



FILE NO.: L-17-0001

APPLICATION TYPE: Legislative

HEARING DATES: Planning Commission  
7:00 p.m., May 22, 2017  
Commission Chambers, 625 Center St, Oregon City, OR 97045

APPLICANT: Oregon City Community Development Department

REQUEST: Proposed amendments to the Oregon City Municipal Code. Supplemental Zoning Regulations and Exceptions in Chapter 17.54.010, Definitions in Chapter 17.04.743, Site Plan and Design Review in Chapter 17.62, and Hooved Animals in Chapter 6.07.

LOCATION: City-Wide

REVIEWER: Trevor Martin, AICP, Planner

RECOMMENDATION: Staff recommends approval of this application based on the satisfaction of all required criteria for a Legislative action.

PROCESS: OCMC 17.50.170.

- A. *Purpose. Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use must begin with a public hearing before the planning commission.*
- B. *Planning Commission Review.*
  1. *Hearing Required. The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The community development director shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.*
  2. *The community development director's Report. Once the planning commission hearing has been scheduled and noticed in accordance with Section 17.50.090(C) and any other applicable laws, the community development director shall prepare and make available a report on the legislative proposal at least seven days prior to the hearing.*

3. *Planning Commission Recommendation. At the conclusion of the hearing, the planning commission shall adopt a recommendation on the proposal to the city commission. The planning commission shall make a report and recommendation to the city commission on all legislative proposals. If the planning commission recommends adoption of some form of the proposal, the planning commission shall prepare and forward to the city commission a report and recommendation to that effect.*
- C. *City Commission Review.*
1. *City Commission Action. Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may adopt, modify or reject the legislative proposal, or it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city commission decision shall be enacted as an ordinance.*
  2. *Notice of Final Decision. Not later than five days following the city commission final decision, the community development director shall mail notice of the decision to DLCD in accordance with ORS 197.615(2).*

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT TREVOR MARTIN IN THE PLANNING DIVISION OFFICE AT 722-3789.

## I. PROPOSAL

The Oregon City Municipal Code currently prohibits most fabric and metal accessory buildings, known as membrane structures, when visible from the adjacent sidewalk or right-of-way. In 2016, the City received a significant number of Code Enforcement complaints about membrane structures, which led to a conversation by the City Commission to determine if the regulations should be amended. The applicable standards and associated violations were discussed at a series of City Commission meetings. With primary direction from the City Commission at a work session on December 13, 2016, staff assembled the proposed amendments to the Oregon City Municipal Code in Exhibit A, which generally include the following:

1. Currently, metal sided accessory buildings in residential zones are not allowed when visible from the adjacent right-of-way and all accessory buildings 200 square feet or greater must be constructed with the same exterior building materials as the onsite dwelling(s), or an acceptable substitute. The proposed code language will allow any exterior building material, including metal, for residential accessory structures except for membrane or fabric covered storage areas or cargo containers.
2. Currently, accessory structures must comply with the setbacks of the zoning designation, though structures with a footprint less than 200 square feet in size as well as one structure with a footprint up to 600 square feet may be placed closer to the property line if the building complies with restrictions, such as a maximum height of 14 feet. The proposed code language would:
  - a. Increase the height for the reduced setback from 14 feet to 17 feet
  - b. Remove any building separation requirements for the reduction

- c. Apply the reduced setback to the corner setback
- 3. The proposed code would allow accessory structures constructed prior to January 1, 2017 to remain which are located behind the front building line of a home but do not comply with the setback and height requirements, except as otherwise limited through an applicable overlay district. Building code regulations would apply.
- 4. Relocate code language for hooved animals to the animal chapter of the Code.
- 5. Allow temporary structures within the right-of-way.
- 6. Allow temporary structures for commercial, industrial, mixed use, multi-family, and institutional properties which include allowing:
  - a. Temporary structures up to 200 square feet for up to 3 consecutive days, 6 times per year
  - b. Temporary structures larger than 200 square feet would be allowed up to twice a year for the following timeframe:
    - i. 201-800 square feet: up to 30 consecutive days
    - ii. More than 800 square feet: up to 7 consecutive days
- 7. Clarify standards prohibiting tarps and allowing membrane or fabric covered storage areas as temporary structures.
- 8. Remove code language for firework and Christmas tree sales, and instead regulate temporary structures.

