



# CLATSOP COUNTY PLANNING COMMISSION

## REGULAR MEETING AGENDA

Hybrid Meeting Judge Guy Boyington Building, 857 Commercial St., Astoria  
Via Zoom

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**Tuesday, November 14, 2023 at 10:00 AM**

### ZOOM MEETING INFORMATION AND LINK

- [1.](#) Zoom Meeting Link and Instructions

### CALL MEETING TO ORDER

### FLAG SALUTE

### ROLL CALL

### 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.

### PUBLIC HEARINGS

2. Ordinance 23-15: LAWDUC 2023 Legislative Amendments

### WORK SESSION / DISCUSSION

3. Amendments to the LAWDUC Article 3: Non-Conforming Uses and Structures Regulations

### PROJECT STATUS REPORT

4. November 2023 Project Status Report

### DIRECTOR'S REPORT

- [5. November](#) 2024 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: November 14, 2023 10:00 AM Pacific Time (US and Canada)

TOPIC: Planning Commission Monthly Meeting

Please click the link below to join the webinar:

<https://co-clatsop-or-us.zoom.us/j/83932736797?pwd=WFJePkI6GtLHn9X65CJ98MITFCwVuw.ktR3J85BQYT5EiEk>

PASSCODE:000068

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

**Webinar ID:** 839 3273 6797

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  
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**TO:** Planning Commission Members

**CC:** Anthony Pope, County Counsel  
Land Use Planning Staff

**FROM:** Ian Sisson, Senior Planner  
David Cook, Planner  
Gail Henrikson, AICP, CFM – Community Development Director

**DATE:** November 14, 2023

**RE:** **2023 LEGISLATIVE UPDATES**

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## BACKGROUND

Oregon Revised Statutes (ORS) 197.646 requires that “a local government shall amend its acknowledged comprehensive plan or... land use regulations implementing the plan...to comply with a new requirement in land use statutes, statewide land use planning goals or rules implementing the statutes or the goals.” This statute also states that when a local government does not adopt the required amendments, the new requirements “apply directly to the local government’s land use decisions.” Failure to adopt or enforce the new requirements is “basis for initiation of enforcement action” against the local jurisdiction.

Per ORS 197.646(2), the Department of Land Conservation and Development (DLCD) is required to notify local governments when a new requirement in land use statutes, statewide land use planning goals or rules implementing the statutes or the goals requires changes to an acknowledged comprehensive plan or to land use regulations implementing either plan.

The proposed LAWDUC amendments included in **Exhibit A** are designed to incorporate legislative changes to ORS affecting land use. The amendments originate from legislation adopted by the Oregon Legislature during its 2023 regular session.

A summary of the relevant bills is provided below. The draft amendments were reviewed by the Planning Commission on October 10, 2023, in order to familiarize you with the legislation and amendments that will be required. It is anticipated that based upon your recommendation, two public hearings before the Board of Commissioners would be scheduled for December 13, 2023, and January 10, 2024.

## LEGISLATIVE SUMMARY

### [HB 2192 – Replacement Dwellings on Forest Land](#)

The Agriculture-Forestry Zone (AF) and Forest-80 (F-80) Zone currently allow alteration, restoration, or replacement of lawfully established dwellings on forest land subject to the standards listed in LAWDUC Section 3.9190(4), which require that the existing dwelling “has,”

- intact exterior walls and roof structures;
- indoor plumbing consisting of a kitchen sink, toilet and bathing facilities, connected to a sanitary waste disposal system;
- interior wiring for interior lights; and
- a heating system.

If the existing dwelling is to be replaced, the existing dwelling must be removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

By contrast, for agricultural land in the Exclusive Farm Use Zone (EFU) and AF Zone, alteration, restoration, or replacement of lawfully established dwellings is allowed subject to the standards listed in LAWDUC Section 3.9140, which requires that the dwelling “has” or “formerly had” the features listed above.

HB 2192 aligns the standards for alteration, restoration, or replacement of lawfully established dwellings on forest land with the standards applicable on agricultural land by providing the opportunity to alter, restore, or replace dwellings that “formerly had” the required features; however, the application must be filed within three years following the date the dwelling last possessed all the required features. Additionally, construction of a replacement dwelling must commence no later than four years after approval of the application.

The bill also requires that the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of five years before the date of the application or the date the dwelling was erected and became subject to property tax assessment. If the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling must have been assessed as a dwelling since the later of five years before the date of the destruction or demolition, or the date the dwelling was erected and became subject to property tax assessment.

Finally, a replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty code if the dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk or if no statewide map of wildfire risk has been adopted.

### [HB 2898 – Use of Recreational Vehicles Following Natural Disasters](#)

HB 2898 is a revision to House Bill 2809 (2021). HB 2809 was a direct response to the recovery from the 2020 wildfires and allowed sitting of an RV as a dwelling on a lot previously occupied by a manufactured or single-family dwelling made uninhabitable by a natural disaster.

HB 2898 alters the original house bill to allow for occupancy of an RV for five years instead of 24 months. This bill is directly related to properties destroyed by the 2020 wildfires (August 1-September 30, 2020).

