PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, January 22, 2024 - 7:00 PM
Council Chambers, 169 SW Coast Hwy, Newport, Oregon 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at https://newportoregon.gov, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day.
To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

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1. CALL TO ORDER AND ROLL CALL

Commission Members: Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, and Marjorie Blom.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of January 8, 2024.
Draft PC Work Session Minutes 01-08-2024
01-08-24 PC Work Session Meeting Video Link

2.B Approval of the Planning Commission Regulary Session Meeting Minutes of January 8, 2024.
Draft PC Reg Session Minutes 01-08-2024
01-08-24 PC Regular Session Meeting Video Link

3. CITIZENS/PUBLIC COMMENT

A Public Comment form is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after submitting a form. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

5. PUBLIC HEARINGS

5.A File 2-Z-23: Legislative Amendments to Establish a "Custom Creative Work" Light-Industrial Use Category.
Staff Memorandum
Attachment A - Draft "Custom Creative Work" Amendments
Attachment B - Coastal Arts Guild Proposal, for 9/11/23 Commission Meeting
Attachment C - 9/8/23 Support Letter from Economic Development Alliance of Lincoln County
Attachment D - 9/9/23 Support Letter from the Nye Neighborhood Association
Attachment E - Newport Zoning Map
Attachment F - Minutes from the 9/11/23 and 11/13/23 Planning Commission meetings
Attachment G - Email confirmation of 35-day DLCD PAPA notice
Attachment H - Published public hearing notice
Public Comment: Jos Stoody- 1-22-2024

6. NEW BUSINESS

7. UNFINISHED BUSINESS

7.A Planning Commission Work Program Update.
PC Work Program - 1-19-24

8. DIRECTOR COMMENTS

8.A Governors Housing Proposal for the 2024 Short Session.
Governors Housing Proposal for the 2024 Short Session

9. ADJOURNMENT

City of Newport
Draft Planning Commission Work Session Minutes
January 8, 2024

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL, 169 SW COAST HIGHWAY, NEWPORT
Time Start: 6:00 P.M. **Time End:** 7:10 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East	
Commissioner Braulio Escobar (by video)	
Commissioner John Updike	
Commissioner Marjorie Blom	
Citizen Advisory Member Dustin Capri (absent, excused)	
Citizen Advisory Member Greg Sutton (absent)	

AGENDA ITEM	ACTIONS
WORK SESSION MEETING	
CALL TO ORDER AND ROLL CALL a. Roll Call	None.
DRAFT CHANGES TO RV PARK STANDARDS TO FACILITATE CONSTRUCTION OF NEEDED HOUSING. a. Staff report b. Discussion on RV Park standards c. Commission feedback	Mr. Tokos provided an overview of the draft code amendments to NMC Chapter 14.06, pertaining to the City's Recreational Vehicle Park Standards. Commission held discussions on where RV parks are permitted; the need to clarify legacy language from the Oregon Building Codes Division; changing the spacing for RV camping spaces from 600 to 400 square feet maximum; updating standards for roadways to allow compacted gravel; RV pad surfacing requirements; water and power requirements for RV spaces; off-street parking; trash receptacles; restroom facilities; utility buildings for clothes washing; heating for building spaces; screening for RV parks; landscaping standards; outside storage for materials and equipment; and requiring a certificate of sanitation. Tokos received input from the Commission on edits to the document.
SECOND REVIEW OF AMENDMENTS TO FACILITATE CONSTRUCTION OF NEEDED HOUSING.	

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a. Staff report b. Discussion on amendments c. Commission feedback	Mr. Tokos provided an overview of the updated draft set of zoning code amendments to facilitate the construction of needed housing. Commission held discussions on garage setbacks; roof pitches; parallel parking; deviations less than or equal to 10% being set as a ministerial process that the Community Development Director would determine if it would result in an additional dwelling unit. Tokos received input from the Commission on edits to the document. The Commission was in general agreement on the presented amendments with edits.
DISCUSS HOLTE HOMEBUYER INCENTIVE PROGRAM. a. Staff report b. Discussion on viability of program for Newport c. Commission feedback	Mr. Tokos provided an overview of the HOLTE Homebuyer Incentive Program. Commission held discussions to determine if the program would be appropriate for Newport. Blom expressed concerns about the city's limited staffing and questioned the need for the program. Updike reported that the Portland program had 40% of their applicants fail to qualify, and he didn't think the numbers worked for Newport given the staff work. Tokos agreed that this might not be the best structured program for small cities and might be better run as a State program that smaller jurisdictions could enroll in. Berman thought it might be impossible for the city staff to monitor the program, and thought it was impractical for Newport. The Commission was in general agreement to say that a discussion on the program was had and they had determined a program like this was a more than the city could tackle at this point.
STATUS OF THE CITY CENTER REVITALIZATION PROJECT.	Mr. Tokos provided an update on the delay of the City Center Revitalization Project by ODOT.
PLANNING COMMISSION WORK PROGRAM UPDATE.	None.

Submitted by: _____

Sherri Marineau, Executive Assistant

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01-08-2024 - Planning Commission Work Session Meeting Video Link:

https://thecityofnewport.granicus.com/player/clip/1182?view_id=2&redirect=true&h=02100738c5e1fb4bc9b34f79752a2f89

City of Newport
Draft Planning Commission Regular Session Minutes
January 8, 2024

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL 169 SW COAST HIGHWAY NEWPORT
Time Start: 7:10 P.M. **Time End:** 7:16 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East	
Commissioner Braulio Escobar (absent, excused)	
Commissioner John Updike	
Commissioner Marjorie Blom	

AGENDA ITEM	ACTIONS
REGULAR MEETING	
CALL TO ORDER AND ROLL CALL a. Roll Call	None.
APPROVAL OF THE MINUTES a. Meeting minutes of Work Session Meeting on December 11, 2023 b. Meeting minutes of Regular Session Meeting on December 11, 2023	Motion by Commissioner Berman, seconded by Commissioner Updike, to approve the work session meeting minutes of December 11, 2023 as written. Motion carried unanimously in a voice vote. Motion by Commissioner Berman, seconded by Commissioner Updike, to approve the regular session meeting minutes of December 11, 2023 as written. Motion carried unanimously in a voice vote.
CITIZEN/PUBLIC COMMENT	None.
ACTION ITEM **Initiate Legislative Amendments to Facilitate Construction of Needed Housing (Implementing HPS).**	Motion was made by Commissioner Blom, seconded by Commissioner East, to initiate the legislative amendments to facilitate construction of needed housing (Implementing HPS). Motion carried unanimously in a voice vote.
UNFINISHED BUSINESS **Upcoming Hearing on Custom Creative Work Amendments.**	Tokos reported the postponement of the hearing due to an error in the publication by the New-Times. Hearing to be rescheduled to January 22, 2024.

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DIRECTOR COMMENTS	Berman questioned if changes were needed to the camping rules now that a shelter was available. Tokos reported the shelter was not fully operational. Berman thought this should be reviewed once the shelter was operational.

Submitted by: _____

Sherri Marineau, Executive Assistant

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01-08-2024 - Planning Commission Regular Session Meeting Video Link:

https://thecityofnewport.granicus.com/player/clip/1183?view_id=2&redirect=true&h=9e926d54164def2f1de3f57fbeb2b7bd

PLANNING STAFF MEMORANDUM
FILE No. 2-Z-23

I. **Applicant:** Initiated by motion of the Newport Planning Commission on November 13, 2023.

II. **Request:** Amendments to Chapter 14.03 of Title XIV of the Newport Municipal Code to establish "Custom Creative Work" as a subgroup of the manufacturing and production industrial use category.

III. **Findings Required:** This is a legislative action whereby the City Council, after considering a recommendation by the Newport Planning Commission, must determine that the changes to the Newport Municipal Code (NMC) are necessary and further the general welfare of the community (NMC 14.36.010).

IV. **Planning Staff Memorandum Attachments:**

Attachment "A" – Draft "Custom Creative Work" Amendments
Attachment "B" – Coastal Arts Guild Proposal, for 9/11/23 Commission Meeting
Attachment "C" – 9/8/23 Support Letter from Economic Development Alliance of Lincoln County
Attachment "D" – 9/9/23 Support Letter from the Nye Neighborhood Association
Attachment "E" – Newport Zoning Map
Attachment "F" – Minutes from the 9/11/23 and 11/13/23 Planning Commission meetings
Attachment "G" – Email confirmation of 35-day DLCD PAPA notice
Attachment "H" – Published public hearing notice

V. **Notification:** The Department of Land Conservation & Development was provided notice of the proposed legislative amendment on November 21, 2023 (Attachment "G"). Notice of the January 22, 2024 Planning Commission hearing was published in the Newport News-Times on Wednesday, January 10, 2024 (Attachment "H").

VI. **Comments:** No comments have been received regarding the proposed amendments.

VII. **Discussion of Request:** On September 11, 2023, the Planning Commission and Commission Advisory Committee received a proposal from the Coastal Arts Guild to establish a new, small-scale light-manufacturing use category for "Custom Creative Work" (Attachment "B"). An example code was provided from Seattle that placed an emphasis on uses that are made to order or require a significant amount of handwork without the use of a mechanized assembly line. The Planning Commission expressed an interest in seeing a draft code concept.

At a November 13, 2023 work session, the Commission reviewed a draft set of amendments to NMC Chapter 14.03 that establish "Custom Creative Work" as a subgroup of the manufacturing and production industrial use category. The example uses align with the concept provided by the Coastal Arts Guild and the Seattle code. If adopted, small scale uses of this nature, without a primary retail element, would be allowed. Manufacturing of this type that is sold from the premises is already allowed by the City as a retail sales and service use. The size limit of 2,000 square feet aligns with the conditional use threshold within the Nye Beach Design Review Overlay, which is a reasonable way of setting a top end for the size of what should be craft scale operations. The emphasis on custom

orders, significant handwork in the manufacturing process and lack of an assembly line, all of which are in the Seattle concept, have been worked into this draft.

The use category is being added as permitted in the City's commercial and light-industrial zones. I have added it as conditional in medium and heavy industrial zoned areas. The City has a relatively small amount of medium and heavy industrial zoned land, and those properties allow fairly intensive industrial activities that could create compatibility issues. That is why a conditional use review is warranted in those areas.

The Commission considered comments from Carol Shenk and Janet Webster, both proponents of the concept. It also received support letters from the Economic Development Alliance of Lincoln County (Attachment "C") and Nye Neighborhood Association (Attachment "D"). At the conclusion of the work session, the Commission expressed its comfort with the draft, subject to minor amendments as outlined below, and made a motion at the regular session to initiate the legislative process, consistent with NMC Chapter 14.36.

Included with this staff report is an updated set of the draft "Custom Creative Work" amendments (Attachment "A"). In the list of example uses the reference to "small-batch canning and brewing" was replaced with "food and beverage production." Also, footnote 8 of the commercial and industrial use matrix was updated to clarify that the 2,000 sq. ft. limitation applies to the use, not the building. At Ms. Shenk's suggestion, an additional sentence has been added to the list of Custom Creative Work example uses indicating that student/apprentice instruction on an individual basis or in a workshop setting is part of the concept. That language is highlighted in yellow.

VIII. **Conclusion and Recommendation:** The Planning Commission should review the proposed amendments and make a recommendation to the City Council as to whether or not they are necessary and further the general welfare of the community (ref: NMC 14.36.010). This would be done by motion and vote of the Commission members present. In making a motion the Commission should specifically reference the policy options or any other revisions they wish to see incorporated as part of their recommendation. If the Commission is not prepared to make a recommendation, or desires additional information or code revisions before it does so, then it may continue the hearing to a date certain. The Commission's next regular meeting hearing date/time would be February 12, 2024 at 7pm.

Derrick I. Tokos, AICP
Community Development Director
City of Newport

January 19, 2024

January 22, 2024 Revisions to NMC Chapter 14.03, Establishing a Custom Creative Work Light-Industrial Use Category

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 14.03 ZONING DISTRICTS

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14.03.060 Commercial and Industrial Districts.

The uses allowed within each commercial and industrial zoning district are classified into use categories on the basis of common functional, product, or physical characteristics.

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D. Industrial Use Categories

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2. Manufacturing and Production

a. Characteristics. Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. Manufacturing and production activities within heavy commercial or light industrial areas are those that do not produce excessive noise, dust, vibration, or fumes.

b. Examples. Examples include uses from the ~~two~~ three subgroups listed below:

i. Custom Creative Work: Small-scale light manufacturing uses that are made to order or which involve considerable handwork as part of the production process. Such uses are produced without the need of a mechanized assembly line, and are wholly contained within a structure such that they can be located within commercial zones and near residential areas without creating nuisance impacts. Uses include artwork, sculptures, candle-making,

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pottery, ceramic tile making, leatherwork, clock work, jewelry making, food and beverage production, glassblowing, soap-making, fine carpentry, and small-press printing. Such activities may include student/apprentice instruction on an individual basis or in a workshop setting.