Note the propose language is likely to be amended as public comments are received and through the review process. An associated fee resolution will be presented before the City commission for the review of temporary structures.

## **II. FACTS**

### **A. AREA AFFECTED: CITY WIDE**

The proposed code changes will impact all properties within Oregon City.

### **B. PUBLIC NOTICE**

Public Notice was provided more than 20 days prior to the first evidentiary hearing via email to affected agencies, neighborhood associations and Oregon City boards and committees, and published in the Oregon City News / Clackamas Review. Notice of the proposed amendment was provided to property owners in Code Enforcement for issues related to the proposed code amendment, a variety of groups and government agencies including, Metro and the Department of the Land Conservation and Development. A Measure 56 Notice was not required since the proposal does not further restrict existing allowable uses of land or rezone land. The Planning Division held a meeting with the Citizen Involvement Committee on April 3, 2017, a meeting with the Development Stakeholders Group on May 4, 2017, and a Work Session with the Planning Commission on April 10, 2017 to discuss the proposal and how the proposed changes would affect properties. No written comments were received regarding this proposal.

### C. PUBLIC OUTREACH PROCESS

Staff has employed a variety of methods to engage and educate the public about the process, including:

- Presentation to the Citizen Involvement Committee,
- Work sessions with the Planning Commission, and
- Public Notices

## III. DECISION-MAKING CRITERIA:

### OREGON CITY MUNICIPAL CODE (OCMC)

#### CHAPTER 17.68 ZONING CHANGES AND AMENDMENTS

##### **17.68.010** *Initiation of the amendment.*

*A text amendment to this title or the comprehensive plan, or an amendment to the zoning map or the comprehensive plan map, may be initiated by:*

*A. A resolution by the commission;*

*B. An official proposal by the planning commission;*

*C. An application to the planning division presented on forms and accompanied by information prescribed by the planning commission.*

*All requests for amendment or change in this title shall be referred to the planning commission.*

**Finding: Complies as Proposed.** The text amendments to the Oregon City Municipal Code and was initiated by the City Commission. Staff finds that the proposal is consistent with 17.68.010.

##### **17.68.020** *Criteria.*

*The criteria for a zone change are set forth as follows:*

#### **A. The proposal shall be consistent with the goals and policies of the comprehensive plan.**

Statewide Planning Goals are also shown to indicate how the Oregon City Comprehensive Plan (OCCP) Goals and Policies implement the applicable Statewide Planning Goal.

#### *STATEWIDE PLANNING GOAL 1 – CITIZEN INVOLVEMENT*

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

##### *OCCP Goal 1.1 Citizen Involvement Program*

*Implement a Citizen Involvement Program that will provide an active and systematic process for citizen participation in all phases of the land-use decision making process to enable citizens to consider and act upon a broad range of issues affecting the livability, community sustainability, and quality of neighborhoods and the community as a whole.*

##### *OCCP Policy 1.1.1*

*Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.*

*OCCP Goal 1.2 Community and Comprehensive Planning*

*Ensure that citizens, neighborhood groups, and affected property owners are involved in all phases of the comprehensive planning program.*

*OCCP Policy 1.2.1*

*Encourage citizens to participate in appropriate government functions and land-use planning.*

*OCCP Policy 1.2.1*

*Encourage development and refinement of CIC and neighborhood association bylaws that will govern the groups' formation and operations.*

*OCCP Goal 1.3 Community Education*

*Provide education for individuals, groups, and communities to ensure effective participation in decision-making processes that affect the livability of neighborhoods.*

*OCCP Goal 1.4 Community Involvement*

*Provide complete information for individuals, groups, and communities to participate in public policy planning and implementation of policies.*

*OCCP Policy 1.4.1*

*Notify citizens about community involvement opportunities when they occur.*

**Finding: Complies as Proposed.** The proposed code amendments were first identified by citizens who came before the City Commission. The City Commission met to discuss this topic multiple times before providing direction to staff regarding these changes. The proposed amendments has been presented to the Citizen Involvement Committee, Development Stakeholders Group, as well as in a work session with the Planning Commission prior to the first public hearing. In addition, the proposed code amendment has been posted on the City website at <http://www.orcity.org/planning/project/1-17-01>, emailed to various entities including neighborhood associations and the Citizen Involvement Committee, and posted in a general circulation newspaper.

