

# Cornelius Planning Commission Work Session

Omnibus Land Use Amendment topics and discussion items

May 28, 2024

# New Chapter 16 Miscellaneous Permits

# Proposed New **Miscellaneous Permits** Chapter 16

## Non Land Use Permits

- Annexation
- Emergency Shelters - ORS 197.782 Sec. 3(5)
- Trailer Camps (CMC 5.20)
- Mobile Vendors (CMC 5.35 and 10.45.015)
- Distressed Residential Property Registration (CMC 8.25)
- Keeping of Livestock (CMC 9.10.140)
- Swimming Pools (CMC 15.15)
- Moving of Buildings (CMC 15.35)

# Annexation (Exhibit 1)

- City of Gladstone recently (2023) adopted annexation procedures in their Municipal Code developed by BEH.
- Changed Clackamas County to Washington County
- Changed Gladstone to Cornelius
- Part of new Miscellaneous Permits Chapter

# Emergency Shelters (Exhibit 2)

- ORS 197.782 Sec. 3(5) the approval of an emergency shelter under this section is **not a land use decision** and is subject to review only under ORS 34.010 to 34.100.
- **Must** meet requirements: includes sleeping and restroom facilities for clients, will comply with building codes, is located within an UGB, is not within flood plain, mapped environmental hazards, has adequate transportation access to commercial and medical services, will not pose any unreasonable risk to public health or safety, must be operated by a local government or an organization with two years of experience and is a Housing Authority, religious corporation, or a public benefit corporation.
- Facility **may** include showering or bathing, storage of personal property, laundry facilities, food prepared on or off site, recreation areas for children and pets, case management services (housing, financial, vocational, educational, physical or behavioral health care or other services incidental to the shelter)
- Shelters **may** include youth, winter or warming, day, or family violence shelters as defined in ORS 409.290.
- Proposed as part of new Miscellaneous Permits Chapter

# Clean Up Amendments

# Fees and Days (Exhibit 3)

- Modeled fee language from Chapter 16 Annexation, for Chapter 17 Land Division and Chapter 18 Zoning from City of Gladstone amendment by BEH
- Question: how to address Sign fees – calculated based on square footage – sometimes sign companies don't give the correct square footage.
- Modeled “Days” definition from the City of Gladstone:  
“Days means calendar days without reference to business days or holidays unless specifically stated to the contrary.”

# Consistency in counting “Days”

- Type II noticing periods:
  - 18.15.010(B)(3) (Type II comment period) 10 working days
  - 18.15.030(A)(1) provide a 20-day comment period
  - ORS 197.195(3)(c)(A) requires 14-days
- Type III noticing periods:
  - 18.15.090(B) quasi-judicial and appeals of Type I and II, at least 20 days prior to the evidentiary hearing (ORS 197.197 states 20 days before the evidentiary hearing or 10 days before the first evidentiary hearing if two or more evidentiary hearings are allowed)
  - 18.15.010(C)(5)(Notice of Decision appeal procedure) 10 days
  - Notice is required to state that the staff report and evidence shall be available at least seven days prior to the hearing.
- Effective date of decisions: 11 working days after the date of decision
- Legislative actions are effective if no appeal has been filed prior to the expiration of the 21 day appeal period of ORS198.830(9).
- All references will be amended to just “days”



# Appeal Deadline changes

Provide clear statement that if the end of the appeal time period ends on weekend or holiday, that the appeal period ends on the first work day following the expiration of the appeal period.

## 18.15.090 (B) Timeliness of Appeal.

- (1) An appeal must be receive by the city within 10 ~~working~~ days of the date the notice of decision was mailed.
- (2) Failure to receive the appeal within 10 ~~working~~ days is jurisdictional.
- (3) The day the notice of the decision was mailed shall not be included for purposes of determining the expiration of the appeal period.
- (4) If the 10 day appeal period ends on a weekend or a holiday, the appeal period closes on the next working day.***

# Waste Enclosures – new section in 18.100

- Screening:
  - Fencing with slats or fabric fencing degrades over time – difficult to ensure long-term compliance.
  - Question: Should we require concrete masonry unit (CMU) construction, or mimic the building with the same materials, or either option at the choice of the applicant?
- Identification of the proposed waste enclosure location, size and materials and types of bins –
  - Recycling (CMC 8.05.150),
  - Food waste (CMC 5.60),
  - Solid waste (CMC 8.05) in the drawings.
  - Apartments and offices need general waste and recycling. Food providers need food waste and a grease trap.
- Require a Service Provider Letter (SPL) from the hauler that the proposed size and location are sufficient for the types of bins and the hauler to pick up, with a drawing attached to the SPL.