[SB 644 - Accessory Dwelling Units on lands zoned for rural residential use](#)

In 2023, the Clatsop County Board of Commissioners adopted Ordinance 23-03 which introduced a pathway for rural residentially-zoned lands to permit an Accessory Dwelling Unit (ADU). An ADU is a habitable structure that serves as an additional living space on a property that already contains a single-family dwelling. ADUs can be attached or detached to an existing dwelling and they contain living space, bathrooms, and kitchens. The standards described in Ordinance 23-03, which were implemented from House Bill 3012 and Senate Bill 391. SB 391 required the adoption of a statewide wildfire-risk map prepared by the Oregon Department of Forestry (ODF). While the map was initially developed and presented for public input, it was subsequently removed after many communities and individuals throughout the state raised concerns about the proposed map. ODF is currently in the process of refining the wildfire maps, but until that is completed, under SB 391, Clatsop County was not able to permit an ADU using those regulations.

Senate Bill 644 allows local jurisdictions to remove the wildfire-risk map component of their ADU regulations until the maps are fully developed and adopted. The regulations still require that the parcel is served by a fire protection service, that the ADU is adequately setback from adjacent resource zones, and that the ADU has proper access for firefighting equipment, safe evacuations and staged evacuations areas, and that all structures comply with the construction provisions of Section R327 of the Oregon Residential Speciality Code.

The proposed LAWDUC amendments would allow Clatsop County to implement the ADU regulations that Ordinance 23-03 allowed for.

**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* to address legislative updates pertaining to land use regulations.**

**ORDINANCE NO. 23-15**

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

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

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RECITALS

WHEREAS, Oregon Revised Statutes (ORS) 197.646 requires that “a local government shall amend its acknowledged comprehensive plan or...land use regulations implementing the plan...to comply with a new requirement in land use statutes, statewide land use planning goals or rules implementing the statutes or the goals”; and

WHEREAS, if a local government does not adopt the required amendments, the new requirements “apply directly to the local government’s land use decisions”; and

WHEREAS, in 2023 the Oregon Legislature adopted new land use legislation that requires Clatsop County to amend its land use regulations to comply with state statutes, statewide land use planning goals or rules implementing the statutes or the goals; and

WHEREAS, the Board of Clatsop County Commissioners has determined that including these revisions in the *Land and Water Development and Use Code* will comply with state law and will assist residents and property owners by including the changes in local codes; and

WHEREAS, the Clatsop County Planning Commission held a public hearing on these amendments on November 14, 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.

Ordinance 23-15

1<sup>st</sup> Public Hearing: December 13, 2023

2<sup>nd</sup> Public Hearing: January 10, 2024

Agenda Item # 2.

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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 \_\_\_\_\_, 2024

THE BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

By \_\_\_\_\_  
\_\_\_\_\_, Chair

Date \_\_\_\_\_

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

First Reading: December 13, 2023

Second Reading: January 10, 2024

Effective Date: February 9, 2024

Ordinance 23-15

1<sup>st</sup> Public Hearing: December 13, 2023

2<sup>nd</sup> Public Hearing: January 10, 2024

# EXHIBIT 1

Ordinance 23-15

1<sup>st</sup> Public Hearing: December 13, 2023

Agenda Item # 2. ng: January 10, 2024



**ARTICLE II. PROCEDURES FOR LAND USE APPLICATIONS**

**Section 2.0300. Exclusions from Development Permit Requirement**

The activities listed below do not require a development permit. Exclusion from the requirement for a development permit does not exempt the development or its use from the other applicable requirements of the Ordinance.

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- 12) A recreational vehicle may be occupied as a residential dwelling on a lot or parcel with an existing dwelling that is uninhabitable due to damages from **an emergency or** natural disaster, including wildfire, earthquake, flooding or storms, until no later than:
- a) The dwelling has been repaired or replaced and an occupancy permit has been issued;
  - b) The County determines that the owner of the dwelling is unreasonably delaying in completing repairs or replacing the dwelling; or
  - c) **Five years** ~~Twenty-four months~~ after the date the dwelling first became uninhabitable.
  - d) **Under alter, restore, or replacement of a dwelling destroyed by wildfire, identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act (ORS 476.510 to 476.610) between August 1 and September 30, 2020, occupancy of a recreational vehicle under ORS197.493 (1)(b)(c) is extended to December 30, 2030.**

**ARTICLE III. STRUCTURE SITING AND DEVELOPMENT STANDARDS**

**SECTION 3.0900. ACCESSORY DWELLING UNITS AND GUESTHOUSES**

- B. Unless otherwise specified below, the following standards shall apply to all accessory dwelling units (ADU) on rural residential lands.
- 1. The lot or parcel is not located within an area designated as an urban reserve as defined in ORS 195.137.
  - 2. The lot or parcel is at least two acres in size.
  - 3. ADUs shall be allowed only in conjunction with parcels containing one single-family dwelling (the “primary dwelling”). A maximum of one ADU is permitted per lot or parcel. ADUs shall not be permitted in conjunction with a duplex or multi-family dwelling.
  - 4. The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600.
  - 5. The existing single-family dwelling is not subject to any code violations under Clatsop County Code or the Clatsop County *Land and Water Development and Use Code*.
  - 6. The accessory dwelling unit will comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.
  - 7. The accessory dwelling unit will comply with all applicable laws and regulations relating to water supply and quantity.
  - 8. The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling. This distance shall be measured from the closest portion of the exterior wall of both structures, not including roof structures such as eaves, gutters, canopies, and other similar architectural features.
  - 9. ADUs shall comply with setback requirements applicable to the parcel containing the primary dwelling.

