



CITY OF MOLALLA
CITY COUNCIL REGULAR MEETING
with EXECUTIVE SESSION
CORRECTION
AGENDA

Council Chambers | Molalla Civic Center - 315 Kennel Avenue - Molalla
Wednesday | April 10, 2024 | 7:00 PM

NOTICE: City Council will hold this meeting in-person and through video Live-Streaming on the City's Facebook Page and YouTube Channel. Written comments may be delivered to City Hall or emailed to recorder@cityofmolalla.com. Submissions must be received by 12:00 p.m. the day of the meeting.

6:00 PM – EXECUTIVE SESSION OF THE CITY COUNCIL:

The Executive Session will begin at 6:00 PM and end prior to the City Council Regular Meeting. Executive Sessions are closed to the public.

Held pursuant to Oregon Public Record Law, ORS 192.660(2):

(i) ~~To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee, or staff member who does not request an open hearing.~~

(e) **To conduct deliberations with persons designated by the governing body to negotiate real property transactions.**

7:00 PM – REGULAR MEETING OF THE CITY COUNCIL

1. CALL TO ORDER AND FLAG SALUTE

2. ROLL CALL

3. CONSENT AGENDA

- A. Work Session Meeting Minutes – March 27, 2024 Pg. 3
- B. City Council Meeting Minutes – March 27, 2024 Pg. 4

4. EXECUTIVE SESSION ANNOUNCEMENT

5. PRESENTATIONS, PROCLAMATIONS, CEREMONIES

- A. Clackamas County Community College – Bond Presentation

6. PUBLIC COMMENT

(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Council does not generally engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Council.)

7. PUBLIC HEARINGS

- A. Ordinance No. 2024-02: Reconciliation of Molalla Municipal Code and Public Works Standards for Performance Bond Measures (Zinder) Pg. 7

8. ORDINANCES AND RESOLUTIONS

- A. Ordinance No. 2024-02: Reconciliation of Molalla Municipal Code and Public Works Standards for Performance Bond Measures (Zinder) Pg. 7
- B. Resolution No. 2024-06: Declaring Councilor Robles Seat Vacant (Huff) Pg. 14

9. GENERAL BUSINESS

A. Youth Council Application(Keyser)

Pg. 17

B. Clackamas County Zoning Ordinance and Comprehensive Plan Amendment(Huff)

Pg. 18

10. STAFF COMMUNICATION

11. COUNCIL COMMUNICATION

12. ADJOURN

Agenda posted at City Hall, Library, and the City Website at <http://www.cityofmolalla.com/meetings>. This meeting location is wheelchair accessible. Disabled individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-829-6855.



City of Molalla
City Council – Work Session
Minutes – March 27, 2024
Molalla Civic Center | 315 Kennel Ave. | Molalla, OR

CALL TO ORDER

The Molalla City Council Work Session of March 27, 2024 was called to order by Council President Jody Newland at 6:01pm.

COUNCIL ATTENDANCE

Mayor Scott Keyser (arrived at 6:02pm), Council President Jody Newland, Councilor Leota Childress, Councilor Eric Vermillion, and Councilor RaeLynn Botsford.

Absent: Councilor Crystal Robles.

STAFF IN ATTENDANCE

Christie Teets, City Recorder; Chris Long, Police Chief; Sam Miller, Engineering Section Manager.

DISCUSSION ITEMS

- A. Budget Committee – Applicant Interviews
- Char Pennie - present
 - Regina Sheaves - present
 - Brady Rickey - absent
 - David Potts - present
 - Mechelle Trefethen - absent

City Council interviewed each applicant in round-robin style, with questions relating to Budget and Budget Committee commitments. Each applicant is available to serve a three-year term.

Decisions cannot be made during a Work Session, therefore, appointments will be made during the Regular Meeting.

[For the complete video account of the City Council Meeting, please go to YouTube “Molalla City Council Work Session – March 27, 2024”](#)

ADJOURN

Mayor Keyser adjourned the Work Session at 6:10pm.

