



# CLATSOP COUNTY PLANNING COMMISSION REGULAR MEETING AGENDA

Hybrid, Boyington Building 857 Commercial St and Via Zoom link.

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**Tuesday, September 12, 2023 at 10:00 AM**

## **GO TO MEETING**

- [1.](#) Instructions for accessing the Zoom meeting

## **CALL MEETING TO ORDER**

## **ROLL CALL**

## **FLAG SALUTE**

## **ADOPT AGENDA**

**BUSINESS FROM THE PUBLIC:** This is an opportunity for anyone to give a brief presentation about any land use planning issue or county concern that is not on the agenda.

## **PRESENTATION: CLATSOP COUNTY EMERGENCY MANAGEMENT**

## **PUBLIC HEARINGS**

- [2.](#) Ordinance 23-13: Storage Structures for Emergency Supplies

## **WORK SESSION**

- [3.](#) EnterTextHere

## **PROJECT STATUS REPORT**

- [4.](#) September 2023 Project Status Report

## **DIRECTOR'S REPORT**

- [5.](#) September 2023 Director's Report

## **GOOD OF THE ORDER**

## **ADJOURN**

**NOTE TO PLANNING COMMISSION MEMBERS:** Please contact the Community Development Department (503-325-8611) if you are unable to attend this meeting.



# Clatsop County

Community Development – Planning

800 Exchange St., Suite 100  
Astoria, OR 97103  
(503) 325-8611 phone  
(503) 338-3606 fax  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)

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## Clatsop County Planning Commission Regular Meeting Zoom Meeting Instructions

### To join the meeting from your computer, tablet or smartphone:

Hi there,

You are invited to a Zoom webinar.

When: Sep 12, 2023 10:00 AM Pacific Time (US and Canada)

Topic: Planning Commission

Please click the link below to join the webinar:

<https://co-clatsop-or-us.zoom.us/j/89715261179?pwd=cDJZN3Z4ZkFVdUN5dmJSM3ErcHgzdz09>

Passcode: 456279

**Dial by your location:** +1 253 215 8782 US

**Webinar ID:** 897 1526 1179

Those wishing to provide testimony on public hearings or provide oral communication at the designated time must register in advance by calling 503-325-8611 or emailing [comdev@clatsopcounty.gov](mailto:comdev@clatsopcounty.gov). You will be notified when your three-minute presentation is scheduled. Comments may also be submitted via email to [comdev@clatsopcounty.gov](mailto:comdev@clatsopcounty.gov) to be read at the meeting.



# Clatsop County – Land Use Planning

800 Exchange Street, Suite 100  
Astoria, OR 97103  
(503) 325-8611 | (503) 338-3606 (Fax) | comdev@clatsopcounty.gov

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**TO:** Planning Commission Members

**CC:** Land Use Planning Staff

**FROM:** Gail Henrikson, AICP, CFM – Community Development Director

**DATE:** September 12, 2023

**RE:** **ORDINANCE 23-13: STORAGE STRUCTURES FOR EMERGENCY SUPPLIES**

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## BACKGROUND

The Clatsop County Emergency Management Department has recently submitted grant applications to install three emergency supply cache sites in Arch Cape. The proposed cache sites in Arch Cape are zoned Arch Cape Rural Community Residential (AC-RCR). The *Land and Water Development and Use Code* (LAWDUC) specifically calls out “storage structures for emergency supplies” in the Forest-80 (F-80) and Agriculture-Forestry (AF) zones, but does not include this use in any other zoning district. The purpose of this proposed ordinance is to revise LAWDUC to include “storage structures for emergency supplies” in 25 zoning designations in unincorporated Clatsop County.

## PROPOSED REVISIONS

### ARTICLE 1. INTRODUCTORY PROVISIONS

Section 1.0500, LAWDUC, contains the following definition:

STORAGE STRUCTURES FOR EMERGENCY SUPPLIES -- Structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.

This definition is taken verbatim from OAR 660-006-00005. No change is proposed to this definition as part of these amendments. Section 1.0500, however, only contains a definition of “emergency” that identifies situations when emergency work is permitted in estuarine areas. Staff is therefore proposing to modify the existing definition of “emergency” and add a new definition of “emergency” that address human-created or natural events. The proposed definition is copied directly from Oregon Revised Statutes (ORS) 401.025.

### **ARTICLE 3. STRUCTURE SITING AND DEVELOPMENT STANDARDS**

LAWDUC Article 3 contains standards that are required of certain types of development. Section 3.9220 specifically addresses standards required for Public and Quasi-Public Uses, including storage structures for emergency supplies. OAR 660-006-0025(4)(z) includes standards for emergency storage facilities that must be applied to structures placed on lands zoned for forest or agriculture/forest uses. The existing mandatory standards are shown below.

#### **Section 3.9220. Public and Quasi-public Uses**

- 1) Storage structures for emergency supplies are subject to the following requirements:
  - (A) Areas within an urban growth boundary cannot reasonably accommodate the structures;
  - (B) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction;
  - (C) Sites where the structures could be co-located with an existing use approved under this subsection are given preference for consideration;
  - (D) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
  - (E) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and
  - (F) Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.

While Oregon Administrative Rules (OAR) require the County to apply these standards to structures on forest lands, there is no such requirement that the same standards apply to emergency supply storage structures on non-forest lands. For that reason, staff is not proposing to apply these standards, which would allow structures managed by local community organizations, houses of worship, or other non-governmental entities, to install and maintain facilities on non-forest lands throughout unincorporated Clatsop County.