10. The ADU may be created through conversion of an existing structure, or construction of a new structure that is either attached to the primary dwelling or detached.
11. The maximum gross habitable floor area (GHFA) of the ADU shall not exceed 900 square feet. The floor area of any garage, utility rooms, or areas below the average level of the adjoining ground shall not be included in the total GHFA.
12. No portion of the lot or parcel is within a designated area of critical state concern.
13. The lot or parcel and ADU is served by a fire protection service.
14. If the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, The lot or parcel and ADU comply with any applicable minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392.
- ~~15. Statewide wildfire risk maps have been approved and the ADU complies with Oregon residential specialty code relating to wildfire hazard mitigation for the mapped area.~~
15. **The accessory dwelling unit complies with the construction provisions of section R327 of the Oregon Residential Specialty code, if:**
  - a. **The lot or parcel is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or**
  - b. **No statewide map of wildfire risk has been adopted**
16. The accessory dwelling unit ~~must~~ **shall** comply with all minimum-required setbacks from adjacent lands zoned for resource use.
17. The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas.
18. If the accessory dwelling unit is not in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wild-land-urban interface, the accessory dwelling unit complies with the provisions of this section and any applicable local requirements for defensible spaces established by a local government pursuant to ORS 476.293.
19. Accessory dwelling units allowed under this section may not be used for vacation occupancy, as defined in ORS 90.100.
20. The property owner, as a condition of approval, shall record a restrictive covenant on the property that prohibits the Accessory dwelling unit from being used for vacation occupancy, as defined in ORS 90.100.
21. The County may not approve a subdivision, partition, or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.

## SECTION 3.9180. FOREST ZONE STANDARDS

### Section 3.9190. Residential Uses

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- 4) Alteration, restoration or replacement of a lawfully established dwelling, where ~~Subsections (A) or (B) apply where:~~
  - (A) **Alteration or restoration of a lawfully established dwelling that The dwelling to be altered, restored, or replaced has, or formerly had:**
    1. **Has Intact exterior walls and roof structures;**
    2. **Has Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;**
    3. **Has Interior wiring for interior lights; and**
    4. **Has a A heating system; ; and**

- (B) Unless the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later of:
1. Five years before the date of the application; or
  2. The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or
- (C) If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
1. Five years before the date of the destruction or demolition; or
  2. The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
- (D) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. For replacement of a lawfully established dwelling under this section:
1. The dwelling to be replace must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
  2. The replacement dwelling:
    - a) May be sited on any part of the same lot or parcel.
    - b) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
    - c) Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:
      - i. The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
      - ii. No statewide map of wildfire risk has been adopted.
- (E) An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (A) of this section.
- (F) Construction of a replacement dwelling approved under this subsection must commence no later than four years after the approval of the application under this section becomes final.



# Clatsop County

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**TO:** Planning Commission

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

**DATE:** November 14, 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.

The Planning Commission reviewed the first draft of code amendments on September 14, 2023. Staff have revised the code amendments based on input from the Commissioners. Staff is seeking feedback on these amendments prior to returning to the Planning Commission at a public hearing.

Included in this agenda item are the amended sections of the LAWDUC in a clean format (Exhibit A) and in a side-by-side comparison with the existing code sections of the LAWDUC (Exhibit B).

Exhibit A – Proposed code amendments, LAWDUC Section 3.1000, Non-conforming Uses and Structures  
Exhibit B – Side-by-side Table of existing and proposed code amendments, LAWDUC 3.1000

**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.

**ALTERATION:** A change to a structure, not involving enlargement of the external dimensions of the structure.

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

**FLOATING RECREATIONAL CABIN:** A moored floating structure used wholly or in part as a dwelling, not physically connected to any upland utility services except electricity, and is used only periodically or seasonally.

**FLOATING RESIDENCE:** A dwelling unit which floats on a water body and is designed such that it does not come into contact with land except by ramp. Floating residences may also be referred to as floating homes or houseboats. A floating residence is not equivalent to a floating recreational cabin or other similar recreational structure designed for temporary use. It is also not equivalent to a boathouse, designed for storage of boats.

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

**LAWFULLY MOORED:** To be lawfully moored, a floating recreational cabin or floating residence must be constructed upon or attached to piling or a dock by the owner or with the permission of the owner or lawful lessee of the piling or dock. If moored to a piling or a dock, such piling or dock must have been installed or constructed and be maintained in compliance with all Federal, State and County requirements. If the floating recreational cabin or floating residence is attached to the shore, such attachment must also be by or with the permission of the owner or lawful lessee of the area of attachment.

**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 period from 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.
  - 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; and
  - a. 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.

- b. Except as provided in ORS 215.215, the 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.
  - c. 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 this Ordinance. [ORD #17-02]

### **Section 3.1060. Expansion**

Expansion of non-conforming structures and non-conforming uses 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. 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 including setbacks, lot coverage, and other development standards as required by code
- 3) An expansion of a non-conforming use, or a change in the characteristics of a non-conforming use, (e.g. hours of operation or levels of service provided) may be approved, pursuant to a Type II procedure, if:
  - (A) The floor area of any building(s) will not increase by more than 20%;
  - (B) The land area covered by structures will not increase 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; and
      - (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 by the review body.