Scott Keyser, Mayor

ATTEST:

Christie Teets, CMC - City Recorder



City of Molalla
City Council - Regular Meeting
Minutes – March 27, 2024
Molalla Civic Center | 315 Kennel Ave. | Molalla, OR

CALL TO ORDER

The Molalla City Council Meeting of March 27, 2024 was called to order by Mayor Scott Keyser at 7:00pm.

COUNCIL ATTENDANCE

Present: Mayor Scott Keyser, Council President Jody Newland, Councilor Leota Childress, Councilor Terry Shankle (via telephone), Councilor Eric Vermillion, and Councilor Raelynn Botsford.

Absent: Councilor Crystal Robles.

STAFF IN ATTENDANCE

Christie Teets, City Recorder; Chris Long, Police Chief, Sam Miller, Engineering Section Manager.

APPROVAL OF AGENDA

Approved as presented.

CONSENT AGENDA

- A. City Council Meeting Minutes – March 13, 2024
- B. Resolution No. 2024-02: Adopting the Emergency Operation Plan

ACTION:

Councilor Botsford moved to approve the Consent Agenda; Council President Newland seconded. *Motion passed 6-0.*

AYES: Vermillion, Shankle, Childress, Newland, Botsford, Keyser.

NAYS: None.

ABSENTIONS: None.

PRESENTATIONS, PROCLAMATIONS, CEREMONIES

- A. Molalla Rural Fire Department – 100 Years (Keyser)

Todd Gary, Board Member of Molalla Rural Fire Department shared a brief presentation of the history of Molalla Fire. The Fire Department is celebrating 100 years of service to the community. A few highlights are: volunteers formed the Department in 1924; in the late 1930's, they became Molalla Rural Fire Department District #73; in 1948 MRFD purchased their first ambulance; 1987 brought the first paid Fire Chief, and in 1989 there were three full-time firefighter/paramedics.

Mike Penunuri gifted Council, staff, and audience members with a 100-year commemorative coffee mug. Councilors congratulated Molalla Fire and thanked them for their service to the community.

- B. Budget Committee Appointments (Keyser)

Three Budget Committee applicants were interviewed during the Work Session. Two applicants were interviewed briefly at the Council meeting. Appointments by individual motions were made for each candidate.

ACTION:

Council President Newland moved to appoint Char Pennie to the Budget Committee for Fiscal Years 2024-2026; Councilor Botsford seconded. *Motion passed 4-2.*

AYES: Vermillion, Newland, Botsford, Keyser.

NAYS: Childress, Shankle.

ABSENTIONS: None.

ACTION:

Councilor Botsford moved to appoint Regina Sheaves to the Budget Committee for Fiscal Years 2024-2026; Councilor Childress seconded. *Motion passed 5-1.*

AYES: Vermillion, Childress, Newland, Botsford, Keyser.

NAYS: Shankle.

ABSENTIONS: None.

ACTION:

Councilor Vermillion moved to appoint Brady Rickey to the Budget Committee for Fiscal Years 2024-2026; Councilor Shankle seconded. *Motion passed 4-2.*

AYES: Vermillion, Shankle, Childress, Keyser.

NAYS: Council President Newland, Councilor Botsford.

ABSENTIONS: None.

ACTION:

Mayor Keyser asked for a motion to appoint David Potts to the Budget Committee. No motion was received.

ACTION:

Councilor Botsford moved to appoint Mechelle Trefethen to the Budget Committee for Fiscal Years 2024-2026; Councilor Childress seconded. *Motion passed 6-0.*

AYES: Vermillion, Shankle, Childress, Newland, Botsford, Keyser.

NAYS: None.

ABSENTIONS: None.

Given that there are five applicants and three open seats, the majority rule of votes lead the determination.

The vote was called a second time for Brady Rickey and Char Pennie. Councilor Botsford stated that she is encouraged by the community interest, and that Mr. Rickey is serving on Planning Commission currently. Mayor Keyser agreed and would like to see Char Pennie appointed, as she has submitted an application for a few committee/commission openings.

ACTION:

Councilor Vermillion moved to appoint Brady Rickey to the Budget Committee for Fiscal Years 2024-2026; Councilor Childress seconded. *Motion tied, therefore failing, 3-3.*

AYES: Vermillion, Shankle, Childress.

