



**TO:** Clackamas County Planning Commission

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**RE: **Planning Commission Study Session Supplemental Memo****  
*ZDO 290 – Clear and Objective Code Amendments*  
*Creating clarity for housing development standards related to rivers, streams, habitat, and other natural resources*

**DATE:** December 1, 2025

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## Introduction

This memo provides additional information about key discussion topics for the Clear and Objective Code Audit, which will be the focus of the Planning Commission study session on December 8, 2025. This memo is intended to supplement the Code Audit Summary (dated 10/31/2025) included in the November 10 study session packet. These discussion topics were previewed at the study session on November 10, and they will be discussed in further detail at the December 8 meeting.

For each topic, this memo elaborates on some of the options for the Planning Commission to consider, which will help facilitate the discussion at the meeting. For more context/background on each of the discussion topics, refer to the applicable section from the Code Audit Summary memo. The Planning Commission's input on these topics will provide direction for the draft amendments to the ZDO.

## 1. Consolidating ZDO Sections

The ZDO contains multiple layers of regulations, some of which overlap or conflict. There is interest in potentially consolidating some of the regulations so they are easier to understand and implement, which could help streamline review by staff and simplify the process for applicants.

### Water Resources Sections

There are several chapters that regulate different water resources, including rivers/streams, riparian areas, and wetlands. The Project Team's initial recommendation is to consolidate overlapping code sections, where feasible.

## Consolidate ZDO 709 Water Quality Resource Area (WQRA) into 706 Habitat Conservation Area (HCA)

- Both of these sections apply to natural resources inside the Metro UGB and Metropolitan Service District (MSD), including riparian corridors and some wetlands, although the WQRA is not applicable inside Clackamas County Service District No. 1, which is the surface water management district for a large portion of the area. Sections 709 and 706 implement Metro UGMFP Title 3 and Title 13, respectively.
- The Title 13 inventory covers much of the same area as the Title 3 inventory.

### Historical and Planning Practice Context:

- When Metro adopted Title 13 many of the Title 3 requirements were deleted from the UGMFP in favor of Title 13. Some jurisdictions followed suit and consolidated their Title 3 regulations with their Title 13 regulations. County staff considered consolidation but were discouraged from taking that path due to the rigorous analysis that Metro staff indicated they would expect. Instead, the County adopted the Metro model codes for both Title 3 and Title 13, albeit with clarification and reorganization.
- The County's WQRA mapping relies on the Metro Title 3 mapped inventory, the Oregon Statewide Wetland Inventory, and other urban wetlands mapped by the County. However, not all resources are mapped. New features may be identified during development review, which must then be regulated under ZDO 709. However, the process for adding new features is discretionary and needs to be revised.
- Most wetlands are on the Statewide Wetland Inventory and subject to the requirements of the Department of State Lands (DSL). DSL's permitting process offers opportunities to identify and protect wetlands during development.
- Non-wetland resources (i.e., streams) are generally covered by the HCA inventory; however, very small streams may not be mapped.

### Summary of Considerations for Consolidating:

Pros	Cons
✓ Both applicable inside Metro UGB and MSD.	✗ Because WQRA is not applicable inside CCSD #1 surface water management district boundary, both the district water quality regulations and the HCA regulations will continue to apply within district boundary.
✓ Inventories Mapped by Metro and Department of State Lands.	
✓ Much of WQRA area also falls within HCA areas.	
✓ A single overlay should make the code easier to use and less confusing for applicants and staff.	✗ Eliminates the ability to add a WQRA to the inventory if found during development or land use review.

## Consolidate ZDO 1002.04 River and Stream Corridors into 704 River and Stream Conservation Area (RSCA) or Repeal ZDO 1002.04

- Both Section 1002.04 and Section 704 RSCA apply to land that is outside the Metro UGB and MSD.
- RSCA's primary means of protecting rivers is a minimum setback from streams; the minimum setback depth depends on the size of the stream (50 to 150 feet).
- Section 1002.04 requires preservation of river and stream corridors "to the maximum extent feasible." It also requires minimum setbacks from streams, but the setback depends on evaluation of discretionary criteria.

### Historical and Planning Practice Context:

- Because Section 1002.04 applies discretionary criteria, in practice it is only applied to discretionary applications such as Conditional Use.
- RSCA relies on mapping by the Oregon Departments of Forestry (DOF) and Fish & Wildlife (ODFW) for "fish bearing streams." As such, rural streams are not included in the inventory if they are not fish bearing.
- When the ZDO was amended to enact HCA and WQRA provisions in the Metro UGB and MSD, ZDO 1002.04 was retained to regulate non-fish-bearing streams outside these areas.