~~i~~ii. Light Manufacturing: Industrial uses that do not generate excessive noise, dust, vibration or fumes, such that they can be located near residential and commercial zones without creating nuisance impacts. Uses include processing of food and related products where the materials and processing activities are wholly contained within a structure, such as bakery products, canned and preserved fruits and vegetables, sugar and confectionary products, and beverages; catering establishments; breweries, distilleries, and wineries; manufacture of apparel or other fabricated products made from textiles, leather or similar materials; woodworking, including furniture and cabinet making; fabrication of metal products and fixtures; manufacture or assembly of machinery, equipment, or instruments, including industrial, commercial, and transportation equipment, household items, precision items, photographic, medical and optical goods, artwork, jewelry, and toys; manufacture of glass, glassware, and pressed or blown glass; pottery and related products; printing, publishing and lithography production; sign making; and movie production facilities.

iii. Heavy Manufacturing: Industrial uses that should not be located near residential areas due to noise, dust, vibration or fumes that may be generated by the activities. Uses include processing of food and related products where some portion of the materials are stored or processed outdoors, such as dairies, slaughter houses, or feed lots; leather tanning and finishing; weaving or production of textiles; lumber mills, pulp and paper mills, and other wood products manufacturing; production of chemicals, rubber, structural clay, concrete,

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gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting, and rolling and finishing of metal products; production and refinement of fossil fuels; concrete batching; and asphalt mixing; and manufacturing of prefabricated structures, including mobile homes.

c. Exceptions.

i. Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service.

ii. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

Staff: Creates a new category for "Custom Creative Work," where the light industrial activity are small-scale endeavors to create custom or handmade products that do involve the use of a mechanized assembly line (Seattle example). The activity must be contained within a structure. Example uses listed include those outlined in the proposal by the Coastal Arts Guild and Seattle code. It is relevant to note that this new category is intended to allow small scale manufacturing of goods that are <u>not</u> sold primarily on-site. The City's code already allows small-scale manufacturing where the goods are sold primarily on-site as a Retail Sales and Service" use (see above). Replaced reference to "small-batch canning and brewing" with "food and beverage production" per the Commission's request at the 11/13/23 work session. Highlighted language added at Carol Shenk's request following the work session.

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14.03.070 Commercial and Industrial Uses.

The following list sets forth the uses allowed within the commercial and industrial land use categories.

"P" = Permitted uses.

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"C" = Conditional uses; allowed only after the issuance of a conditional use permit.
"X" = Not allowed.

		C-1	C-2[1]	C-3	I-1	I-2	I-3
1.	Office	P	X	P	P	P	X
2.	Retails Sales and Service						
	a. Sales-oriented, general retail	P	P	P	P	P	C
	b. Sales-oriented, bulk retail	C	X	P	P	P	C
	c. Personal Services	P	C	P	P	C	X
	d. Entertainment	P	P[2]	P	P	C	X
	e. Repair-oriented	P	X	P	P	P	X
3.	Major Event Entertainment	C	C	P	P	C	X
4.	Vehicle Repair	C	X	P	P	P	X
5.	Self-Service Storage [6]	X	X	P	P	P	X
6.	Parking Facility	P	P	P	P	P	P
7.	Contractors and Industrial Service [6]	X	X	P	P	P	P
8.	Manufacturing and Production						
	a. Custom Creative Work [8]	P	P	P	P	C	C
	~~a~~b. Light Manufacturing	X	X	C	P	P	P
	~~b~~c. Heavy Manufacturing	X	X	X	X	C	P
9.	Warehouse, Freight Movement, & Distribution	X	X	P	P	P	P
10.	Wholesale Sales	X	X	P	P	P	P
11.	Waste and Recycling Related	C	C	C	C	C	C
12.	Basic Utilities [3]	P	P	P	P	P	P
13.	Utility Corridors	C	C	C	C	C	C
14.	Community Service	P	C [7.]	P	P	C [7.]	X
15.	Family Child Care Home	P	P	P	X	X	X
16.	Child Care Center	P	P	P	P	P	X
17.	Educational Institutions						
	a. Elementary & Secondary Schools	C	C	C	X	X	X
	b. College & Universities	P	X	P	X	X	X
	c. Trade/Vocational Schools/Other	P	X	P	P	P	P
18.	Hospitals	C	C	C	X	X	X
19.	Courts, Jails, and Detention Facilities	X	X	P	C	X	X
20.	Mining						
	a. Sand & Gravel	X	X	X	X	C	P
	b. Crushed Rock	X	X	X	X	X	P
	c. Non-Metallic Minerals	X	X	X	X	C	P
	d. All Others	X	X	X	X	X	X
21.	Communication Facilities [4]	P	X	P	P	P	P
22.	Residences on Floors Other than Street Grade	P	P	P	X	X	X
23.	Affordable Housing [5]	P	P	P	P	X	X
24.	Transportation Facilities	P	P	P	P	P	P

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1. Any new or expanded outright permitted commercial use in the C-2 zone district that exceeds 2,000 square feet of gross floor area. New or expanded uses in excess of 2,000 square feet of gross floor area may be permitted in accordance with the provisions of Chapter 14.34, Conditional Uses. Residential uses within the C-2 zone are subject to special zoning standards as set forth in Section 14.30.100.

2. Recreational Vehicle Parks are prohibited on C-2 zoned property within the Historic Nye Beach Design Review District.

3. Small wireless facilities shall be subject to design standards as adopted by City Council resolution.

4. Communication facilities located on historic buildings or sites, as defined in Section 14.23, shall be subject to conditional use review for compliance with criteria outlined in Sections 14.23 and 14.34.

5. Permitted as outlined in Chapter 14.15 or, in the case of hotels/motels, the units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone defined in NMC Chapter 14.50.

6. Self-service storage use; salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; and auto and truck salvage and wrecking are prohibited within the South Beach Transportation Overlay Zone, as defined in Section 14.43.020.

7. Subject to the requirements of ORS 197.782. An emergency shelter proposed within a C-2 or I-2 zone district shall be subject to a public hearing before the Newport City Council.

8. Use limited to a maximum of 2,000 square feet of gross floor area.

Staff: A new category for custom creative work has been added with a stipulation that such uses be limited to 2,000 square feet of gross floor area. The new use category is permitted outright in the City's commercial and light industrial zones. Newport has a relatively small amount of medium and heavy industrial zoned properties where more intense industrial uses are allowed. This new category is listed as conditional in those zones, so that policymakers can evaluate proposals for compatibility with the broad range of industrial activities that can locate in these areas. Footnote revised to clarify "use" not "building" is subject to 2,000 sq. ft. limit, as requested by the Commission at the 11/13/24 work session.

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Summary of Proposal for *Custom Creative Work*

The Coastal Arts Guild, a non-profit organization whose mission is to support and further the arts along the Central Oregon Coast, proposes the addition of a designation "Custom Creative Work" as a permitted use in all Commercial zones in the City of Newport, along with the continued permitting of such uses in Newport's Industrial zones.

Goals:

- encourage economic development by allowing new, creative small-business enterprises
- foster growth of dynamic and attractive commercial areas
- strengthen Newport's diverse economy
- support and promote local arts and culture
- expand opportunities for youth
- support the goals of Newport's *Vision 2040*

Examples of Custom Creative Work:

- leatherwork for custom saddles and boots
- small-batch canning and brewing
- studio arts such as painting and sculpture
- candle- and soap-making
- custom, fine carpentry
- small press fine printing

The new designation would require compliance with all other current regulations and restrictions for the zones in which it is permitted.

September 11, 2023
To the City of Newport Planning Commission:

The Board of the Coastal Arts Guild requests that a new designation, "Custom Creative Work," be added as a permitted use in all Commercial zones. Some examples of this new designation are painting, leatherwork, sculpture, making ceramics or tiles, soap-making, candle-making, fine printing, and small-batch canning and brewing.

Currently such uses are designated "Light Manufacturing" (*Exhibit A)* and so are prohibited in zones

- **C-1** (Hwy 101, including the downtown revitalization area) and
- **C-2** (Nye Beach, South Beach from Hwy 101 to the Aquarium);

and, a conditional use permit (CUP) is required for these uses in zone:

- **C-3** (Hwy 101, Hwy 20 and Ferry Slip Road).

Proposed Uses and Requirements

As in Seattle's zoning code (*Exhibit B*), the use would be limited to "food items and craft work...produced without the use of a mechanized assembly line." Square footage limits may also be applied to specified industries. (See *Exhibit A* for possible approach to code amendments.)

The permitted uses would be limited to those that *would not* introduce outdoor noise, vibration, dust, odor, or air pollution beyond that of other commercial uses. Newport's parking requirements would not need to change (determined by the floor space of each use). Freight pick-up, if allowed, would be limited by hours and vehicle size. Standards for solid waste management would be the same as currently required in C-zones.

We suggest that "Custom Creative Work" businesses in Commercial Zones should be required to include a retail, museum, and/or educational public interface in order to preserve the commercial character of the zones.

Note that we also recommend that the new "Custom Creative Work" designation should be permitted outright in all Industrial (I-1, I-2, and I-3) zones *without* the above storefront/public interface requirement, so that these uses continue to be permitted in Industrial areas as they are currently allowed with no change to existing enterprises.

Positive Impacts to City of Newport Administration

The Newport Community Development Department reports that this zoning change would save staff and leadership time. As mentioned above, Light Manufacturing in Zone C-3 requires a CUP. The CUP process takes staff time (which is usually not covered by the application fee) and, importantly, unpaid City leadership time and attention. In these times when it is hard to fill positions, including leadership positions, reducing CUPs would help the City operate more efficiently.

Positive Impacts to Newport Economy

Zoning articulates a vision for a community. By permitting custom craft and food processing uses outright in its commercial areas, Newport will send a signal to potential investors and artisans alike that we value and encourage a diverse and dynamic economy that supports the arts and entrepreneurs.

The Coastal Arts Guild Board is aware of three separate instances within the past year in which different potential investors---entrepreneurs who sought to establish combination retail/studio spaces---looking at three different commercial properties in Newport, were deterred from investment by Newport's existing zoning. The restriction that classifies custom craft and artwork as light manufacturing prohibited in C1 and C2 and requiring an uncertain conditional use permit in C3, prevented these people from investing in Newport and starting new businesses here.

Allowing creative production uses in the Commercial zones would increase the diversity of consumer experiences in these areas and would support Newport's creative economy and fledgling small businesses.

Newport stands out among coastal areas in its public support for the arts, and also for its diverse economy. Newport needs to preserve its long legacy as a place that supports, creates, and promotes the arts. Other small cities across the country are working to cultivate the kind of creative community that Newport has been and can continue to be.

Note that the goal in supporting creative enterprises is not only to attract tourists. People want to live and work in Newport because it offers cultural richness and diversity. Many people move to the coast to live out their dreams, and those dreams often involve pursuing creative endeavor.

Walkable commercial zones with galleries and shops featuring custom, locally produced products will help Newport stand out as distinctly attractive to visitors and investors.

Increasing the number and diversity of custom craft and art production enterprises within Newport could also provide opportunities for youth to participate in cultural activities through increased and expanded community arts events, as well as through direct employment and apprenticeship opportunities.

Alignment with Newport's Vision 2040

This proposal would help further many of Newport's Vision 2040 visions and goals:

Goal A5. City Center Revitalization
Develop a City Center improvement strategy that expands options for living, shopping, working, and dining in the area by promoting walkability, mixed-use development, and refurbishment of historic buildings.

Goal A6. Mixed-Use Development
Promote mixed-use neighborhoods in appropriate areas of the city, incorporating a blend of commercial uses, employment, and residential development that create a distinct sense of place.

Vision Statement C: Our Vision for Creating New Businesses and Jobs
In 2040, the Greater Newport Area collaborates to create economic opportunities and living wage jobs that help keep Newport dynamic, diverse, and affordable. Our economy is balanced and sustainable, producing living-wage jobs in the trades and professions, while supporting new start-up companies and small businesses based on local talent, entrepreneurship, ideas, and resources.

Goal C7. Arts and Cultural Destination
Promote the Greater Newport Area as a major arts and cultural destination.

Goal C9. Small Business Development
Expand training and education for small business development and entrepreneurial skills, including resources for artists, craftspeople, trades, and technology start-ups.

From Vision Statement D: Our Vision for Learning, Exploring, and Creating New Horizons
"The arts and opportunities for creative expression and learning are high quality, diverse, and available and accessible to everyone."

Goal D3. Art in Public Spaces
Integrate the arts as a key element of the city's identity, including expanding the presence of public art throughout the community.

Goal D5. Summer Arts Offerings
Expand outdoor summer arts events and offerings, such as music and theater.

Goal D6. Schools and Local Talent
Promote increased partnerships between schools and local talent, including scientists, artists, craftspeople, and tradespeople who share their knowledge with area classes and students.

Goal D12. Access to the Arts
Increase the availability of, and access to, lower cost arts venues and performances while supporting new, innovative opportunities, including workshops, film, and student work.