### **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; and
  - i. A building permit for its reconstruction shall be obtained within three years of the date of the damage;
  - ii. If a building permit is not obtained within three years, 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 a one-year extension of the three-year period. Requests to extend the three-year period must be submitted prior to the expiration of the three-year period, provided in writing, and shall explain why the extension is necessary 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, destroyed or demolished 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.
  - i. However, by a Type II procedure, reconstruction of a non-conforming structure may be permitted upon finding that:
    1. The new structure has the same use as the destroyed, demolished or damaged non-conforming structure; and
    2. The new structure is substantially in the same location as the destroyed, demolished or damaged non-conforming structure; and
    3. The property owner provides evidence that due to specific parcel limitations, there exists no feasible alternative to rebuild the structure in conformance with this Ordinance. Examples of limitations include but are not limited to hazards such as geologic hazards or flood hazards, steep slopes, and restrictive parcel shapes.
- (C) If a non-conforming structure or a structure containing a non-conforming use is damaged, destroyed or demolished by an action of the property owner or authorized agent, to an extent amounting to less than 75% of its real market value, it may be reconstructed in conformance with the dimensional standards of the building prior to its destruction; and
  - i. A building permit for its reconstruction shall be obtained within three years of the date of the damage, destruction or demolition.
  - ii. If a building permit is not obtained within three years, 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 a one-year extension of the three-year period. Requests to extend the three-year period must be submitted prior to the expiration of the three-year period, provided in



writing, and shall explain why the extension is necessary and how the extension will be used to complete the project.

- (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.

Existing Code	Proposed Code
<p>Items in <b><u>bold and underline</u></b> denote added code language.  Items in <del>strikethrough</del> denote removed code language.  Items in <b>[brackets]</b> denote staff comments/clarification that are not proposed to be included in code language.</p>	
<p><i>3.1010. Purpose</i>  <i>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.</i></p>	<p><i>3.1010. Purpose</i>  <i>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.</i></p> <p><b>[NOTE: No change]</b></p>

Existing Code	Proposed Code
<p>3.1020. Definitions</p> <p><i>ALTERATION: A change to a structure, not involving enlargement of the external dimensions of the structure.</i></p> <p><i>EXPANSION: Any increase in any external dimension of a Non-conforming structure.</i></p> <p><i>FLOATING RECREATIONAL CABIN: A moored floating structure used wholly or in part as a dwelling, not physically connected to any upland utility services except electricity, and is used only periodically or seasonally.</i></p> <p><i>FLOATING RESIDENCE: A dwelling unit which floats on a water body and is designed such that it does not come into contact with land except by ramp. Floating residences may also be referred to as floating homes or houseboats. A floating residence is not equivalent to a floating recreational cabin or other similar recreational structure designed for temporary use. It is also not equivalent to a boathouse, designed for storage of boats.</i></p>	<p>3.1020. Definitions</p> <p><b><u>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.</u></b></p> <p><i>ALTERATION: A change to a structure, not involving enlargement of the external dimensions of the structure.</i></p> <p><i>EXPANSION: Any increase in any external dimension of a Non-conforming structure.</i></p> <p><i>FLOATING RECREATIONAL CABIN: A moored floating structure used wholly or in part as a dwelling, not physically connected to any upland utility services except electricity, and is used only periodically or seasonally.</i></p> <p><i>FLOATING RESIDENCE: A dwelling unit which floats on a water body and is designed such that it does not come into contact with land except by ramp. Floating residences may also be referred to as floating homes or houseboats. A floating residence is not equivalent to a floating recreational cabin or other similar recreational structure designed for temporary use. It is also not equivalent to a boathouse, designed for storage of boats.</i></p>

Existing Code	Proposed Code
<p>3.1020. Definitions [continued]</p> <p><i>LAWFULLY MOORED: To be lawfully moored, a floating recreational cabin or floating residence must be constructed upon or attached to piling or a dock by the owner or with the permission of the owner or lawful lessee of the piling or dock. If moored to piling or a dock, such piling or dock must have been installed or constructed and be maintained in compliance with all Federal, State and County requirements. If the floating recreational cabin or floating residence is attached to the shore, such attachment must also be by or with the permission of the owner or lawful lessee of the area of attachment.</i></p> <p><i>LEGAL 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.</i></p> <p><i>LEGAL 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.</i></p> <p><i>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, and which did not legally exist at the time the applicable section(s) of the zoning district took effect.</i></p> <p><i>NON-CONFORMING USE: A use which does not conform to the use regulations of the zoning district in which it is located, and which did not lawfully occupy a building or land at the time the applicable use regulation took effect.</i></p>	<p>3.1020. Definitions [continued]</p> <p><i>LAWFULLY MOORED: To be lawfully moored, a floating recreational cabin or floating residence must be constructed upon or attached to piling or a dock by the owner or with the permission of the owner or lawful lessee of the piling or dock. If moored to piling or a dock, such piling or dock must have been installed or constructed and be maintained in compliance with all Federal, State and County requirements. If the floating recreational cabin or floating residence is attached to the shore, such attachment must also be by or with the permission of the owner or lawful lessee of the area of attachment.</i></p> <p><b><u>INTERRUPTION: The discontinuance of any non-conforming use for a period of less than one year.</u></b></p> <p><del><i>LEGAL 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.</i></del></p> <p><del><i>LEGAL 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.</i></del></p> <p><del><i>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, and which did not legally exist at the time the applicable section(s) of the zoning district took effect.</i></del></p>

Existing Code	Proposed Code
	<p>3.1020. Definitions [continued]</p> <p><del>NON-CONFORMING USE: A use which does not conform to the use-regulations of the zoning district in which it is located, and which did not lawfully occupy a building or land at the time the applicable use-regulation took effect.</del></p> <p><b><u>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.</u></b></p>