### **ARTICLE 4. ZONE REGULATIONS**

OAR 660-006-0025(4)(z) requires the County to approve storage structures for emergency supplies on forest lands using a conditional use review process that requires public notice and the opportunity for a public hearing. As discussed above, specific standards must also be met. OAR 660-033-0120 does not permit storage structures for emergency supplies on lands zoned Exclusive Farm Use.

For emergency supply storage structures on non-forest lands, there is no requirement that a conditional use process be used. Staff is proposing to add "storage structures for emergency supplies" as a Type I use to the following zone designations:

- Arch Cape Rural Community Residential (AC-RCR)
- Miles Crossing, Jeffers Gardens and Westport Rural Community Residential (RCR)

For project information and updates, visit us on the web!

[www.clatsopcounty.gov/landuse](http://www.clatsopcounty.gov/landuse)

- Knappa and Svensen Rural Community Residential (KS-RCR)
- Rural Service Area-Single Family Residential (RSA-SFR)
- Rural Community Multi-Family Residential (RC-MFR)
- Rural Service Area – Multi Family Residential (RSA-MFR)
- Rural Community Commercial (RCC)
- Rural Community Light Industrial (RCI)
- Rural Community Commercial and Light Industrial (RCC-LI)
- Light Industrial (LI)
- Heavy Industrial (HI)
- Coastal Beach Residential (CBR)
- Coastal Residential (CR)
- Single-Family Residential (SFR-1)
- Residential-Agriculture-1 (RA-1)
- Residential-Agriculture-2 (RA-2)
- Residential-Agriculture-5 (RA-5)
- Residential-Agriculture-10 (RA-10)
- Neighborhood Commercial (NC)
- General Commercial (GC)
- Tourist Commercial (TC)
- Military Reserve (MR)
- Quarry and Mining (QM)
- Rural Community Parks (RCP)
- Recreation Management (RM)

A Type I review process requires a development permit and can typically be issued at the counter.

In addition to the above proposed amendments, staff is also proposing to remove the list of standards for storage structures for emergency supplies that are included in the Agriculture-Forestry (AF) zone and instead list the code citation where the standards are already located in Article 3. Including the standards in the AF is redundant. No changes are proposed to the Forestry-80 (F-80) zone, as only the applicable code citation and not the actual standards are listed.

Zones such as the Lake and Wetlands (LW), Aquatic Conservaton One (AC-1) and Conservation Shorelands (NS), whose primary purpose is to conserve and protect environmentally-sensitve lands were not included in the proposed amendments. Many of these areas are water or wetland-based and may either be directly impacted by disasters or would not be appropriate locations to store supplies or house displaced persons during an emergency. Likewise, zones that are primarily intended for water-dependent uses such as the Marine Industrial designation, were also excluded from these amendments.

For project information and updates, visit us on the web!

[www.clatsopcounty.gov/landuse](http://www.clatsopcounty.gov/landuse)

**RECOMMENDED ACTION:**

The Planning Commission has several possible actions that it could take on this proposed ordinance:

- Recommend the Board approve the amendments as submitted
- Recommend the Board approve the amendments with further revisions
- Recommend the Board deny the amendments
- Continue the item to a date certain for further discussion and review
- Table the item indefinitely

***Suggested Motion:***

*"I recommend the Board of Commissioners approve Ordinance 23-13 as presented."*

**BEFORE THE BOARD OF COMMISSIONERS  
FOR THE COUNTY OF CLATSOP**

In the Matter of:

**An Ordinance adopting amendments to the Clatsop County *Land and Water Development and Use Code* (LAWDUC) Article 4 – Zoning Regulations, to address storage structures for emergency supplies.**

**ORDINANCE NO. 23-13**

Doc # \_\_\_\_\_

Recording Date: \_\_\_\_\_

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RECITALS

WHEREAS, the Clatsop County Emergency Management Department has completed grant applications for three emergency supply cache sites in Arch Cape; and

WHEREAS, the Clatsop County *Land and Water Development and Use Code* (LAWDUC) only specifically lists storage structures for emergency supplies as an allowed use in the AF (Agriculture-Forestry) and F-80 (Forest-80) zones; and

WHEREAS, Section 1.1040, LAWDUC, limits development of property to uses explicitly listed in the zoning ordinance; and

WHEREAS, the LAWDUC must be amended to expressly include storage structures for emergency supplies in other zones in order to allow the activity; and

WHEREAS, the Planning Commission conducted a public hearing and provided a recommendation to the Board of Commissioners on September 12, 2023; and

WHEREAS, the Board of Commissioners has received and considered the Planning Commission's recommendations on these proposed amendments

**THE BOARD OF COMMISSIONERS OF CLATSOP COUNTY ORDAINS AS FOLLOWS:**

**SECTION 1. ADOPTION**

The Board of County Commissioners hereby adopts amendments to the Clatsop County *Land and Water Development and Use Code* as shown in Exhibit 1, attached hereto and incorporated herein by this reference.

**SECTION 2. SEPARABILITY**

The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

**SECTION 3. CONFORMANCE OF STATE LAW**

This Ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the state of Oregon, or its agencies, or any ordinance, rule, or regulation of Clatsop County.