Exhibit A - Current Newport Zoning Code Definition of Light Manufacturing, prohibited in C-1 and C2 and requiring a CUP in C-3

Newport Municipal Code 14.03.060 D2(b)i:
Light Manufacturing: Industrial uses that do not generate excessive noise, dust, vibration or fumes, such that they can be located near residential and commercial zones without creating nuisance impacts. Uses include processing of food and related products where the materials and processing activities are wholly contained within a structure, such as bakery products, canned and preserved fruits and vegetables, sugar and confectionary products, and beverages; catering establishments; breweries, distilleries, and wineries; manufacture of apparel or other fabricated products made from textiles, leather or similar materials; woodworking, including furniture and cabinet making; fabrication of metal products and fixtures; manufacture or assembly of machinery, equipment, or instruments, including industrial, commercial, and transportation equipment, household items, precision items, photographic, medical and optical goods, artwork, jewelry, and toys; manufacture of glass, glassware, and pressed or blown glass; pottery and related products; printing, publishing and lithography production; sign making; and movie production facilities.

Proposed Amendments to Zoning Code:

1. Create new Custom Creative Work use designation.
2. Amend "Light Manufacturing" as excluding Custom Creative Work for the purposes of the Zoning Code
3. Allow Custom Creative Work in Commercial zones, requiring store-front and compliance with other C-zone regulations.
4. Allow Custom Creative Work in Industrial zones with no additional restrictions (effectively no change to current use in I-zones).

(See *Exhibit B* for example of Seattle Municipal Code)

Exhibit B – Examples from other Municipalities

City of Seattle Food Processing and Craft Work use permitted in all commercial zones

SMC 23.84A.012 [3] - "F" / FOOD PROCESSING AND CRAFT WORK"
means a commercial use in which food items and craft work are produced without the use of a mechanized assembly line and includes but is not limited to the following:

> a."Custom and craft work" means a food processing and craft work use in which nonfood, finished, personal or household items, which are either made to order or which involve considerable handwork, are produced.
>
> Examples include but are not limited to pottery and candlemaking, production of orthopedic devices, motion picture studios, printing, creation of sculpture and other art work, and glassblowing. The use of products or processes defined as high-impact uses shall not be considered custom and craft work.
>
> b."Food processing" means a food processing and craft work use in which products for human consumption, such as candy, baked goods, seafood, sausage, tofu, pasta, beverages, tinctures, consumable oils, products to be smoked, etc., are produced for sale and consumption off the premises.
>
> Food processing includes catering services. Processing of products for human consumption using mechanized assembly line production of canned or bottled goods is not included in this definition, but is considered to be light manufacturing.

SMC 23.84A.025 [2] - "M" / "Manufacturing"
A use in which articles are produced by hand or by machinery, from raw or prepared materials, by giving to those materials new forms, qualities, properties, or combinations, in a process characterized by the repetitive production of items made to the same or similar specifications. _Items produced are generally sold directly to other businesses, or are sold at wholesale. The retail sale of items to the general public is incidental to the production of goods. For the purpose of this definition, uses listed as food processing and craft work or high-impact uses are not considered manufacturing uses.

(Seattle continued)

SMC 23.84A.025 [2] = "M" / "Manufacturing, light"

a manufacturing use, typically having little or no potential of creating noise, smoke, dust, vibration or other environmental impacts or pollution, and including but not limited to the following:

* Production, assembly, finishing, and/or packaging of articles from parts made at another location, such as assembly of clocks, electrical appliances, or medical equipment.

* Production of finished household and office goods, such as jewelry,clothing or cloth, toys, furniture, or tents, from materials that are already refined, or from raw materials that do not need refining, such as paper, fabric, leather, premilled wood; or wool, clay, cork, semiprecious or precious metals or stones, fiber, or other similar materials;

* Canning or bottling of food or beverages for human consumption using a mechanized assembly line or food processing for animal consumption;

* Printing plants with more than five thousand (5,000) square feet of gross floor area.

Example: Toledo, Oregon:

17.16.020 - Uses permitted outright.

In the C zone, the following uses and their accessory uses are permitted outright.

H. Custom manufacturing of goods for retail and/or wholesale sale on the premises such as small-scale crafts, electronic equipment, bakery, furniture, art, sculpture, pottery, or other similar types of goods.

Economic Development Alliance OF LINCOLN COUNTY

September 8, 2023

City of Newport Planning Commission
169 SW Coast Hwy
Newport, OR 97365

Dear Members of the Newport Planning Commission:

The Economic Development Alliance of Lincoln County would like to express our strong support for the proposed addition of "custom creative work" as a permitted use in all Commercial zones within the City of Newport. This proposed addition has the potential to attract new businesses, support existing local businesses and makers and contribute positively to Newport's economy.

Zoning articulates a vision for a community. By permitting custom craft and food processing uses outright in its Commercial zones, Newport will send a powerful message to potential investors and artisans alike that we value and encourage a diverse and dynamic economy that supports the arts and creative economy entrepreneurs.

Having spent ten years on a municipal planning and zoning board, and another six years overseeing a zoning department (for Monmouth, IL), I am keenly aware of the need for prudent but flexible changes to the permitted uses in municipal zoning districts – over time, the fabric of a local economy changes, and we don't want to inadvertently stifle innovation or entrepreneurial opportunity.

This proposed change aligns with our organization's mission to promote economic growth, job creation and the overall well-being of Lincoln County residents – as well as our strategic priority to support our local creative economies. We believe that a more flexible and adaptive zoning ordinance can play a crucial role in achieving these goals.

We encourage the City of Newport Planning Commission to carefully consider the proposed zoning ordinance change and its potential impact on our community's economic future. We believe that this change aligns with our shared vision for a thriving, vibrant, and economically resilient Newport.

Cordially,

Paul Schuytema, Executive Director

P.O. Box 716 | Newport, OR 97394
3120 Crestline Drive | Waldport, OR 97394 | 541.867.8579
BusinessLincolnCounty.com

Attachment "D"
File No. 2-Z-23

Nye Neighborhood Association

September 9, 2023

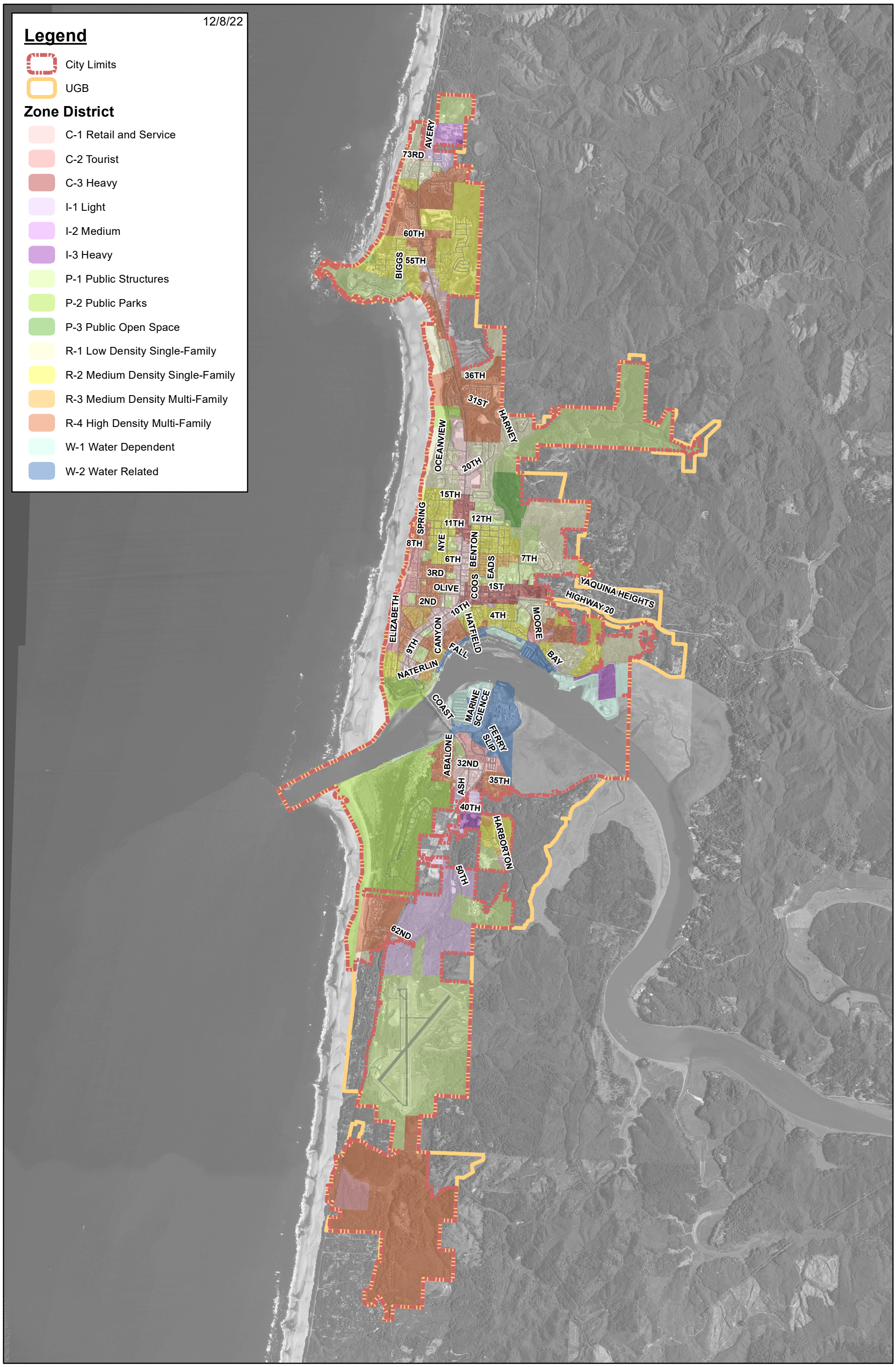
Coastal Arts Guild
C/O Carol Shenk

This letter is to demonstrate the support of the Nye Neighborhood Association's (NNA) for the work of the Coastal Arts Guild (CAG). At the public meeting of the NNA on 9/7/23 we heard your presentation of CAG's "Customer Creative Work" proposal for zoning in commercial areas. The Board of Directors of the NNA voted unanimously to support it. We fully support your request for a change in zoning and view this as very positive change not only for the Nye Neighborhood but for the other commercial zones within the city.

I have read the "Summary of the Proposal for Custom Creative Work" that you provided and found it comprehensive and very well researched. It is in the NNA's mission statement to support all levels of the arts as evidenced by our collaboration with the Nye Beach Banner Project, the Performing Arts Center and Visual Arts Center. The Coastal Arts Guild is an important addition to that group.

Sincerely,
Tom Briggs
Treasurer, Nye Neighborhood Association

CC: Jan Kaplan, Martha Krupp, Robert Emond, Veronica Lundell, Tom Ettel



City of Newport
Community Development Department
169 SW Coast Highway Phone:1.541.574.0629
Newport, OR 97365 Fax:1.541.574.0644

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

Newport Zoning Map

Image Taken July 2009
4-inch, 4-band Digital Orthophotos

0 2,000 4,000 8,000 Feet

N

MINUTES
City of Newport Planning Commission
Work Session Meeting
Newport City Hall Council Chambers
September 11, 2023
6:00 p.m.

Planning Commissioners Present: Bill Branigan, Jim Hanselman, John Updike, Bob Berman (*by video*), Braulio Escobar, Gary East, and Marjorie Blom.

PC Citizens Advisory Committee Members Present: Dustin Capri.

PC Citizens Advisory Committee Members Absent: Greg Sutton.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Branigan called the Planning Commission work session to order at 6:00 p.m.

2. **New Business.**

A. **Discussion About Potential Craft/Cottage Industry Code Language for Newport Commercial Areas.** Tokos introduced Carol Shenk to the Commission. Shenk reported she represented the Coastal Arts Guild. She explained they were proposing a change to commercial zoning throughout Newport for what they called "custom creative work." The concept was to allow uses that were designated as light manufacturing in C-1, C-2 and C-3 zones, which were currently prohibited. Shenk explained they wanted to support the diverse economic development of Newport, entrepreneurs, and independent business people who wanted to have a creative use in the commercial areas.

Hanselman pointed out that in the materials Shenk submitted it said they were aware of three individuals or investment groups that investigated setting up these kinds of shops. He asked what kind of shops these might have been. Shenk reported that there was one retail art supply store with an art studio in back. There were also two art studios that would have galleries in the front. Branigan asked if the Guild thought these changes should apply to all commercial areas in Newport. Shenk confirmed it would be for all commercial zones, not just Nye Beach. There were sole proprietors who wanted to start a new life in Newport, but the zoning was a deterrent for them. Hanselman asked if they had a sense of how large the businesses would be. Shenk reported it depended on the use and would vary in size. The group used the Seattle Municipal Code as a model. This code gave them a square footage limit for printing presses, which helped to make the distinction between what was light manufacturing and custom creative work.

Hanselman asked what Newport identified as light manufacturing, and if any of the businesses on Shenk's list fell under this. Tokos thought that what this was getting at was a matter of scale. Industrial scale was much larger than the cottage. Tokos thought Newport's code could be clearer on this front. They needed to find out if the retail was the principal activity and if the industrial was ancillary. Tokos noted that many industrial uses needed to have ventilation, and many buildings in Newport weren't set up for this. This wasn't a reason not to do this, just something to be cognizant of. Hanselman asked how they could determine how much retail a business should be in order for these types of shops to

be in these zones. Tokos said they would have a lot of leeway with this. They could require a retail connection or not, and something for the Commission to work out.