Existing Code	Proposed Code
<p>3.1030. Continuance</p> <p>1) A non-conforming use legally established prior to the adoption date of this Ordinance may be continued at the level of use (e.g., hours of operation) existing on the date that the use became non-conforming.</p> <p>2) A non-conforming structure legally constructed prior to the effective date of this Ordinance may continue with the building dimensions (height, width and length) in existence on the date that the structure became non-conforming.</p> <p>3) The applicant shall bear the burden of proof for establishing that the structure or use was lawfully established.</p> <p>4) The applicant shall bear the burden of proof for establishing the level of use that existed at the time the use became non-conforming.</p> <p>5) The county may allow a property owner, under a Type II procedure, to prove the existence, continuity, nature and extent of the use for the 10-year period immediately preceding the date of application. If the county finds evidence proving the existence, continuity, nature and extent of the use for the then-year period preceding application, then such findings shall create a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable Ordinance provision was adopted and has continued uninterrupted until the date of application.</p>	<p>3.1030. Continuance</p> <p>1) A non-conforming use <del>legally established prior to the adoption date of this Ordinance</del> may be continued at the level of use (e.g., hours of operation) existing on the date that the use became non-conforming.</p> <p><b><u>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:</u></b></p> <p><b><u>a. The non-conforming use was lawfully established on or before the effective date of the zoning change that prohibited the use;</u></b></p> <p><b><u>b. The non-conforming use has continued without abandonment or interruption for the 10-year period immediately preceding the date of application or the period from the date of the ordinance change prohibiting the use, whichever is less; and</u></b></p> <p><b><u>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.</u></b></p> <p><b><u>d. The applicant shall bear the burden of proof for establishing that the structure or use was lawfully established.</u></b></p> <p><b><u>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.</u></b></p>

Existing Code	Proposed Code
	<p>3.1030. Continuance [continued]  3) A non-conforming structure <del>legally constructed prior to the effective date of this Ordinance</del> may continue within the building dimensions (height, width and length) in existence on the date that the structure became non-conforming. <b><u>Additions, alterations and expansions to a non-conforming structure shall not increase the non-conformity of the structure.</u></b></p> <p>[NOTE: Existing code subsections 3, 4, and 5 (left column) have been combined into proposed subsection 2 above.]</p>
<p><i>Section 3.1090. Discontinuance of Use</i>  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]  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]</p>	<p><b><u>Section 3.1040. Abandonment or Interruption of Use</u></b>  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]  <b><u>For purposes of determining whether abandonment or interruption has occurred, the following shall apply:</u></b>  <b><u>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.</u></b></p> <p>[NOTE: This section has been rearranged and renamed.]</p>

Existing Code	Proposed Code
<p>3.0140. Alteration</p> <p>1) Through Type I procedures alterations shall be permitted to a non-conforming structure, or to a structure devoted to a non-conforming use. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the 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 structures associated with the use. A change of ownership or occupancy shall be permitted.</p> <p>2) If in a three-year period, alterations to a Non-conforming structure, or to a structure devoted to a Non-conforming use exceeds 75% of the market value of the structure, as indicated by the records of the County Assessor, the structure shall be brought into conformance with the requirements of the Ordinance. [Ord #17-02]</p>	<p><b>3.1050</b>. Alteration</p> <p>1) Through Type I procedures, alterations shall be permitted to a non-conforming structure, or to a structure containing a non-conforming use; and</p> <p>a. 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.</p> <p>b. Except as provided in ORS 215.215, the 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.</p> <p>c. A change of ownership or occupancy shall be permitted.</p> <p>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 <b>real market value</b> of the structure, <del>as indicated by the records of the County Assessor,</del> the structure shall be brought into conformance with the requirements of this Ordinance. [ORD #17-02]</p> <p><b>[NOTE: While this section has been reorganized, the standards remain identical except where indicated.]</b></p>



Existing Code	Proposed Code
<p>3.1050. Expansion</p> <p>1) Through a Type II procedure an expansion of a Legal Non-Conforming Structure shall be in conformance with the requirements of this Ordinance, and satisfy the criteria under Section 3.1050(3)(A)-(C) or a variance for the expansion shall be required pursuant to Section 2.8000 Variances.</p> <p>2) Through a Type IIA procedure an expansion of a Non-Conforming Structure or Use shall be in conformance with the requirements of this Ordinance, and satisfy the criteria under Section 3.1050(3)(A)-(C) below or a variance for the expansion shall be requires pursuant to Section 2.8000 Variances.</p>	<p><b>3.1060 . Expansion</b></p> <p><b><u>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.</u></b></p> <p><b><u>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. 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, including setbacks, lot coverage, and other development standards as required by code.</u></b></p> <p><b>[NOTE: This section has been heavily revised with the intent to make expanding non-conforming structures, especially residential structures, much easier on the applicant.]</b></p>