**SECTION 4. INCONSISTENT PROVISIONS**

This Ordinance shall supersede, control and repeal any inconsistent provision of any County Ordinance as amended or any other regulations made by Clatsop County.

**SECTION 5. APPLICABILITY**

This Ordinance shall apply within the unincorporated areas of Clatsop County but shall not apply within the boundaries of any incorporated City.

**SECTION 6. EFFECTIVE DATE**

This Ordinance shall take effect on the 30<sup>th</sup> day following adoption by the Board of Commissioners as provided in Chapter III, Section 8(2) of the Home Rule Chapter for the Government of Clatsop County.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023

THE BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

By \_\_\_\_\_  
Mark Kujala, Chair



Date \_\_\_\_\_

By \_\_\_\_\_  
Theresa Dursse, Recording Secretary

First Reading: October 11, 2023  
Second Reading: October 25, 2023  
Effective Date: November 24, 2023

## EXHIBIT 1

- A. \*\*\* Indicates that non-revised language was not included. Used for document brevity.
- B. Underlined text indicates new language proposed to be added
- C. ~~Strikethrough~~ text indicates text that is proposed for deletion

Ordinance 23-11

1<sup>st</sup> Public Hearing: August 9, 2023

Agenda Item # 2. Agenda Item # 2. ng: August 23, 2023

# ARTICLE 1. INTRODUCTORY PROVISIONS

## Section 1.0100. Title

This Ordinance shall be known as the Clatsop County *Land and Water Development and Use Code (LAWDUC)*.

\*\*\*

## **SECTION 1.0500. DEFINITIONS**

As used in this Ordinance, the following words and phrases shall have the following meanings:

\*\*\*

**EMERGENCY** -- A human created or natural event or circumstance that causes or threatens widespread loss of life, injury to person or property, human suffering or financial loss, including but not limited to:

- (a) Fire, wildfire, explosion, flood, severe weather, landslides or mud slides, drought, earthquake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage, acts of terrorism and war; **and**
- (b) A rapid influx of individuals from outside this state, a rapid migration of individuals from one part of this state to another or a rapid displacement of individuals if the influx, migration or displacement results from the type of event or circumstance described in paragraph (a) of this subsection. [ORD. 23-13]

**EMERGENCY CONDITIONS IN ESTUARINE AREAS** -- Emergency conditions are limited to activities such as bankline or streamline alteration, dike repair, fill, and shoreline stabilization undertaken during high water and/or storm conditions. Emergency activities affecting removal of material from estuarine aquatic areas or filling of estuarine aquatic areas are those necessary for preventing irreparable harm, injury or damage to persons or property. The Oregon Division of State Lands requires notification within 24 hours following the start of emergency activities. Measures taken as a result of emergency conditions will be inspected following notification and denied or approved. [ORD. 23-13]

\*\*\*

# ARTICLE 4. ZONE REGULATIONS

## SECTION 4.0100. ESTABLISHMENT OF ZONES

The classification system used in the Clatsop County Comprehensive Plan was established and mapped as a management tool to implement the policies and intent of

the Comprehensive Plan. The classifications are defined in the Land Use Planning Element of the Comprehensive Plan and the Development Patterns section of each of the Community Plans.

With each Plan classification, land use zones are established that are appropriate to carry out the intent and purpose of the Plan classification. The zone and district classification within each of the Comprehensive Plan designations for the County are shown in Table 4.1. The zone boundaries are as shown on the Clatsop County "Comprehensive Plan/Zoning Map" and Columbia River Estuary Resource Maps that in their present form are hereby adopted by reference. Where the abbreviated designation is used in this Ordinance, it has the same meaning as the entire classification title.

\*\*\*

#### **SECTION 4.0600. ARCH CAPE RURAL COMMUNITY RESIDENTIAL ZONE (AC-RCR)**

##### **Section 4.0620. Development and Use Permitted**

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

**17) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

#### **SECTION 4.0700. MILES CROSSING, JEFFERS GARDENS AND WESTPORT RURAL COMMUNITY RESIDENTIAL ZONE (RCR)**

##### **Section 4.0720. Development and Use Permitted (RCR)**

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards. Combined square footage of commercial uses, including their accessory uses occur in building or buildings that do not exceed the following area standards:

**19) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

#### **SECTION 4.1000. KNAPPA AND SVENSEN RURAL COMMUNITY RESIDENTIAL ZONE (KS-RCR).**

##### **Section 4.1020. Development and Use Permitted**

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

**19) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

#### **SECTION 4.1100. RURAL SERVICE AREA-SINGLE FAMILY RESIDENTIAL ZONE (RSA-SFR)**

##### **Section 4.1120. Development and Use Permitted (RSA-SFR)**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable standards.