Berman thought this was a great idea. His only concern was the reference to food, which was a different nature of business. Shenk explained the intent was to promote a diverse creative economy, and it made sense to include food in this as well. Berman thought if they were to prepare language, he wanted an option that excluded food from the initiative to avoid competitive issues with nearby businesses. Capri asked Berman if he thought distilleries should be included. Berman thought distilleries would be fine to include, but noted that generally they wouldn't operate without food service.

Escobar asked if the examples Shenk presented could be independent standalone operations, or if they could be ancillary to and existing business. Shenk thought it could be either. Escobar asked if Shenk put together the materials utilizing the existing codes. Shenk confirmed they did. Escobar didn't think that cottage industries had much food service. Shenk agreed, and noted that the intent was to produce something to sell. She also noted that she gave recommendations on parking and the public interface requirements for possible approaches. What they were trying to do was fit this in all commercial code regulations and restrictions. However, the way the square footage was figured for retail might not make sense because a sculpture studio would have different traffic than a clothing store. Shenk wanted to make sure they weren't creating unnecessary burdens on entrepreneurs. Capri thought the Municipal Code would take care of this. Shenk noted the parking requirements were for the retail spaces, and defining the square footage of the retail for creative use might be difficult. Capri thought that in theory could be exclusive industrial use, which would have the lowest parking demand. Since there were many underutilized commercial spaces in Newport that had ample parking, this shouldn't be an issue. Capri noted that every issue he could think of would be covered in the Nuisance Code, or the Building Code. Shenk believed that by definition the current light manufacturing code also prohibited impacts like odor or pollution, so it was already contained. Capri questioned how much of an administrative impact this would be for the city and staff. Tokos said this could be relatively targeted and straight forward. Capri thought it was a great idea.

Blom thought that someone who made food like hot sauce, and had it available for people to taste it, would be considered food since there was not a food prep. Tokos said this would get into the Building Code that would have certain requirements for this type of food. There would also be a Health Department role with food as well. Shenk noted the thought was to create a community that was walkable with some sort of storefront. She didn't think they wanted a row of stores that were inaccessible. Berman agreed, and thought in order to have quality tourist commercial areas, there should be some sort of public facing aspect to the business.

Updike noted there was a statement in Shenk's letter that said I-Zones didn't require a public interface. Shenk noted the intent was to not change the uses in industrial zones. This was a suggestion that new uses be permitted in commercial zones, where existing industrial zones didn't have the extra requirement. Tokos agreed the light industrial zones could be a combined retail element with industrial.

Veronica Lindell addressed the Commission and said that she had a business in Nye Beach, and was a member of the Nye Neighborhood Association. She read a letter from Marcy Kenyon that expressed concerns about potential zoning code violations affecting her art studio and home in Nye Beach.

Janet Webster addressed the Commission and noted she walked Newport a lot and noticed a lot of empty storefronts. She didn't see stores actually making things, and thought that this highlighted the

need for more engaging storefronts in the city center. Webster thought that bringing people back to buildings that were showcasing creativity and work in progress would revitalize the walking experience for the public.

Tokos said if there was a general consensus to see some options for this, the earliest they could bring it forward was the October 23rd work session meeting. When they were ready to bring it forward, he would reach out to Carol Shenk and others to let them know.

Escobar thought that given the skill set that Shenk had, any amendments should be run past her for comments before a work session. Tokos would provide a copy to Shenk. Capri asked if this would only be for commercial zones, not W-1 or W-2 zones. Tokos thought they should look at these zones as well.

B. **Project Advisory Committee for City Center Revitalization Project.** Tokos noted that Resolution 3992 was adopted which put together the framework for an advisory committee for the City Center Revitalization Project. They were recruiting for five of the spaces. The City Council would hold interviews at their first meeting in October. There were other positions on the committee that they would be filling from specific stakeholder groups. The city would be reaching out to find representatives from these stakeholder groups to participate. Berman expressed an interest in serving as the Planning Commission Liaison. Tokos suggested adding an action item to the night's regular session meeting agenda to vote on this. He reported the grant agreement for the funds for the project were working its way through ODOT, and it would be approved sometime during the next two Council meetings.

3. **Unfinished Business.**

A. **Release of Draft Update to Yaquina Bay Estuary Management Plan**. Tokos provided an update on the draft Yaquina Bay Estuary Management Plan, including policy changes and zoning map changes. He explained that no action was expected at that time. This was the first update to the Plan since the 1980's.

B. **Planning Commission Work Program Update**. Tokos pointed out that the September 25th meeting would only be a regular session meeting. The City Council would hold a meeting right before to do interviews for the Council opening.

Tokos reported that he met with the commercial fishing user group and the Port Commission to discuss the roll out of the Bayfront parking management strategy. He would be meeting with the Bayfront business owners later in the month. The outreach would give people a sense of what was coming up and when I would happen. Capri asked if this was for the parking lot closures. Tokos reported the parking lots would be closed on September 18th. All three lots would be out of commission for a week. The city had to get the paving done before the bad weather came. Tokos noted that they would soon be swapping out sign poles and putting in pay stations for the meters as well. They didn't set a firm launch on the pay stations yet, and they were working through the cloud setup and equipment setup. Tokos explained that the commercial fisheries wanted the city to wait until after the commercial fleets went out. The city had the ability to wait, and they would talk to the Parking Advisory Committee to see if they wanted to push the launch date out further. A discussion ensued regarding what needed to happen in order to start the program.

Escobar noted there was a news article about the County's efforts to put an evening shelter in Newport and in Lincoln City. He asked if they had identified a site for Newport. Tokos reported the County

was pursuing rotational temporary shelter accommodations for cold spells that would be in the Episcopal and Presbyterian churches, along with a space that the County had. The County would provide staffing and materials for this purpose. Tokos reported that they closed on a property that was the former counseling building on Hurbert and 7th Streets. Ultimately, this could be one property that could serve as a permanent shelter. Tokos noted that NW Coastal Housing had purchased the Coast Inn in Newport, and would be converting it into transitional housing.

3. **Adjourn.** The meeting adjourned at 6:54 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

City of Newport
Planning Commission Work Session Minutes
November 13, 2023

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL, 169 SW COAST HIGHWAY, NEWPORT
Time Start: 6:00 P.M. **Time End:** 7:11 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman (by video)	
Commissioner Gary East	
Commissioner Braulio Escobar	
Commissioner John Updike	
Commissioner Marjorie Blom (excused)	
Citizen Advisory Member Dustin Capri	
Citizen Advisory Member Greg Sutton (absent)	

AGENDA ITEM	ACTIONS
WORK SESSION MEETING	
CALL TO ORDER AND ROLL CALL	
a. Roll Call	None.
REVIEW DRAFT AFFORDABLE HOUSING CET CODE AMENDMENTS.	
a. Staff report	Mr. Tokos provided an overview of the amendments to NMC Chapter 3.20 pertaining to the affordable housing construction excise tax and the residential construction excise taxes being required to fund development incentives for affordable housing.
b. Discussion on amendments	Commission held discussions on changes pertaining to exemptions for construction excise taxes; the percent of area median income levels for affordable housing projects; sample impact fee assessments for residential development; net construction excise tax revenue from residential improvements offsetting fees for multifamily developments; upcoming multifamily projects in Newport; and affordable housing grant funds submitted to the State that are available for the public in Newport.
c. Commission feedback on amendments	Tokos received input from the Commission on edits to the document. Commissioners raised concerns that funds would go toward market rates that were 80 percent over median area income, and questioned the possibility of subsidizing rental payments with funds.

ESTABLISHING A CUSTOM CREATIVE WORK LIGHT-INDUSTRIAL USE CATEGORY.	
a. Staff report	Mr. Tokos reviewed the draft amendments to NMC Chapter 14.03 to establish "Custom Creative Work" as a subgroup of the manufacturing and production industrial use category. Written public comments were attached to the packet prior to the meeting.
b. Discussion on amendments	Commission held discussions on creating a custom creative work light-industrial use category; examples of uses that would be allowed within commercial zones; application of use categories; changes to the use table for permitted and conditional use requirements for commercial, industrial, and public zones; and limiting the use to a maximum of 2,000 square feet of gross floor area.
c. Consideration of public comment	Carol Shenk (Newport), Vice Chair of the Coastal Arts Guild gave a background of the need for the amendments to support the cottage industry. She was in general support of the changes but expressed confusion on how the rules would apply to. Shenk suggested they replace "canning and brewing" with "food and beverage production" to keep it more generic. Tokos to incorporate the changes Shenk suggested.
HB 2984- COMMERCIAL TO RESIDENTIAL CONVERSIONS.	
a. Staff report	Mr. Tokos reviewed HB 2984 Section 6(c) prohibiting SDC charges for commercial to residential conversions.
b. Discussion on SDC credits	Discussion on the structure of the current SDC credit language; how SDC credits for prior uses worked; and the need for discussions for a resolution adoption with the City Council to confirm SDC credits would be applied for commercial to residential conversions. The Commission was in general agreement that discussions be held with the City Council on the topic.
PLANNING COMMISSION WORK PROGRAM UPDATE.	None.

Submitted by: Sherri Marineau

Sherri Marineau, Executive Assistant

City of Newport
Planning Commission Regular Session Minutes
November 13, 2023

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL 169 SW COAST HIGHWAY NEWPORT
Time Start: 7:12 P.M. **Time End:** 7:30 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman (by video)	
Commissioner Gary East	
Commissioner Braulio Escobar	
Commissioner John Updike	
Commissioner Marjorie Blom (excused)	

AGENDA ITEM	ACTIONS
REGULAR MEETING	
CALL TO ORDER AND ROLL CALL	
a. Roll Call	None.
APPROVAL OF THE MINUTES	
a. Meeting minutes of Work Session Meeting on October 23, 2023	Motion by Commissioner Berman, seconded by Commissioner East to approve the work session meeting minutes of October 23, 2023 with minor corrections. Motion carried unanimously in a voice vote.
b. Meeting minutes of Regular Session Meeting on October 23, 2023	Motion by Commissioner Berman, seconded by Commissioner East to approve the regular session meeting minutes of October 23, 2023 with minor corrections. Motion carried unanimously in a voice vote.
CITIZEN/PUBLIC COMMENT	None were heard.
ACTION ITEMS	
a. Recommendation to the City Council to Pursue the Draft Affordable Housing CET Code Amendments.	Motion by Commissioner Berman, seconded by Commissioner East to forward a favorable recommendation to the City Council on the draft Affordable Housing CET code amendments. Motion carried in a voice vote. Escobar abstained.
b. Initiate the Legislative Process for Amendments to NMC Chapter 14.03 to Establish "Custom Creative Work" as a Subgroup of the Manufacturing and Production Industrial Use Category.	Motion by Commissioner Escobar, seconded by Commissioner Berman to initiate the Legislative Process for Amendments to NMC Chapter 14.03 to establish "Custom Creative Work" as a subgroup of the Manufacturing and Production Industrial Use Category, and include comments from Carol Shenk,

	Jan Kaplan, and Janet Webster. Motion carried unanimously in a voice vote.
DIRECTOR COMMENTS	
a. Discussion on work program.	Tokos confirmed a quorum for the November 27th meeting. Brief discussion of upcoming legislative hearings and future meeting discussion topics.
b. Update on TSP projects.	Commissioner Berman requested status report on Transportation System Plan projects. Tokos discussed TSP projects and locations with current funding in Newport.

Submitted by: Sherri Marineau

Sherri Marineau, Executive Assistant

Derrick Tokos

From: DLCD Plan Amendments <plan.amendments@dlcd.oregon.gov>
Sent: Tuesday, November 21, 2023 2:44 PM
To: Derrick Tokos
Subject: Confirmation of PAPA Online submittal to DLCD

[WARNING] This message comes from an external organization. Be careful of embedded links.

Newport

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.
Local File #: 2-Z-23
DLCD File #: 005-23
Proposal Received: 11/21/2023
First Evidentiary Hearing: 1/8/2024
Final Hearing Date: 2/5/2024
Submitted by: dtokos

If you have any questions about this notice, please reply or send an email to plan.amendments@dlcd.oregon.gov.

Attachement "H"
File No. 2-Z-23

CITY OF NEWPORT

NOTICE OF A PUBLIC HEARING

The Newport Planning Commission will hold a public hearing on Monday, January 22, 2024 at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-Z-23, amending Newport Municipal Code (NMC) Chapter 14.03, Zoning Districts. The changes will establish "Custom Creative Work" as a subgroup of the manufacturing and production industrial use category. The use category is being added as permitted outright in the City's commercial and light-industrial zones, and conditionally in I-2 and I-3 zones. Pursuant to Newport Municipal Code (NMC) Section 14.36.010, the Commission must find that the change is required by public necessity and the general welfare of the community in order for it to make a recommendation to the City Council that the amendments be adopted. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov (address above).