Existing Code	Proposed Code
<p>3.1050. Expansion [continued]</p> <p>3) An expansion of a Legal Non-Conforming Use, or a change in the characteristics of a Legal Non-Conforming Use, (i.e. hours of operation or levels of service provided) may be approved, pursuant to a Type IIa procedure, where the following standards are met:</p> <p>(A) The floor area of a building(s) shall not be increased by more than 20%.</p> <p>(B) The land area covered by structures shall not be increased by more than 10%.</p> <p>(C) The proposed expansion, or proposed change in characteristics of the use will have no greater adverse impact on neighboring areas than the existing use, considering:</p> <p>1. Comparison of the following factors:</p> <p>(a) Noise, vibration, dust, odor, fume, glare, or smoke detectable at the property line.</p> <p>(b) Numbers and kinds of vehicular trips to the site.</p> <p>(c) Amount and nature of outside storage, loading and parking.</p> <p>(d) Visual impact.</p> <p>(e) Hours of operation.</p> <p>(f) Effect on existing vegetation.</p> <p>(g) Effect on water drainage and water quality.</p> <p>(h) Service or other benefit to the area.</p> <p>(i) Other factors relating to conflicts or incompatibility with the character or needs of the area.</p>	<p><b>3.1060.</b> Expansion [continued]</p> <p>3) An expansion of a <del>legal</del> non-conforming use, or a change in the characteristics of a <del>legal</del> non-conforming use, (e.g. hours of operation or levels of service provided) may be approved, pursuant to a Type II <del>a</del> procedure, <b>if where the following standards are met :</b></p> <p>(A) The floor area of any building(s) will not increase by more than 20%;</p> <p>(B) The land area covered by structures will not increase by more than 10%;</p> <p>(C) The proposed expansion of the <b>non-conforming use</b>, or proposed change in characteristics of the <b>non-conforming</b> use, will have no greater adverse impact on neighboring areas <del>than the existing use</del>, considering:</p> <p>1. Comparison of the following factors:</p> <p>(a) Noise, vibration, dust, odor, fume, glare, or smoke detectable at the property line;</p> <p>(b) Numbers and kinds of vehicular trips to the site;</p> <p>(c) Amount and nature of outside storage, loading and parking;</p> <p>(d) Visual impact;</p> <p>(e) Hours of operation;</p> <p>(f) Effect on existing vegetation;</p> <p>(g) Effect on water drainage and water quality;</p> <p>(h) Service or other benefit to the area; and</p> <p>(i) Other factors relating to conflicts or incompatibility with the character or needs of the area.</p>

Existing Code	Proposed Code
<p>3.1050 <i>Expansion</i> [continued]</p> <p>2. <i>The character and history of the use and of development in the surrounding area.</i></p> <p>3. <i>An approval may be conditioned to mitigate any potential adverse impacts that have been identified.</i></p>	<p><b>3.1060.</b> <i>Expansion</i> [continued]</p> <p>2. <i>The character and history of the use and of development in the surrounding area.</i></p> <p>3. <i>An approval may be conditioned to mitigate any potential adverse impacts that have been identified by the review body.</i></p> <p><b>[NOTE: No change]</b></p>
<p><u>3.1060. Changes to a Non-conforming Use</u></p> <p>1) <i>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 a non-conforming use.</i></p>	<p><b>3.1070.</b> <i>Changes to a Non-conforming Use</i></p> <p>1) <i>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 a <b>any</b> non-conforming use.</i></p>

Existing Code	Proposed Code
<p>3.1070. Replacement and Damage</p> <p>1) Legal Non-conforming structures and uses.</p> <p>(A) If a legal non-conforming structure or a structure occupied by a legal nonconforming use is damaged or destroyed by any cause other than an action of the property owner or his authorized agent, 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 IIa procedure, the planning commission may grant an extension of the oneyear period.</p>	<p><b>3.1080. Replacement and Damage</b></p> <p>1) <del>Legal</del> Non-conforming structures and uses:</p> <p>(A) If a non-conforming structure or a structure containing a non-conforming use is damaged or destroyed <del>by any cause other than an action of the property owner or his authorized agent,</del> <b><u>by fire, natural disaster or other catastrophe outside of the owner's control,</u></b> it may be reconstructed in conformance with the dimensional standards of the building prior to its destruction; <del>and</del></p> <p>i. A building permit for its reconstruction shall be obtained within three years of the date of the damage;</p> <p>ii. If a building permit is not obtained within <del>one year</del> <b><u>three years,</u></b> the reconstruction shall be in conformance with the current requirements of this Ordinance. However, by a <del>Type IIa</del> <b><u>Type I procedure, the Community Development Director may grant a one-year extension of the three-year period. Requests to extend the three-year period must be submitted prior to the expiration of the three-year period, provided in writing, and shall explain why the extension is necessary and how the extension will be used to complete the project.</u></b></p> <p>[NOTE: The proposed language has the effect of allowing property owners to rebuild after their property is damaged or destroyed by something outside their control. It increases the time requirement for obtaining a building permit from one year to three years and allows a simpler process for granting an extension to that three year time limit.]</p>

Existing Code	Proposed Code
<p>3.1070 Replacement and Damage [continued]</p> <p>(B) If a legal non-conforming structure or a structure devoted to a legal nonconforming use is damaged by an action of the property owner or his authorized agent, to an extent amounting to seventy-five percent (75%) or more of its fair market value as indicated by the records of the County Assessor, it shall be reconstructed in conformance with the current requirements of this Ordinance. The determination of the percentage of fair market value loss shall be based on either square footage of all floor areas or on a third-party appraisal.</p>	<p><b>3.1080.</b> Replacement and Damage [continued]</p> <p>(B) If a <del>legal</del> non-conforming structure or a structure <del>devoted to</del> <b><u>containing a</u></b> <del>legal</del> non-conforming use is damaged, <b><u>destroyed or demolished</u></b> by an action of the property owner or <del>his</del> authorized agent, to an extent amounting to 75% or more of its <del>fair</del> <b><u>real</u></b> market value, it shall be reconstructed in conformance with the current requirements of this Ordinance. <del>The determination of the percentage of fair market value loss shall be based on either square footage of all floor areas or on a third-party appraisal.</del></p> <p><b><i>i. However, by a Type II procedure, reconstruction of a non-conforming structure may be permitted upon finding that:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. The new structure has the same use as the destroyed, demolished or damaged non-conforming structure; and</i></b></li> <li><b><i>2. The new structure is substantially in the same location as the destroyed, demolished or damaged non-conforming structure; and</i></b></li> <li><b><i>3. The property owner provides evidence that due to specific parcel limitations, there exists no feasible alternative to rebuild the structure in conformance with this Ordinance. Examples of limitations include but are not limited to hazards such as geologic hazards or flood hazards, steep slopes, and restrictive parcel shapes.</i></b></li> </ol> <p>[NOTE: On recommendation from the Planning Commission, staff has included an avenue for property owners to rebuild their damaged, destroyed, or demolished structures, which they themselves damaged, destroyed, or demolished if, based on the standards described, there is no way for the owner to rebuild the structure in compliance with this Ordinance.]</p>