# Inconsistent dates in Chapter 17

- 17.05.040 (A) *Procedure Type – Preliminary Plats. The community development director shall coordinate and assemble through the facilities and design review process the reports and data submitted by the applicant, affected city departments and any governmental agencies having an interest in subdivisions. The community development direction shall determine whether the subdivision meets the criteria in subsection (C) of this section. The community development director or the planning commission shall have the authority to approve, approve with conditions or deny the proposed preliminary plat in writing based on the criteria of subsection (C) of this section ~~within 45 days of its submittal.~~*

Please note: A subdivision in this section either follows a Type II or Type III process – neither of which is finished within 45 days of a submittal. Each has its own regulatory timeline – so this is unnecessary and contradictory.

# Legal Amendments

# RLUIPA – Residential Zones

## (Religious Land Use and Institutionalized Persons Act)

*Prohibits the imposition of burdens on the ability of parishioners to worship as they please and gives religious institutions (RI) equal footing as a theater, community center, or other similar use.*

- Residential zones (R-7, R-10, A-2, CR) – currently a Conditional Use (CU) – can continue in that manner
- MHP – not referenced, so not allowed

# RLUIPA - Commercial Zones

*Prohibits the imposition of burdens on the ability of parishioners to worship as they please and gives religious institutions (RI) equal footing as a theater, community center, or other similar use.*

- C-2 – Indoor amusement or entertainment is a Permitted Use (PU)– must allow *RI* as PU not CU.
- CC – Indoor recreation and entertainment, community center are PUs – must allow *RI* as a PU (currently not allowed at all).
- CMU – Commercial amusements, community center, cultural and educational resource facilities are all PUs – must allow *RI* as a PU not a CU.
- GMU - Indoor recreation and entertainment, theatrical or cultural performing arts center are PUs – must allow *RI* as a PU. Community Center is a CU. Currently, *RI* are not allowed at all.

# RLUIPA - Industrial Zones

*Prohibits the imposition of burdens on the ability of parishioners to worship as they please and gives religious institutions (RI) equal footing as a theater, community center, or other similar use.*

- LI – Private indoor recreational facility is a CU, thus *RI* would be a CU.

Question: should this conditional use category continue, if so, then *RI* would be added as a CU?

- M-1 - CU for any conditional use allowed in a commercial zone

Question: should this conditional use category continue, if so, then *RI* would be added as a CU?

# Housing Related Amendments



# Housing

- ORS 197.748 – Conversion of a hotel or motel to emergency shelter or affordable housing
- Currently do not have any hotels or motels, but we do need to be compliant with state law.

# Completeness Chapter 17 – Land Division

## 17.05.050 (F) (1) Middle housing land divisions and expedited land divisions:

- (a) If the application of an ELD or MHLA is incomplete, the city shall notify the applicant within 21 days of receiving the application. The application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
- (b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted, *or*
- (c) ***The applicant may request to be reviewed under those standards and criteria that are operative at the time of the request.***
  1. ***All timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request.***
  2. ***The request may be denied if:***
    - i. ***The public notice has been mailed or published; or***
    - ii. ***A prior request to restart has been made; and***
    - iii. ***A fee may be charged only to cover the additional costs to accommodate the request, and,***
    - iv. ***A new application may not be requested, unless information submittal is required to address changes in information or locations or additional narrative is required to understand the request in context; and***
    - v. ***A new process or hearing cannot be required that is not applicable to the change in standards or criteria.***

SB 1537,  
new  
language  
required

# Completeness Chapter 18 – Zoning

18.10.050 Complete submittal required.

Application materials shall be submitted to the community development director who shall have the date of submission indicated on each copy submitted. Within 30 ~~calendar~~ days from the date of submission, the community development director shall determine whether an application is complete.