The following meetings, work sessions and open houses were held to provide information about the impact of the proposed code amendments and gather input from the public about the proposed regulations.

Month	Meeting	Date
April		
	Citizen Involvement Committee	April 3, 2017

	Planning Commission	April 10, 2017
May		
	Development Stakeholders Group	May 4, 2017

Staff finds that the proposal is consistent with OCCP Goals 1.1, 1.2, 1.3 and 1.4.

#### *STATEWIDE PLANNING GOAL 2 – LAND USE PLANNING*

*To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

##### *OCCP Goal 2.1 Efficient Use of Land*

*Ensure that property planned for residential, commercial, office, and industrial uses is used efficiently and that land is developed following principles of sustainable development.*

**Finding: Complies as Proposed.** The proposed code amendments include opportunities to utilize property to a much greater extent including:

- Residential. Reductions for the interior corner setback for residential accessory structures in certain cases, increased building height for accessory structures with a reduced setback, allowing metal accessory structures, allowing temporary structures in the right-of-way, and general amendments to provide clarity to the Oregon City Municipal Code. The changes will provide an opportunity for some properties to construct accessory structures onsite that would not have otherwise.
- Institutional, Commercial, Industrial, Mixed Use, and Multi-Family Property: The proposed amendments will allow temporary structures within the right-of-way, temporary structures on institutional, commercial, industrial, mixed use, and multi-family property, and general amendments to provide clarity to the Oregon City Municipal Code. The result will allow land to be used more efficiently and business to operate with special events in Oregon City. Staff finds that the proposal is consistent with OCCP Goal 2.1.

##### *OCCP Goal 2.4 Neighborhood Livability*

*Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.*

**Finding: Complies as Proposed.** The proposed code amendments identified within this report will allow greater flexibility for property owners. Property owners will be able to retain existing structures which do not comply with height or setback requirements and will furthermore be provided the opportunity to construct a shed in locations where they cannot today. The changes will provide an opportunity for some properties to construct accessory structures onsite. Staff finds that the proposal is consistent with OCCP Goal 2.4.

##### *OCCP Policy 2.4.2*

*Strive to establish facilities and land uses in every neighborhood that help give vibrancy, a sense of place, and a feeling of uniqueness; such as activity centers and points of interest.*

**Finding: Complies as Proposed.** The proposed code amendments identified within this report will allow greater flexibility for property owners. Property owners will be able to retain existing structures which do not comply with height or setback requirements and will furthermore be provided the opportunity to construct a shed in locations where they cannot today. The changes will provide an opportunity for some properties to construct accessory structures onsite. Staff finds that the proposal is consistent with OCCP Policy 2.4.2.

*STATEWIDE PLANNING GOAL 3: AGRICULTURAL LANDS*

**Finding: Complies as Proposed.** The proposed amendments would not preclude the use of agricultural lands.

*STATEWIDE PLANNING GOAL 4: FOREST LANDS*

**Finding: Complies as Proposed.** The proposed amendments would not preclude the use of forest lands.

*STATEWIDE PLANNING GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES*  
*Statewide Planning Goal 5 requires that open spaces and natural, scenic, and historic resources be protected.*

*OCCP Goal 5.3 Historic Resources*

*Encourage the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City.*

**Finding: Complies as Proposed.** The proposed amendments would not preclude the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City. All development within a historic district or on an individually designated property is subject to review for compliance with Chapter 17.40 of the Oregon City Municipal code and the allowance of metal residential accessory structures is prohibited, unless otherwise authorized by OCMC 17.40. Staff finds that the proposal is consistent with OCCP Goal 5.3.

