing;
- h. A verbatim record, as provided in Subsection 1307.12(J)(1), of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority;
- i. Minutes, if any, of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority; and
- j. The written decision.

### 1307.13 APPEALS

Subsection 1307.13 applies to all appeals processed by the County of decisions issued under Section 1307. Table 1307-1 identifies those land use permit decisions that may be appealed at the County level and the applicable review authority for those appeals.

- A. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12<sup>th</sup> day falls on a day on which the County is not open for business, by the next day on which the County is open for business.
- B. Notice of Appeal: Notice of appeal shall be made on a form prescribed by the Planning Director and shall be accompanied by the appeal fee. The notice of appeal shall contain:
  - 1. Identification of the decision sought to be appealed, including its assigned file number, the name of the applicant, and the decision date;
  - 2. The name, mailing address, and telephone number of the appellant;
  - 3. The nature of the decision being appealed and the grounds for appeal; and
  - 4. Signature(s) of the appellant(s), or the duly authorized representative(s) thereof, authorizing the filing of the appeal.
- C. Proper Filing of Notice of Appeal: The failure to file a timely and complete notice of appeal is a jurisdictional defect, and the Planning Director shall not accept a notice of appeal that does not comply with Subsections 1307.13(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.13(A) and (B) shall be final.
- D. Appeal Procedures; Scope: Appeals are subject to the following procedures:

1. De Novo Review: Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record of the appeal. For purposes of Subsection 1307.13(D)(1), the record of the initial proceeding consists of
  - a. Those items listed in Subsections 1307.12(J)(2)(a) through (d) and (j); and
  - b. Those items listed in Subsections 1307.12(J)(2)(e) through (i), to the extent that any prior hearing(s) or public meeting(s) were conducted in reaching the decision that is being appealed.
2. Notice of Public Hearing: Notice of public hearing shall be provided as follows:
  - a. A minimum of 20 days prior to the first evidentiary hearing on the appeal, written notice of the appeal and hearing shall be mailed to:
    - i. Those who were entitled to notice pursuant to Subsection 1307.09(A)(1);
    - ii. The appellant; and
    - iii. Anyone who previously provided evidence, argument, or testimony as part of the record.
  - b. At a minimum, notice of hearing shall include those elements identified in Subsection 1307.10(A)(4), except that 1307.10(A)(4)(i) will reference the appealed decision, rather than the staff report.
3. Public Hearing: A public hearing shall be held before the appeal review authority, for the purpose of receiving testimony regarding the application.
4. Decision: The appeal review authority shall consider the record and affirm the decision, affirm the decision with additional conditions or modifications, or reverse the decision. The appeal review authority shall issue a written decision in the form of an order, which shall be signed and dated, 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. The decision also shall include the elements identified in Subsection 1307.10(D)(1) through (5).
5. Notice of Decision: A copy of the written order shall be mailed to:



- a. Those identified in Subsection 1307.10(E); and
  - b. The appellant.
6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.13(E), the appeal review authority's decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.
- E. Review of an Interpretation by the Board of County Commissioners:
1. A second County-level appeal is provided for applications for an interpretation of the Comprehensive Plan, where the Board of County Commissioners shall review the decision of the Planning Commission on appeal. Processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given to:
    - a. Those identified in Subsections 1307.09(A)(1)(a), (d) through (f), and (i);
    - b. The appellant;
    - c. Anyone who provided evidence, argument, or testimony as part of the record; and
    - d. Anyone who made a written request for notice of decision.
  2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.
    - a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.13(E)(1).
    - b. If the Board of County Commissioners denies a request for review, it shall do so in writing. Notice of the denial shall be given pursuant to Subsection 1307.13(E)(1). If the Board of County Commissioners denies a request for review, the decision of the Hearings Officer stands as the final decision of the County. The period for appeal to the Oregon Land Use Board of Appeals commences on the date of mailing of the Board of County Commissioners' denial of review.
- F. Effect of Judicial or Administrative Review: Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the County shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any development

permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by County Counsel, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.

- G. Remand from the Land Use Board of Appeals: Except as set forth in Oregon Revised Statutes (ORS) 215.435(4), the County shall take final action on decisions remanded by the Oregon Land Use Board of Appeals within the time frame established by ORS 215.435(1) and (2).

#### 1307.14 CONDITIONS OF APPROVAL

Approval of a Type I, II, or III land use permit may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

- A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.16(L).
- B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:
1. Protection of the public from the potentially deleterious effects of the proposed use; or
  2. Fulfillment of the need for public services created by the proposed use.
- C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.
- D. A surety may be required from the applicant, in an amount sufficient to ensure compliance with one or more conditions of approval, subject to Section 1311, *Completion of Improvements, Sureties, and Maintenance*.

1307.15 FEES

Fees are for the purposes of defraying administrative costs and are subject to the following:

- A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.
- B. The failure to submit the required fee with an application or appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.
- D. Appeal fees shall be refunded if the appellant prevails. Any other fee refund policy shall be established by separate order of the Board of County Commissioners.
- E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.16 GENERAL PROVISIONS

- A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.
- B. Property Owner's Signature: When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.

- C. Property Owner Notice: Where notice to property owners of record is required by Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.
- D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.
- E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.
- F. Argument and Evidence: For the purposes of Section 1307:
1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not include facts.
  2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.
- G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.
- H. Final Action Deadline: Except as modified by ORS 197.763, the County shall take final action on a land use permit application that is subject to Oregon Revised Statutes (ORS) 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).

- I. Effective Date of Decision: The County’s final decision on a Type I, II, or III land use permit application becomes effective on:
1. The day the final decision is issued, if no appeal at the County level is allowed;
  2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;
  3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County’s final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or
  4. The date of mailing of the Board of County Commissioners’ denial of review, pursuant to Subsection 1307.13(E)(2)(b).
- J. Reissuing a Decision: The review authority may reissue a Type I, II, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.
- K. Re-filing an Application: If a Type II or III land use permit application is denied, or a Type II or III land use permit is revoked pursuant to Subsection 1307.16(L), an applicant may re-file for consideration of the same or substantially similar application only if:
1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or
  2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:
    - a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, “change” includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;
    - b. A mistake in facts, which was material to the application, was considered by the review authority;

- c. There have been changes in circumstances resulting in new facts material to the application;
  - d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or
  - e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.
- L. Revocation of Approval: An approval of a Type II or III land use permit may be revoked, as follows:
- 1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.
  - 2. Revocation of approval shall be reviewed using the Type III procedure. The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.
  - 3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.
- M. Modifications: Except as permitted pursuant to Section 1309:
- 1. A modification to an approved Type I, II, or III land use permit, or conditions thereto, shall be processed as a new application; and
  - 2. A modification to conditions of approval for a Type II or III land use permit shall be considered only if one or more of the circumstances identified in Subsection 1307.16(K)(2) apply.

[Added by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-262, 5/23/17; Amended by Ord. ZDO-266, 5/23/18]

**Chapter 6: HOUSING**

Meeting the future housing needs and desires of residents will require a variety of housing types and densities. For example, the desire for home ownership can be partially met with manufactured dwellings and condominiums in large or small complexes or owner-occupied duplexes. A range of housing prices can be encouraged by providing a greater variety of lot sizes for single-family housing. More multifamily dwellings and other alternative housing forms are needed to house the young, the elderly, and lower-income households which are priced out of the single-family housing market, or households which may prefer other than single-family homes.

