

# Additional Policy Issues Summary

Comprehensive Plan Update

## OVERVIEW

In addition to the policy topics discussed during the community meeting presentation, the Comprehensive Plan Team and the Community Advisory Committee (CAC) have discussed other policy topics. The CAC is also recommending policies related to the following:

- Home occupations
- Nonconforming Uses
- Permitting Process
- Code Compliance
- Mineral resources

This handout briefly summarizes those topics and associated draft policy recommendations.

## HOME OCCUPATIONS

State law allows for certain types of “home occupations” (businesses occurring within a residence) in farm and forest zones subject to certain restrictions. Counties can choose whether or not to allow these uses in these areas and may decide how to regulate their impacts on surrounding uses. Home occupations can also be allowed in other rural, non-farm and forest zones. In addition, some commercial activities can be permitted outright within a residence if they operate in a manner that is indistinguishable from the residential use of a dwelling. The County recently conducted a major overhaul of its home occupation policies and standards and currently allows home occupations in farm and forest zones, as well as other rural zones; the level of review depends on the scale of the home occupation (Type A, B or C). Existing County policies and ordinances either meet, or are more restrictive than state mandates. They provide a significant amount of flexibility for considering different types of home occupations and seek to avoid or minimize impacts on surrounding property owners.

## POLICY ISSUES:

- *Should the County continue to support allowing home occupations in farm and forest zones and other rural areas?*
- *Are any changes needed to existing policies or standards to address potential impacts of home occupations on surrounding properties?*

---

#### COMMUNITY COMMENTS RECEIVED:

- Desire to allow and encourage more home occupations.

---

#### STATE LAW

- Counties may allow but aren't required to allow home occupations in farm and forest zones; if allowed, they must be considered "conditional uses."
- Counties must include criteria for allowing uses that ensure they won't lead to significant changes in surrounding farming or forestry practices.
- Home occupation must be operated "substantially in" a dwelling or a building normally associated with uses permitted in the zone.

---

#### PROPOSED POLICY DIRECTION

- **Add a general policy stating support for home occupations while minimizing adverse impacts on surrounding residents; no changes to current standards and procedures recommended.**

#### NONCONFORMING USES

Nonconforming uses are uses that do not meet current development code requirements, either because the use is no longer allowed or because some aspect of the use does not comply with County site development or design standards. In Multnomah County nonconforming uses are allowed to continue to exist and operate. They can also be expanded with no limitation on the size of the expansion as long as a finding can be made that it will not cause any greater adverse impact on the surrounding area. If a nonconforming use is damaged or destroyed, an application for repairing or replacing the use must be submitted within one year and the business must be restarted within two years; otherwise the nonconforming use is terminated and cannot be reestablished.

---

#### POLICY ISSUES:

- *Should the County strengthen requirements associated with nonconforming uses?*
- *Under what circumstances should nonconforming uses be allowed to be expanded or replaced?*

---

#### COMMUNITY COMMENTS RECEIVED:

- No comments received; policy issues identified by County staff.

---

## STATE LAW

- Definition of nonconforming uses and continuation, replacement, restoration or alteration are defined in state law.
- Counties must be consistent with state law in how they treat nonconforming uses but have flexibility in the specific provisions they apply.

---

## PROPOSED POLICY DIRECTION

- **Add new policies referencing state requirements associated with nonconforming uses and stating support for allowing nonconforming uses to be altered or replaced as long as they do no create a greater adverse impact on the surrounding area.**

---

## PERMITTING PROCESSES

The County has a variety of development code requirements that define standards, processes and other provisions associated with development permitting. However, the County does not have policy language that establishes how the permitting process functions or the types of discretion given to various decision makers. These types of issues are more typically addressed in the development and procedural code but not in a comprehensive plan. However, the County could consider adopting some policy language that outlines how the permitting process will be administered, with an overall intent of keeping the permitting process streamlined and as simple as possible.

---

## POLICY ISSUES:

- *Should the County adopt a policy that describes the overall intent of County development permitting processes?*

---

## COMMUNITY COMMENTS RECEIVED:

- Concerns and frustrations expressed with the current permitting process and suggestions for changes in the process to provide some additional flexibility and clarity.

---

## STATE LAW

- Various statutes and administrative rules specify whether different types of land use are allowed outright only under certain conditions, along with the timeframes in which land use decisions must be rendered; they do not call out the details of how a local government processes land use applications.

---

## PROPOSED POLICY DIRECTION

- **Add a general policy directing the County to administer permitting processes that are consistent with state law, fair and equitable to community members and which minimize the time and expense required to obtain needed permits.**
- **Include a strategy to periodically review and update processes as needed based on recurring issues identify by community members or county representatives.**

## CODE COMPLIANCE

The County has a system in place for working with property owners to ensure that they comply with County development codes and regulations. Enforcement is generally driven by complaints from the public. Through its code compliance program, County staff works with property owners to inform them of potential code violation issues and seeks voluntary compliance whenever possible. However, the County can choose to impose fines or take other actions to ensure compliance if it is not done voluntarily. While the County has a set of procedures and standards for code compliance, it does not have policy direction related to this topic in the Comprehensive Plan.

---

## POLICY ISSUES:

- *Should the County adopt a policy related to code compliance objectives and procedures?*

---

## COMMUNITY COMMENTS RECEIVED:

- Concerns about the County's lack of enforcement on long established code violations and the slow pace required for code violations to be corrected.

---

## STATE LAW

- Various statutes and administrative rules provide the basis for local jurisdictions to enforce and seek compliance with local development code requirements; they do not call out the details of how a local government will carry out such programs.

---

## PROPOSED POLICY DIRECTION

- **Add general policies directing the County to enforce its codes in a way that is fair and consistent, flexible enough to respond to individual circumstances, establishes reasonable timeframes to meet compliance, and sets fines at a level that will serve as a disincentive for violations.**

## MINERAL RESOURCES

County Comprehensive Plans must address mineral resources as part of Statewide Goal 5 which addresses a variety of natural and other resources. Generally, plans and policies are to protect and ensure appropriate use of mineral and aggregate resources while minimizing conflicts between surface mining activities and surrounding land uses. There are a limited number of designated mineral resource areas in Multnomah County. They include two mines, Angell Brothers and Howard Canyon.

---

### POLICY ISSUES:

- *Are additional policies needed to address Statewide Goals and local community objectives associated with mineral resources?*

---

### COMMUNITY COMMENTS RECEIVED:

- Concerns about negative impacts of mining operations on surrounding residents.

---

### STATE LAW

- Statutes require counties to inventory and protect mineral resources, while minimizing impacts of operations on surrounding land uses.

---

### PROPOSED POLICY DIRECTION

**Revise and expand existing policies to do the following:**

- **Protect mineral resources while minimizing impacts on surrounding uses.**
- **Allow expansion of mineral extraction operations in accordance with state and county rules.**
- **Balance the need for mineral resources with protection of scenic views, streams and wildlife habitat.**
- **Coordinate permitting and compliance with state agencies; review County permits every two to five years to determine and ensure compliance with County requirements.**