*Policy 5.3.1*

*Encourage architectural design of new structures in local Historic Districts, and the central Downtown area to be compatible with the historic character of the surrounding area.*

**Finding: Complies as Proposed.** The proposed amendments would not preclude the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City. All development within a historic district or on an individually designated property is subject to review for compliance with Chapter 17.40 of the Oregon City Municipal code and the allowance of metal residential accessory structures is prohibited, unless otherwise authorized by OCMC 17.40. Staff finds that the proposal is consistent with OCCP policy 5.3.1.

*STATEWIDE PLANNING GOAL 6: AREAS SUBJECT TO NATURAL HAZARDS*

*To protect people and property from natural hazards.*

**Finding: Complies as Proposed.** The proposed amendments will not affect natural hazards overlay districts. All development within the overlay districts is subject to a more restrictive review. The overlay districts,

such as the Natural Resource Overlay District, Flood Management Overlay, and Geologic Hazards Overlay will apply regardless of the proposed changes. Staff finds that the proposal is consistent with OCCP Goal 6.

#### *STATEWIDE PLANNING GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS*

*To protect people and property from natural hazards.*

##### *OCCP Goal 7.1 Natural Hazards*

*Protect life and reduce property loss from the destruction associated with natural hazards*

**Finding: Complies as Proposed.** The proposed amendments will not affect natural hazards overlay districts. All development within the overlay districts is subject to a more restrictive review. The overlay districts, such as the Natural Resource Overlay District, Flood Management Overlay, and Geologic Hazards Overlay will apply regardless of the proposed changes. Staff finds that the proposal is consistent with OCCP Goal 7.1.

#### *STATEWIDE PLANNING GOAL 8: RECREATIONAL NEEDS*

*To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

**Finding: Complies as Proposed.** The proposed amendments will allow facilities to more easily host temporary events, such as those for recreation. Staff finds that the proposal is consistent with OCCP Goal 8.

#### *STATEWIDE GOAL 9: ECONOMIC DEVELOPMENT*

*To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

##### *OCCP Policy 9.2.1*

*Seek input from local businesses when making decisions that will have a significant economic impact on them.*

**Finding: Complies as Proposed.** The proposal has been sent to the Chamber of Commerce, as well as the Development Stakeholder Group, which consists of the public and members of the development community, for comments. Staff finds that the proposal is consistent with OCCP Policy 9.2.1.

##### *OCCP Policy 9.2.2*

*Carefully consider the economic impacts of proposed programs and regulations in the process of implementing the City's Comprehensive Plan.*

**Finding: Complies as Proposed.** The proposed amendments will codify the allowance of temporary structures within the right-of-way as well as on institutional, commercial, industrial, mixed use, and multi-family property, which will allow business as well as special event providers the opportunity for additional venues to operate their business in Oregon City. Staff finds that the proposal is consistent with OCCP Policy 9.2.2.

##### *OCCP Policy 9.2.3*

*Simplify, streamline, and continuously improve the permitting and development review process.*



**Finding: Complies as Proposed.** The proposed amendments will codify the allowance of temporary structures within the right-of-way as well as on institutional, commercial, industrial, mixed use, and multi-family property. Staff finds that the proposal is consistent with OCCP Policy 9.2.3.

*STATEWIDE PLANNING GOAL 10: HOUSING*

*To provide for the housing needs of citizens of the state.*

*OCCP Policy 10.1.2*

*Ensure active enforcement of the City of Oregon City Municipal Code regulations to ensure maintenance of housing stock in good condition and to protect neighborhood character and livability.*

**Finding: Complies as Proposed.** The allowance of metal structures on residential properties as well as allowing existing structures (located behind the front line of the home), and reducing the corner side setback for accessory structures in certain cases, will provide residences a greater opportunity for homeowners to use their property as they see fit. This could result in additional investment into the housing stock. Staff finds that the proposal is consistent with OCCP Policy 10.1.2

*OCCP Policy 10.1.4*

*Aim to reduce the isolation of income groups within communities by encouraging diversity in housing types within neighborhoods consistent with the Clackamas County Consolidated Plan, while ensuring that needed affordable housing is provided.*