**16) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.1200 RURAL COMMUNITY MULTI-FAMILY RESIDENTIAL ZONE (RC-MFR)**

**Section 4.1220. Development and Use Permitted (RC-MFR)**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**21) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.1300. RURAL SERVICE AREA - MULTI-FAMILY RESIDENTIAL ZONE (RSA-MFR)**

**Section 4.1320. Development and Use Permitted (RSA-MFR)**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**16) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.1400. RURAL COMMUNITY COMMERCIAL ZONE (RCC)**

**Section 4.1420. Development and Use Permitted**

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

**10) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.1500. RURAL COMMUNITY LIGHT INDUSTRIAL ZONE (RCI).**

**Section 4.1520. Development and Use Permitted**

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

**6) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.1600. RURAL COMMUNITY COMMERCIAL AND LIGHT INDUSTRIAL ZONE (RCC-LI)**

**Section 4.1620. Development and Use Permitted**

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

**8) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.1700. LIGHT INDUSTRIAL ZONE (LI)**

**Section 4.1720. Development and Use Permitted**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**6) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.1800. HEAVY INDUSTRIAL ZONE (HI)**

**Section 4.1820. Development and Use Permitted**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**7) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.2200. COASTAL BEACH RESIDENTIAL ZONE (CBR)**

**Section 4.2220. Development and Use Permitted**

The following uses and their accessory uses are permitted under a permit procedure subject to the applicable development standards.

**16) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.2300. COASTAL RESIDENTIAL ZONE (CR)**

**Section 4.2320. Development and Use Permitted (CR)**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**17) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.2400. SINGLE FAMILY RESIDENTIAL-1 ZONE (SFR-1)**

**Section 4.2420. Development and Use Permitted (SFR-1)**

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

**15) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.2500. RESIDENTIAL-AGRICULTURE-1 ZONE (RA-1)**

**Section 4.2520. Development and Use Permitted (RA-1)**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**21) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.2600. RESIDENTIAL-AGRICULTURE-2 ZONE (RA-2)**

**Section 4.2620. Development and Use Permitted (RA-2)**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**22) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.2700. RESIDENTIAL-AGRICULTURE-5 ZONE (RA-5)**

**Section 4.2720. Development and Use Permitted (RA-5)**

The following developments and their accessory developments are permitted under a

Type I procedure subject to applicable development standards.

**23) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.2800. RESIDENTIAL-AGRICULTURE-10 ZONE (RA-10)**

**Section 4.2820. Development and Use Permitted**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**23) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.2900. NEIGHBORHOOD COMMERCIAL ZONE (NC)**

**Section 4.2920. Development and Use Permitted**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**8) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.3000. GENERAL COMMERCIAL ZONE (GC)**

**Section 4.3030. Development and Use Permitted**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**12) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.3100. TOURIST COMMERCIAL ZONE (TC)**

**Section 4.3130. Development and Use Permitted**

The following developments and their accessory developments are permitted under a Type I procedure subject to applicable development standards.

**13) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.3200. MILITARY RESERVE ZONE (MR)**

**Section 4.3220. Development and Use Permitted**

The following development and their accessory developments are permitted under a Type I procedure subject to applicable development standards:

**9) Storage Structure for Emergency Supplies [ORD. 23-13]**

\*\*\*

**SECTION 4.3400. AGRICULTURE-FORESTRY ZONE (AF)**

**Section 4.3440. Conditional Development and Use**

The following developments and uses and their accessory uses may be permitted under a Type II procedure and Sections 2.4000 to 2.4050, subject to applicable criteria, development standards and site plan review.

**17) Storage structures for emergency supplies to serve communities and households that are located in tsunami inundation zones, subject to the standards in Section**

Ordinance 23-11

1<sup>st</sup> Public Hearing: August 9, 2023

Public Hearing: August 23, 2023

3.9220(1) and 3.9230.if;

- (A) ~~Areas within an urban growth boundary cannot reasonably accommodate the structures;~~
- (B) ~~The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by DOGAMI or the local jurisdiction;~~
- (C) ~~Sites where the structures could be co-located with an existing use approved under this section are given preference for consideration;~~
- (D) ~~The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;~~
- (E) ~~The structures are managed by a city or county government for the single purpose of providing for the temporary emergency support needs of the public; and~~
- (F) ~~Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.~~

\*\*\*

#### **SECTION 4.4300. QUARRY AND MINING ZONE (QM).**

##### **Section 4.4330. Development and Use Permitted**

The following developments and uses and their accessory developments and uses are permitted under a Type I procedure subject to applicable development standards.

- 10) Storage Structure for Emergency Supplies [ORD. 23-13]

\*\*\*

#### **SECTION 4.4400. RURAL COMMUNITY PARKS ZONE (RCP).**

##### **Section 4.4420. Development and Use Permitted**

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

- 8) Storage Structure for Emergency Supplies [ORD. 23-13]

\*\*\*

#### **SECTION 4.4500. RECREATION MANAGEMENT ZONE (RM).**

\*\*\*

##### **Section 4.4520. Development and Use Permitted**

The following developments are permitted under a Type I procedure subject to the applicable development standards:

- 4) Storage Structure for Emergency Supplies [ORD. 23-13]

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# Clatsop County

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**TO:** Planning Commission

**FROM:** David Cook, Community Development Planner

**DATE:** September 12, 2023

**RE:** **Amendments to the LAWDUC Article 3 regarding Non-Conforming Uses and Structures Regulations**

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Staff have prepared amendments to the Land and Water Development and Use Code (LAWDUC) Article 3, Structure Siting and Development Standards. The amendments are to Section 3.1000, Non-Conforming Uses and Structures.

Section 3.1000 includes standards that apply when non-conforming uses and structures, those uses or structures legally established in the past, do not conform to current LAWDUC regulations. This section also includes uses and structures established illegally, creating confusion for developers and home owners. Furthermore, the standards describe processes for expanding non-conforming uses and structures which are more arduous than necessary.