### Summary of Considerations for Consolidating:

Pros	Cons
<ul style="list-style-type: none"><li>✓ Both applicable to rivers and streams in rural areas.</li><li>✓ Removes redundancy.</li><li>✓ Provides clarity and standards for when and how river and stream corridors are protected.</li><li>✓ Changes would make the code simpler.</li></ul>	<ul style="list-style-type: none"><li>✗ Eliminates consideration of non-RSCA streams for avoidance and protection during discretionary land use reviews.</li></ul>

## Consolidate ZDO 705 Willamette River Greenway (WRG) buffer requirements with Sections 704 (RSCA) and with combined Section 706 (HCA) / 709 (WQRA)

- The WRG applies to areas adjacent to the Willamette River in unincorporated areas of the county (inside and outside the UGB). Within the Metro boundary, this area is also covered by the HCA (ZDO 706) and its requirements for habitat protection and native vegetation
- The WRG includes minimum setback and "vegetative buffer or filter strip" requirements of 100-150 feet and discretionary criteria related to public access, open space/vegetation, and setbacks from the river.

### Summary of Considerations for Consolidating:

Pros	Cons
<ul style="list-style-type: none"><li>✓ Removes redundancy.</li><li>✓ Changes would make the code simpler.</li></ul>	<ul style="list-style-type: none"><li>✗ Some provisions of the WRG would be retained (e.g., the dock standards), so changes would put Willamette River standards in two sections of the code unless the other standards were eliminated.</li><li>✗ The HCA is generally narrower than the WRG, which may complicate (but not prevent) the consolidation.</li></ul>

## Natural Features (ZDO 1002)

The Natural Features section addresses a range of resources (e.g., hillsides, river and stream corridors, and other open space resources) and responds to different Statewide Planning Goals (Goals 5, 6, and 7).

Because most of these resources are covered by regulations in other ZDO chapters, many of the regulations can be removed or consolidated into other sections.

### Consolidate ZDO 1002.01 (Hillsides) into 1003 (Hazards to Safety)

- The Hillsides provisions in Section 1002.01 regulate development on slopes of 20% or greater. The requirements address both geologic hazards and preservation of the natural and scenic qualities of hillside areas.
- Section 1003.02 (Standards and Criteria for Mass Movement Hazard Area Development) applies to areas of land movement, slump or earth flow, and mud or debris flow. These areas are mapped by the Oregon Department of Geology and Mineral Industries (DOGAMI).
- Both sections 1002.01 and 1003.02 require a geologic study to ensure the site is suitable for the proposed development, although 1002.01 requires it only on more steeply sloped areas.

### Historical and Planning Practice Context:

- Without independent expertise in geologic studies, staff has historically relied on the expertise of the applicant's consultant and has required compliance with their recommendations.

### Summary of Considerations for Consolidating:

Pros	Cons
<ul style="list-style-type: none"><li>✓ Removes redundancy.</li><li>✓ Changes would make the code simpler.</li></ul>	<ul style="list-style-type: none"><li>✗ By retaining only the hazard-focused standards, the regulation of steep slopes for natural or scenic purposes is eliminated.</li></ul>

## Consolidate ZDO 1002.06 (Mt. Hood Resource Protection Open Space) AND 1011 (Open Space)

- Section 1002.06 addresses water quality in areas designated as “Resource Protection Open Space” in the Comprehensive Plan for various Mount Hood villages.
- Section 1011 regulates wetlands in the Mt. Hood Community Plan area.
- There may be opportunities to consolidate these sections and establish a single set of C&O criteria for water quality and wetland protection.

### Historical and Planning Practice Context:

- Because Section 1002.06 applies discretionary criteria, in practice it is only applied to discretionary applications such as Conditional Use.

### Summary of Considerations for Consolidating:

Pros	Cons
✓ Removes redundancy.	✗ None known.
✓ Provides clarity and standards for when and how Mt. Hood Resource Protection Open Space is protected.	
✓ Changes would make the code simpler.	

## Open Space/Parks (ZDO 1011)

### Initial Recommendation: Remove or consolidate all sections

This section applies to urban areas of the County (i.e., inside the Metro UGB) and to the various Mount Hood Villages. Specifically, the section applies to areas identified as Open Space on the North Urban Area Land Use Plan Map and on the Mt. Hood Community Plan Map.