**ISSUES**

The planning process has identified a number of issues. These issues address affordable housing, housing choice and variety, citizen preference, density, neighborhood livability, and compatibility with mass transit. Some of these issues follow:

1. The availability of shelter and housing options for houseless persons
2. Affordable housing for all the County's households
3. Housing for low- and moderate-income households, the elderly, and mentally or physically handicapped residents
4. A variety of housing types for all income levels, including single-family dwellings, multifamily dwellings, three-family dwellings, two-family dwellings, condominiums, and manufactured dwellings
5. The number and densities of single-family, two-family, three-family, and multifamily dwelling units and manufactured dwellings
6. Locations of multifamily housing in relation to services, employment, transportation, and open space
7. Locations of individual manufactured dwellings and manufactured home parks
8. Owner-occupied and renter-occupied housing

**SUMMARY OF FINDINGS AND CONCLUSIONS**

1. The County is projected to gain as many as 112,500 people between 1987 and 2010.

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2. Projected population growth is expected to be slower than the County experienced in the 1970s, faster than the 1980s. From 1970 to 1978 the average annual growth rate was 3.8 percent per year, and from 1980 to 1987 it was .76 percent. The forecast for planning purposes is 1.6 percent per year from 1987 to 2010.
3. The northwest urban area has the potential of being the most energy-efficient and cost-effective location for growth in the County.
4. Since 1980, 30 percent of the new dwelling units built in the entire County have been multifamily units, including duplexes. In the northwest urban area, 41 percent of new units have been multifamily.
5. It is forecast that 26 percent of the new dwelling units built in the next 20 years in the entire County, and 32 percent of the new units built in the northwest urban area, will be multifamily.
6. Lack of affordable housing continues to be a problem, especially severe for households headed by the young, elderly, single parents, or handicapped individuals.
7. The County has a shortage of special living environments for the developmentally disabled and chronically mentally ill, a particularly pressing need as the de-institutionalization movement continues to accelerate and homes must be found in communities for previously institutionalized residents. (Note: The County social services agency does not identify a particular shortage of special housing for their elderly clients at this time (1990).
8. There are few condominiums in unincorporated areas.
9. The *Clackamas County 2017 Point-in-Time Count of Homeless Individuals* identified 2,293 homeless individuals. Despite an increase in available housing dedicated to unsheltered or unstably housed individuals, the 2017 count represents an increase of 10.7% over 2013.

### **HOUSING GOALS**

- Meet the needs of the County houseless population through a variety of short- and long-term options.



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- Provide opportunities for a variety of housing choices, including low- and moderate-income housing, to meet the needs, desires, and financial capabilities of all County residents to the year 2010.
- Protect the quality, lifestyle, and values of existing neighborhoods.

### **6.A Housing Choice Policies**

- 6.A.1 Encourage development that will provide a range of choices in housing type, density, and price and rent level throughout the urban areas of the County.
- 6.A.2 Provide for manufactured home park development.
- 6.A.3 Encourage new condominiums of all types, densities, and price ranges but discourage conversion of existing rental units.
- 6.A.4 Encourage an adequate number and variety of rental units including those that allow children.
- 6.A.5 Develop detailed community plans when appropriate to ensure that both housing choice and neighborhood quality and livability goals are attained.
- 6.A.6 Encourage a diversity of housing types and densities in planned unit developments.
- 6.A.7 Encourage a wide range of housing alternatives for the elderly or handicapped.
- 6.A.8 Allow accessory dwelling units in all zoning districts within an urban growth boundary (UGB) that allow a detached or attached single-family dwelling or a manufactured dwelling as a primary use.
- 6.A.9. Allow accessory dwelling units in the Hoodland Residential (HR) and Mountain Recreational ~~Resort~~Residential (MRR) zoning districts.
- 6.A.10. Allow the conversion of a ~~lawfully established legal~~ detached single-family dwelling built between 1850 and 1945 to an accessory historic dwelling when a new primary dwelling is built on the same lot, if the property is:
- Within the RA-1, RA-2, RRFF-5, or FF-10 zoning district;
  - Located outside of both a UGB and an Urban Reserve; and
  - At least two acres in size.

**6.B Affordable Housing Policies**

- 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.
- 6.B.2 Encourage the development of low- and moderate-income housing with good access to employment opportunities.
- 6.B.3 Encourage diversified, affordable housing opportunities for the elderly or handicapped.

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- 6.B.4 Support the regional Housing Opportunity Plan (HOP), the County's Community Development Block Grant program, and the County's Public Housing Program as a means to provide more low- and moderate-income housing.
- 6.B.5 Pursue subsidies to provide affordable housing for low- and moderate-income households including the elderly and the handicapped.
- 6.B.6 Encourage more affordable housing by:
  - 6.B.6.1 Providing for higher-density, single-family development by planning for smaller-lot developments, implemented by the R-2.5 to R-8.5, VR-4/5, VR-5/7, and VTH zoning districts;
  - 6.B.6.2 Providing for increased capacity for multifamily development at six density levels: Medium, Medium High, High, Special High, Regional Center High, and Village Apartment;
  - 6.B.6.3 Allowing alternative road and improvement standards where appropriate (see the policies in the Roadways section of Chapter 5, *Transportation System Plan*);
  - 6.B.6.4 Allowing reduced utility and roadway costs through flexible lotting patterns in subdivisions and planned unit developments;
  - 6.B.6.5 Allowing density transfers from hard-to-develop sites in planned developments;
  - 6.B.6.6 Providing expedient, efficient design review, building permit, zoning, and subdivision processes;
  - 6.B.6.7 Encouraging growth in areas where public services can be economically provided;
  - 6.B.6.8 Encouraging common-wall construction;
  - 6.B.6.9 Encouraging more condominiums and manufactured dwellings;
  - 6.B.6.10 Emphasizing planned developments resulting in less expensive lots;
  - 6.B.6.11 Continuing to allow single-family dwellings to be built on lots of record down to 3,000 square feet (or smaller in zoning districts that permit the platting of smaller lots); and

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- 6.B.6.12 Continuing to allow prefabricated housing that meets the Uniform Building Code on individual lots of record within the Portland Metropolitan Urban Growth Boundary.
- 6.B.7 Give priority for relocation into public housing to low-income residents displaced by development of property to commercial, industrial, or multifamily use.
- 6.B.8 Encourage continuation of existing manufactured dwelling parks.
- 6.B.9 Give every new subdivision of 20 lots or more a density bonus of one lot for every lot reserved for assisted housing to provide an adequate amount of dispersion of assisted housing (see Policy 6.H.1).
- 6.B.10 Develop and support a full spectrum of shelter and housing options (e.g., emergency shelters, transitional shelters, and public housing) that assist individuals in moving from houselessness to stable, long-term housing solutions.

