



June 23, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
Assistants

**Adoption of Previously Approved Comprehensive Plan and
Zoning and Development Ordinance Amendments
ZDO-256 – Damascus Zoning**

Purpose/Outcomes	Amend the Clackamas County Comprehensive Plan and Zoning and Development Ordinance (ZDO).
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	Indefinitely
Previous Board Action	On March 17, 2016, the Board of County Commissioners approved this project as part of the Planning & Zoning Division's work program for 2016-2017. At the Board's issues session of April 19, 2016, the Planning Director presented an April 18 memo outlining in greater detail the Planning and Zoning Division's proposed timeline/scope for project completion, and the Board directed work to proceed.
Strategic Plan Alignment	1. Ensure safe, healthy and secure communities.
Contact Person	Nate Boderman, Assistant County Counsel – 503-655-8364
Contract No.	N/A

BACKGROUND:

File ZDO-256 is a proposed legislative map amendment to change the land use plan designation and zoning for any land removed from the City of Damascus, unless such land is annexed by another city. Attached to the Ordinance are maps showing the county Plan and zoning designations and overlay zones for the affected area. Some land has already been de-annexed from the city, and based on the results of the May 17, 2016, election, it appears that the disincorporation of the City of Damascus will become effective on July 18, 2016; however, there is still a legal challenge to be resolved. As drafted, the Ordinance will take effect on July 18, 2016, for properties that have already de-annexed from Damascus but not subsequently annexed into Happy Valley. For all remaining lands in the city, the changes would be effective on the effective date(s) of any subsequent de-annexation or disincorporation. Depending on the outcome of the pending legal challenge to disincorporation, this date may prove to be July 18, 2016, as well.

Shortly after incorporating, the City of Damascus adopted the Clackamas County Comprehensive Plan and Zoning and Development Ordinance as they existed on January 17, 2005. The city has not amended these documents. Since 2005, however, the county has adopted numerous changes to the text of its Plan and ZDO and to Plan maps of a general nature (e.g., transportation system maps), resulting in significant differences between the city's provisions and the county's. Pursuant to Oregon Revised Statutes 215.130(3), the city's Plan and ZDO continue to apply to land removed from the city until the county provides otherwise. This Ordinance is intended to bring unincorporated property under the county's land use regulations for ease of administration and for consistency with similarly planned and zoned land elsewhere in the county.

As a technical matter, this Ordinance will implement Comprehensive Plan land use designation map amendments and zoning district map amendments to apply the county's Plan designation and zoning district in place of the corresponding city Plan designation and zoning district. For example, city Rural Industrial becomes county Rural Industrial, city Exclusive Farm Use becomes county Exclusive Farm Use, etc. In some cases, county overlay zones (e.g., floodplain, historic landmark) also will be applied. In most cases, current city overlay zones correspond with county overlay zones. The practical effect of these map amendments is to apply the county's current Plan and ZDO text (permitted uses, dimensional standards, special use requirements, development standards, land use application procedures, etc.) to the affected properties.

As part of the adoption of the Habitat Conservation Area (HCA) and Water Quality Resource Area (WQRA) overlay zones for city lands, this Ordinance includes the adoption of the HCA and WQRA maps adopted by Metro for the Damascus area. These maps were omitted from the county's 2009 adoption of HCA and WQRA regulations because Damascus was incorporated by that time. Because the city has not adopted these overlay zones and related regulations into their code, the city has been applying the Metro standards directly as required by Metro Code.

A hearing was held on June 13, 2016, for Planning Commission consideration of the proposed Plan and ZDO amendments. The Planning Commission voted 7-0 to recommend to the BCC that ZDO-256 be approved as recommended by staff. The BCC will be reviewing the Planning Commission's recommendation and conducting an additional public hearing on June 22, 2016.

Given the effective date of the disincorporation and the time constraints associated with conducting public hearings before the Planning Commission and the BCC, staff has drafted the attached staff report prior to knowing the outcome of the June 22, 2016 public hearing. The attached ordinance reflects adoption of the Planning Commission's recommendation. If the BCC elects to not adopt the Planning Commission's recommendation, this agenda item will be withdrawn.

RECOMMENDATION:

Staff respectfully requests that the Board unanimously adopt the proposed ordinance on an emergency basis, making it effective on July 18, 2016. This will ensure the approved County land use regulations will apply immediately upon the effective date of disincorporation of Damascus, and will also apply to those properties that have previously deannexed from the city. In the event the legal challenge to the disincorporation is successful, this ordinance will immediately apply to properties in unincorporated Clackamas County upon future deannexation or disincorporation.

The ordinance may be read by title only if no member of the Board requests that the ordinance be read in full.