NAYS: Newland, Botsford, Keyser.

ABSENTIONS: None.

ACTION:

Councilor Botsford moved to appoint Char Pennie to the Budget Committee for Fiscal Years 2024-2026; Council President Newland seconded. *Motion passed 5-1.*

AYES: Vermillion, Shankle, Newland, Botsford, Keyser.

NAYS: Childress.

ABSENTIONS: None.

Mechelle Trefethen, Regina Sheaves, and Char Pennie were appointed to Budget Committee, with the highest votes by Council.

PUBLIC COMMENT

Corinne Thomas, Molalla business owner, High Score Arcade, 201 N. Molalla Avenue. Purchased the former Saw Shop, updated it as an energy efficient building, and turned it into an Arcade and Restaurant. SDC's for this establishment were originally over \$64,000. After working with the City, the fees were reduced to \$24,000. Ms. Thomas is requesting that Council waive all SDC fees for her establishment, as she has incurred unexpected costs.

PUBLIC HEARINGS

None.

ORDINANCES AND RESOLUTIONS

None.

GENERAL BUSINESS

A. Contract Award: S. Molalla Avenue Waterline

Sam Miller, Engineering Section Manager, explained the process of updating the waterline on S. Molalla Avenue to Molalla Forest Road. This project is included in the Capital Improvement Plan. Mayor Keyser questioned the boring process, Mr. Miller explained that it will be subcontracted through the awarded contractor. Council President Newland questioned whether the County would be partnering on this project. Mr. Miller stated no that eventually the road will become City property and jurisdiction, therefore our responsibility for improvements.

ACTION:

Councilor Childress moved to approve the Contract Award for M.L. Houck Construction to begin the S. Molalla Avenue construction; Councilor Vermillion seconded. *Motion passed 6-0.*

AYES: Vermillion, Shankle, Childress, Newland, Botsford, Keyser.

NAYS: None.

ABSENTIONS: None.

STAFF COMMUNICATION

- Engineering Section Manager Miller had nothing to report.
- Police Chief Long provided an update on the new Police Facility process. Molalla Communications donated funds to purchase a drone for the Police Department. There is currently one FFA licensed drone pilot, Chief Long is hopeful to add two more.
- City Recorder Teets reminded Councilors that there is a joint meeting with Planning Commission and Council on Wednesday, April 3rd. Ms. Teets also thanked the citizens that applied for Budget Committee.

COUNCIL COMMUNICATION

- Councilor Botsford wished everyone a Happy Easter.
- Councilor Vermillion congratulated Pamela Thomas from Molalla Middle School. Pamela was recently awarded the “Amazing Educator of the Year” recognition by Pamplin Media. Councilor Vermillion also announced the upcoming MRSD Board Meeting dates.
- Councilor Shankle gave a reminder of the upcoming Spring Clean-Up day that will be held on April 19th-20th. Volunteers are needed.
- Councilor Childress had nothing to report.
- Council President Newland thanked those that attended the Town Hall meeting last week. She announced that there would be more Town Halls, and that it is a family friendly event. June 20th at 6:30pm is the next scheduled date.
- Mayor Keyser introduced Grace Peterson, a high school student from our community that is interested in city government. Grace would like to become more involved, and will attend the Council meeting on April 10th. Mayor Keyser also announced an upcoming event benefiting Northwest Battle Buddies. This is a nonprofit organization that provides service dogs for combat veterans with PTSD with no cost to the veteran.

[For the complete video account of the City Council Meeting, please go to YouTube “Molalla City Council Meetings – March 27, 2024”](#)

ADJOURN

Mayor Keyser adjourned the meeting at 7:47pm.

Scott Keyser, Mayor

ATTEST:

Christie Teets, CMC - City Recorder



CITY OF MOLALLA

117 N. Molalla Avenue
PO Box 248
Molalla, OR 97038

Staff Report

Agenda Category: Ordinances

Agenda Date: 4/10/2024

From: Dan Zinder, Senior Planner

Approved by:

SUBJECT: Ordinance 2024-02; a development code amendment that modifies Molalla Municipal Code (MMC) Section 17-3.6.100, Subsection B *Determination of the Sum* so that the required assurance is at least 125% of the estimated improvement costs. The current assurance requirement is 150% of the estimated improvement cost.