- (A) If the community development director determines that the application is incomplete or otherwise does not conform to the provisions of the code, the applicant shall immediately be notified of the negative determination in writing by mail conveying an explanation and a submittal deadline for completion or correction of the application. However, if the application remains incomplete for more than 30 days from the date of notice of negative determination, the materials submitted shall be returned to the applicant and the filed.
- (B) If an application is determined to be complete and in conformance with the provisions of the code, the community development director shall accept it and note the date of acceptance on the application form. The community development director shall then schedule the appropriate review and notify the applicant in writing of the date of the final decision or hearing as set forth in Chapter 18.15 CMC.
- (C) ***The applicant may request to be reviewed under those standards and criteria that are operative at the time of the request.***
- (a) ***All timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request.***
- (b) ***The request may be denied if:***
- 1. The public notice has been mailed or published; or***
  - 2. A prior request to restart has been made; and***
  - 3. A fee may be charged only to cover the additional costs to accommodate the request, and,***
  - 4. A new application may not be requested, unless information submittal is required to address changes in information or locations or additional narrative is required to understand the request in context; and***
  - 5. A new process or hearing cannot be required that is not applicable to the change in standards or criteria.***

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# Manufactured Dwellings

RVs as a MH ORS 197.492 through 493

- Need to ensure consistency in recreational vehicle definition between CMC 18.195.180 and ORS 197.492 through 493.
  - CMC 18.195.180 Recreation vehicle means a vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a floor space of less than 220 square feet, excluding built-in equipment such as closets, cabinets, kitchen units or fixtures, and bath or toilet rooms. The unit shall be identified as a recreational vehicle by the manufacturer.
  - ORS 174.101(3) Recreational vehicle means a vehicle with or without motive power that is designed for use as temporary living quarters as further defined by rule by the Director of Transportation.
- Need to permit an RV as a residential dwelling in a **MHP** if it is lawfully connected to water, sewer and electrical, with Building Permits.
- Question: Should a specific prohibition be added in the other residential zoning districts (R-10, R-7, A-2 and CR)?

# Affordable Housing (AH)(ORS 197.307)

## Process: 1, 3, and 4 or 2, 3, and 4

Cannot require a zone change or CUP for AH if:

1. The housing is **owned** by:
  - A public body
  - A non profit corporation that is organized as a religious corporation, or
2. The property is **zoned**:
  - For commercial uses,
  - To allow religious assembly, or
  - As public lands.
3. Applies on property zoned to allow for industrial uses only if the property is:
  - Publicly owned;
  - Adjacent to lands zoned for residential uses or schools; and
  - Not specifically designated for **heavy industrial uses.**
4. Doesn't apply if local government determines:
  - Cannot be adequately served by water, sewer, and storm or streets
  - Slopes 25 % or greater
  - Within 100 year floodplain
  - Constrained by hazards in the comprehensive plan
    - Natural disasters or hazards
    - Natural resources, including air, water land or natural areas, but not open spaces or historic resources,

# AH OUTRIGHT density bonuses (ORS 197.308)

- Local government shall approve at an authorized density level and height level as defined in ORS 227.174(4) for the development of AH, at the GREATER of:
  - Any local density bonus for AH; or
  - Without consideration of any local density bonus for AH:
    - For property with existing maximum density of 16 or fewer units/acre, 200% of the existing density and 12 additional feet; ([R-10](#), [R-7](#) and [CR in Cornelius](#))
    - For property with existing maximum density of 17 or more units/acre and 45 or fewer units/acre, 150% of the existing density and 24 additional feet; or ([MF Residential \(A-2\)](#))
    - For property with existing maximum density of 46 or more units per acre, 125% of the existing density and 36 additional feet. ([CMU](#) and [GMU](#))
- Does not apply to housing in areas not zoned for residential uses ([M-1](#) and [LI](#))
- May reduce the density allowed above to address a health, safety or habitability issues, including fire safety or to comply with a protective measure adopted pursuant to a statewide planning goal.

# Final action on AH development application (ORS 197.311)

- AH for this section is 60% Median Family Income (MFI), with a covenant that maintains affordability for not less than 60 years.
- MF means 3 or more DU – each with space for eating, living and sleeping and permanent provisions for cooking and sanitation.
- Decision must be made within 100 days of completeness, including all appeals.
- Applies if:
  - The application meets the clear and objective standards;
  - For MF building with 5 or more DU within a UGB;
  - At least 50% with sold or rented as AH (60% MFI for 60 years) OR

# Final action on AH development application (ORS 197.311)

- Owned by a nonprofit corporation organized as a religious corporation within the UGB,
  1. Can apply:
    - Clear and Objective standards; or
    - Discretionary standards related to health, safety, habitability or infrastructure.
  2. Shall Approve the development of AH (60% AMI, 60 year covenant) if not zoned for housing if:
    - The property is not zoned for industrial uses; and
    - The property is contiguous to property zoned to allow residential uses.
  3. Shall be subject ONLY to the restrictions applicable to the contiguously zoned residential property without requiring a rezone. If there is more than one contiguous residential property, the zoning of the property with the greatest density applies.