Respectfully submitted,

Nate Boderman
Assistant County Counsel

Attachments:
Proposed Ordinance with exhibits

ORDINANCE NO. ZDO-256

An Ordinance Amending Map 4-6, Map 4-7 and Appendix A of the Clackamas County Comprehensive Plan and Zoning Maps 1-7, 1-8, 2-6, 2-7 and 2-8 of the Clackamas County Zoning and Development Ordinance

WHEREAS, on November 2, 2004, the City of Damascus was incorporated; and

WHEREAS, on January 17, 2005, the City of Damascus adopted the Clackamas County Comprehensive Plan and the Clackamas County Zoning and Development Ordinance as the Comprehensive Plan and implementing regulations for the city; and

WHEREAS, certain property formerly in the City of Damascus has de-annexed from the city and is now unincorporated; and

WHEREAS, additional land may de-annex from the City of Damascus or the city may disincorporate; and

WHEREAS, Oregon Revised Statutes 215.130(3) provides, “An area within the jurisdiction of city land use planning and regulatory provisions that is withdrawn from the city shall remain subject to such plans and regulations which shall be administered by the county until the county provides otherwise.”; and

WHEREAS, Clackamas County has substantially amended its Comprehensive Plan and Zoning and Development Ordinance since January 17, 2005, the date the City of Damascus adopted those documents, but the city has not made corresponding amendments, meaning that land in city zoning districts that correspond to county zoning districts is now subject to different regulations; and

WHEREAS, it is necessary to bring unincorporated property previously in the City of Damascus under Clackamas County’s land use regulations for ease of administration and for consistency with similarly planned and zoned land elsewhere in the county; and

WHEREAS, in order to bring unincorporated property previously in the City of Damascus under Clackamas County’s land use regulations, it is necessary to change the land use plan designation and zoning district that apply to such land from city designations/zones to the corresponding county designations/zones, and to adopt or change overlay zoning districts as applicable; and

WHEREAS, after a duly-noticed public hearing, the Clackamas County Planning Commission recommended approval of amendments to the Comprehensive Plan and Zoning and Development Ordinance on June 13, 2016; and

WHEREAS, after a duly-noticed public hearing, the Clackamas County Board of County Commissioners orally approved the Planning Commission's recommendation on June 22, 2016; now therefore;

The Board of Commissioners of Clackamas County ordains as follows:

- Section 1:** Maps 4-6 and 4-7 of the Clackamas County Comprehensive Plan are hereby amended to apply land use plan designations and Resource Protection Open Space as shown in Exhibit A, hereto attached.
- Section 2:** Zoning maps 1-7, 1-8, 2-6, 2-7 and 2-8 of the Clackamas County Zoning and Development Ordinance are hereby amended to apply base zoning districts and the Historic Landmark overlay zoning district as shown in Exhibit B, hereto attached.
- Section 3:** Nature in Neighborhoods/Title 13 maps are adopted by reference in Appendix A of the Clackamas County Comprehensive Plan as Habitat Conservation Area maps, as shown in Exhibit C, hereto attached.
- Section 4:** The Habitat Conservation Area overlay zoning district is applied to all parcels containing a Habitat Conservation Area (HCA) identified in Exhibit C, hereto attached, and to any area that is less than 100 feet outside the boundary of an HCA even if the area is not located on the same parcel as the HCA. However, the HCA overlay zoning district is not applied to land that is outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary.
- Section 5:** The Potential Title 3 Water Quality Resource Areas map is adopted by reference in Appendix A of the Clackamas County Comprehensive Plan as a Water Quality Resource Area map, as shown in Exhibit D, hereto attached.
- Section 6:** The Floodplain Management overlay zoning district is applied to the special flood hazard area identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Clackamas County, Oregon & Incorporated Areas," dated June 17, 2008, with accompanying Flood Insurance Rate Maps.
- Section 7:** The River and Stream Conservation Area overlay zoning district is applied to land that is outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary and is in one of the following categories:
- Within 100 feet of the mean high water line of large Type F streams identified on Water Protection Rule Classification Maps compiled pursuant to Oregon Administrative Rules Chapter 629, Division 635; dated September, 1994; and on file in the offices of the Planning and Zoning Division (hereinafter referred to as the WPRC maps)

- Within 70 feet of the mean high water line of medium Type F streams identified on the WPRC maps
- Within 50 feet of the mean high water line of small Type F streams identified on the WPRC maps

Section 8: Emergency Clause

The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the imminent effect of this Ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, Sections 3 and 5 of this ordinance shall be effective on July 18, 2016. Sections 1, 2, 4, 6 and 7 shall be effective as to unincorporated land under the jurisdiction of Clackamas County on July 18, 2016. For land still in the City of Damascus on July 18, 2016, Sections 1, 2, 4, 6 and 7 shall be effective on the effective date of de-annexation or disincorporation of that land.

ADOPTED this 23rd day of JUNE, 2016

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary