



## Notice of Land Use Public Hearings

for Community Planning Organizations, Hamlets, and Other Interested Parties

**Subject:** **Ordinance ZDO-285: *Minor and Time Sensitive Amendments and New Housing Options*: Responding to changes made by the State Legislature and other agencies**

**Notice Date:** March 18, 2024

**Contact:** Martha Fritzie, Principal Planner  
150 Beaver Creek Road, Oregon City, OR 97045  
Phone: 503-742-4529  
Email: [mfritzie@clackamas.us](mailto:mfritzie@clackamas.us)

*Minor and Time-Sensitive Comprehensive Plan and ZDO Amendments* is a Planning project that is intended to be completed annually and focuses on changes, some of which are relatively minor, to the County's Comprehensive Plan and Zoning and Development Ordinance (ZDO) to comply with any new state and federal mandates, clarify existing language, correct errors, or adopt optional provisions that require only minimal analysis. **This year, however, this amendment package is also proposed as a vehicle for the adoption of new land use allowances in state law.**

The 2023-2024 *Minor and Time Sensitive Amendments* package, **Ordinance ZDO-285**, is a narrowly-focused package of amendments that primarily responds to certain land use legislation approved in the 2021, 2022 and 2023 Oregon legislative sessions and recent state rulemaking. The proposed changes are grouped in the following five categories.

1. Accessory dwelling units (ADUs) in rural residential zones (optional).
2. Recreational vehicles (RVs) for residential use as second dwellings (optional).
3. Changes to standards for replacement dwellings in Agriculture and Forest zones (mandatory).
4. Housing-related amendments, including additional allowances for affordable housing; prefabricated structures; and single-room occupancies (mandatory).
5. Minor, non-substantive changes to the Comprehensive Plan and ZDO for clarity and to correct errors.

The Planning Commission and Board of County Commissioners have scheduled hearings to receive testimony from the public and other interested parties on the proposed amendments. Because the amendments may affect your community or area of interest, we are giving you and your organization advance notice of the opportunity to review and comment on them before or at the public hearings.

The full text of the proposed amendments is available at [www.clackamas.us/planning/zdo285](http://www.clackamas.us/planning/zdo285), by contacting Martha Fritzie at the phone number or email listed above, or by contacting Planning & Zoning at 503-742-4500 or [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us). Additional background information on rural ADUs and recreational vehicles as second dwellings is available at <https://www.clackamas.us/planning/secondary-dwellings>.

## Public Hearings and Testimony

Interested parties are welcome to provide testimony in advance of or at the hearings listed below. The Planning Commission public hearings are held virtually using the Zoom platform. The Board of County Commissioners public hearings are held both in-person and virtually using the Zoom platform. One week before the hearing dates, a Zoom link to the public hearing and details on how to observe and testify will be posted at the hearing web address.

### ***Public Hearing Dates and Times:***

**Planning Commission: 6:30 p.m., Monday, April 22, 2024**

[www.clackamas.us/planning/planning-commission](http://www.clackamas.us/planning/planning-commission)

**Board of County Commissioners: 10:00 a.m., Wednesday, May 8, 2024**

BCC Hearing Room (4<sup>th</sup> Floor), 2051 Kaen Rd, Oregon City, 97045

[www.clackamas.us/meetings/bcc/landuse](http://www.clackamas.us/meetings/bcc/landuse)

**Written testimony** may be submitted before the hearings to Martha Fritzie at [mfritzie@clackamas.us](mailto:mfritzie@clackamas.us) or 150 Beaver Creek Road, Oregon City, OR 97045.

- Written testimony received by 4 p.m., Wednesday, April 10, 2024, will be included in the information packet provided to the Planning Commission one week before its scheduled hearing; written testimony received after that time and before 10 a.m., Monday, April 22, 2024, will be emailed to the Planning Commission before the hearing. If the Planning Commission continues the April 22<sup>nd</sup> hearing, additional testimony submittal deadlines will be identified at that hearing.
- Written testimony received by 4 p.m., Monday April 29, 2024, will be included in the information packet provided to the Board of County Commissioners (BCC) one week before its scheduled hearing; written testimony received after that time and before 4 p.m., Tuesday, May 7, 2024, will be emailed to the BCC before the hearing. If the BCC continues the May 8<sup>th</sup> hearing, additional testimony submittal deadlines will be identified at that hearing.