(FOR PUBLICATION ONCE ON WEDNESDAY, January 10, 2023)

la, headed north to Newport, and Jade arrived a few hours later. Heather is a stay-at-home mother, and Joseph is a physical therapist with Samaritan.

Baby Lia Pech-Echeverria was born at Samaritan

enthusiastically agreed.

Lia was born three weeks early, so she was truly a new year's surprise for the family. Such as with the Waldport family, the Lincoln City parents didn't know they were go-

vided by SPCH Birthing Center staff. Lia's gift basket was prepared by the Samaritan North Lincoln Hospital Auxiliary and presented by Leslie James, executive director of North Lincoln Hospital Foundation.

uty event is from 8 to 10 a.m. Wednesday, Jan. 31, at Café Chill, 540 NE Commercial St.

Every three months, the sheriff's office partners with a Lincoln County coffee shop to provide time, space and

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to connect wi
tasked with ser
protecting then

These event
unique oppo
for communit

PUBLIC NOTICES

1/10/2024

CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The Newport Planning Commission will hold a public hearing on Monday, January 22, 2024 at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-Z-23, amending Newport Municipal Code (NMC) Chapter 14.03, Zoning Districts. The changes will establish "Custom Creative Work" as a subgroup of the manufacturing and production industrial use category. The use category is being added as permitted outright in the City's commercial and light-industrial zones, and conditionally in I-2 and I-3 zones. Pursuant to Newport Municipal Code (NMC) Section 14.36.010, the Commission must find that the change is required by public necessity and the general welfare of the community in order for it to make a recommendation to the City Council that the amendments be adopted. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov (address above). J10 39-10

PUBLIC SALE

ers interested in attending the meeting virtually can email info@clpud.org to make a request. J10 35-10

NOTICE OF PUBLIC MEETING OREGON CASCADES WEST COUNCIL OF GOVERNMENTS

A public meeting of the Board of Directors of the Oregon Cascades West Council of Governments (OCWCOG) will be held on Thursday, January 18th, 2024, at 2:00 pm via in-person and audio and videoconference. The purpose of this meeting is to convene a regular meeting of the Board of Directors of the OCWCOG. For further information on how to attend this meeting, and about OCWCOG, please visit our website at www.ocwcog.org. J10 34-10

NOTICE OF PUBLIC MEETING OREGON CASCADES WEST COUNCIL OF GOVERNMENTS

A public meeting of the Finance Committee of the Oregon Cascades West Council of Governments (OCWCOG) will be held on Thursday, January 18th, 2024, at 1:30 pm via in-person and audio and videoconference. The purpose of this meeting is to convene a regular meeting of the Finance Committee of the OCWCOG. For further information on how to attend this meeting, and about OCWCOG, please visit our website at www.ocwcog.org. J10 33-10

NOTICE OF PUBLIC MEETING OREGON CASCADES WEST COUNCIL OF GOVERNMENTS

A public meeting of the Budget Committee of the Oregon Cascades West Council of Governments (OCWCOG) will be held on Thursday, January 18th, 2024, at 1:00 pm via in-person and audio and videoconference. The purpose of this meeting is to convene a special meeting of the Budget Committee of the OCWCOG. For further information on how to attend this meeting, and about OCWCOG, please visit our website at www.ocwcog.org. J10 32-10

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN In the Matter of the Estate of Grael Fredrick Schrimpf, Deceased Case # 23PB08127. NOTICE IS HEREBY GIVEN that Holly Ann Ornelas and Michael Robert Ornelas have been appointed co-personal representatives of the

CITY OF NEWPORT, OREGON
URBAN RENEWAL AGENCY OF THE CITY OF NEWPORT, OREGON
JOINT NOTICE OF SUPPLEMENTAL BUDGET PUBLIC HEARING

A public hearing on a proposed Supplemental Budget for the Urban Renewal Agency (URA) and the City of Newport, Oregon, for the fiscal ye: will be held in the City Council Chambers at 169 SW Coast Hwy, Newport, Oregon. The hearings will take place on January 16, 2023, at 5:15 for The purpose of the hearing is to discuss the Supplemental Budget with interested persons. This notice reflects budgetary adjustmen Note that budget adjustments under this threshold may be discussed at the Council meeting. A copy of the Supplemental Budget document may be inspected or obtained after January 9, 2024, at the City website www.newpc 169 SW Coast Hwy, Newport, Oregon Finance Department Monday through Thursday between the hours of 8:00 AM to

SUMMARY OF PROPOSED SUPPLEMENTAL BUDGET CHANGES
Amounts Shown Are Revised Totals In Those Funds Being Modified

General Fund - 101

Resource	Changes	Amount	Expenditure
Beginning fund balance	(176,231)	7,197,788	General Fund departments- Not Modified
			City Administration
Revenues	3,882	16,565,727	Library
Transfers In	21,864	247,987	Community Development
			Administrative Programs
			Interfund Loan
			Transfers Out
			Contingency
			Reserve and ending fund balance
Revised Total Resources	**(150,485)**	**24,011,502**	**Revised Total Requirements**

Comments: Transfer out $3K from Contingency to the 711 Fund for boat launch signage. Receipt a $2K Grant to Library from OCF for Charro Attire Exhibit. Transfer then to the 405 fund for 50% of Frank Wade Court Resurface Proj #22-22024. Transfer in $21,864 from Facilities Proj #21012 in order to close project. Recognize a P the Library for customer paid invoice and maintenance. Receipt $120 in donations to the Library for materials and service fund. Reduce contingency by $2,500 and a Prof Services for Geologic Permit Peer Review Fee. Transfer $16,768 from contingency to Community Development to cover cost of cubicles and set up. Adust BFB a audited balances. Transfer $50,995 from contingency to City Administration for an additional FTE Accounting Tech position in Finance. Transfer $100K from Reserve in 402 Fund.

Public Parking Fund - 211

Resource	Amount		Expenditure
Beginning Fund Balance	(1,096)	(966)	Public Parking Programs
Revenues		606,800	Interfund Loan
Transfers In			Transfer Out
			Contingency
			Reserve and Ending Fund Balance
Revised Total Resources	**(1,096)**	**605,834**	**Revised Total Requirements**

Comments: Adust BFB and contingency by ($-1,096) to reflect audited balances.

Housing Fund - 212

Resource	Amount		Expenditure
Beginning Fund Balance	120,933	726,500	Housing program
Revenues		68,637	Oregon Housing & Com Svc
Transfers In			Contingency
Revised Total Resources	**120,933**	**795,137**	**Revised Total Requirements**

Comments: Adust BFB and contingency by $55,813 and $65,120 to reflect audited balances.

Room Tax Fund - 230

Resource	Amount		Expenditure
Beginning Fund Balance	56,386	3,087,686	Room Tax General
Revenues		3,652,454	Room Tax Programs
Transfers In		0	Transfers Out
			Contingency
			Reserve and Ending fund balances
Revised Total Resources	**56,386**	**6,740,140**	**Revised Total Requirements**

Comments: Transfer out $3K from Contingency to the 711 Fund for boat launch signage. Transfer $242,240 from Reserve to Discover Newport Program. Transfer out 22024 Pickleball courts. Adust BFB and contingency by $56,386 to reflect audited balances.

Agate Beach Closure Fund - 254

Resource	Amount		Expenditure
Beginning Fund Balance	(17,478)	943,696	Agate Beach Closure
Revenues		27,500	Interfund Loan
Transfers In			Transfers Out
			Contingency
Revised Total Resources	**(17,478)**	**971,196**	**Revised Total Requirements**

Comments: Adust BFB and contingency by ($17,478) to reflect audited balances.

Capital Projects - General - 402

Resource	Changes	Amount	Project Name
Beginning fund balance		6,005,076	Reserve and Ending Fund Balance
Revenues		2,731,052	Other Projects Not Adjusted
Transfers In	100,000	2,444,195	**Note: Only adjusted projects are shown.**
Transfers In from URA		100,000	
			S9-Big Creek Bridge Abutment Repairs (17009)
			Street Repair and Improvement Program (25-23010)
			Oceanview Drive Slide and Storm Emergency Repair (25-23070)
			Transfer Out
Revised Total Resources	**100,000**	**11,280,323**	**Revised Total Requirements**

Comments: Transfer $438 from Proj #25-23010 to Proj#21019 in the 403 fund to cover project shortfall. Transfer $147K from Proj #17009 and $158K from Proj #25-23011 for emergenc Fund Reserve for additional slide total of $405K transfer into Project #25-23070.

Sherri Marineau

From: Jos Stoody [redacted]
Sent: Sunday, January 21, 2024 5:25 PM
To: Public comment
Subject: Custom Creative Work zoning

[WARNING] This message comes from an external organization. Be careful of embedded links.

Hello,
Im writing to add my wholehearted desire for approval of the “Custom Creative Work” zoning plan.

As a resident, artist, and lover of this great community, this zoning would support both locals and visitors alike.

Thank you,
Jocelyn Stoody

[redacted]
Newport

Tentative Planning Commission Work Program

(Scheduling and timing of agenda items is subject to change)

November 13, 2023 Work Session

- Review Draft Affordable Housing CET Code Amendments
- Draft Amendments Establishing a "Custom Creative Work" Light-Industrial Use Category
- Discuss HB 2984, Commercial to Residential Conversions

November 13, 2023 Regular Session

- Motion to Refer Affordable Housing CET Code Amendments to the Council (non-land use)
- Initiate Legislative Amendments to Establish a "Custom Creative Work" Light-Industrial Use Category

November 27, 2023 CANCELLED

December 11, 2023 Work Session

- Initial Review of Land Use Amendments to Facilitate Construction of Needed Housing (Implementing HPS)
- Discuss HOLTE Homebuyer Incentive Program (Implementing HPS)

December 11, 2023 Regular Session

- Hearing on File 1-Z-23, Land Use Amendments to Implement 2023 State of Oregon Legislative Mandates

December 26, 2023 CANCELLED

January 8, 2024 Work Session

- Review Draft Changes to RV Park Standards to Facilitate Construction of Needed Housing – *Carry Over*
- Second Review of Other Amendments to Facilitate Construction of Needed Housing (Implementing HPS)
- Discuss HOLTE Homebuyer Incentive Program (Implementing HPS) – *Carry Over*

January 8, 2024 Regular Session

- Initiate Legislative Amendments to Facilitate Construction of Needed Housing (Implementing HPS)

January 22, 2024 Regular Meeting

- Public Hearing on Legislative Amendments to Establish a "Custom Creative Work" Light-Industrial Use Category

February 12, 2024 Work Session

- Placeholder for Review of Draft Wastewater Plant Master Plan Update (with City Engineering)
- Review Draft Amendments Implementing the Updated Yaquina Bay Estuary Management Plan (w/ DLCD Staff)
- Status of South Beach Island Annexation Project

February 26, 2024 Work Session

- Placeholder for City Center Revitalization Project Outreach
- Consideration of Draft Legislative Amendments Implementing the Wastewater Plant Master Plan
- Second Review of Amendments Implementing the Updated Yaquina Bay Estuary Management Plan

February 26, 2024 Regular Session

- Initiate Legislative Amendments Implementing the Updated Yaquina Bay Estuary Management Plan
- Initiate Comprehensive Plan Amendments to Implement the Wastewater Master Plan
- Public Hearing on Legislative Amendments to Facilitate Construction of Needed Housing (Implementing HPS)

LC 19
2024 Regular Session
12100-001
1/8/24 (RLM/ASD/ps)

D R A F T

SUMMARY

Digest: The Act establishes HAPO to support and enforce housing laws; lets home builders use updated local rules; awards additional lawyer fees for housing appeals; gives grants and loans to encourage home building; creates a fund for grants to developers of affordable housing; makes cities approve changes to housing rules; makes cities expedite applications to build housing; lets cities change their growth boundaries; and gives money to DLCD, BO and OHCS for this Act. (Flesch Readability Score: 63.0).

Requires the Department of Land Conservation and Development and the Department of Consumer and Business Services to jointly establish and administer the Housing Accountability and Production Office. Requires the office to assist local governments and housing developers with housing laws. Authorizes the office to take certain actions to enforce housing laws. Becomes operative on July 1, 2025.

Allows a housing developer with a pending application to opt in to amended local land use regulations.

Expands eligibility for attorney fees for the appeal of a residential development proposal to include local governments and all needed housing.

Establishes grant and loan programs within the Oregon Infrastructure Finance Authority, Oregon Business Development Department and Housing and Community Services Department to support housing development.

Authorizes cities and counties to adopt a program for awarding grants to developers of affordable housing and moderate income housing projects to finance certain costs associated with such housing projects. Directs the Housing and Community Services Department to develop a revolving loan program to make interest-free loans to participating cities and counties to fund the grants. Imposes an annual fee on each grantee developer in repayment of the loans. Provides for the distribution of the fee moneys first to fire districts for ad valorem property taxes and then to the department in repayment of the loan that funded the grant awarded to the developer.