Current definition of contiguous – see abut – means contiguous to, adjoining with a common boundary line. Proposed definition of contiguous (from Hillsboro):

*Having a property line, zoning boundary or wall in common, does not apply to buildings, uses, or property separated by a street or alley.*



# Height increase?

## Existing

- Industrial:
  - M-1 – 35 feet
  - LI – 35 feet
- Town Center:
  - CMU – 3 stories or 40 feet, whichever is less; minimum of 16 feet in height
  - CR – 35 feet
  - CC – 3 stories of 40 feet, whichever is less
- Other Commercial:
  - GMU – 3 stories or 45 feet, whichever is less; height up to 40 feet with expanded setbacks
  - C-2 – 35 feet\* CUP to exceed the permitted building height.
- MF:
  - A-2 – 35

## Proposed

- Industrial:
  - M-1 – **75** feet
  - LI – **45** feet
- Town Center:
  - CMU – **5** stories or **60** feet, **with Baseline or Adair Frontage, 45 feet everywhere else**; minimum of 16 feet in height
  - CR – 35 feet
  - CC – 3 stories of 40 feet, whichever is less
- Other Commercial:
  - GMU – 3 stories or 45 feet, whichever is less; height up to 40 feet with expanded setbacks
  - C-2 – **40 feet**,
- MF:
  - A-2 – **45**

## Questions:

C-2 should a CUP allow for greater height?

Should we change anything in the Solar Balance requirements?

# Industrial Zones

## M-1

- 18.55.030(B) – **eliminate** – allows any CU in commercial uses
- 18.55.030(M) – **eliminate** mini storage
- 18.55.020 (F) and (G) – **eliminate** – new office improvements and existing non conforming structures can be converted to office uses

## LI

- 18.54.020(F) **eliminate** - Wholesale and or card-lock fuel station with approved loading and queuing space
- 18.54.030(D), (J) and (O) – **eliminate** - restaurants, power generation plants, and sewage treatment plants.

# GMU – Permitted Uses

Remove (B) Light industrial uses ....

Add a new permitted use: Public and private utilities including telephone exchanges, electric substations and data centers – but not gas regulator stations, water wells and public works yards.

## **18.75.030 Conditional uses permitted.**

The following uses and their accessory uses are permitted when in accordance with Chapter [18.105](#) CMC:

(A) Research and development.

(B) Light industrial uses principally permitted under CMC [18.54.020](#), except those specifically listed in CMC [18.75.040](#).

## **18.54.020 Permitted uses.**

The following uses are permitted outright with the appropriate site design review:

(A) Secondary manufacturing and processing of products made from components previously prepared from raw materials.

(B) Public and private utilities, including but not limited to telephone exchanges, electric substations, data centers, gas regulator stations, water wells and public work yards.

(C) Industrial hand tool and supply sales primarily wholesaled to other industrial firms or industrial workers.

(D) Research and development companies, experimental and/or testing laboratories.

(E) Internet and telephone system retail sales without counter sales, which are shipped out or shipped directly to customers of products prepared on site. The total retail sales area shall be less than 25 percent of the total building area in which the use is located.

(F) Wholesale and/or card-lock fuel stations with approved loading and queuing space.

(G) Electronics, building materials and home appliance recycling in an enclosed structure.

(H) Blueprinting, printing, publishing, or other reproduction services.

(I) Self-service storage facilities.

(J) Medical, dental and similar laboratories.

(K) Type "A" or Type "B" mobile vendor, as described in Chapter [5.35](#) CMC. [Ord. 916 § 2 (Exh. B), 2010; Ord. 2016-015 § 1 (Exh. A), 2016.]

**Question: Add any other options under 18.54.020 as PUs in the GMU?**

# Miscellaneous Issues

# Extensions of time

- See Astoria (Exhibit 4)

# A-2 setback anomaly

Rear: 10 feet for a single story structure plus 5 feet for each additional story as measured from the foundation of the structure.

Side: For MF residences in the A-2, side yard setback is 5 feet for a single story structure plus 5 feet for each additional story as measured from the foundation of the structure.

Middle Housing – the outside perimeter applies to the future parcels – not interior separation. Building Code regulates the interior yard requirements.