**Finding: Complies as Proposed.** The proposed code amendments include reductions to the interior corner setback as well as allowing for increased height for single and two-family residential structures 3 feet from the property line. The changes will provide an opportunity for some properties to construct accessory structures onsite. The structures may accommodate accessory dwelling units which would result in a greater opportunity for housing opportunities throughout the city. Staff finds that the proposal is consistent with OCCP Policy 10.1.4

*OCCP Policy 10.1.7*

*Use a combination of incentives and development standards to promote and encourage well-designed single-family subdivisions and multi-family developments that result in neighborhood livability and stability.*

**Finding: Complies as Proposed.** The proposed code amendments include reductions to the interior corner setback as well as allowing for increased height for single and two-family residential structures 3 feet from the property line, in certain cases. The changes will provide an opportunity for some properties to construct accessory structures onsite. The structures may accommodate accessory dwelling units which would result in a greater opportunity for housing opportunities throughout the city.

In addition, the allowance of metal structures on these properties as well as allowing existing structures (located behind the front line of the home) will provide residences a greater opportunity to use their property as they see fit. Staff finds that the proposal is consistent with OCCP Policy 10.1.7.

*OCCP Goal 10.1 Diverse Housing Opportunities*

*Provide for the planning, development and preservation of a variety of housing types and lot sizes.*

**Finding: Complies as Proposed.** The proposed code amendments include reductions to the interior corner setback as well as allowing for increased height for residential structures 3 feet from the property line. The changes will provide an opportunity for some properties to construct accessory structures onsite. The structures may accommodate accessory dwelling units which would result in a greater opportunity for housing opportunities throughout the city.

*STATEWIDE PLANNING GOAL 11: PUBLIC FACILITIES AND SERVICES*

*To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

*OCCP Goal 11.4 Stormwater Management*

*Seek the most efficient and economical means available for constructing, operating, and maintaining the City's stormwater management system while protecting the environment and meeting regional, state, and federal standards for protection and restoration of water resources and fish and wildlife habitat.*

**Finding: Complies as Proposed.** The proposal would allow metal accessory structures for residential properties, temporary structures in the right-of-way, and temporary structures on institutional, commercial, industrial, mixed use, and multi-family property. Because the zoning designation currently allows structures, the impact of the structures on public facilities is already accounted for in the public facilities forecast models. Staff finds that the proposal is consistent with OCCP Goal 11.4.

*STATEWIDE PLANNING GOAL 12: TRANSPORTATION*

*To provide and encourage a safe, convenient and economic transportation system.*

**Finding: Complies as Proposed.** The proposal would allow metal accessory structures for residential properties, temporary structures in the right-of-way, and temporary structures on commercial, industrial, mixed use, and multi-family property. Because the zoning designation currently allows structures, the transportation impact of the structures associated with the code amendments is already accounted for in the transportation forecast models and thus does not alter the long term planned function or capacity of the transportation system. Staff finds that the proposal is consistent with OCCP Goal 12.

**B. *That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.***

**Finding: Complies as Proposed.** The proposal would allow metal accessory structures for residential properties, temporary structures in the right-of-way, and temporary structures on commercial, industrial, mixed use, and multi-family property. Because the zoning designation currently allows structures, the impact of the structures on public facilities is already accounted for in the public facilities forecast models. Staff finds that the proposal is consistent with OCCP Goal 12.B.

**C. *The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.***

**Finding: Complies as Proposed.** The proposal would allow metal accessory structures for residential properties, temporary structures in the right-of-way, and temporary structures on commercial, industrial, mixed use, and multi-family property. Because the zoning designation currently allows structures, the transportation impact of the structures associated with the code amendments is already accounted for in the transportation forecast models and thus does not alter the long term planned function or capacity of the transportation system. Staff finds that the proposal is consistent with OCCP Goal 12.C.

**D.        *Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.***

**Finding:** The Oregon City Comprehensive Plan addresses the Statewide Planning Goals, as shown above under the findings for Criterion A.

#### **IV.        RECOMMENDATION**

Staff recommends that the Planning Commission recommend approval of the Municipal Code text amendments, to the City Commission as included in the Exhibits for their consideration.

#### **V.        EXHIBITS**

- A. Proposed Marijuana Business Regulations