Requires local governments to approve certain adjustments to land use regulations for housing development within an urban growth boundary. Es-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

tablishes alternate appellate procedures for the adjustments. Establishes an exemption process. Requires reporting to the Department of Land Conservation and Development on the use of adjustments. Requires the department to report biennially to an interim committee of the Legislative Assembly. Sunsets on January 2, 2032.

Requires local governments to process certain applications relating to housing development as limited land use decisions. Sunsets on January 2, 2032.

Develops alternative processes to amend urban growth boundaries to include up to 150 net residential acres per city. Provides for limitations and review by counties, Metro and the Department of Land Conservation and Development and the courts. Sunsets on January 2, 2033.

Appropriates moneys to the Oregon Business Development Department, Housing and Community Services Department and Department of Land Conservation and Development for purposes of the Act.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to housing; creating new provisions; amending ORS 183.471, 197.335, 197.843, 215.427, 227.178 and 455.770; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

HOUSING ACCOUNTABILITY AND PRODUCTION OFFICE

SECTION 1. Housing Accountability and Production Office. (1) The Department of Land Conservation and Development and the Department of Consumer and Business Services shall enter into an interagency agreement to establish and administer the Housing Accountability and Production Office.

(2) The Housing Accountability and Production Office shall:

(a) Provide technical assistance, including assistance through grants, to local governments to:

(A) Comply with housing laws;

(B) Reduce permitting and land use barriers to housing production; and

(C) Support reliable and effective implementation of local proce-

dures and standards relating to the approval of residential development projects.

(b) Serve as a resource, which includes providing responses to requests for technical assistance with complying with housing laws, to:

(A) Local governments, as defined in ORS 174.116; and

(B) Applicants for land use and building permits for residential development who are experiencing permitting and land use barriers related to housing production.

(c) Investigate and respond to complaints of violations of housing laws under section 2 of this 2024 Act.

(d) Establish best practices related to model codes, development plans, procedures and practices by which local governments may comply with housing laws.

(e) Provide mediation of active disputes relating to housing laws between a local government and applicants for land use and building permits for residential development, including mediation under ORS 197.860.

(f) Coordinate agencies that are involved in the housing development process, including the Department of Land Conservation and Development, Department of Consumer and Business Services, Oregon Housing and Community Services and Oregon Business Development Department, to enable the agencies to support local governments and applicants for land use and building permits for residential development by identifying state agency technical and financial resources that can address identified housing development and feasibility barriers.

(g) Establish policy and funding priorities for state agency resources and programs for the purpose of addressing barriers to housing production, including making recommendations for moneys needed for the purposes of sections 17, 20, 22, 23 and 35 of this 2024 Act.

(3) The Land Conservation and Development Commission and the

Department of Consumer and Business Services shall coordinate in adopting, amending or repealing rules for:

(a) Carrying out the respective responsibilities of the departments and the office under sections 1 to 5 of this 2024 Act.

(b) Model codes, development plans, procedures and practices by which local governments may comply with housing laws.

(c) Establishing standards by which complaints are investigated and pursued.

(4) The office shall prioritize assisting local governments in voluntarily undertaking changes to come into compliance with housing laws.

(5) As used in sections 1 to 5 of this 2024 Act:

(a) "Housing law" means ORS chapter 197A and ORS 92.010 to 92.192, 92.830 to 92.845, 197.360 to 197.380, 197.475 to 197.493, 197.505 to 197.540, 197.660 to 197.670, 197.748, 215.402 to 215.438, 227.160 to 227.186, 455.148, 455.150, 455.152, 455.153, 455.156, 455.157, 455.165, 455.170, 455.175, 455.180, 455.185 to 455.198, 455.200, 455.202 to 455.208, 455.210, 455.220, 455.465 and 455.467 and administrative rules implementing those laws, to the extent that the law or rule imposes a mandatory duty on a local government or its officers, employees or agents and the application of the law or rule applies to residential development or pertains to a permit for a residential use or a division of land for residential purposes.

(b) "Residential" includes mixed-use residential development.

<u>SECTION 2.</u> <u>Office responses to violations of housing laws. (1) The Housing Accountability and Production Office shall establish a form or format through which the office receives allegations of local governments' violations of housing laws that impact housing production. For complaints that relate to a specific development project, the office may receive complaints only from the project applicant. For complaints not related to a specific development project, the office may receive complaints from any person within the local government's**

jurisdiction or the Department of Land Conservation and Development or the Department of Consumer and Business Services.

(2)(a) Except as provided in paragraph (b) of this subsection, the office shall investigate suspected violations of housing laws or violations credibly alleged under subsection (1) of this section.

(b) The office may develop consistent procedures to evaluate and determine the credibility of alleged violations of housing laws.

(c) If a complainant has filed a notice of appeal with the Land Use Board of Appeals or has initiated private litigation regarding any aspect of the application decision that was alleged to have been the subject of the housing law violation, the office may not further participate in the specific complaint or its appeal, except for:

(A) Providing agency briefs, including briefs under ORS 197.830 (8), to the board or the court; or

(B) Mediation at the request of the local government and complainant, including mediation under ORS 197.860.

(3)(a) If the office has a reasonable basis to conclude that a violation was or is being committed, the office shall deliver written warning notice to the local government specifying the violation and any authority under this section that the office intends to invoke if the violation continues or is not remedied. The notice must include an invitation to address the suspected violation through mediation, the execution of a voluntary compliance agreement or the adoption of suitable model codes developed by the office under section 1 (3)(b) of this 2024 Act.

(b) The office shall prioritize technical assistance funding to local governments that agree to comply with housing laws under this subsection.

(c) A determination by the office is not a legislative or judicial decision.

(4) No earlier than 60 days after a warning notice is delivered under

subsection (3) of this section, the office may:

(a) Initiate a request for an enforcement order of the Land Conservation and Development Commission by delivering a notice of request under section 3 (3) of this 2024 Act.

(b) Seek a court order against a local government as described under ORS 455.160 (3) without being adversely affected or serving the demand as described in ORS 455.160 (2).

(c) Notwithstanding ORS 197.090 (2)(b) to (e), participate in and seek review of a matter under ORS 197.090 (2)(a) that pertains to housing laws without the notice or consent of the commission. No less than once every two years, the office shall report to the commission on the matters in which the office participated under this paragraph.

(d) Except regarding matters under the exclusive jurisdiction of the Land Use Board of Appeals, apply to a circuit court for an order compelling compliance with any housing law. If the court finds that the defendant is not complying with a housing law, the court may grant an injunction requiring compliance.

(5) The office may not, in the name of the office, exercise the authority of the Department of Land Conservation and Development under ORS 197A.130.

(6) The office shall send notice to each complainant under subsection (1) of this section at the time that the office:

(a) Takes any action under subsection (3) or (4) of this section; or

(b) Has determined that it will not take further actions or make further investigations.

(7) The actions authorized of the office under this section are in addition to and may be exercised in conjunction with any other investigative or enforcement authority that may be exercised by the Department of Land Conservation and Development, the Land Conservation and Development Commission or the Department of Consumer and Business Services.

(8) Nothing in this section:

(a) Amends the jurisdiction of the Land Use Board of Appeals or of a circuit court;

(b) Creates a new cause of action; or

(c) Tolls or extends:

(A) The statute of limitations for any claim; or

(B) The deadline for any appeal or other action.

SECTION 3. Office enforcement orders. (1) The Housing Accountability and Production Office may request an enforcement order under section 2 (4)(a) of this 2024 Act requiring that a local government take action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or other land use decisions or actions into compliance with a housing law, except for a housing law that pertains to the state building code or the administration of the code.

(2) Except as otherwise provided in this section, a request for an enforcement order by the office is subject to the applicable provisions of ORS 197.335 and ORS chapter 183 and is not subject to ORS 197.319, 197.324 or 197.328.

(3) The office shall make a request for an enforcement order under this section by delivering a notice to the local government that states the grounds for initiation and summarizes the procedures for the enforcement order proceeding along with a copy of the notice to the Land Conservation and Development Commission. A decision of the office to initiate an enforcement order is final and is not subject to appeal.

(4) After receiving notice of an enforcement order request under subsection (3) of this section, before making any subsequent land use decision that could be affected by the enforcement order, the local government shall deliver a notice to that applicant in substantially the following form:

NOTICE: The Housing Accountability and Production Office has found good cause for an enforcement proceeding against _____ (name of local government). An enforcement order may be adopted that could limit, prohibit or require the application of specified criteria to any action authorized by this decision but not applied for until after the adoption of the enforcement order. Future applications for building permits or time extensions may be affected.

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(5) Within 14 days after receipt by the commission of the notice under subsection (3) of this section, the Director of the Department of Land Conservation and Development shall assign the enforcement order proceedings to a hearings officer who is:

(a) An administrative law judge assigned under ORS 183.635; or

(b) A hearings officer randomly selected from a pool of officers appointed by the commission to review proceedings initiated under this section.

(6) The hearings officer shall schedule a contested case hearing within 60 days of the delivery of the notice to the commission under subsection (3) of this section.

(7)(a) The hearings officer shall prepare a proposed enforcement order, including recommended findings and conclusions of law.

(b) A proposed enforcement order may require the local government to adopt models that have been developed by the office under section 1 (3)(b) of this 2024 Act that are suitable to address the basis for the proposed enforcement order.

(c) The hearings officer must issue and serve the proposed enforcement order on the office and all parties to the hearing within 30 days of the date the record closed.

(8)(a) The proposed enforcement order becomes a final order of the commission 14 days after service on the office and all parties to the hearing, unless the office or a party to the hearing appeals the pro-

posed enforcement order to the commission prior to the proposed enforcement order becoming final.

(b) If the proposed enforcement order is appealed, the commission shall consider the matter at:

(A) Its next regularly scheduled meeting; or

(B) If the appeal is made 45 or fewer days prior to the next regularly scheduled meeting, at the following regularly scheduled meeting or a special meeting held earlier.

(9) The commission shall affirm, affirm with modifications or reverse the proposed enforcement order. The commission shall issue a final order no later than 30 days after the meeting at which it considered the matter.

(10) The commission may adopt rules administering this section, including rules related to standing, preserving issues for commission review or other provisions concerning the commission's scope and standard for review of proposed enforcement orders under this section.

SECTION 4. Housing Accountability and Production Office Fund. (1) The Housing Accountability and Production Office Fund is established in the State Treasury, separate and distinct from the General Fund.

(2) The Housing Accountability and Production Office Fund consists of moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise.

(3) Interest earned by the fund shall be credited to the fund.

(4) Moneys in the fund are continuously appropriated to the Department of Land Conservation and Development and the Department of Consumer and Business Services to administer the fund, to operate the Housing Accountability and Production Office and to implement sections 1 to 5 of this 2024 Act.

SECTION 5. Reporting. On or before September 15, 2026, the Housing Accountability and Production Office shall:

(1) Contract with an organization possessing relevant expertise to produce a report identifying improvements in the local building plan review approval, design review approval, land use, zoning and permitting processes, including but not limited to plan review approval timelines, process efficiency, local best practices and other ways to accelerate and improve the efficiency of the development process for construction, with a focus on increasing housing production.

(2) Produce a report based on a study by the office of state and local timelines and standards related to public works and building permit application review and develop recommendations for changes to reduce complexity, delay or costs that inhibit housing production, including an evaluation of their effect on the feasibility of varying housing types and affordability levels.

(3) Produce a report summarizing state agency plans, policies and programs related to reducing or eliminating regulatory barriers to the production of housing. The report must also include recommendations on how state agencies may prioritize resources and programs to increase housing production.

(4) Provide the reports under subsections (1) to (3) of this section to one or more appropriate interim committees of the Legislative Assembly in the manner provided in ORS 192.245.

SECTION 6. Sunset. Section 5 of this 2024 Act is repealed on January 2, 2027.

SECTION 7. Operative and applicable dates. (1) Sections 2 and 3 of this 2024 Act become operative on July 1, 2025.

(2) Sections 2 and 3 of this 2024 Act apply only to violations of housing laws occurring on or after July 1, 2025.

(3) The Department of Land Conservation and Development and Department of Consumer and Business Services may take any action before the operative date specified in subsection (1) of this section that is necessary for the departments or the Housing Accountability and

Production Office to exercise, on and after the operative date, all of the duties, functions and powers conferred by sections 1 to 5 of this 2024 Act.

OPTING IN TO AMENDED HOUSING REGULATIONS

SECTION 8. ORS 215.427 is amended to read:

215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after the application is deemed complete, except as provided in subsections (3), (5) and (10) of this section.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section and ORS 197A.470 upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits additional information[*, as described in subsection (2) of this*

section,] within 180 days of the date the application was first submitted [*and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251*], approval or denial of the application [*shall be based*] **must be based:**

(A) Upon the standards and criteria that were applicable at the time the application was first submitted[.]**; or**

(B) For an application to establish a residential use, upon the request of the applicant, those standards and criteria that became operative during the pendency of the application.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, the date of the application's submission or receipt is the date of the request;

(B) For the purposes of this section and ORS 197A.470 the application is not deemed complete until:

(i) The county determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a county's request; and

(C) The county may not require that the applicant:

(i) Pay a duplicative fee based on completed review;

(ii) Resubmit a new application or duplicative information; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

[*(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.*]

(4) On the 181st day after first being submitted, the application is void

if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The period set in subsection (1) of this section or the 100-day period set in ORS 197A.470 may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215 days.