Interested parties who want to present **verbal testimony** at either hearing will be asked to sign up and/or indicate their interest in testifying at the beginning of the hearing.

## Overview of Proposed Amendments

Ordinance ZDO-285 proposes changes to accomplish the following five actions.

### **1. Allow accessory dwelling units (ADUs) in certain rural residential areas.**

Currently, in Clackamas County, accessory dwelling units (ADUs) are only allowed on properties located *inside* of an urban growth boundary (UGB) or *inside* certain unincorporated communities. This is because, until recent legislation, state law did not allow the county to permit ADUs outside of a UGB or unincorporated community.

In 2021, Senate Bill (SB) 391 included language that enabled counties to allow ADUs on rural residential lands outside a UGB, but only after the completion of the state's wildfire hazard map, which, to date, has not been adopted. SB 644 (2023) amended the earlier legislation so that counties can proceed with allowing ADUs in rural residential areas prior to the wildfire map adoption.

Per this legislation, counties may allow one ADU in “areas zoned for rural residential use,” provided the site is *outside* of a UGB and *outside* of an urban reserve.

This legislation is not a mandate; the county may, but is not *required* to, allow ADUs on some rural residential lands. But if ADUs are allowed in rural residential areas, they must, at a minimum, comply with certain standards identified in the state law, including:

- The lot must be two (2) acres or greater
- There is one single-family dwelling (includes manufactured dwellings) sited on the lot
- The lot must not be subject to order declaring it as a nuisance property or subject to pending action related to nuisance property
- The lot or parcel must be served by a fire protection service provider
- The ADU must comply with all applicable state laws relating to water supply, sanitation and wastewater disposal
- The living area of the ADU is limited to 900 square feet
- The ADU must be located within 100 feet of the single-family dwelling
- The ADU cannot be used as a short-term rental
- The lot cannot be subdivided to separate the primary dwelling and ADU
- The ADU is subject to certain wildfire siting and construction standards, including defensible space and fire-related construction provisions in the state building code.

The county has the option to be more restrictive than state law on the standards listed above, but may not be more permissive.

Ordinance ZDO-285 includes the amendments to allow for this use, and with the exception of specifying property line setbacks, apply only the minimum standards required under the state law.

## **2. Allow recreational vehicles (RVs) to be used as second dwellings in certain urban and rural residential areas.**

Currently, in Clackamas County, siting a recreational vehicle (RV) as a residence is prohibited except in limited circumstances, such as temporary dwellings for care or while building a permanent dwelling.

SB 1013(2023) creates the potential to allow certain property owners to place an RV on their property and use it as a second dwelling. This legislation is not a mandate; the county may, but is not *required* to, allow for RVs as second dwellings.

The bill specifies that a county may allow property owners in a “rural area” to site one RV for residential purposes. In this case, the legislation defines “rural area” to include unincorporated (outside cities) residential lands both outside and inside the Portland Metropolitan urban growth boundary (UGB), which means that in unincorporated Clackamas County, this legislation applies to certain urban *and* rural residential zones (i.e. both inside and outside the Metro UGB), but not to properties within the Barlow, Canby, Estacada, Molalla or Sandy UGB or an urban reserve.

The bill further specifies that:

- The allowance is subject to a residential rental agreement
- The RV is not subject to state building code

- The single-family dwelling on the property must be occupied as the property owner’s primary residence
- There cannot be any other dwelling units on the property and no portion of the single-family dwelling can be rented for residential tenancy
- The property owner must provide “essential services”, including utility hookups to the RV space
- The RV may not be used for vacation occupancy

The county has the option to apply certain additional provisions and may be more restrictive than state law on the required standards, but may not be more permissive.

Ordinance ZDO-285 includes the amendments to allow for this use, and proposes including standards for the following, in addition to the minimum standards required under the state law.

- The RV would be subject to the same setbacks from property lines that apply to the primary dwelling;
- The RV would need to be sited at least 10 feet from the primary dwelling, but no farther than 100 feet from that dwelling.
- The RV would be subject to the same siting standards as structures in any regulated hazard or protected resource areas and would be prohibited in flood hazard areas.