### **6.C Neighborhood Quality Policies**

- 6.C.1 Provide for a variety of housing opportunities that are complementary or compatible with existing neighborhoods.
- 6.C.2 Encourage the maintenance or upgrading of existing neighborhoods.
- 6.C.3 Discourage the demolition of housing which can be economically renovated in residential areas.

### **6.D Urban Infill Policies**

- 6.D.1 Make use of existing urban service capacities without damaging the character of existing low-density neighborhoods by:
  - 6.D.1.1 Providing higher-density residential land use plan designations.
  - 6.D.1.2 Locating higher-density land use plan designations at locations that have minimum impact on existing low-density neighborhoods.
  - 6.D.1.3 Encouraging development within Immediate Urban Areas where services are available (see the Immediate Urban Policies section in Chapter 4, *Land Use*).

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- 6.D.1.4 Allowing greater flexibility for two- and three-family dwellings (see Policies 6.F.1 through 6.F.5).
- 6.D.1.5 Establishing a transportation policy that encourages investments to improve the existing system prior to making investments in new roads (see the policies in the Roadways section of Chapter 5).
- 6.D.1.6 Protecting existing neighborhoods by designating compatible land uses in existing low-density neighborhoods. (see the Low Density Residential Policies section in Chapter 4).
- 6.D.1.7 Encouraging shared access when developing flag lots.
- 6.D.1.8 Facilitating development on hillsides within the limits of public safety and land suitability. (see the Natural Hazards section of Chapter 3, *Natural Resources and Energy*; and the Low Density Residential Policies and Open Space sections of Chapter 4.)
- 6.D.1.9 Allowing density transfers from hazard areas to more suitable sites.
- 6.D.1.10 Allowing flexibility in residential setback requirements pursuant to adopted criteria.
- 6.D.1.11 Protecting the privacy of existing residences by buffer requirements where appropriate.

### **6.E Multifamily Residential Policies**

- 6.E.1 Encourage multifamily residential development consistent with the needs and desire of County residents. (Multifamily residential refers to all development in Village Apartment and Medium, Medium High, High, Special High, and Regional Center High Density residential land use designations.)
- 6.E.2 Require design review approval for all multiple-family development.
- 6.E.3 Design review will address the following:
  - 6.E.3.1 Energy efficiency and conservation
  - 6.E.3.2 Access to transit

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- 6.E.3.3 Crime prevention including natural surveillance of public areas by residents
  - 6.E.3.4 Open space, including recreation areas and children's play areas
  - 6.E.3.5 Privacy considerations, including private entries, patios, and fencing
  - 6.E.3.6 Noise abatement
  - 6.E.3.7 Shared parking to reduce paved areas
  - 6.E.3.8 Accessibility of parking to units
  - 6.E.3.9 Pedestrian/bicycle facilities on and off site
  - 6.E.3.10 Minimization of impervious ground cover
  - 6.E.3.11 Retention of natural areas and features such as major trees
  - 6.E.3.12 Landscaping
  - 6.E.3.13 Screened parking areas
- 6.E.4 Allow density bonuses for provision of affordable housing units, either through a government-subsidized program or the private sector, and for parks dedication.

### **6.F Low Density Residential Policies**

- 6.F.1 Encourage attached single-family dwellings and two- and three-family dwellings.
- 6.F.2 Allow, as an outright permitted use, a maximum of 20 percent of the primary dwelling units in all new subdivisions, except planned unit developments, to be attached single-family dwellings.
- 6.F.3 Allow, as an outright permitted use, all primary dwelling units in planned unit developments to be attached single-family dwellings.
- 6.F.4 Allow, as a conditional use, two- and three-family dwellings on individual lots with a lot area per dwelling unit equal to approximately two-thirds the minimum average lot area standard of the zoning district.

**6.G Manufactured Dwelling Policies**

- 6.G.1 Support the provision of needed manufactured dwelling sites throughout the County.
- 6.G.2 Allow new manufactured home parks as a primary use in Medium Density Residential zoning districts, but not in designated commercial, industrial, or higher-density multifamily areas.
- 6.G.3 Permit a mobile home in lieu of a single-family dwelling in future urban, future urban study, unincorporated community, rural, agriculture, and forest areas and in unincorporated communities, except Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village.
- 6.G.4 Permit a manufactured home in lieu of a single-family dwelling. Require compliance with design standards for such manufactured homes in immediate urban areas and in the unincorporated communities of Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village.
- 6.G.5 Existing manufactured dwelling parks shall not redevelop unless a plan for relocation of the existing tenants is submitted and approved prior to redevelopment.

**6.H Density Bonus Policy**

- 6.H.1 Allow density bonuses in Low, Medium, Medium High, and High Density Residential land use plan designations where special performance criteria have been met.

## EXERPT FROM CHAPTER 4: LAND USE

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#### *Clackamas County Comprehensive Plan*

### RESIDENTIAL

This section of the Land Use Chapter primarily addresses the location and density of housing. Chapter 6, *Housing*, establishes policies for other aspects of housing such as structure type, affordability, and design.

Low Density Residential areas are those planned primarily for single-family residential development, with a range of lot sizes from 2,500 square feet for attached single-family dwellings to 30,000 square feet for sites with environmental constraints.

Medium Density Residential areas are those planned for up to 12 units per gross acre (exclusive of density bonuses and conditional uses).

Medium High Density Residential areas are those planned for up to 18 units per gross acre (exclusive of density bonuses and conditional uses).

High Density Residential areas are those planned for up to 25 units per gross acre (exclusively of density bonuses and conditional uses).

Special High Density Residential areas are planned for high-rise multifamily housing up to 60 units per gross acre.

### GOALS

- Protect the character of existing low-density neighborhoods.
- Provide a variety of living environments.
- Provide for development within the carrying capacity of hillsides and environmentally sensitive areas.
- Provide opportunities for those who want alternatives to the single-family house and yard.
- Provide for lower-cost, energy-efficient housing.
- Provide for efficient use of land and public facilities, including greater use of public transit.

#### **4.Q. General Residential Policies**

- 4.Q.1. Determine permitted uses and the density of development through zoning. Zoning of Residential areas shall be consistent with this Plan. Timing of zoning district application shall be in accord with the orderly development of the County.
- 4.Q.2. Implement dimensional and development standards to address compatibility, function, and aesthetics.
- 4.Q.3. Require dedication of designated Open Space areas where appropriate for purposes of developing the urban park or trails program.



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- 4.Q.4. Establish minimum densities to help meet regional and local housing needs.
- 4.Q.5. Allow the Neighborhood Commercial zoning district to implement the Low Density Residential, Medium Density Residential, Medium High Density Residential, and High Density Residential land use plan designations according to the criteria in the Commercial Section of this Chapter.
- 4.Q.6. Require all Medium, Medium High, High, and Special High Density Residential developments to be subject to a design review process.
- 4.Q.7. When necessary, require improvements to existing streets and/or development of new streets to County standards prior to or concurrent with Medium, Medium High, High, and Special High Density Residential development.
- 4.Q.8. In Medium, Medium High, High, and Special High Density Residential areas, require pedestrian access to nearby schools, transit stations, commercial areas, recreational areas, and employment areas to be convenient and improved to standards determined through a design review process.
- 4.Q.9. Develop all Medium, Medium High, High, and Special High Density Residential areas with public sewer, public water, curbs, drainage controls, pedestrian/bikeway facilities, underground utilities, and street lighting.