The amendments proposed are designed to make code standards more consistent with the LAWDUC, to allow property owners to more easily alter and expand their non-conforming structures, and to allow owners of property suffering from structure damage to more easily obtain permits for reconstruction.

Included in this agenda item are the amended sections of the LAWDUC for your commission's review (Exhibit A). Staff is seeking feedback on these amendments prior to returning to the Planning Commission at a public hearing.

For project information and updates, visit us on the web!  
[www.co.clatsop.or.us/landuse/page/comprehensive-plan-update](http://www.co.clatsop.or.us/landuse/page/comprehensive-plan-update)  
[www.facebook.com/ClatsopCD](https://www.facebook.com/ClatsopCD)

# **EXHIBIT A**

## **Section 3.1010. Purpose**

The purpose of the non-conforming uses and structures provisions are to establish standards and procedures regulating the continuation, improvement and replacement of structures and uses which do not comply with this Ordinance.

## **Section 3.1020. Definitions**

**ABANDONMENT:** A non-conforming use shall be considered abandoned when the non-conforming use is discontinued for a period of one year. When a non-conforming use is determined to be abandoned, subsequent use of the property shall conform to this Ordinance. Abandonment does not apply to circumstances such as fire or other catastrophes outside of the owner's control.

Non-conforming uses are not considered interrupted or abandoned for any period while a federal, state or local emergency order temporarily limits or prohibits the use or the restoration or replacement of the use.

**EXPANSION.** Any increase in any external dimension of a non-conforming structure.

**INTERRUPTION:** The discontinuance of any non-conforming use for a period of less than one year.

**NON-CONFORMING STRUCTURE:** A building or structure that does not conform to one or more standards of the zoning district in which it is located, but which legally existed at the time the applicable section(s) of the zoning district took effect.

**NON-CONFORMING USE:** A use which does not conform to the use regulations of the zoning district in which it is located, but which lawfully occupied a building or land at the time the applicable use regulation took effect.

**REAL MARKET VALUE:** The value indicated in the Clatsop County Assessor's records for an improvement or the value determined by an independent licensed appraiser.

## **Section 3.1030. Continuance**

- 1) A non-conforming use may be continued at the level of use (e.g., hours of operation) existing on the date that the use became non-conforming.
- 2) Under a Type I procedure, the County shall verify whether a use is a valid non-conforming use consistent with the standards in Section 3.1000 and ORS 215.130. An application to verify a nonconforming use shall demonstrate all of the following:
  - a. The non-conforming use was lawfully established on or before the effective date of the zoning change that prohibited the use;
  - b. The non-conforming use has continued without abandonment or interruption for the 10-year period immediately preceding the date of application or the date of the ordinance change prohibiting the use, whichever is less; and
  - c. Any alterations to the nature and extent of the non-conforming use were done in compliance with the applicable standards in Section 3.1000.
  - d. The applicant shall bear the burden of proof for establishing that the structure or use was lawfully established.

## **EXHIBIT A**

- e. The applicant shall bear the burden of proof for establishing the level of use that existed at the time the use became non-conforming.
- 3) A non-conforming structure may continue within the building dimensions (height, width and length) in existence on the date that the structure became non-conforming. Additions, alterations and expansions to a non-conforming structure shall not increase the non-conformity of the structure.

### **Section 3.1040. Abandonment or Interruption of Use**

If a non-conforming use is discontinued for a period of one year, the non-conforming use shall be considered abandoned. Subsequent use of the property shall conform to this Ordinance.

Non-conforming uses are not considered interrupted or abandoned for any period while a federal, state or local emergency order temporarily limits or prohibits the use or the restoration or replacement of the use. [ORD. 23-02]

For purposes of determining whether abandonment or interruption has occurred, the following shall apply:

- 1) Abandonment or interruption may be caused by ceasing the use or by changing the nature of the use for 365 continuous days, or longer.

### **Section 3.1050. Alteration**

- 1) Through Type I procedures alterations shall be permitted to a non-conforming structure, or to a structure containing a non-conforming use. Alteration of any such structure or use shall be permitted when necessary to comply with any lawful requirement for alteration in the structure or use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structure associated with the use. A change of ownership or occupancy shall be permitted.
- 2) If in a three-year period, alterations to a non-conforming structure, or to a structure containing a non-conforming use exceeds 75% of the real market value of the structure, the structure shall be brought into conformance with the requirements of the Ordinance. [ORD #17-02]

### **Section 3.1060. Expansion**

Expansion of non-conforming uses and structures shall be reviewed as follows:

- 1) Non-conforming structures containing a use permitted in the underlying zone, may be expanded through a Type I procedure. The expansion of such a structure shall not increase the non-conformity of the structure and shall be in conformance with the requirements of this Ordinance.
- 2) For non-conforming structures dedicated to a residential use and located in a zone not intended for residential uses, an expansion may be permitted through a Type I procedure subject to the criteria under Section 3.1060(3)(A) – (C). The expansion of such a structure shall not increase the non-conformity of the structure and shall be in conformance with the requirements of this Ordinance.