FISCAL IMPACT: None/NA

RECOMMENDATION/RECOMMEND MOTION: Staff Recommends that Council adopt Ordinance 2024-02.

BACKGROUND: There is currently a discrepancy between the Public Works Standards and Molalla Municipal Code for the amount that an applicant is required to provide for a performance bond assurance for public improvements. In Section 1.15.7 of the Molalla Standard Specifications for Public Works Construction (hereafter "Molalla Public Works Standards" the required assurance is 125% of the improvement costs and in the Municipal Code the requirement is 150% of the improvement costs. This ordinance serves to cure that discrepancy.

Staff recommends reconciling the two documents by changing the Municipal Code to require a 125% assurance. This removes a cost impediment for development while still ensures sufficient funding to complete public improvements in the event that the Applicant is unable to. The 150% requirement is also substantially higher than industry standards and thus puts us at a disadvantage to attract new development.

Exhibits:

1. Proposed Amendment to MMC Section 17-3.6.100
2. Findings of Fact



ORDINANCE NO. 2024-02

**AN ORDINANCE OF THE CITY OF MOLALLA, OREGON
MOLALLA MUNICIPAL CODE AND PUBLIC WORKS STANDARDS
RECONCILIATION OF PERFORMANCE BOND ASSURANCE**

WHEREAS, the Molalla Municipal Code requires an Applicant provide 150% of the improvement cost for performance bond assurances; and

WHEREAS, the Molalla Standard Specifications for Public Works Construction requires an Applicant provide 125% of the improvement cost for performance bond assurances; and

WHEREAS, the discrepancy between the two above standards makes creates a standard that is problematic to enforce; and

WHEREAS, Goal 11 of the City of Molalla Comprehensive Plan Oregon sets a goal to ensure that development pays its fair share for needed public facilities as called for in adopted plans; and

WHEREAS, A 125% assurance is adequate to cover improvement costs and is in line with industry standard for bond assurances;

Now, Therefore, the City of Molalla ordains:

Section 1. Molalla Municipal Code Table 17-2.2.030 is hereby amended consistent with Exhibit 1, which is incorporated herein and adopted by reference.

Section 2: The findings related to this amendment, attached as Exhibit 2, are incorporated herein and adopted by reference.

Section 3. Effective Date. This Ordinance shall take effect 30 days after enactment.

The First Reading was held on April 10, 2024 and moved to a Second Reading by _____ vote of the City Council.

The Second Reading was held on _____ and adopted by the City Council on _____.

Signed this ____ day of _____ 2024.

Scott Keyser, Mayor

ATTEST:

Christie Teets, CMC
City Recorder

DRAFT

EXHIBIT 1 – PROPOSED AMENDMENT

Key:

Existing Language – Black

Proposed Language – **Purple Bold**

Proposed Removals – ~~Red Strikethrough~~

Molalla Municipal Code 17-3.6.100, Subsection B

Determination of Sum. *The assurance of performance shall be for a sum determined by the City Engineer as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses, plus reasonable inflationary costs. The assurance shall not be less than ~~150~~ **125** percent of the estimated improvement costs.*

DRAFT

EXHIBIT 2 – FINDINGS OF FACT

MMC 17-4.6.020 Procedure. Except for corrections, amendments to Development Code Text are Legislative (Type IV).

Staff Response: The proposed ordinance is an amendment to Development Code Text and as such follows a Legislative Type IV planning process.

MMC 17-4.1.050(C) Type IV (Legislative Decisions) Procedure.

Proposed Finding: The proposed ordinance was properly and timely noticed in accordance with all applicable laws and regulations as follows:

1. *The planning official shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments at least 35 days before the first public hearing.*

Staff Response: DLCD notice was provided on February 2, 2024, exceeding the 35-day requirement

2. *At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:*
 - a. *Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another), see ORS 227.186 for instructions;*
 - b. *Any affected governmental agency;*
 - c. *Any person who requests notice in writing; and*
 - d. *For a zone change affecting a manufactured dwelling park, all mailing addresses within the park, in accordance with ORS 227.175.*

Staff Response: The proposed change ordinance does not modify the comprehensive plan, nor does it constitute a zone change or modify use allowances within any zone. Measure 56 noticing requirements do not apply.