#### **4.R. Low Density Residential Policies**

- 4.R.1. The following areas may be designated Low Density Residential if any of the following criteria are met:
  - 4.R.1.1 Areas where a need for this type of housing exists.
  - 4.R.1.2 Areas which are currently developed at low density and where little need exists for redevelopment.
  - 4.R.1.3 Areas where transportation is limited to collectors and local streets.
  - 4.R.1.4 Areas where sensitivity to the natural environment or natural hazards indicates a reduced density.
- 4.R.2. Zoning of Immediate Urban Low Density Residential areas and conversion of Future Urban areas to Immediate Urban Low Density Residential shall include zones of 2,500; 5,000; 7,000; 8,500; 10,000; 15,000; 20,000, and 30,000 square feet (R-2.5 through R-30). The following factors guide the determination of the most appropriate zone:
  - 4.R.2.1 Physical site conditions such as soils, slope, and drainage:
    - a. Land with soils subject to slippage, compaction or high shrink-swell characteristics shall be zoned for larger lots.
    - b. Land with slopes of:
      - Less than 20 percent shall be considered for the R-2.5 through R-8.5

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#### *Clackamas County Comprehensive Plan*

- zoning districts.
  - 20 percent and over shall be considered for the R-10 through R-30 zoning districts.
- c. Land with hydrological conditions such as flooding, high water table or poor drainage shall be zoned for larger lots.
- 4.R.2.2 Capacity of facilities such as streets, sewers, water, and storm drainage systems.
- 4.R.2.3 Availability of transit: Land within walking distance (approximately one-quarter mile) of a transit stop should be zoned for smaller lots implemented by the R-2.5, R-5, R-7, and R-8.5 zoning districts.
- 4.R.2.4 Proximity to jobs, shopping, and cultural activities: Areas in proximity to trip generators shall be considered for smaller lots implemented by the R-2.5, R-5, R-7, and R-8.5 zoning districts.
- 4.R.2.5 Location of 2,500- and 5,000-square-foot lots: Location of 2,500 and 5,000 square foot lots, implemented by the R-2.5 and R-5 zoning districts, may be allowed in Corridor design type areas and where permitted by Community and Design Plans located in Chapter 10.
- 4.R.2.6 Need for neighborhood preservation and variety: Areas that have historically developed on large lots where little vacant land exists should remain zoned consistent with the existing development pattern. Otherwise, unless physical or service problems indicate to the contrary, areas of vacant land shall be zoned for lots of 8,500 square feet or smaller.
- 4.R.2.7 Density average: To achieve an average of 7,500 square feet or less per lot in low density Future Urban areas when conversion to Immediate Urban low density residential occurs, the R-10 zone shall be limited to areas with 20 percent slope and greater. Flexible-lot-size land divisions and other buffering techniques shall be encouraged in those areas immediately adjacent to developed subdivisions with lots of 20,000 square feet or more to protect neighborhood character, while taking full advantage of allowed densities.
- 4.R.3. Permit transfer of density within a development even if different zoning districts or land use plan designations are involved. Encourage the transfer of dwelling units from hazardous or environmentally sensitive areas to areas which are less hazardous or less expensive to develop. Resulting density on the developed portion of a given site shall not exceed the density allowed in the next-highest-density residential land use plan designation. Buffering from lower-density adjacent uses shall be considered in the review process.
- 4.R.4. Establish special development criteria and density standards in the following areas (see Policy 6.0 in the Natural Hazards section of Chapter 3, *Natural Resources and Energy*):
  - 4.R.4.1 On slopes over 20 percent, the following development criteria shall be met:
    - a. Avoid major hazard areas

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- b. Maintain the stability of the slope
  - c. Grade without large or successive pads or terraces and without creating road grades in excess of County standards
  - d. Maintain vegetation and natural terrain features to sustain slope stability
  - e. Ensure that existing natural rates of run-off and erosion are not exceeded
  - f. Protect visually significant slopes, ravines, ridgelines, or rock outcroppings in their natural state
- 4.R.4.2 In flood hazard areas or wetlands, the following development criteria, as well as the specifications in Chapter 3, shall be met:
- a. Avoid major flood hazard areas
  - b. Maintain water quality and the natural function of the area to reduce or absorb flood runoff and to stabilize water flow
  - c. Protect wildlife habitats, significant vegetation, and trees
  - d. Protect any associated recreational values
- 4.R.4.3 Density standards in these areas shall be as follows:
- a. Land in the flood fringe and land with slopes over 20 percent shall be allowed to develop at no more than 50 percent of the density of the zone. If these lands are not developed, then up to 100 percent of the density may be transferred to more suitable land within the site, depending upon its characteristics. Density should be reduced as slope increases above 20 percent, with development discouraged on slopes over 35 percent.
  - b. Land in the floodway and land on landslides shall not be allowed to develop, except on a lot of record and only after having met the provisions stated in Policies 4.R.4.1 and 4.R.4.2, and other relevant Plan requirements. However, 100 percent of the dwelling units allowed in the zoning district may be transferred to more suitable land within the site.
- 4.R.5. Ensure adequate provisions for schools, churches, and recreational facilities which are integral parts of all residential neighborhoods. The siting of these facilities shall be subject to conditions ensuring adequate design and safety, particularly with regard to vehicular and pedestrian access.
- 4.R.6. Encourage retention of natural landscape features such as topographic variations, trees, and water areas, and allow variation in housing type and design.
- 4.R.7. Require a site analysis for each development in areas designated as Open Space or where the County has identified the potential for significant impacts. This requirement may be waived in the event all development is transferred to more suitable land outside of areas designated as Open Space.
- 4.R.8. Require roads in land divisions to be County roads and connected directly with an improved County road, state road, or city street. Half streets and private roads

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may be allowed where appropriate.

- 4.R.9. Develop all land divisions in urban areas with public sewer, public water, drainage controls, pedestrian/bikeway facilities, and underground utilities. Street lighting and street trees may be required. Implementing ordinances shall set standards in which street lighting and street trees will be encouraged or required.
- 4.R.10. Determine the net density in planned unit developments recognizing that up to 15 percent of the gross area is for roadways.
- 4.R.11. Encourage subdivision design to eliminate direct vehicular access from individual lots onto major or minor arterials. Frontage roads should be used wherever possible.
- 4.R.12. Require stub streets in land divisions where necessary to provide access to adjacent property.
- 4.R.13. Develop residential land divisions as planned unit developments whenever one or more of the following criteria apply:
  - 4.R.13.1. Any part of the site is designated Open Space on Map 4-6, *North Urban Area Land Use Plan Map*
  - 4.R.13.2. More than 20 percent of the dwelling units are to be attached or condominiums
  - 4.R.13.3. Sites are large enough to warrant on-site provision of substantial open and/or recreation space
  - 4.R.13.4. A large area is specifically identified by the County as needing greater design flexibility, increased open space, or a wider variety of housing types
- 4.R.14. Require a minimum of 20 percent of the total land area in all planned unit developments to be devoted to open space or outdoor recreational areas. Development for any other uses shall not be allowed. Parkland dedications may be part of the 20-percent open space requirement.
- 4.R.15. Require provisions for adequate maintenance prior to final plat approval to ensure the designated park area will be a community asset.
- 4.R.16. Allow flexible-lot-size land divisions provided that the average lot size is consistent with the base zone, as adjusted by density bonuses (see the Density Bonus section of Chapter 6, *Housing*).
  - 4.R.16.1. For detached single-family dwellings, the smallest lot size allowable shall be 80 percent of the minimum average lot size allowed by the base density.
  - 4.R.16.2. For attached single-family dwellings, the smallest lot size allowable shall be 2,000 square feet.
  - 4.R.16.3. In planned unit development land divisions, the individual lot size is

# EXERPT FROM CHAPTER 4: LAND USE

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### *Clackamas County Comprehensive Plan*

unrestricted.