## **EXHIBIT A**

- 3) An expansion of a non-conforming use, or a change in the characteristics of a non-conforming use, (i.e. hours of operation or levels of service provided) may be approved, pursuant to a Type II procedure, where the following standards are met:
- (A) The floor area of a building(s) shall not be increased by more than 20%.
  - (B) The land area covered by structures shall not be increased by more than 10%.
  - (C) The proposed expansion of the non-conforming use, or proposed change in characteristics of the non-conforming use will have no greater adverse impact on neighboring areas, considering:
    - 1. Comparison of the following factors:
      - (a) Noise, vibration, dust, odor, fume, glare, or smoke detectable at the property line.
      - (b) Numbers and kinds of vehicular trips to the site.
      - (c) Amount and nature of outside storage, loading and parking.
      - (d) Visual impact.
      - (e) Hours of operation.
      - (f) Effect on existing vegetation.
      - (g) Effect on water drainage and water quality.
      - (h) Service or other benefit to the area.
      - (i) Other factors relating to conflicts or incompatibility with the character or needs of the area.
    - 2. The character and history of the use and of development in the surrounding area.
    - 3. An approval may be conditioned to mitigate any potential adverse impacts that have been identified.

### **Section 3.1070. Changes to a Non-conforming Use**

- 1) A non-conforming use may only be changed to that of a conforming use. Where such a change is made, the use shall not thereafter be changed back to any non-conforming use.

### **Section 3.1080. Replacement and Damage**

- 1) Non-conforming structures and uses.
- (A) If a non-conforming structure or a structure containing a non-conforming use is damaged or destroyed by fire, natural disaster or other catastrophe outside of the owner's control, it may be reconstructed in conformance with the dimensional standards of the building prior to its destruction. A building permit for its reconstruction shall be obtained within one year of the date of the damage. If a building permit is not obtained within one year, the reconstruction shall be in conformance with the current requirements of this Ordinance. However, by a Type I procedure, the Community Development Director may grant an extension of the one-year period. Requests to extend the one-year period must be provided in writing and should explain why the extension is needed and how the extension will be used to complete the project.
  - (B) If a non-conforming structure or a structure containing a non-conforming use is damaged by an action of the property owner or authorized agent, to an extent amounting to 75% or more of its real market value, it shall be reconstructed in conformance with the current requirements of this Ordinance.

## **EXHIBIT A**

- (C) If a non-conforming structure or a structure containing a non-conforming use is damaged by an action of the property owner or authorized agent, to an extent amounting to less than 75% of its real market value, a building permit for its reconstruction shall be obtained within one year of the date of the damage. If a building permit is not obtained within one year, the reconstruction shall be in conformance with the current requirements of this Ordinance. However, by a Type I procedure, the Community Development Director may grant an extension of the one-year period.
- (D) The percentage of real market value loss shall be based on the real market value lost to damages compared to the real market value of the entire structure or building. Real market value shall be the value determined by the records of the County Assessor or the value determined by an independent licensed appraiser.
- (E) Non-conforming mobile home parks destroyed by natural disaster may be replaced subject to Section 3.4095. [ORD. 23-02]

### **Section 3.1090. Completion**

A development that is lawfully under construction on the effective date of an ordinance that makes that use or structure non-conforming may be completed. The use or structure may be used for the purpose for which it was designed, arranged or intended.

### **Section 3.1100. Compliance with Other Requirements**

Notwithstanding the provisions of this section, alteration of a non-conforming use or non-conforming structure shall be allowed if necessary to comply with state or local health or safety requirements.



# CLATSOP COUNTY PROJECT STATUS REPORT SEPTEMBER 2023

# PROJECT STATUS REPORT – SEPTEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
20170352	Arch Cape Deli	4N, R10W, Section 30BB, Tax Lots 00601 and 00605, 79330 Hwy 101	Conditional use permit to construct and operate a restaurant/grocery store/flex space with a manager's living quarters	11-14-17	APPROVED WITH CONDITIONS 7-0	N/A	N/A	Demolition and grading permits approved; property line adjustment approved; electrical, mechanical and fire suppression permits issued	Grading work begun  Project is vested for land use; no expiration date  Building permit expired 7-5-22  Permits for commercial alarm/suppression systems; electrical and mechanical issued
	Goal 5 Update	N/A	Continuing work to update Comprehensive Plan Goal 5	TBD		TBD		On-going	N/A
21-000665	Clatsop Plains Community Plan	N/A	Update of Clatsop Plains Community Plan	6-14-22 08-09-22	RECOMMEND APPROVAL 6-0	No dates established for adoption hearings		On-going	N/A

# PROJECT STATUS REPORT – SEPTEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
21-000666	Elsie-Jewell Community Plan	N/A	Update of Elsie-Jewell Community Plan	6-14-22 08-09-22	RECOMMEND APPROVAL 6-0	No dates established for adoption hearings		On-going	N/A
21-000667	Lewis and Clark Olney Wallooskee Community Plan	N/A	Update of Lewis & Clark Olney Wallooskee Community Plan	6-14-22 08-09-22	RECOMMEND APPROVAL 6-0	No dates established for adoption hearings		On-going	N/A
21-000668	Northeast Community Plan	N/A	Update of Northeast Community Plan	6-28-22 08-09-22	RECOMMEND APPROVAL AS AMENDED 6-0	No dates established for adoption hearings		On-going	N/A
21-000669	Seaside Rural Community Plan	N/A	Update of Seaside Rural Community Plan	6-28-22 08-09-22	RECOMMEND APPROVAL 6-0	No dates established for adoption hearings		On-going	N/A
21-000670	Southwest Coastal Community Plan	N/A	Update of Southwest Coastal Community Plan	08-09-22	RECOMMEND APPROVAL 6-0	No dates established for adoption hearings		On-going	N/A