- The resources listed in this section are divided into high-priority and second-priority open space. High-priority open space must be “preserved outright,” whereas second-priority open space is regulated on a case-by-case basis using discretionary criteria.
- The applicable resources have significant overlap with other goal-protected areas regulated by other ZDO sections – such as the Willamette River Greenway, hillsides, rivers and streams, and flood hazards.
- The County could consider removing or consolidating most of ZDO 1011 with other sections of the code. Removing open space regulations would also necessitate amendments to the County’s Comprehensive Plan Map, which identifies open space areas on the map.

### Historical and Planning Practice Context:

- Open Space requirements under ZDO 1011 have been inconsistently implemented because of their vagueness and subjectivity.
- Note, Open Space protection under Goal 5 is not mandatory under the current administrative rules (Division 23).

- The Open Space mapping pre-dates modern digital mapping capabilities, and in some cases, it is not specific regarding which natural feature led to the designation. The Open Space floodplain mapping is no longer consistent with the federally mapped special flood hazard areas regulated by Section 703.

#### Summary of Considerations for Consolidating:

Pros	Cons
<ul style="list-style-type: none"> <li>✓ Removes redundancy.</li> <li>✓ Provides clarity and standards for when and how Open Space is protected.</li> <li>✓ Changes would make the code simpler.</li> </ul>	<ul style="list-style-type: none"> <li>✗ Potentially, some Open Space areas may not be regulated by another code section. Staff are working to analyze the old Open Space mapping in an effort to better pinpoint the scope of these areas.</li> </ul>

## 2. Aligning Comprehensive Plan and ZDO

The County's policies for natural resources and hazards are found in Comprehensive Plan ("CP") [Chapter 3: Natural Resources and Energy](#). These policies generally form the basis for the regulations in corresponding sections of the ZDO.

Some of the CP policies are very detailed, and are worded more like ZDO regulations rather than policy statements. Certain other CP policies do not have corresponding regulations in the ZDO.

The County will need to determine the following:

- Should overly specific policies be moved to the ZDO?
- Should new ZDO standards be crafted to support policies without regulations?
- What should be placed in the "parking lot" for a future effort?

#### Historical and Planning Practice Context:

- County staff have identified other issues with CP Chapter 3 that would be beyond the scope of the Clear & Objective Code Amendments project to address, including updating or removing outdated or inconsistent provisions.

#### Summary of Considerations:

##### Should overly specific policies be moved to the ZDO?

Pros	Cons
<ul style="list-style-type: none"> <li>✓ Removes redundancy.</li> <li>✓ Ensures that development standards are easier for staff and applicants to locate.</li> <li>✓ Ensures compliance with state law, which requires that the standards for some types of applications are housed in the zoning code.</li> </ul>	<ul style="list-style-type: none"> <li>✗ New generalized policies would need to be crafted to replace the specific standards.</li> </ul>
<ul style="list-style-type: none"> <li>✓ / ✗ Moving development standards from the CP to the ZDO may have the effect of applying those standards to additional types of development (both pro and con).</li> </ul>	

### Should new ZDO standards be crafted to support policies without regulations?

Pros	Cons
✓ Ensures the ZDO implements the Comprehensive Plan policies.	✗ Some policies do not have implementing regulations in the ZDO, and crafting new regulations would be outside of this project, require Measure 56 notice and involve significant amounts of outreach.

## 3. Scope of Clear and Objective (C&O) Standards

The County is required to provide C&O standards for housing within urban growth boundaries and certain other zoning districts (ORS 197A.400). As summarized in the table below, the County will need to decide whether C&O standards for natural resources and hazards should apply broadly to all uses and in all zones (more expansive), or if they should only apply where required by statute – i.e., only to housing and only in zones where required (more limited). The County can also combine these approaches and apply C&O standards to some other zones or to non-residential uses where it makes sense.

More Expansive	More Limited
New C&O standards for all uses and in all zones?	Just where required? <ul style="list-style-type: none"> <li>• Just for housing development?</li> <li>• Just urban areas, rural residential areas, and unincorporated communities?</li> </ul>
A combination (some new C&O even where not required, depending on code section)	

### General Considerations

C&O standards tend to be stricter than discretionary regulations, which are more loosely defined, and therefore, often more flexible. As such, an important consideration is whether to apply stricter C&O standards to more uses and in more areas. Keep in mind that flexibility via discretionary alternatives will still be available in code sections where regulations need to be revised.

The County should weigh the following considerations regarding a more expansive versus more limited approach.