3. *At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city and the City's website.*

Staff Response: This proposed ordinance was appropriately and timely noticed in the paper and online on 3/27/24, and 03/29/2024 respectively; more than 10 days prior to the City Council Public Hearing date of 4/10/24.

MMC 17-4.6.030 Amendments to Code; Criteria

Planning Commission review and recommendation, and City Council approval, of an ordinance amending the Zoning Map, Development Code, or Comprehensive Plan shall be based on all of the following criteria:

- A. *If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;***

Proposed Finding: The proposal does not involve an amendment to the Comprehensive Plan.
This criterion is not applicable.

- B. *The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning);***

Proposed Finding: Goal 11 in the Molalla Comprehensive Plan addresses public facilities. Public Facilities Goals within Goal 11 are as follows:

- *To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban development.*
- *To ensure livable and complete neighborhoods – with adequate sanitary sewer, water, storm drainage, transportation, park and school facilities.*
- *To ensure that development pays its fair share for needed public facilities as called for in adopted plans.*

The proposed change to the Molalla Municipal Code changing the required performance bond assurance from 150% of the improvement cost to 125% of the improvement cost still ensures that the City is covered for an amount substantially more than the proposed improvement costs should a developer fail to perform. As such, the proposed change does not impact the City's ability to meet the public facilities development goals within Goal 11 while reducing a cost burden to development consistent with Goal 9 Economic Development and Goal 10 Housing.

Goals 1-8 and Goals 12-14 do not apply.

This criterion is met.

C. The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or code;

Finding: This proposal corrects an inconsistency between the Municipal Code and Public Works Standards. There is currently a discrepancy between the Public Works Standards and Molalla Municipal Code for the amount that an applicant is required to provide for a performance bond assurance for public improvements. In the Molalla Public Works Standards the required assurance is 125% of the improvement costs and in the Municipal Code the requirement is 150% of the improvement costs. This ordinance serves to cure that discrepancy in a way that lowers development costs without compromising the City’s ability to develop its infrastructure.

This criterion is met.

D. The amendment must conform to Section 17-4.6.050 Transportation Planning Rule Compliance

Finding: The Transportation Planning Rule applies to “Proposals to amend the Comprehensive Plan or Zoning Map.” The subject proposal affects neither the Comprehensive Plan nor the Zoning Map.

This criterion does not apply.



CITY OF MOLALLA

117 N. Molalla Avenue
PO Box 248
Molalla, OR 97038

Staff Report

Agenda Category: Ordinances & Resolutions

Agenda Date: April 10, 2024

From: Christie Teets, City Recorder
Approved by: Dan Huff, City Manager

SUBJECT: Resolution No. 2024-06: Declaring the Council position held by Crystal Robles to be Vacant

FISCAL IMPACT: n/a

RECOMMEND MOTION: Approve vacating Council position held by Councilor Robles.

BACKGROUND:

Councilor Robles submitted her letter of resignation to the City Manager, City Recorder, and Mayor on April 2, 2024, thereby vacating her position on Council.

STAFF RECOMMENDATION:

As the City's Elections Officer, it is recommended that this position remain open until the November General Election. Councilor Robles' term expires on December 31, 2024, which would leave only a portion of the remaining term vacant.

COUNCIL OPTION:

Council may follow Staff's recommendation or post the vacancy with the following schedule as outlined:

- Receive applications from April 11 – May 8, 2024
- Interview candidates at the May 22nd Work Session, appoint at the Regular Session
- Appointed candidate to fill remainder of Councilor Robles' term from June 12 – December 31, 2024.

Subject: Resignation from Molalla City Council

Tuesday, April 2, 2024

Crystal Robles
512 Hart Ave, Molalla, OR 97038
(818) 938-0643

Attn:

Mayor Scott Keyser
Council President Jody Newland
Molalla City Council
Molalla City Hall

Dear Mayor and Council,

It is with a heavy heart that I submit my resignation from my seat on the Molalla City Council. Serving on the council has been an immensely rewarding experience, one that has taught me invaluable lessons, immense education learned from council and city staff has allowed me to contribute and play a small role in all the remarkable progress of our Molalla community.

Being part of a group of individuals dedicated to making a difference in Molalla has been truly inspiring. The unwavering commitment of the mayor, each council member, and city staff to ensure the utmost for our city has been evident in every decision and initiative undertaken. I was a privileged to have been a part of an organization that prioritizes advancement and strives for excellence without settling.

While this decision was difficult, I am confident that the work of the council will not be interrupted and Molalla's goals will continue to be surpassed. I cannot say it enough, it has been an honor to work alongside such dedicated and passionate individuals who work tirelessly, those who volunteer willing, and everyone who upholds their commitment to continuously push the bar higher and exceed expectations for the city of Molalla.

Thank you for the opportunity to serve our community and be a part of such a remarkable organization.

Sincerely,

Crystal Robles

Crystal Robles



RESOLUTION NO. 2024-06

**A RESOLUTION OF THE CITY OF MOLALLA, OREGON
DECLARING THE COUNCIL POSITION
HELD BY CRYSTAL ROBLES TO BE VACANT**

WHEREAS, Molalla Municipal Charter, Chapter VII - Elections, Section 32. Vacancies, states the City Council shall declare a vacancy on the Council in the event of an incumbent's resignation from the office; and

WHEREAS, Councilor Crystal Robles has submitted her resignation as a member of the Molalla City Council, effective immediately at a public meeting on April 10, 2024; and

Now, Therefore, the City of Molalla Resolves:

Section 1. The Council position held by Crystal Robles is declared vacant.

Section 2. Effective Date. This Resolution shall be effective upon adoption.

Signed this 10th day of April 2024.

Scott Keyser, Mayor

ATTEST:

Christie Teets, CMC
City Recorder



City of Molalla

Application for Appointment to Citizen Committee (Boards, Commissions, Council, CPC's)

Date: 3/28/24

Board, Commission, Committee of Interest: Student Representative

Name: Grace Peterson

Address: [REDACTED]

Phone No.: [REDACTED]

Email Address: [REDACTED]

Years of Residence in Community: 17

Do you live in City limits? No

Current or Previous Community Affiliations/Activities:

I currently work as a bobarista at Molalla's Bobablastic (August 2023-Present), and a secretary for Greg's Photography (2015-Present). I used to swim on the Molalla branch of the Oregon City Swim Team (2018-2020).

Please explain why would like to serve on this committee. Do you have any background that might be helpful in this area?

Student representatives are critical for the success of any committee as it moves towards the future. I've served two years on the Student Executive Council for the Oregon Association of Student Councils and worked closely with the adult board to better events and resources. I was a member of the Hatfield Helping Hands for the Hatfield Futures Project, where I was an alumni and changed the event to be better for other student participants. I was elected Student Government President for my school, where I work closely with Administration to create lasting changes that benefit the school as a whole. I think there's much value in having a student serve alongside adults, as there's fresh perspective and experience combining.

If applying for re-appointment, please indicate what has been the key accomplishment of the group during your service.

N/A

If you could make an improvement to this committee, what would it be?

I want to build more awareness and excitement for this position, and keep students in this position even after I'm gone. I'm hoping to serve as a role model, get involved with my city, and show other students what's possible.

Signature: (sign or type)

Grace Peterson

117 N. Molalla Avenue | PO Box 248 | Molalla, OR 97038
T: 503-829-6855 | F: 503-829-3676

Return Form to City Recorder or email recorder@cityofmolalla.com



CITY OF MOLALLA

117 N. Molalla Avenue
PO Box 248
Molalla, OR 97038

Staff Report

Agenda Category: General Discussion

Agenda Date: April 10, 2024

From: Dan Huff, City Manager

Approved by: Dan Huff, City Manager

SUBJECT: Clackamas County Comprehensive Plann Amendment ZDO-285

FISCAL IMPACT: N/A

RECOMMENDATION/RECOMMEND MOTION: Discussion

BACKGROUND:

The City of Molalla is afforded an opportunity to review and comment on changes to the Clackamas County Comprehensive Plan and Zoning and Development Ordinance. The attached information outlines the County's proposed changes as identified in File No. ZDO-285. I believe it is important for Council to review and either direct Staff to comment or not in this instance.