~~4.R.17. Allow one accessory dwelling unit per primary dwelling on a lot of record subject to design standards.~~

#### **4.S. Medium Density Residential Policies**

- 4.S.1. The following areas may be designated Medium Density Residential when at least the first two criteria are met:
  - 4.S.1.1. Areas where a need for this type of housing exists.
  - 4.S.1.2. Areas with access to a major or minor arterial or collector. Siting should not result in significant traffic increase on local streets serving low density residential areas.
  - 4.S.1.3. Areas located near or adjacent to commercial areas, employment concentrations, or transit stops.
  - 4.S.1.4. Areas of deteriorating dwellings or structures in neighborhoods to stimulate private investment, infilling, and redevelopment, as long as one or more of the preceding criteria apply.
- 4.S.2. Limit the Planned Medium Density (PMD) zoning district to areas currently zoned PMD.
- 4.S.3. In Medium Density Residential zoning districts, provide for reduced density on hazardous land or steep slopes as stipulated in Policy 4.R.4.3.
- 4.S.4. Encourage variations in density on different parts of a large site and promote a variety in housing type, ownership, and design.
- 4.S.5. Require in all Medium Density Residential developments a minimum of 25 percent of the total gross areas to be landscaped, natural, and/or recreational areas. This landscaping requirement may be reduced during the design review process when pedestrian amenities or amenities that provide opportunities for passive or active recreation within the development are substituted for gross land area.
- 4.S.6. Existing mobile home parks which are designated Medium Density Residential shall not have the designation changed unless a plan for relocation of the existing tenants is submitted and approved. This plan shall demonstrate that existing tenants will be relocated prior to redevelopment of the property.

#### **4.T. Medium High Density Residential Policies**

- 4.T.1. The following areas may be designated Medium High Density Residential when the first two and at least one of the remaining criteria are met:
  - 4.T.1.1. Areas where a need for this type of housing exists.



June 21, 2018  
Re: ZDO 269

Dear Clackamas County Planning Commissioners,

**I am writing as a rural Clackamas County resident landowner (south of the City of Molalla) to oppose ADUs in rural areas (including the retention of “old houses”) and to support ADUs in urban UGBs.**

I support ADUs in UGBs that have city water and sewer services, because they have the potential to provide needed housing in areas where there are jobs, services and the potential to use mass transit. Urban ADUs also have a square footage limit. None of those conditions are satisfied in rural Clackamas County.

**I especially oppose granting the ability to keep an old house (of any square footage!) on rural land and build an additional house. That would be an elitist privilege and in many cases would likely result in a giant mansion and extra income via rent for the mansion owner.** For most, the giant houses which are replacing older rural homes would have plenty of square footage to accommodate family members should people desire to live together if they fail to qualify for a hardship dwelling. I thus reject the idea that people “need” this old house retention because families want to live together.

**Clackamas County has a policy of promoting sustainability. Allowing older houses as ADUs per this proposal would result in the retention of very old houses which, in virtually every case, would not be energy efficient or environmentally friendly:** they would likely be deficient in insulation, would not have modern energy efficient windows, would have archaic heating sources (including out of date woodstoves), would be slathered with decades of lead paint and asbestos products, would have out of date plumbing (including the potential for lead contamination), would not have earthquake protections, would have questionable septic systems, etc.

**Ground water resources are of concern in Clackamas County. Allowing two dwellings on rural properties zoned for one dwelling would increase use of our limited groundwater.** I live in the Glad Tidings water restricted zone, yet domestic wells are allowed in the protected aquifer. An allowed ADU has the potential of putting further strains on our limited water because domestic use allows the use of well water for large personal gardens, landscaping and for water to supply domestic/farm animals. Thus there is a potential for double the water use on a property that should have only one dwelling using groundwater for domestic use.

Clackamas County is struggling to maintain the large inventory of rural roads under its jurisdiction. Commuter traffic has become a huge problem. **Allowing more active dwellings in EFU or Forest Zones via the “old house” provision will surely put more commuter traffic on poor condition County roads, as added residents trying to get to viable jobs suffer long commutes from rural EFU/Forest zoned lands.** Clackamas County, in its quest for sustainability, should recognize that long commutes to jobs in

urban areas should not be encouraged: fuel is wasted, roads are impacted and air is polluted.

**The rules on development in EFU or Forest zoned lands are strict. This “keep the old house” is clearly another attempt, like Measures 37 and 49, to suburbanize protected farm and forestlands.** Two dwellings on what is zoned for one dwelling in a Forest/FU zone will eat up even more resource land. Currently, when a replacement home is built, the owner is allowed to decommission the old home and use it as an outbuilding on the EFU/Forest zoned property. Owners have not been forced to remove older houses in the past; they just can’t use them as approved dwellings. I support continuing that practice.

There is also little hope that many of the “preserved” houses would even provide needed dwellings for permanent residents. It is my observation that many ADUs are used for tourist rentals on a nightly basis. Clackamas County went to a lot of trouble to make code about “farm stay” rules – does the County plan to make a rule that the houses potentially retained as ADUs will fall under those rules? **Does the County plan to disallow such “old houses” from being used as nightly rentals (if the intention really is to provide more permanent houses for residents and/or places for family members to live)?**

Clackamas County already has a process for allowing a temporary dwelling for hardships. That rule is clearly being violated all around the County with people living in RVs in rural areas. The County can’t even keep up with enforcing the rules on dwellings it already has, so please don’t make code enforcement more complex.

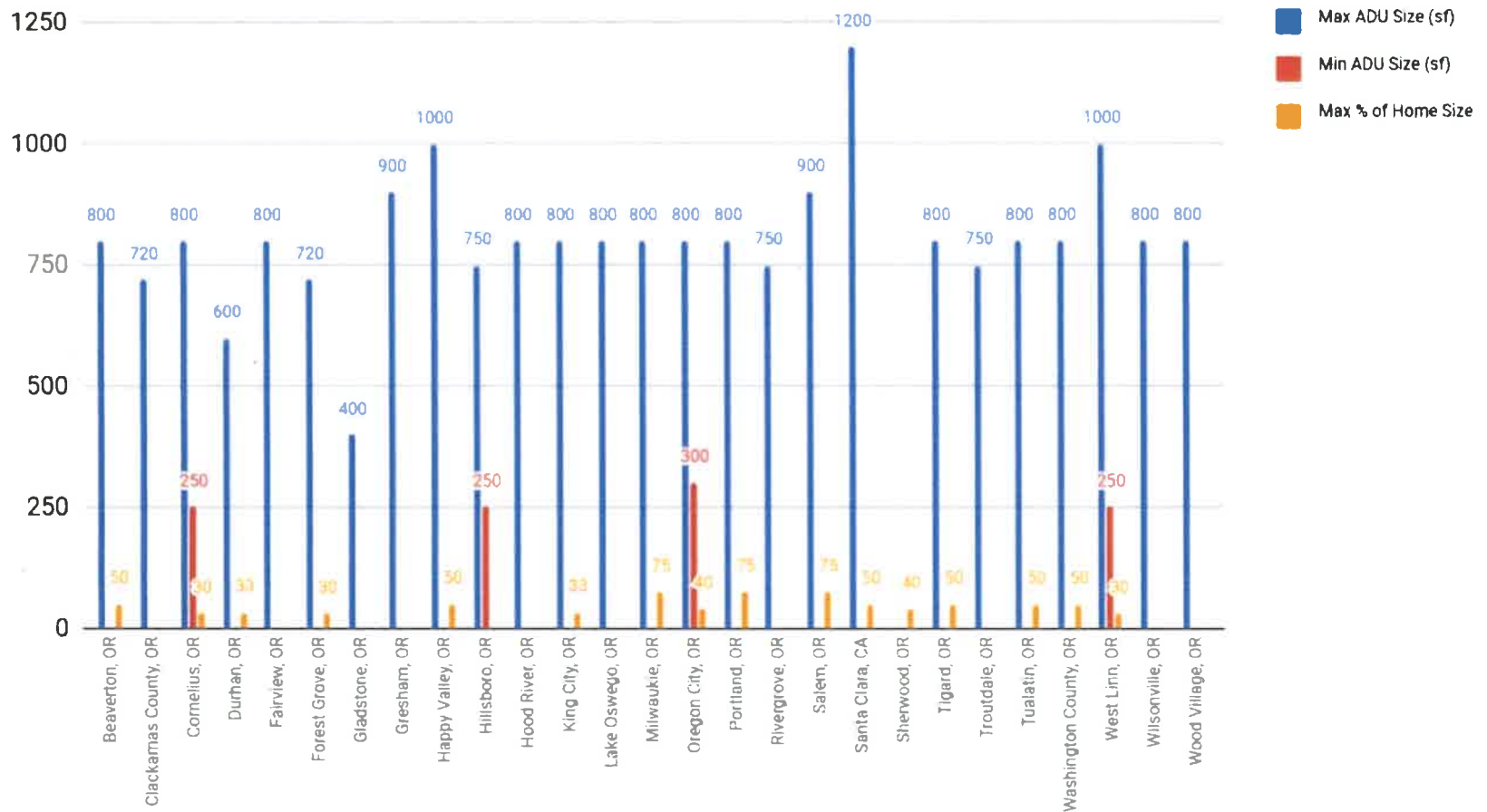
In summary, allowing the potential of up to 800 properties in the County to qualify as an “old house” (of any square footage!) ADU, the County would be violating its own interest in sustainability and in protecting EFU/ Forest/water resources. **I see this “old house as ADU” as nothing more than a blatant give away to the elitist forces of our society who can afford to buy rural land and then build mega- mansions, which eat up rural resources via lawns, landscaping, paved surfaces, and heat for more square footage than any “normal” family would ever need. One mega mansion per EFU/Forest zoned plot is a big enough insult to sustainability – why extend that greed to allow more exploitive landlords in rural areas with no jobs or services or public transit?** We are already seeing lands carved up and paved over for Measure 49 dwellings – in most cases wasting 2 acres of former resource land to host a giant house and its infrastructure. Why would we consider allowing more stress on our resource lands by allowing “old houses” (with no limit on the square footage!) to remain, thus increasing rural population?

**Please only endorse ADUs within UGBs. The “old house” retention is an elitist ruse to further decay our rural lands protections.**

Susan Hansen  
PO Box 50, Molalla Oregon 97038



### ACCESSORY DWELLING UNIT (ADU) SIZE REGULATIONS



Source: Multnomah County Ordinance No. 1257, Exhibit H

**GUIDANCE ON IMPLEMENTING  
THE ACCESSORY DWELLING UNITS (ADU) REQUIREMENT  
UNDER OREGON SENATE BILL 1051**



*M. Klepinger's backyard detached ADU, Richmond neighborhood, Portland, OR.  
(Photo courtesy of Ellen Bassett and accessorydwellings.org.)*

**OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

**MARCH 2018**



Oregon Department of  
Land Conservation  
and Development

**EXHIBIT 2**  
**ZDO-269: Accessory Dwelling Units**  
**Page 2 of 13**

## Introduction

As housing prices in Oregon go up, outpacing employment and wage growth, the availability of affordable housing is decreasing in cities throughout the state. While Oregon's population continues to expand, the supply of housing, already impacted by less building during the recession, has not kept up. To address the lack of housing supply, House Speaker Tina Kotek introduced House Bill 2007 during the 2017 legislative session to, as she stated, "remove barriers to development." Through the legislative process, legislators placed much of the content of House Bill 2007 into Senate Bill 1051, which then passed, and was signed into law by Governor Brown on August 15, 2017. In addition, a scrivener's error<sup>1</sup> was corrected through the passage of HB 4031 in 2018.

Among the provisions of SB 1051 and HB 4031 is the requirement that cities and counties of a certain population allow accessory dwelling units (ADUs) as described below:

- a) *A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.*
- b) *As used in this subsection, "accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.*

This new requirement becomes effective on July 1, 2018 and subject cities and counties must accept applications for ADUs inside urban growth boundaries (UGBs) starting July 1, 2018. Many local governments in Oregon already have ADU regulations that meet the requirements of SB 1051, however, some do not. Still others have regulations that, given the overall legislative direction to encourage the construction of ADUs to meet the housing needs of Oregon's cities, are not "reasonable." The Oregon Department of Land Conservation and Development (DLCD) is issuing this guidance and model code language to help local governments comply with the legislation. The model code language is included on its own page at the end of this document.

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<sup>1</sup> *The scrivener's error in SB 1051 removed the words "within the urban growth boundary." HB 4031 added the words into statute and thus limited the siting of ADUs to within UGBs.*

**Guidance by Topic**

The purpose of the following guidance is to help cities and counties implement the ADU requirement in a manner that meets the letter and spirit of the law: to create more housing in Oregon by removing barriers to development.

*Number of Units*

The law requires subject cities and counties to allow “at least one accessory dwelling unit for each detached single-family dwelling.” While local governments must allow one ADU where required, DLCDC encourages them to consider allowing two units. For example, a city or county could allow one detached ADU and allow another as an attached or interior unit (such as a basement conversion). Because ADUs blend in well with single-family neighborhoods, allowing two units can help increase housing supply while not having a significant visual impact. Vancouver, BC is a successful example of such an approach.