Existing Code	Proposed Code
<p>3.1070 Replacement and Damage [continued]  (C) If a legal non-conforming structure or a structure devoted to a legal nonconforming use is damaged by an action of the property owner or his authorized agent, to an extent amounting to less than seventy-five percent (75%) of its fair market value as indicated by the records of the County Assessor, a building permit for its reconstruction shall be obtained within one year of the date of the damage. The determination of the percentage of fair market value loss shall be based on either square footage of all floor areas or on a third-party appraisal. 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 IIa procedure, the planning commission may grant an extension of the one-year period.</p>	<p><b>3.1080</b> Replacement and Damage [continued]  (C) If a <del>legal</del> non-conforming structure or a structure containing a <del>legal</del> non-conforming use is damaged, <b><u>destroyed or demolished</u></b> by an action of the property owner or authorized agent, to an extent amounting to less than 75% of its <del>fair</del> <b>real</b> market value, it may be reconstructed in conformance with the dimensional standards of the building prior to its destruction; and</p> <p>i. A building permit for its reconstruction shall be obtained within three years of the date of the damage, destruction or demolition.</p> <p>ii. If a building permit is not obtained within <del>one year</del> <b>three years</b>, the reconstruction shall be in conformance with the current requirements of this Ordinance. However, by a <del>Type IIa</del> <b>Type I</b> procedure, the Community Development Director may grant a one-year extension of the <b>three-year</b> period. <b><u>Requests to extend the three-year period must be submitted prior to the expiration of the three-year period, provided in writing, and shall explain why the extension is necessary and how the extension will be used to complete the project.</u></b></p> <p><del>The determination of the percentage of fair market value loss shall be based on either square footage of all floor areas or on a third-party appraisal. 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 IIa procedure, the planning commission may grant an extension of the one-year period.</del></p>

Existing Code	Proposed Code
<p>3.1070 Replacement and Damage [continued]  3) Legal non-conforming mobile home parks destroyed by natural disaster may be replaced subject to Section 3.4095. [ORD. 23-02]</p>	<p><b>3.1080</b> Replacement and Damage [continued]</p> <p>[NOTE: The proposed language under 3.1080(C) (previous page) has the effect of allowing property owners to rebuild after their property is damaged, destroyed, or demolished through their own actions. It increases the time requirement for obtaining a building permit from one year to three years and allows a simpler process for granting an extension to that three year time limit.]</p> <p><u><i>(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.</i></u></p> <p><i>(E) Non-conforming mobile home parks destroyed by natural disaster may be replaced subject to Section 3.4095. [ORD. 23-02]</i></p> <p>[NOTE: The Replacement and Damage section has been heavily rewritten and reorganized. Section numbers may not be consistent between existing and proposed.]</p>
<p>3.1080. 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.</p>	<p><b>3.1090.</b> 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.</p> <p>[NOTE: No change]</p>

Existing Code	Proposed Code
<p><i>3.1090. Discontinuance of Use</i>  <i>If a Non-conforming use is discontinued for a period of one year, subsequent use of the property shall conform to this Ordinance. Non-conforming uses and structures 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]</i></p>	<p><b>[NOTE: This section has been moved. See proposed Section 3.1040.]</b></p>
<p><b>3.1100. Compliance with Other Requirements</b>  <i>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.</i></p>	<p><b>3.1100. Compliance with Other Requirements</b>  <i>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.</i></p> <p><b>[NOTE: No change]</b></p>





# CLATSOP COUNTY PROJECT STATUS REPORT NOVEMBER 2023

PROJECT STATUS REPORT

NOVEMBER 2023

# PROJECT STATUS REPORT – NOVEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
20170352	Arch Cape Deli	T4N, 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
Ord 23-16 23-000586	Goal 5 Update	N/A	Continuing work to update Comprehensive Plan Goal 5	12-12-23		1-10-24 1-24-24		Awaiting public hearings	N/A

# PROJECT STATUS REPORT – NOVEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
21-000665	Clatsop Plains Community Plan	N/A	Update of Clatsop Plains Community Plan	TBD		BOC Work Session 11-1-23		On-going	N/A
21-000666	Elsie-Jewell Community Plan	N/A	Update of Elsie-Jewell Community Plan	TBD		BOC Work Session 11-1-23		On-going	N/A
21-000667	Lewis and Clark Olney Wallooskee Community Plan	N/A	Update of Lewis & Clark Olney Wallooskee Community Plan	TBD		BOC Work Session 11-1-23		On-going	N/A
21-000668	Northeast Community Plan	N/A	Update of Northeast Community Plan	TBD		BOC Work Session 11-1-23		On-going	N/A
21-000669	Seaside Rural Community Plan	N/A	Update of Seaside Rural Community Plan	TBD		BOC Work Session 11-1-23		On-going	N/A