These changes to the Clackamas County Comprehensive Plan do not impact or apply to properties inside the corporate city limits of Molalla. However, these amendments do apply in all areas outside the city limits including lands outside the city limits but inside the Urban Growth Boundary.

The issue we see is the potential that with the expansion of our UGB or annexations we may have difficulty transitioning or altering existing uses in these areas that may be a different use than what is applied through expansion. We will be available for discussion at the April 10,2024 Council meeting.



Notice of Land Use Public Hearings
for Community Planning Organizations, Hamlets, and Other Interested Parties

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

Notice Date: March 18, 2024

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

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

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

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

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

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

Public Hearings and Testimony

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

Public Hearing Dates and Times:

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

www.clackamas.us/planning/planning-commission

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

BCC Hearing Room (4th Floor), 2051 Kaen Rd, Oregon City, 97045

www.clackamas.us/meetings/bcc/landuse

Written testimony may be submitted before the hearings to Martha Fritzie at mfritzie@clackamas.us or 150 Beaver Creek Road, Oregon City, OR 97045.

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

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

Overview of Proposed Amendments

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

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

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

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

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

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

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

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

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

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

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

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

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

The bill further specifies that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Additional Information and Staff Report

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

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

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

www.clackamas.us/planning/zdo285

or

Martha Fritzie, 503-742-4529, mfritzie@clackamas.us

or

Planning & Zoning Customer Service, 503-742-4500, zoninginfo@clackamas.us

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Notice of Land Use Public Hearings for Community Planning Organizations, Hamlets, and Other Interested Parties

Subject: **Ordinance ZDO-288**, Zoning & Development Ordinance (ZDO) Amendments
Related to Utility Facilities

Notice Date: March 4, 2024

Contact: Joy Fields, Principal Planner
150 Beaver Creek Road, Oregon City, OR 97045
Phone: 503-742-4510
Email: jfields@clackamas.us

It has recently been determined that the county's ZDO likely requires a conditional use permit for most utility facilities, even underground utility lines and even in road rights-of-way where utility lines commonly are developed. Historically, utility facilities inside road rights-of-way have proceeded through a utility permit process without review and analysis by Planning and Zoning. Given the new awareness of the scope of the needed land use review and the significant number of annual utility permits in road rights-of-way, a practical difficulty exists in administering the ZDO in its current form. From a policy perspective, many of these permits likely do not warrant review through a land use application. In addition, it may be appropriate for some utility facilities outside road rights-of-way to be permitted outright.

Although the scope of the amendments may be narrowed during public hearing review, key elements of the initial proposal, discussed in more detail below, would:

- Adopt a comprehensive definition of utility facility
- Allow utility facilities inside road rights-of-way as an outright permitted use
- Allow utility lines both inside and outside road rights-of-way, both underground and overhead, as an outright permitted use
- Clarify the types of utility lines that, in most cases, must be underground

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

Additional background information and the full text of the proposed amendments is available online at www.clackamas.us/planning/zdo288, by contacting Joy Fields directly at the number or email listed above, or by contacting Planning & Zoning at 503-742-4500 or zoninginfo@clackamas.us.

Public Hearings and Testimony

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

Public Hearing Dates and Times:

Planning Commission: Monday, April 8, 2024, 6:30 p.m.

www.clackamas.us/planning/planning-commission

Board of County Commissioners: Wednesday, June 12, 2024, 10:00 a.m.

Public Services Building, 4th Floor Board Hearing Room, 2051 Kaen Rd, Oregon City, OR 97045

www.clackamas.us/meetings/bcc/landuse

Written testimony may be submitted before the hearings to Joy Fields at jfields@clackamas.us or 150 Beaver Creek Road, Oregon City, OR 97045.