*Siting Standards*

In order to simplify standards and not create barriers to development of ADUs, DLCDC recommends applying the same or less restrictive development standards to ADUs as those for other accessory buildings. Typically that would mean that an ADU could be developed on any legal lot or parcel as long as it met the required setbacks and lot coverage limits; local governments should not mandate a minimum lot size for ADUs. So that lot coverage requirements do not preclude ADUs from being built on smaller lots, local governments should review their lot coverage standards to make sure they don’t create a barrier to development. To address storm water concerns, consider limits to impermeable surfaces rather than simply coverage by structures.

In addition, any legal nonconforming structure (such as a house or outbuilding that doesn’t meet current setback requirements) should be allowed to contain, or be converted to, an ADU as long as the development does not increase the nonconformity.

*Design Standards*

Any design standards required of ADUs must be clear and objective (ORS 197.307[4]). Clear and objective standards do not contain words like “compatible” or “character.” With the exception of ADUs that are in historic districts and must follow the historic district regulations, DLCDC does not recommend any special design standards for ADUs. Requirements that ADUs match the materials, roof pitch, windows, etc. of the primary dwelling can create additional barriers to development and sometimes backfire if the design and materials of the proposed

ADU would have been of superior quality to those of the primary dwelling, had they been allowed.

*Parking*

Requiring off-street parking is one of the biggest barriers to developing ADUs and it is recommended that jurisdictions not include an off-street parking requirement in their ADU standards. Adding off-street parking on many properties, especially in older centrally-located areas where more housing should be encouraged, is often either very expensive or physically impossible. In addition, when adding an additional off-street parking space requires a new or widened curb cut, it removes existing on-street parking, resulting in no net gain of parking supply. As an alternative to requiring off-street parking for ADUs, local governments can implement a residential parking district if there is an on-street parking supply shortage. For more help on parking issues, visit [www.oregon.gov/lcd/tgm/pages/parking.aspx](http://www.oregon.gov/lcd/tgm/pages/parking.aspx) or contact DLCD.

*Owner Occupancy*

Owner-occupancy requirements, in which the property owner is required to live on the property in either the primary or accessory dwelling unit, are difficult to enforce and not recommended. They may be a barrier to property owners constructing ADUs, but will more likely simply be ignored and constitute an on-going enforcement headache for local governments.

*Public Utilities*

Development codes that require ADUs to have separate sewer and water connections create barriers to building ADUs. In some cases, a property owner may want to provide separate connections, but in other cases doing so may be prohibitively expensive.

*System Development Charges (SDCs)*

While SDCs are not part of the development code and SB 1051 does not require them to be updated, local governments should consider revising their SDCs to match the true impact of ADUs in order to remove barriers to their development. ADUs are generally able to house fewer people than average single-family dwellings, so their fiscal impact would be expected to be less than a single-family dwelling. Accordingly, it makes sense that they should be charged lower SDCs than primary detached single-family dwellings.

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## Accessory Dwellings (model code)

**Note:** ORS 197.312 requires that at least one accessory dwelling be allowed per detached single-family dwelling in every zone within an urban growth boundary that allows detached single-family dwellings. Accessory dwellings are an economical way to provide additional housing choices, particularly in communities with high land prices or a lack of investment in affordable housing. They provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with single-family detached dwellings. Accessory dwelling regulations can be difficult to enforce when local codes specify who can own or occupy the homes. Requirements that accessory dwellings have separate connections to and pay system development charges for water and sewer services can pose barriers to development. Concerns about neighborhood compatibility, parking, and other factors should be considered and balanced against the need to address Oregon's housing shortage by removing barriers to development.

The model development code language below provides recommended language for accessory dwellings. The italicized sections in brackets indicate options to be selected or suggested numerical standards that communities can adjust to meet their needs. Local housing providers should be consulted when drafting standards for accessory dwellings, and the following standards should be tailored to fit the needs of your community.

Accessory dwellings, where allowed, are subject to review and approval through a Type I procedure[, pursuant to Section \_\_\_\_\_.] and shall conform to all of the following standards:

**[A. One Unit.** *A maximum of one Accessory Dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).*

/

**A. Two Units.** *A maximum of two Accessory Dwellings are allowed per legal single-family dwelling. One unit must be a detached Accessory Dwelling, or in a portion of a detached accessory building (e.g., above a garage or workshop), and one unit must be attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).]*

### **B. Floor Area.**

1. A detached Accessory Dwelling shall not exceed [800-900] square feet of floor area, or [75] percent of the primary dwelling's floor area, whichever is smaller.
2. An attached or interior Accessory Dwelling shall not exceed [800-900] square feet of floor area, or [75] percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than [800-900] square feet.

**C. Other Development Standards.** Accessory Dwellings shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:

1. Conversion of an existing legal non-conforming structure to an Accessory Dwelling is allowed, provided that the conversion does not increase the non-conformity; and

2. No off-street parking is required for an Accessory Dwelling.

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**Definition** (This should be included in the “definitions” section of the zoning ordinance. It matches the definition for Accessory Dwelling found in ORS 197.312)

**Accessory Dwelling** – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.



## Average Apartment Size in the Largest U.S. Cities (Sq. Ft.)

June 23, 2016

Search:

State	City	2015 Population	Studio	1 Bedroom	2 Bedroom
AZ	Phoenix	1,563,025	427	666	948
AZ	Tucson	531,641	398	595	907
AZ	Mesa	471,825	427	658	952
AZ	Chandler	260,828	394	752	1,035
AZ	Gilbert	247,542	N/A	763	1,005
AZ	Glendale	240,126	403	649	936
AZ	Scottsdale	236,839	467	768	1,077
CA	Los Angeles	3,971,883	524	729	1,043
CA	San Diego	1,394,928	456	688	992
CA	San Jose	1,026,908	450	741	1,041
CA	San Francisco	864,816	456	700	1,004
CA	Fresno	520,052	417	690	952
CA	Sacramento	490,712	497	676	914
CA	Long Beach	474,140	463	674	1,010
CA	Oakland	419,267	540	711	1,069
CA	Bakersfield	373,640	449	663	930
CA	Anaheim	350,742	541	733	978
CA	Santa Ana	335,400	486	724	1,011
CA	Riverside	322,424	464	700	970
CA	Stockton	305,658	476	632	918

State	City	2015 Population	Studio	1 Bedroom	2 Bedroom
CA	Chula Vista	265,757	475	641	961
CA	Irvine	256,927	586	727	1,044
CA	Fremont	232,206	510	687	966
CA	San Bernardino	216,108	507	648	862
CO	Denver	682,545	501	712	1,013
CO	Colorado Springs	456,568	454	663	952
CO	Aurora	359,407	418	682	962
DC	Washington	672,228	480	717	991
FL	Jacksonville	868,031	484	737	1,082
FL	Miami	441,003	474	720	1,022
FL	Tampa	369,075	451	715	1,056
FL	Orlando	270,934	524	721	1,051
FL	St. Petersburg	257,083	448	706	1,020
FL	Hialeah	237,069	488	681	902
GA	Atlanta	463,878	570	786	1,125
ID	Boise	218,281	459	695	955
IL	Chicago	2,720,546	466	719	1,052
IN	Indianapolis	853,173	453	689	983
IN	Fort Wayne	260,326	443	663	977
KS	Wichita	389,965	410	659	963
KY	Louisville	615,366	496	740	994
KY	Lexington	314,488	408	697	994