(6) The period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in subsection (10) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section and the 100-day period set in ORS 197A.470 do not apply to:

(a) A decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a county involving an application for the development of residential structures within an urban growth boundary, where the county has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the county or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the applica-

tion is deemed complete, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) A county may not compel an applicant to waive the period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 197A.470 or 215.429 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(10) The periods set forth in subsections (1) and (5) of this section and ORS 197A.470 may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated.

SECTION 9. ORS 227.178 is amended to read:

227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section or ORS 197A.470 upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) 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 [*and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251*], approval or denial of the application [*shall*] **must** be based**:**

(A) Upon the standards and criteria that were applicable at the time the application was first submitted[.]**; or**

(B) For an application to establish a residential use, upon the request of the applicant, those standards and criteria that became operative during the pendency of the application.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, the date of the application's submission or receipt is the date of the request;

(B) For the purposes of this section and ORS 197A.470 the application is not deemed complete until:

(i) The city determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a city's request; and

(C) The city may not require that the applicant:

(i) Pay a duplicative fee based on completed review;

(ii) Resubmit a new application or duplicative information; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

[*(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes*

an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.]

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The 120-day period set in subsection (1) of this section or the 100-day period set in ORS 197A.470 may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this section and the 100-day period set in ORS 197A.470 do not apply to:

(a) A decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a city involving an application for the development of residential structures within an urban growth boundary, where the city has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee; or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee

prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 197A.470 or 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The periods set forth in subsections (1) and (5) of this section and ORS 197A.470 may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated.

ATTORNEY FEES FOR NEEDED HOUSING CHALLENGES

SECTION 10. ORS 197.843 is amended to read:

197.843. (1) The Land Use Board of Appeals shall award attorney fees to [*an applicant whose application is only for the development of affordable housing, as defined in ORS 197A.445, or publicly supported housing, as defined in ORS 456.250*] **a person whose application includes the development of needed housing, as defined in ORS 197A.018, and any local government that approved the quasi-judicial land use decision**, if the board affirms a quasi-judicial land use decision approving the application or reverses a quasi-judicial land use decision denying the application.

(2) A [*party who was*] **person** awarded attorney fees under this section or ORS 197.850 shall repay the fees plus any interest from the time of the judgment if the property upon which the fees are based is developed for a use other than [*affordable*] **the proposed needed** housing.

(3) As used in this section[*:*]**,**

[*(a) "Applicant" includes:*]

[*(A) An applicant with a funding reservation agreement with a public*

funder for the purpose of developing publicly supported housing;]

[*(B) A housing authority, as defined in ORS 456.005;*]

[*(C) A qualified housing sponsor, as defined in ORS 456.548;*]

[*(D) A religious nonprofit corporation;*]

[*(E) A public benefit nonprofit corporation whose primary purpose is the development of affordable housing; and*]

[*(F) A local government that approved the application of an applicant described in this paragraph.*]

[*(b)*] "attorney fees" includes prelitigation legal expenses, including preparing the application and supporting the application in local land use hearings or proceedings.

SECTION 11. Operative and applicable dates. (1) The amendments to ORS 197.843 by section 10 of this 2024 Act become operative on January 1, 2025.

(2) The amendments to ORS 197.843 by section 10 of this 2024 Act apply to decisions for which a notice of intent to appeal under ORS 197.830 is filed on or after January 1, 2025.

FINANCIAL ASSISTANCE SUPPORTING HOUSING PRODUCTION

SECTION 12. Sections 13 and 14 of this 2024 Act are added to and made a part of ORS chapter 285A.

SECTION 13. Capacity and support for infrastructure planning. The Oregon Business Development Department shall provide capacity and support for infrastructure planning to municipalities to enable them to plan and finance infrastructure for water, sewers and sanitation, stormwater and transportation consistent with opportunities to produce housing units at densities defined in section 17 (2) of this 2024 Act. "Capacity and support" includes assistance with local financing opportunities, state and federal grant navigation, writing and review, resource sharing, regional collaboration support and technical support,

including engineering and design assistance and other capacity or support as the department may designate by rule.

SECTION 14. Housing Infrastructure Support Fund. (1) The Housing Infrastructure Support Fund is established in the State Treasury, separate and distinct from the General Fund.

(2) The Housing Infrastructure Support Fund consists of moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise.

(3) Moneys in the fund are continuously appropriated to the Oregon Business Development Department to administer the fund and to implement section 13 of this 2024 Act.

SECTION 15. Sunset. (1) Sections 13 and 14 of this 2024 Act are repealed on January 2, 2027.

(2) Any unobligated moneys in the Housing Infrastructure Support Fund on January 2, 2027, must be transferred to the General Fund for general governmental purposes.

SECTION 16. Sections 17 and 18 of this 2024 Act are added to and made a part of ORS 285B.410 to 285B.482.

SECTION 17. Utility infrastructure financing. (1) The Oregon Infrastructure Finance Authority may provide financial assistance, in the form of grants or loans, to a city or a tribal council of a federally recognized Indian tribe in this state for a project that will primarily support the development of planned housing as described in subsection (2) of this 2024 Act. A project under this section may include:

(a) The development or improvement of transportation, water, wastewater and stormwater infrastructure; or

(b) Site development, including the development of privately owned sites, necessary for improvement of transportation, water, wastewater and stormwater infrastructure.

(2) To be eligible for financial assistance under this section the proposed housing development must have a minimum density of:

(a) Seventeen dwelling units per acre if sited within the Metro urban growth boundary;

(b) Ten units per acre if sited in a city with a population of 25,000 or greater;

(c) Six units per acre if sited in a city with a population of 2,500 and greater and less than 25,000; or

(d) Five units per acre if sited in a city with population less than 2,500.

(3) To be eligible for a grant under this section the housing to be developed must be subject to an affordable housing covenant, as defined in ORS 456.270, under which:

(a) The grantee shall serve as or designate the covenant holder; and

(b) The housing will be made affordable to households with low or moderate income as defined in ORS 458.610 for a period of no less than 30 years from the date the housing is first available for occupancy as rental housing or first sold as owner-occupied housing.

(4) An applicant may partner with a housing authority as defined in ORS 456.005, a district as defined in ORS 198.010, or a housing developer to apply for and receive funding under this section.

(5) In administering this program, the authority shall prioritize funding the applications of cities and Indian tribes with the greatest need for housing affordability or production.

(6) In administering this program, the authority shall use approximately:

(a) Twenty-five percent of the funds to support cities or Indian tribes with populations of less than 25,000; and

(b) Twenty-five percent of the funds to support cities or Indian tribes with populations of 25,000 or greater and less than 100,000.

(7) The Housing Accountability and Production Office shall provide assistance in developing requirements and prioritizing funding for applications under this section. In administering this program, the au-

thority shall coordinate with:

(a) The office;

(b) The Oregon Business Development Department with respect to its administration of the housing site cleanup and mitigation program under section 20 of this 2024 Act; and

(c) The Housing and Community Services Department with respect to its administration of the programs under sections 22 and 23 of this 2024 Act and the Housing Project Revolving Loan Fund under section 35 of this 2024 Act.

(8) The Oregon Business Development Department may adopt rules to implement this section.

SECTION 18. Housing Infrastructure Project Account. (1) The Housing Infrastructure Project Account is established in the Special Public Works Fund established under ORS 285B.455.

(2) The department may accept grants, donations, contributions or gifts from any source for deposit in the account. Interest earned by account shall be credited to the account.

(3) Moneys in the account are continuously appropriated to the Oregon Business Development Department for the purpose of providing financial assistance for housing projects as described in section 17 of this 2024 Act.

SECTION 19. Section 20 of this 2024 Act is added to and made a part of ORS chapter 285A.

SECTION 20. Site mitigation and readiness. (1)(a) The Oregon Business Development Department may provide financial assistance, in the form of grants or loans, to a city or a tribal council of a federally recognized Indian tribe, to provide site cleanup and mitigation of publicly or privately owned properties zoned for residential or mixed-use development in order to allow for a specific housing development project for households with low or moderate income.

(b) As used in this subsection, "cleanup and mitigation" includes

remediation of brownfields, as defined in ORS 285A.185, abatement of public nuisances, including abatement as described in ORS 105.550 to 105.600 or grading of land.

(2) To be eligible for financial assistance under this section:

(a) The land to be purchased must be zoned to require a minimum density not less than that described in section 17 (2) of this 2024 Act; and

(b) The housing to be developed on that land must be subject to an affordable housing covenant as described in section 17 (3) of this 2024 Act.

(3) An applicant may partner with a housing authority as defined in ORS 456.005 or a housing developer to apply for and receive funding under this section.

(4) In administering this program, the department shall prioritize funding the applications of cities and Indian tribes with the greatest need for housing affordability or production.

(5) In administering this program, the department shall use approximately:

(a) Twenty-five percent of the funds to support cities or Indian tribes with populations of less than 25,000; and

(b) Twenty-five percent of the funds to support cities or Indian tribes with populations of 25,000 or greater and less than 100,000.

(6) The Housing Accountability and Production Office shall provide assistance in developing requirements and prioritizing funding for applications under this section. In administering this program, the department shall coordinate with:

(a) The office;

(b) The Oregon Infrastructure Finance Authority with respect to its administration of the housing infrastructure financing program under section 17 of this 2024 Act; and

(c) The Housing and Community Services Department with respect

to its administration of the programs under sections 22 and 23 of this 2024 Act and the Housing Project Revolving Loan Fund under section 35 of this 2024 Act.

(7) The Oregon Business Development Department may adopt rules to implement this section.

SECTION 21. Sections 22 and 23 of this 2024 Act and ORS 456.502 are added to and made a part of ORS chapter 458.

SECTION 22. Site acquisition. (1) The Housing and Community Services Department may provide financial assistance, in the form of grants or loans, to cities or federally recognized Indian tribes to purchase land to allow for a specific development project of housing for households with low or moderate income.

(2) To be eligible for funding under this section:

(a) The land to be purchased must be zoned to require a minimum density not less than that described in section 17 (2) of this 2024 Act; and

(b) The housing to be developed on that land must be subject to an affordable housing covenant as described in section 17 (3) of this 2024 Act.

(3) An applicant may partner with a housing authority or developer to apply for and receive funding under this section.

(4) In administering this program, the department shall prioritize funding the applications of cities and Indian tribes with the greatest need for housing affordability or production.

(5) In administering this program, the department shall use approximately:

(a) Twenty-five percent of the moneys to support cities or Indian tribes with populations of less than 25,000; and

(b) Twenty-five percent of the moneys to support cities or Indian tribes with populations of 25,000 or greater and less than 100,000.

(6) The Housing Accountability and Production Office shall provide

assistance in developing requirements and prioritizing funding for applications under this section. In administering these programs, the department shall coordinate with:

(a) The office;

(b) The Oregon Infrastructure Finance Authority with respect to its administration of the housing infrastructure financing program under section 17 of this 2024 Act; and

(c) The Oregon Business Development Department with respect to its administration of the housing site cleanup and mitigation program under section 20 of this 2024 Act.

SECTION 23. Electrification incentives. (1) The Housing and Community Services Department may provide grants for specific housing development projects to develop dwelling units for low or moderate income that will use only electricity for cooking, heating the dwelling units and heating the water used by the dwelling units.

(2) To be eligible for funding under this section:

(a) The development must have a minimum density as described in section 17 (2) of this 2024 Act; and

(b) The housing to be developed on that land must be subject to an affordable housing covenant as described in section 17 (3) of this 2024 Act.

(3) The Housing Accountability and Production Office shall provide assistance in developing requirements and prioritizing funding for applications under this section and section 23 of this 2024 Act. In administering these programs, the department shall coordinate with:

(a) The office;

(b) The Oregon Infrastructure Finance Authority with respect to its administration of the housing infrastructure financing program under section 17 of this 2024 Act; and

(c) The Oregon Business Development Department with respect to its administration of the housing site cleanup and mitigation program

under section 20 of this 2024 Act.

HOUSING PROJECT REVOLVING LOANS

SECTION 24. As used in sections 24 to 35 of this 2024 Act:

(1) "Assessor," "tax collector" and "treasurer" mean the individual filling that county office so named or any county officer performing the functions of the office under another name.

(2) "County tax officers" and "tax officers" mean the assessor, tax collector and treasurer of a county.

(3) "Eligible costs" means the following costs associated with an eligible housing project:

(a) System development charges;

(b) Predevelopment costs;

(c) Construction costs; and

(d) Land write-downs.

(4) "Eligible housing project" means a project to construct housing, or to convert a building from a nonresidential use to housing, that is:

(a) If for-sale property, a single-family dwelling, middle housing as defined in ORS 197A.420 or a multifamily dwelling affordable at initial sale to households with an annual income not greater than 120 percent of the area median income; or

(b) If rental property:

(A)(i) Middle housing as defined in ORS 197A.420;

(ii) A multifamily dwelling;

(iii) An accessory dwelling unit as defined in ORS 215.501; or

(iv) Any other form of affordable housing or moderate income housing; and

(B) Rented at a monthly rate that is affordable to households with an annual income not greater than 120 percent of the area median income.