- Written testimony received by 4 p.m., Thursday, March 28, 2024, will be included in the information packet provided to the Planning Commission one week before its scheduled hearing; written testimony received after that time and before 8 a.m., Monday, April 8, 2024, will be emailed to the Planning Commission before the hearing.
- Written testimony received by 4 p.m., Monday, June 3, 2024, will be included in the information packet provided to the Board of County Commissioners (BCC) one week before its scheduled hearing; written testimony received after that time and before 4 p.m., Tuesday, June 11, 2024, will be emailed to the BCC before the hearing.

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

Proposed Amendments

Ordinance ZDO-288 proposes the following key amendments to ZDO provisions related to utility facilities. Refer to the drafts of the proposed amendments to review the full scope of the proposal.

1. **Adopt a definition of utility facility.** Currently, the ZDO defines public utility and limits it to utilities regulated by the Public Utility Commission under Oregon Revised Statutes chapter 757, as well as any utility that provides electrical energy directly to consumers. The ZDO also separately defines hydroelectric facilities. There are also code references to telephone exchanges and water, stormwater, and sanitary sewer facilities. In addition, the ZDO has a separate “government uses” category that provides a pathway for *some* utilities. Finally, the ZDO provides for “similar use” determinations in many zones through an additional layer of land use review. However, utility facilities are not referred to consistently across zones, and the overarching definition of public utility that applies in all zones is not sufficiently comprehensive to address the full range of what is typically considered to be a utility.
2. **Adopt definitions of utility line and utility service line.** These definitions are intended to allow these types of utility facilities to be regulated differently.
3. **Repeal definitions of hydroelectric facility, public utility and public water system.** These facilities will be encompassed by the new definition of utility facility.

4. **Revise the definition of right-of-way.** The intent is to more accurately define the term. As it pertains to utility facilities, the term is proposed for use in distinguishing utility facilities to be regulated differently.
5. **Move definition of small power production facility.** This use is singled out only in the Rural Industrial District, so the definition is proposed to be relocated to Section 604, which regulates the RI zone.
6. **Specify that utility service lines are an accessory use in all zones.**
7. **Allow utility facilities inside road rights-of-way as an outright permitted use in all residential, commercial, industrial and open space zones.**
8. **Allow utility lines both inside and outside road rights-of-way, both underground and overhead, as an outright permitted use in all residential, commercial, industrial and open space zones.**
9. **Allow certain utility facilities as a conditional use in certain commercial zones.** In some commercial zones, some utility facilities require a similar use determination or are prohibited. The proposal is to allow most utility facilities as a conditional use, except as enumerated in items 6 through 8, above. Refer to the drafts of the proposed amendments for greater detail.
10. **Clarify the types of utility lines that, in most cases, must be underground.** Section 1006 of the ZDO, which applies to development, including institutional uses such as utility facilities, includes the following standard:

All development that has a need for electricity, natural gas, and communications services shall install them pursuant to the requirements of the utility district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be installed underground.

Arguably, the requirement applies only to utility facilities that have a need for other utilities' services (e.g., a sewer pump station that requires electrical service), not utility facilities that provide service to others (e.g., an electric transmission line). Alternatively, a utility provider that proposes to establish an aboveground utility facility may be able to "prohibit" itself from an underground installation. However, it could also be argued that the requirement applies to all utility facilities and that "prohibited" requires something more substantial than a simple choice on the utility's part.

Applying the underground installation standard to major utility lines, rather than just on-site service lines, potentially could result in substantially increased costs for utilities and ultimately ratepayers. The proposal is to limit the requirement for underground utilities to service lines rather than larger lines, such as distribution and transmission lines.

11. **Exempt utility cabinets that comply with Section 830, utility facilities in road rights-of-way and utility lines from the development standards in Section 1000 and from the requirement to file a Design Review application.**

Additional Information and Staff Report

For general Planning & Zoning information:

www.clackamas.us/planning

For additional information about ZDO-288 and its public hearings (and for a copy of the staff report available Monday, April 1, 2024):

www.clackamas.us/planning/zdo288

or

Joy Fields-742-4510, jfields@clackamas.us

or

Planning & Zoning Customer Service, 503-742-4500, zoninginfo@clackamas.us

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