### **3. Amend standards for replacement dwellings in Agriculture and Forest zones.**

The alteration, restoration, and replacement of lawfully-established dwellings in Agriculture and Forest zones (EFU, AG/F, and TBR) is governed by state statutes and administrative rules. Prior to January 2, 2024, the effective date of HB 2192(2023), the rules for alteration, restoration, and replacement of dwellings were different in the Agriculture zones than in the Forest zones.

- In Forest zones, statutes allowed for the alteration, restoration or replacement of a lawfully established dwelling only if that building met specific structural requirements for a habitable dwelling at the time of the proposed replacement.
- In Agriculture zones, temporary provisions were in effect that allowed for alteration, restoration, and replacement of dwellings that formerly met the habitability requirements as far back as 1973.

HB 2192 (2023) aligns statutory requirements for the alteration, restoration, and replacement of dwellings in Agriculture and Forest zones. The provisions in this bill are already in effect and generally include the following.

- Retains the prior requirements for specific structural requirements for a habitable dwelling (intact exterior walls and roof, indoor plumbing with a sink, toilet, and bathing facilities connected to sanitary waste system, interior wiring for lights, and heating system).
- Allows lawfully established dwellings to be altered, restored, or replaced that have or “formerly had” the above structural requirements when an application for a replacement dwelling is filed within three years following the date that the dwelling last possessed those features, if the dwelling to be replaced was assessed as a dwelling for the purposes of ad valorem taxation:
  - In the five years before permit application unless the value of the dwelling was eliminated from such taxation because of destruction or demolition.

- In the five years before the date of the destruction or demolition if the dwelling was eliminated from such taxation as a result of destruction or demolition.
- From the date the dwelling was established and became subject to taxation if the dwelling post-dates the beginning of the applicable five-year period.
- Includes certain siting standards and requires that construction must commence no later than four years after approval of the replacement application.
- Requires replacement dwellings comply with fire-related construction provisions in the state building code.

Ordinance ZDO-285 would include all the required provisions for alteration, restoration, and replacement of lawfully-established dwellings in Agriculture and Forest zones in the ZDO, so that the county would no longer need to administer these provisions directly from state law.

**4. Make other housing-related amendments related to affordable housing, prefabricated structures, and single-room occupancy allowances.**

The Oregon Legislature passed several bills that included mandatory allowances for certain dwelling types and for affordable housing in certain areas. ZDO-285 includes amendments to include these mandatory items in the county’s ZDO, including:

- Adding a definition for single room occupancies and allowing this type of housing in urban residential zones and rural residential zones inside a UGB.
- Adding a definition for prefabricated structures and allowing this type of dwelling consistent with allowances for manufactured dwellings.
- Allowing for the development of affordable housing, as defined in ORS 197A.445(1), on certain urban residential, commercial, and industrial properties, including:
  - Property owned by a public body, a housing authority, or certain types of non-profit organizations; or
  - Property zoned to allow religious assembly or commercial uses.
- Amending the affordable housing bonus density standards to include an additional option, as outlined in the state law.

**5. Make minor/non-substantive changes to the Comprehensive Plan and ZDO that:**

- Remove a reference to a zoning district that has been repealed;
- Clarify setback exemptions for middle housing land divisions;
- Remove a combined platting allowance for middle housing land divisions that may not be supported by state law;
- Add references to the new housing types allowed by state law to Chapter 4 of the Comprehensive Plan;
- Revise Comprehensive Plan policies that conflict with new requirements to allow affordable housing in certain areas; and
- Correct citations and typographical errors.

## Additional Information and Staff Report

For more information about potentially allowing rural ADUs or to allow RVs as second dwellings:

<https://www.clackamas.us/planning/secondary-dwellings>

For additional information about ZDO-285 and its public hearings (and for a copy of the staff report available April 15, 2024):

[www.clackamas.us/planning/zdo285](http://www.clackamas.us/planning/zdo285)

or

Martha Fritzie, 503-742-4529, [mfritzie@clackamas.us](mailto:mfritzie@clackamas.us)

or

Planning & Zoning Customer Service, 503-742-4500, [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us)

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email [DRenhard@clackamas.us](mailto:DRenhard@clackamas.us).*

503-742-4545: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод? |翻译或口译? |Cần Biên dịch hoặc Phiên dịch? |번역 또는 통역?