# PROJECT STATUS REPORT – SEPTEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
22-000578 Ordinance 22-15	GHO Update	Geologic Hazard Areas	LAWDUC amendments to update GHO mapping and permitting procedures and standards	09-13-22 11-08-22	RECOMMEND APPROVAL 7-0	Work Session 10-05-22		On hold pending new notification and meeting date notice to affected property owners	N/A
Ordinance 23-11	EFU Replacement Dwellings	EFU Zones	LAWDUC amendment to allow alteration, restoration, and replacement of dwellings in the EFU zone as a Type I use instead of a Type II Conditional Use	8-8-23	RECOMMEND APPROVAL 7-0	8-9-23 8-23-23	APP'D	COMPLETE	N/A
Ordinance 23-12	GHO Exemptions	Geologic Hazard Areas	LAWDUC amendments to include exemptions from the GHO permit requirement and to extend the length of time a geohazard report	8-8-23	RECOMMEND APPROVAL 7-0	8-9-23 8-23-23	APP'D	COMPLETE	N/A

# PROJECT STATUS REPORT – SEPTEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
			is valid from 2 to 5 years						
23-000416 Ordinance 23-13	Storage Structures for Emergency Supplies	25 Zones	LAWDUC amendments to allow storage structures for emergency supplies as a Type I use in 25 zones	9-12-23		10-11-23 10-25-23			

\*Expiration date for projects that are not completed or substantially completed



Indicates change to project status



# Clatsop County – Land Use Planning

800 Exchange Street, Suite 100  
Astoria, OR 97103  
(503) 325-8611 | (503) 338-3606 (Fax) | comdev@clatsopcounty.gov

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**TO:** Planning Commission Members

**FROM:** Gail Henrikson, AICP, CFM – Community Development Director

**DATE:** September 12, 2023

**RE:** **DIRECTOR'S REPORT**

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## COMPREHENSIVE PLAN UPDATE

- **Economic Opportunities Analysis (EOA):**  
Two proposals were received – one from Johnson Economics and one from FCS Group. The evaluation committee reviewed the proposals and a Notice of Intent to Award to Johnson Economics has been issued. The total project cost is estimated at \$61,000. The Board of Commissioners will consider award of the contract on September 27. Work on the EOA is to be completed by September 30, 2024.
- **Comprehensive Plan Goals 16 (Estuarine Resources) and 17 (Coastal Shorelands):**  
Two proposals were received – one from the Columbia River Estuary Study Taskforce (CREST) and one from Sea and Shore Solutions. The proposals are currently being evaluated. Award of the contract is tentatively scheduled for the October 11 Board of Commissioners meeting.
- **Comprehensive Plan Goal 18 (Beaches and Dunes):**  
Two proposals were received – one from the Columbia River Estuary Study Taskforce (CREST) and one from Sea and Shore Solutions. The proposals are currently being evaluated. Award of the contract is tentatively scheduled for the October 11 Board of Commissioners meeting.

## US ARMY CORPS OF ENGINEERS PROJECTS

The US Army Corps of Engineers (USACE) has recently submitted five projects within Clatsop County to the Department of Land Conservation and Development for consistency reviews.

- 10-Year Operation and Maintenance Plan
- Lower Columbia River Dredged Material Transfer Sites
- 20-Year Dredged Material Management Plan (DMMP)
- Cape Disappointment/Coast Guard Station Dredging and Disposal
- Tongue Point Dredging and Disposal

Although the USACE is not required to obtain local permits, the USACE is required to show that its proposed projects are consistent with enforceable policies in local comprehensive plans and local zoning codes. Consistency reviews are required under the Coastal Zone Management Act (CZMA).

On July 12, 2023, DLCDD issued an objection to the Lower Columbia River Dredged Material Transfer Sites project, as the USACE was proposing to create a new transfer site in an area that is designated Conservation Other Resources and is not currently designated for dredged material disposal. On August 21, 2023, DLCDD and the Oregon Department of Environmental Quality (DEQ) issued a joint letter to the USACE (attached). This August letter was issued in response to the USACE's notice to proceed with the dredging and disposal, despite not having an approved consistency review or a Clean Water Act

certification from DEQ. As of August 29, it still appears to be the USACE's intent to complete the work without the necessary authorizations.

#### **CLATSOP REGIONAL HOUSING TASK FORCE**

The Clatsop Regional Housing Task Force did not have an August meeting. Staff will be presenting information on proposed zoning codes amendments to the Board of Commissioners at a work session on October 4. The work session will be virtual-only and will begin at 10:30AM.

#### **NOAA CLIMATE RESILIENCE REGIONAL CHALLENGE GRANT**

On August 28, the Columbia River Estuary Study Taskforce (CREST), in conjunction with Clatsop County and other participating jurisdictions, submitted a Letter of Intent to NOAA to apply for \$2M in grant funding. The proposed project would collect regional data on compound flooding and sea level rise and its impacts to dikes and levees in Clatsop, Pacific and Wahkiakum counties. If the proposal moves forward in the funding process, a formal application would be required by February 13, 2024. If funded, the project is scheduled to be completed over a five-year period.