More Expansive	More Limited
<ul style="list-style-type: none"> <li>✓ More internally consistent regulations make code easier to administer.</li> <li>✗ Amendments more complex to write and explain.</li> <li>✗ Different standards for different types of uses may be needed to adequately protect resources.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Amendments somewhat less complex to write.</li> <li>✓ Changes only impact properties where necessary.</li> <li>✗ Does not resolve internal inconsistencies.</li> <li>✗ Challenges with implementing vague/subjective standards for non-residential uses may continue.</li> </ul>

- ✗ Changes could impact more properties, requiring additional notice.

The following sections take a closer look at the pros and cons of crafting C&O regulations for certain ZDO sections.

## Creating C&O Criteria for Specific Sections

### ZDO Section 1002.03 Trees and Wooded Areas

This section applies throughout the County. It requires groves of trees to be incorporated into development “wherever feasible,” and includes standards for avoiding “substantial disturbance” of tree groves, and other subjective requirements.

#### Historical and Planning Practice Context:

- The County engaged in an effort to adopt a comprehensive tree protection ordinance in 2010. Ultimately, however, the project was largely unsuccessful and revealed deep divisions between those in favor of tree protection and those in favor of private property rights. The code was amended to enact a disincentive to “excessive tree removal” in anticipation of development inside the Metro UGB. However, because the discretionary tree protection standards that apply to review of residential development cannot be applied under state law, the purpose of the disincentive to tree removal is undermined.
- The Oregon Forest Practices Act limits what local governments are authorized to implement in terms of tree protection. Staff are currently reviewing the scope of those restrictions.

#### Summary of Considerations:

Pros	Cons
✓ Changes would make the code simpler.	✗ Tree protection standards may cause significant public controversy.
✓ Changes could address and provide standards for the protection of the distinctive urban forests referenced in ZDO 1011.	✗ Difficult to craft clear and objective tree protection standards.
✓ Removes ambiguous standards or standards not currently implemented or effective.	

### ZDO Section 1002.05 Deer and Elk Winter Range

This section implements habitat protections under Goal 5. Within the deer and elk winter range below 3,000 feet in elevation, development “shall be designed to minimize adverse wildlife impacts.”

The map below depicts rural residential properties within the winter range.

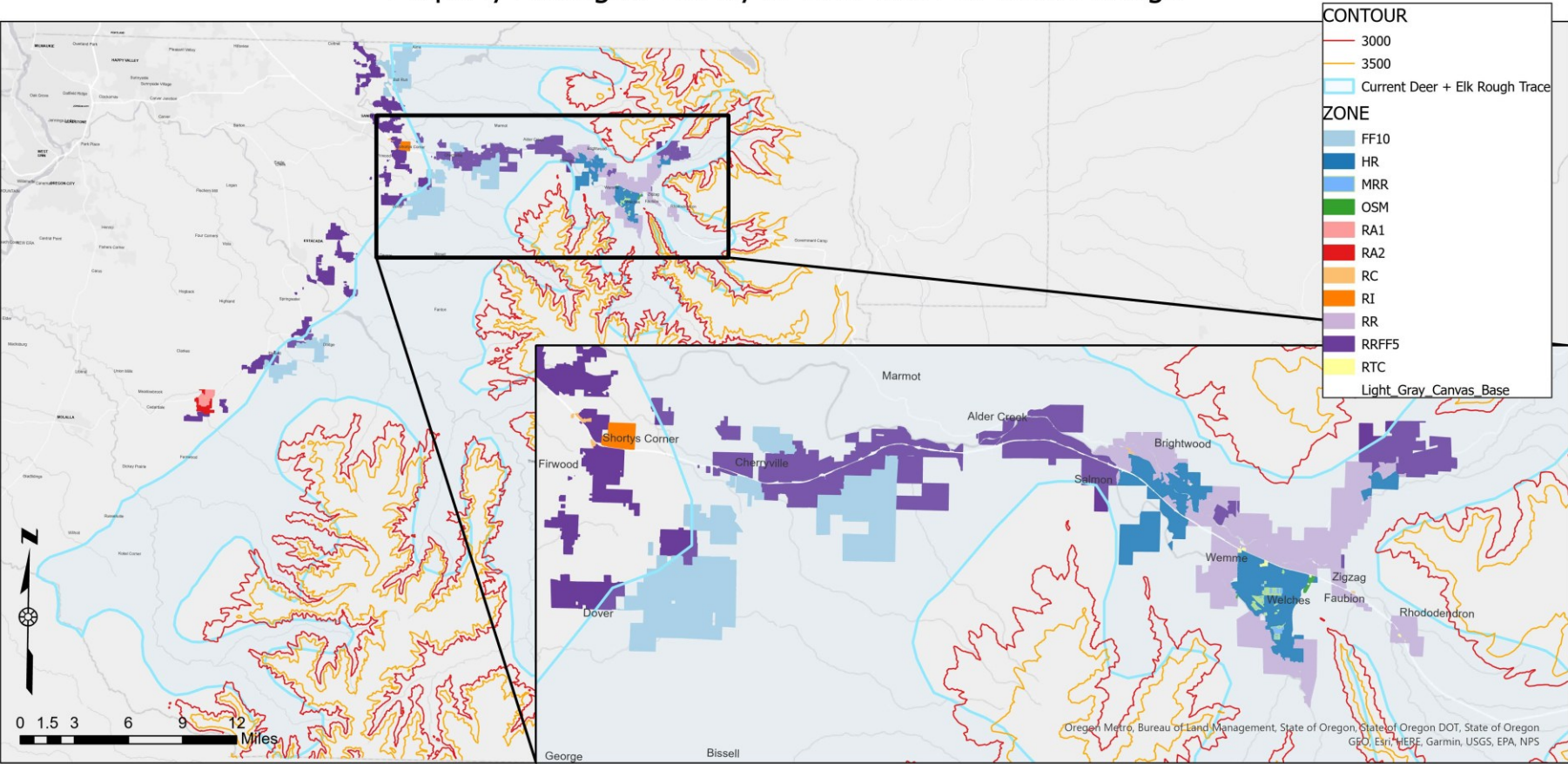
**Historical and Planning Practice Context:**