State	City	2015 Population	Studio	1 Bedroom	2 Bedroom
LA	New Orleans	389,617	486	704	1,002
LA	Baton Rouge	228,590	548	715	1,017
MA	Boston	667,137	536	724	1,054
MD	Baltimore	621,849	485	701	929
MI	Detroit	677,116	504	701	992
MN	Minneapolis	410,939	471	694	996
MN	Saint Paul	300,851	468	721	987
MO	Kansas City	475,378	472	722	1,021
MO	St. Louis	315,685	465	686	941
NC	Charlotte	827,097	558	748	1,052
NC	Raleigh	451,066	507	760	1,066
NC	Greensboro	285,342	418	721	992
NC	Durham	257,636	521	734	1,043
NC	Winston– Salem	241,218	439	727	990
NE	Omaha	443,885	477	758	1,090
NE	Lincoln	277,348	465	761	1,056
NJ	Newark	281,944	466	662	850
NJ	Jersey City	264,290	570	753	1,097
NM	Albuquerque	559,121	407	673	964
NV	Las Vegas	623,747	366	712	1,017
NV	Henderson	285,667	N/A	755	1,067
NV	Reno	241,445	352	692	975

State	City	2015 Population	Studio	1 Bedroom	2 Bedroom
NV	North Las Vegas	234,807	370	747	1,021
NY	New York City *	1,644,518	475	694	1,015
NY	Buffalo	258,071	424	657	843
OH	Columbus	850,106	390	670	996
OH	Cleveland	388,072	440	685	951
OH	Cincinnati	298,550	459	686	953
OK	Oklahoma City	631,346	482	700	979
OK	Tulsa	403,505	493	691	979
<b>OR</b>	<b>Portland</b>	<b>632,309</b>	<b>466</b>	<b>674</b>	<b>964</b>
PA	Philadelphia	1,567,442	441	714	974
PA	Pittsburgh	304,391	457	694	964
TN	Memphis	655,770	452	710	985
TN	Nashville	654,610	497	702	1,046
TX	Houston	2,296,224	497	727	1,035
TX	San Antonio	1,469,845	474	682	1,003
TX	Dallas	1,300,092	522	705	1,036
TX	Austin	931,830	468	703	1,035
TX	Fort Worth	833,319	516	701	1,028
TX	El Paso	681,124	393	646	918
TX	Arlington	388,125	474	672	970
TX	Corpus Christi	324,074	487	672	953
TX	Plano	283,558	578	765	1,084

State	City	2015 Population	Studio	1 Bedroom	2 Bedroom
TX	Garland	236,897	439	694	968
TX	Irving	236,607	543	714	1,017
VA	Virginia Beach	452,745	471	757	1,032
VA	Norfolk	246,393	591	701	974
VA	Chesapeake	235,429	N/A	797	1,018
VA	Richmond	220,289	477	690	940
WA	Seattle	684,451	458	681	970
WI	Milwaukee	600,155	511	687	1,017
WI	Madison	248,951	418	711	995

*\*New York City refers to Manhattan*

### **Who is RENTCafe and How Did We Compile the Data?**

- RENTCafe is a [nationwide apartment search website](#) that enables renters to easily find apartments and houses for rent throughout the United States.
- To compile this report, RENTCafe’s research team analyzed apartment size data across the 100 largest cities in the US. The report is exclusively based on apartment data related to buildings containing 50 or more units.
- Apartment size data was provided by [Yardi Matrix](#), an apartment market intelligence source and RENTCafe’s sister company which researches and reports on all multifamily properties of 50+ units across 121 markets in the United States.
- Based on [Yardi Matrix’ definition and classification of the apartment market](#), high-end or luxury rental properties are those that fall into the discretionary (Class A+/A) and high mid-range (Class A-/B+) class categories.
- To compile the largest / smallest unit rankings, we have used an internal classification system that takes into account the 3 major property types: studio, one-, and two- bedroom units. The final position in the ranking of a particular city was determined by the aggregate rank of that city with respect to the average apartment size. The aggregate rank was calculated by tallying the rankings obtained for that city for the 3 individual property types.

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MIKE McCALLISTER  
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING  
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### **BRIEFING MEMORANDUM**

TO: Board of County Commissioners

FROM: Glen Hamburg, Planner II  
Martha Fritzie, Senior Planner

DATE: July 23, 2018

RE: Upcoming hearing on ZDO-269, Proposed Comprehensive Plan and Zoning and Development Ordinance Amendments: Accessory Dwelling Units (ADUs)

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*Proposals, as recommended by Planning Commission and Staff, at upcoming August 1, 2018, public hearing:*

#### **1. Adopt state-mandated policies to expand ADU allowances inside urban growth boundaries (UGBs)**

- Measure *required* by SB 1051 (2017) and HB 4031 (2018)
- One ADU per detached single-family dwelling
- All detached single-family housing zoning districts inside UGBs, including those UGBs for cities of Canby, Estacada, Molalla, Sandy, and Wilsonville, and the Portland Metro
- Newly allowed in FF-10, FU-10, RA-1, RA-2, and RRFF-5 Districts
- Est. 4,000 potentially-impacted tax lots (55%-60% of which are in Damascus area)

#### **2. Repeal “owner occupancy requirement”**

- Current requirement: property owner must reside in either their primary dwelling unit or their ADU
- DLCDD and Planning Commission, as well as staff, recommend repeal of this requirement

#### **3. Increase ADU floor area maximum to 900 ft<sup>2</sup>**

- Current ADU floor area maximum for most zones: 720 ft<sup>2</sup>
- Planning Commission initiated recommendation to increase to 900 ft<sup>2</sup> to allow more flexibility
- Staff supports this recommendation
- Common maximum in the region: 800 ft<sup>2</sup>

**4. Allow manufactured dwellings as ADUs, but only in rural residential zones inside UGBs**

- Only in FF-10, RA-1, RA-2, and RRFF-5 Districts
- Subject to the same square-footage maximums as any other ADU
- Must meet same regulatory standards as any other manufactured dwelling

**5. Adopt ADU standards, expand ADU allowances in Mt. Hood area**

- HR District already allows ADUs, but not subject to general standards (maximum floor area, owner occupancy, etc.); Planning Commission and staff recommend subjecting HR District ADUs to same ZDO standards applicable in other zones
- Allow ADUs in MRR District, where detached single-family residences are already a primary use

**6. Permit “accessory historic dwelling” (different from ADU) in rural residential zones, only if located *outside* a UGB and urban reserve**

- Policy newly-allowed by HB 3012 (2017)
- Would apply only in FF-10, RA-1, RA-2, and RRFF-5 Districts *outside* UGBs and urban reserves
- Does *not* apply in resource (EFU, TBR, and AG/F) zones
- Only for lots at least two acres in area
- Conversion of home built between 1850 and 1945 to accessory dwelling
- Allowed only concurrent with construction/placement of new primary dwelling
- May be remodeled and slightly expanded, but not replaced if destroyed
- Est. 800 potentially-impacted tax lots