#### **FARM AND FOREST IMPROVEMENTS PROJECT**

Ian Sisson, Senior Planner, will be serving on a state Technical Working Group for the Farm and Forest Conservation Program Improvements Project. The purpose of the working group is to refine areas of needed improvements and recommendations. The group will produce a Scoping Summary Report that will be posted for public comment in December 2023 and presented to the Land Conservation and Development Commission in January 2024 for discussion and direction. The Summary Report will provide structure and work for the state's 2023-25 Farm and Forest Conservation Program Improvement Plan.



# Oregon

Tina Kotek, Governor

August 21, 2023

Sent via electronic mail to [larry.d.caswell@usace.army.mil](mailto:larry.d.caswell@usace.army.mil)

Larry D. Caswell, Jr., PE, PMP  
Colonel, U.S. Army, District Commander  
United States Army Corps of Engineers  
P.O. Box 2946  
Portland, OR 97208-2946

**Re: Lower Columbia River Federal Navigation Channel Dredged Material Transfer Sites Notice of Project Proceeding Absent CWA Section 401 Water Quality Certification or CZMA Consistency Determination**

Dear Colonel Caswell:

Late Friday afternoon Oregon's Department of Environmental Quality (DEQ) and Department of Land Conservation and Development (DCLD) received verbal notice of the United States Army Corps of Engineers' (Corps) plans to proceed Sunday, August 20, with the use of dredge transfer sites in Clatsop County for which DEQ has denied CWA Section 401 Water Quality Certification, and DCLD has objected to the Corps' Coastal Zone Management Act (CZMA) consistency determination. These important authorizations are required by federal law. As such, and as Director Feldon discussed with you in a call on Saturday, August 19, the Corps must reconsider this action and not proceed with work at these sites. The Corps' planned action is extremely concerning in that it undermines the cooperative working relationship between the state and federal agencies but also because the legal positions taken by the Corps ignore state authority under the CWA and CZMA and disregard important and longstanding state law water quality protections.

The Corps does not have CWA Section 401 Water Quality Certification for these sites. DEQ has not waived its authority to complete that review despite the Corps' unsupported claims otherwise. DEQ denied the Corps' application for Section 401 Water Quality Certification on April 28, 2023. As explained in prior correspondence, the Corps is incorrect in its assertion of waiver for several reasons including the following. First, the Corps, as the project proponent, does not have authority to set the reasonable period of time for its own project. Second, even if it did have that authority, the schedule set in this case was unreasonable and did not allow time to comply with state law. Third, the application submitted to DEQ was incomplete until at least February 24, 2023. The Corps did not even submit final payment for its application until March 21, 2023, weeks after which the Corps asserted that waiver occurred. Assertion of waiver under these facts is highly concerning to DEQ.

The substantive roadblock to the Corps obtaining a CWA Section 401 Water Quality Certification at this site was the Corps' proposal to place dredged material in an Aquatic Conservation area where such alteration of the estuary is not allowable without an exception to Statewide Planning Goal 16. The Corps was unwilling to work with state and local authorities to obtain this required exception.

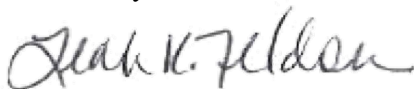
Larry D. Caswell, Jr., PE, PMP  
Colonel, U.S. Army, District Commander  
August 21, 2023  
Page 2

The Corps' chosen locations are also not designated in the applicable Dredged Material Management Plan, developed by a coalition of state and federal agencies including the Corps, and the Corps has been unwilling to comply with or update this plan. This lack of compliance means that DEQ and DLCD do not have assurance that the project is consistent with the Statewide Planning Goals. The Section 401 Water Quality Certification includes consideration of water quality related requirements of the Statewide Planning Goals as implemented at the local level and has done so for decades. For this reason, DEQ and DLCD strongly urge the Corps to not proceed with the use of sites that are inconsistent with applicable plans and policies until this requirement is met.

The Corps has not satisfied DLCD's objections to the CZMA consistency determination, and the state does not agree that the Corps has demonstrated consistency to the maximum extent practicable with the enforceable policies of the Oregon Coastal Management Program. The Corps only provided its response to those numerous objections late Friday afternoon along with its plans to proceed with the project on Sunday. On a preliminary review, the positions that the Corps is taking in its response would likely be of interest and problematic to all coastal states.

DEQ and DLCD are concerned about the Corps' actions in this case not just for the ramifications in the lower Columbia River but also for all the coastal rivers in Oregon and due to the lack of cooperation more broadly. The state is evaluating all pathways for legal challenge in the event that the Corps proceeds as planned without DEQ's 401 Water Quality Certification and against DLCD's CZMA consistency objection. Although options exist for identifying an appropriate site and frequent communication has occurred regarding these options, the Corps has not pursued any of them. The agencies ask that the Corps honor longstanding partnership between the state and federal agencies by stepping back from these projects until these requirements are met.

Sincerely,



Leah Feldon  
Director  
Department of Environmental Quality



Brenda Bateman, Ph.D.  
Director  
Department of Land Conservation and Development

cc:

Governor Tina Kotek  
United States Senator Jeff Merkley  
United State Senator Ron Wyden  
Congressional Representative Suzanne Bonamici  
Clatsop County Manager, Don Bohn  
EPA, Region 10, Regional Administrator Casey Sixkiller  
Senior Assistant Attorney General Steve Shipsey  
Senior Assistant Attorney General Diane Lloyd  
Governor's Senior Natural Resource Policy Advisor Geoff Huntington