- Because Section 1002.05 applies discretionary criteria, in practice it is only applied to discretionary applications such as Conditional Use. In contrast to other zones, many dwellings in natural resource zones (Exclusive Farm Use, Timber, Ag/Forest) require review of a discretionary land use application, which allows this standard to be applied. These three zones also are not subject to the state's C&O standards requirement.
- Despite there being a mechanism to apply the standards in some cases, the vagueness of the standard makes it challenging to apply.

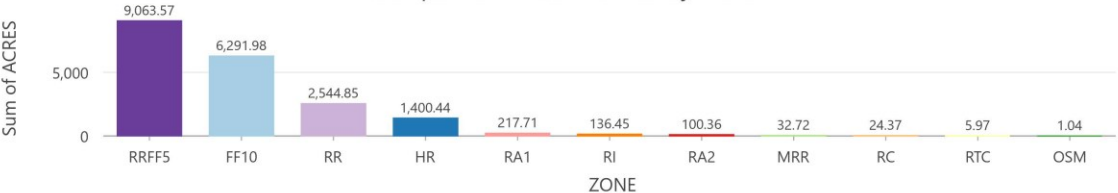
**Summary of Considerations:**

Pros	Cons
✓ Changes would make the code simpler.	✗ Potentially controversial.
✓ Changes could address and provide standards for the protection of the habitat to provide effective implementation program for Goal 5 resource.	✗ Requires Measure 56 notice to be sent to all affected property owners.
✓ Removes ambiguous standards or standards not currently implemented or effective.	✗ Difficult to craft clear and objective standards for residential development that would be effective at protecting deer and elk winter range.

Property Zoning in Vicinity of Deer and Elk Winter Range



Comparison of sum ACRES by ZONE



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Date: 09/26/2025  
Drawn By: NHart

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## ZDO Section 1003.02 Mass Movement Hazard Areas

As noted, Section 1003.02 (Standards and Criteria for Mass Movement Hazard Area Development) applies to areas of land movement, slump or earth flow, and mud or debris flow. The principal source of information for determining mass movement hazards is the DOGAMI Bulletin 99 and accompanying maps.

County staff are considering whether this section should be updated using the current Mass Movement Hazard survey and Statewide Landslide Information Database for Oregon (SLIDO) Maps.

### Summary of Considerations:

Pros	Cons
<ul style="list-style-type: none"><li>✓ Changes would make the code simpler.</li><li>✓ Adds areas where modern mapping has identified potential landslide hazards.</li><li>✓ Removes areas no longer identified as having landslide hazards from hazard overlay.</li></ul>	<ul style="list-style-type: none"><li>✗ Measure 56 Notice for property owners being added to the hazard overlay.</li></ul>