# PROJECT STATUS REPORT – NOVEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
21-000670	Southwest Coastal Community Plan	N/A	Update of Southwest Coastal Community Plan	TBD		BOC Work Session 11-1-23		On-going	N/A
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 23-09	Goal 11 Exception – Cannon Beach RFPD	T4N, R10W, Section 19BC, Tax Lot 04000 79729 Hwy 101	Retroactive goal exception to finalize sewer district expansion from 2007	10-10-23	RECOMMEND APPROVAL 6-0	11-8-23 12-13-23			
Ordinance 23-10	Goal 11 Exception – Coastal Residential Zone	T4N, R10W, Section 19BB, Tax Lot 00401 79876 Hwy 101	Exception to Goal 11 to correct an oversight from 2002	10-10-23	RECOMMEND APPROVAL 6-0	11-8-23 12-13-23			

# PROJECT STATUS REPORT – NOVEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
		T4N, R10W, Section 19BB, Tax Lot 00300  79878 Hwy 101							
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	5-0 to recommend Board approve as submitted	10-11-23 10-25-23	APPROVED	Ordinance effective 11-24-34	N/A
23-000556 Ordinance 23-14	Housing Amendments	N/A	LAWDUC amendments to facilitate housing construction	10-10-23	Work Session	10-4-23 WS			Public input meeting to be scheduled to discuss proposed amendments
23-000552 Ordinance 23-15	2023 Legislative Updates	N/A	LAWDUC amendments to address changes in land use legislation from the 2023 regular	10-10-23 11-14-23	Work Session Public Hearing	12-13-23 PH 1-10-24 PH			

# PROJECT STATUS REPORT – NOVEMBER 2023

PERMIT #	PROJECT NAME	LOCATION	DESCRIPTION	PC MEETING DATE	PC DECISION	BOC MEETING DATES	BOC DECISION	STATUS	EXPIRATION DATE*
			session of the Oregon Legislature						

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



Indicates change to project status



# Clatsop County – Land Use Planning

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**TO:** Planning Commission Members

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

**DATE:** November 14, 2023

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

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## PLANNING MANAGER POSITION

Julia Decker, Planning Manager, will be retiring at the end of 2023. Julia has worked with the County for over 30 years and has served as Planning Manager since May 2018. Her knowledge, patience and attention to detail will be greatly missed. Jay Blake, who is currently the Planning Director for the City of Warrenton, will begin as the County's Planning Manager on January 4, 2024.

## COMPREHENSIVE PLAN UPDATE

- **Economic Opportunities Analysis (EOA):**  
The first meeting of the EOA Advisory Committee has been scheduled for Wednesday, November 15, from 3-5PM. This will be a virtual meeting. A link to the meeting can be found [here](#).
- **Comprehensive Plan Goals 16 (Estuarine Resources) and 17 (Coastal Shorelands):**  
The Board approved award of the contract to CREST at its October 25 meeting. Staff is working with CREST to finalize the signing of the contract and develop the next steps in the process.
- **Comprehensive Plan Goal 18 (Beaches and Dunes):**  
The Board approved award of the contract to CREST at its October 25 meeting. Staff is working with CREST to finalize the signing of the contract and develop the next steps in the process.
- **Comprehensive Plan Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources):**  
Staff presented a [revised version of Goal 5](#) to the Board during a work session on October 25. The Board made provided input on minor changes to the draft Goal and directed staff to continue moving forward with the adoption process. Goal 5 will be brought back before the Planning Commission for a public hearing on December 12. The two adoption hearings before the Board are tentatively scheduled for January 10 and 24, 2024.
- **Comprehensive Plan Community Plans:**  
Staff presented revised versions of each of the six community plans to the Board during its November 1 work session. The three Board members who were present for the discussion indicated general support for the revisions. Staff is working with the County Manager's office to schedule meetings with the two remaining Board members before bringing the plans back to the Planning Commission for a public hearing. Staff anticipates the Planning Commission public hearing will occur at your January 9 meeting.

## SHORT-TERM RENTAL (STR) CAPS

Staff presented a proposed methodology to establish caps on STRs to the Board during its October 18 work session. While there appears to be general consensus amongst the Board that limitations should be established, the Board has requested additional time to review the information provided by staff. A follow-up work session date has not yet been scheduled.

**CLATSOP REGIONAL HOUSING TASK FORCE**

The Clatsop Regional Housing Task Force did not hold a meeting in October. A date for the next meeting has not yet been determined.

**LAWDUC AMENDMENTS TO FACILITY HOUSING DEVELOPMENT**

County staff presented a proposed slate of amendments to the Board of Commissioners during a work session on October 4. At that work session, the Board indicated general support for the proposed amendments and directed staff to continue with the process. Staff is currently working with the County Manager and the County's Public Affairs Office to establish a possible date for a proposed public input session.

**FARM AND FOREST IMPROVEMENTS PROJECT**

The Farm and Forest Technical Working Committee met on October 25 and November 2. The group has identified potential areas where new rule-making is needed to clarify regulations, address emerging issues, and codify case law. A final report containing the committee's recommendations is expected to be presented to the Land Conservation and Development Commission (LCDC) in January 2024.

**MASS TIMBER CODE-UP PROJECT**

The Memorandum of Understanding (MOU) has been fully executed. County staff is awaiting direction from DLCD staff regarding next steps in the process.