(5) "Eligible housing project property" means the taxable real and personal property constituting the improvements of an eligible housing project.

(6) "Fee payer" means, for any property tax year, the person responsible for paying ad valorem property taxes on eligible housing project property to which a grant awarded under section 29 of this 2024 Act relates.

(7) "Fire district taxes" means property taxes levied by fire districts within whose territory all or a portion of eligible housing project property is located.

(8) "Nonexempt property" means property other than eligible housing project property in the tax account that includes eligible housing project property.

(9) "Nonexempt taxes" means the ad valorem property taxes assessed on nonexempt property.

(10) "Sponsoring jurisdiction" means:

(a)(A) A city with respect to eligible housing projects located within the city boundaries; or

(B) A county with respect to eligible housing projects located in urban unincorporated areas of the county; or

(b) The governing body of a city or county described in paragraph (a) of this subsection.

<u>SECTION 25.</u> (1) A sponsoring jurisdiction may adopt by ordinance or resolution a program under which the sponsoring jurisdiction awards grants to developers for eligible costs.

(2) The ordinance or resolution shall set forth:

(a) The kinds of eligible housing projects for which a developer may seek a grant under the program; and

(b) Any eligibility requirements to be imposed on projects and developers in addition to those required under sections 24 to 35 of this 2024 Act.

(3) A grant award:

(a) Shall be in the amount determined under section 26 (3) of this 2024 Act; and

(b) May include reimbursement for eligible costs incurred for up to 12 months preceding the date on which the eligible housing project received local site approval.

(4) Eligible housing project property for which a developer receives a grant for eligible costs may not be granted any exemption, partial exemption or special assessment of ad valorem property taxes other than the exemption granted under section 30 of this 2024 Act.

(5) A sponsoring jurisdiction may amend an ordinance or resolution adopted pursuant to this section at any time. The amendments shall apply only to applications submitted under section 26 of this 2024 Act on or after the effective date of the ordinance or resolution.

<u>SECTION 26.</u> (1)(a) A sponsoring jurisdiction that adopts a grant program pursuant to section 25 of this 2024 Act shall prescribe an application process, including forms and deadlines, by which a developer may apply for a grant with respect to an eligible housing project.

(b) An application for a grant must include, at a minimum:

(A) A description of the eligible housing project;

(B) An itemized description of the eligible costs for which the grant is sought;

(C) The proposed schedule for completion of the eligible housing project;

(D) A project pro forma demonstrating that the project is economically feasible only with the grant moneys; and

(E) Any other information, documentation or attestation that the sponsoring jurisdiction considers necessary or convenient for the application review process.

(c)(A) The project pro forma under paragraph (b)(D) of this subsection shall be on a form provided to the sponsoring jurisdiction by

the Housing and Community Services Department and made available to grant applicants.

(B) The department may enter into an agreement with a third party to develop the project pro forma template.

(2)(a) The review of an application under this section shall be completed within 90 days following the receipt of the application by the sponsoring jurisdiction.

(b) Notwithstanding paragraph (a) of this subsection:

(A) The sponsoring jurisdiction may in its sole discretion extend the review process beyond 90 days if the volume of applications would make timely completion of the review process unlikely.

(B) The sponsoring jurisdiction may consult with a developer about the developer's application, and the developer, after the consultation, may amend the application on or before a deadline set by the sponsoring jurisdiction.

(3) The sponsoring jurisdiction shall:

(a) Review each application;

(b) Request that the county tax officers provide to the sponsoring jurisdiction the determinations made under section 27 of this 2024 Act;

(c) Set the term of the loan that will fund the grant award, for a period not to exceed 10 years;

(d) Set the amount of the grant that may be awarded to the developer under section 29 (2) of this 2024 Act by multiplying the increment determined under section 27 (1)(c) of this 2024 Act by the term of the loan; and

(e)(A) Provisionally approve the application as submitted;

(B) Provisionally approve the application on terms other than those requested in the application; or

(C) Reject the application.

(4)(a) The sponsoring jurisdiction shall forward provisionally approved applications to the Housing and Community Services Depart-

ment.

(b) The department shall review the provisionally approved applications for completeness, including, but not limited to, the completeness of the project pro forma submitted with the application under subsection (1)(b)(D) of this section and the amounts computed under section 27 (1) of this 2024 Act and notify the sponsoring jurisdiction of its determination.

(5)(a) If the department has determined that a provisionally approved application is incomplete, the sponsoring jurisdiction may:

(A) Consult with the applicant developer and reconsider the provisionally approved application after the applicant revises it; or

(B) Reject the provisionally approved application.

(b) If the department has determined that a provisionally approved application is complete, the approval shall be final.

(c) The sponsoring jurisdiction shall notify each applicant and the department of the final approval or rejection of an application and the amount of the grant award.

(d) The rejection of an application and the amount of a grant award may not be appealed, but a developer may reapply for a grant at any time within the applicable deadlines of the grant program for the same or another eligible housing project.

(6) Upon request by a sponsoring jurisdiction, the department may assist the sponsoring jurisdiction with, or perform on behalf of the sponsoring jurisdiction, any duty required under this section.

<u>SECTION 27.</u> (1) Upon request of the sponsoring jurisdiction under section 26 (3)(b) of this 2024 Act, the assessor of the county in which is located the eligible housing project to which an application being reviewed under section 26 of this 2024 Act relates shall:

(a) Using the last certified assessment roll for the property tax year in which the application is received under section 26 of this 2024 Act:

(A) Determine the amount of property taxes assessed against all tax

accounts that include the eligible housing project property; and

(B) Subtract the amount of fire district taxes from the amount determined under subparagraph (A) of this paragraph.

(b) For the first property tax year for which the completed eligible housing project property is estimated to be taken into account:

(A) Determine the estimated amount of property taxes that will be assessed against all tax accounts that include the eligible housing project property; and

(B) Subtract the estimated amount of fire district taxes from the amount determined under subparagraph (A) of this paragraph.

(c) Determine the amount of the increment that results from subtracting the amount determined under subsection (1)(a) of this section from the amount determined under subsection (1)(b) of this section.

(2) As soon as practicable after determining amounts under this subsection, the county tax officers shall provide written notice to the sponsoring jurisdiction and the Housing and Community Services Department certifying the amounts.

<u>SECTION 28.</u> (1)(a) The Housing and Community Services Department shall develop a program to make loans to sponsoring jurisdictions to fund grants awarded under the sponsoring jurisdiction's grant program adopted pursuant to section 25 of this 2024 Act.

(b) The loans shall be interest free for the term set by the sponsoring jurisdiction under section 26 (3)(c) of this 2024 Act.

(2) For each application approved under section 26 (5)(b) of this 2024 Act, the Housing and Community Services Department shall:

(a) Enter into a loan agreement with the sponsoring jurisdiction in the amount of the grant award for the application set under section 26 (3)(d) of this 2024 Act; and

(b) Pay to the sponsoring jurisdiction the loan proceeds out of the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(3) In addition to the payment made under subsection (2)(b) of this section, the department shall pay out of the fund, with respect to each loan:

(a) An amount equal to one percent of the loan proceeds to the sponsoring jurisdiction to reimburse the sponsoring jurisdiction for the costs of administering the grant program, other than the costs of tax administration;

(b) An amount equal to one percent of the loan proceeds to the sponsoring jurisdiction to pay the county in which the sponsoring jurisdiction is situated to reimburse the county for the costs of the tax administration of the grant program by the county tax officers; and

(c) A reimbursement to the department for its actual costs incurred in administering sections 24 to 35 of this 2024 Act.

(4) The Housing and Community Services Department may assign any and all loan amounts made under this section to the Department of Revenue for collection as provided in ORS 293.250.

(5) The Housing and Community Services Department may:

(a) Consult with the Oregon Business Development Department about any of the powers and duties conferred on the Housing and Community Services Department by sections 24 to 35 of this 2024 Act; and

(b) Adopt any rule it considers necessary or convenient for the administration of sections 24 to 35 of this 2024 Act by the Housing and Community Services Department.

<u>SECTION 29.</u> (1) Upon entering into a loan agreement with the Housing and Community Services Department under section 28 of this 2024 Act, a sponsoring jurisdiction shall offer a grant agreement to each developer whose application was approved under section 26 (5)(b) of this 2024 Act.

(2) The grant agreement shall:

(a) Include a grant award in the amount set under section 26 (3)(d)

of this 2024 Act; and

(b) Contain terms that:

(A) Are required under sections 24 to 35 of this 2024 Act or the ordinance or resolution adopted by the sponsoring jurisdiction pursuant to section 25 of this 2024 Act.

(B) Do not conflict with sections 24 to 35 of this 2024 Act or the ordinance or resolution adopted by the sponsoring jurisdiction pursuant to section 25 of this 2024 Act.

(3) Upon entering into a grant agreement with a developer, a sponsoring jurisdiction shall adopt an ordinance or resolution setting forth the details of the eligible housing project that is the subject of the agreement, including but not limited to:

(a) A description of the eligible housing project;

(b) An itemized description of the eligible costs;

(c) The amount and terms of the grant award;

(d) Written notice that the eligible housing project property is exempt from property taxation in accordance with section 30 of this 2024 Act; and

(e) A statement declaring that the grant has been awarded in response to the housing needs of communities within the sponsoring jurisdiction.

(4) As soon as practicable after the ordinance or resolution required under subsection (3) of this section becomes effective, the sponsoring jurisdiction shall distribute the loan proceeds received from the department under section 28 (2) of this 2024 Act to the developer as the grant moneys awarded under this section.

(5) The sponsoring jurisdiction shall forward to the tax officers of the county in which the eligible housing project is located a copy of the grant agreement, the ordinance or resolution and any other material the sponsoring jurisdiction considers necessary for the tax officers to perform their duties under sections 24 to 35 of this 2024 Act or

the ordinance or resolution.

(6) Upon request, the department may assist the sponsoring jurisdiction with, or perform on behalf of the sponsoring jurisdiction, any duty required under this section.

SECTION 30. (1) Upon receipt of the copy of a grant agreement and ordinance or resolution from the sponsoring jurisdiction under section 29 (5) of this 2024 Act, the assessor of the county in which eligible housing project property is located shall:

(a) Exempt the eligible housing project property in accordance with this section;

(b) Assess and tax the nonexempt property in the tax account as other similar property is assessed and taxed; and

(c) Submit a written report to the sponsoring jurisdiction setting forth the assessor's estimate of the amount of:

(A) The real market value of the exempt eligible housing project property; and

(B) The property taxes on the exempt eligible housing project property that would have been collected if the property were not exempt.

(2)(a) The exemption shall first apply to the property tax year that immediately succeeds the effective date of the ordinance or resolution adopted by the sponsoring jurisdiction under section 29 (3) of this 2024 Act.

(b) The eligible housing project property shall be disqualified from the exemption on the earliest of:

(A) July 1 of the property tax year immediately succeeding the date on which the fee payment obligation under section 32 of this 2024 Act that relates to the eligible housing project is repaid in full;

(B) The date on which the annual fee imposed on the fee payer under section 32 of this 2024 Act becomes delinquent;

(C) The date on which foreclosure proceedings are commenced as

provided by law for delinquent nonexempt taxes assessed with respect to the tax account that includes the eligible housing project; or

(D) The date on which a condition specified in section 33 (1) of this 2024 Act occurs.

(c) After the eligible housing project property has been disqualified from the exemption under this subsection, the property shall be assessed and taxed as other similar property is assessed and taxed.

(3) For each tax year that the eligible housing project property is exempt from taxation, the assessor shall enter a notation on the assessment roll stating:

(a) That the property is exempt under this section; and

(b) The presumptive number of property tax years for which the exemption is granted, which shall be the term of the loan agreement relating to the eligible housing project set under section 26 (3)(c) of this 2024 Act.

<u>SECTION 31.</u> (1) Repayment of loans made under section 28 of this 2024 Act shall begin, in accordance with section 32 of this 2024 Act, after completion of the eligible housing project funded by the grant to which the loan relates.

(2)(a) The sponsoring jurisdiction shall determine the date of completion of an eligible housing project.

(b)(A) If an eligible housing project is completed before July 1 of the assessment year, repayment shall begin with the property tax year that begins on July 1 of the assessment year.

(B) If an eligible housing project is completed on or after July 1 of the assessment year, repayment shall begin with the property tax year that begins on July 1 of the succeeding assessment year.

(c) After determining the date of completion under paragraph (a) of this subsection, the sponsoring jurisdiction shall notify the Housing and Community Services Department and the county tax officers of the determination.

(3) A loan shall remain outstanding until repaid in full.

SECTION 32. (1) The fee payer for eligible housing project property that has been granted exemption under section 30 of this 2024 Act shall pay an annual fee for the term that shall be the presumptive number of years for which the property is granted exemption under section 30 (3)(b) of this 2024 Act.

(2)(a) The amount of the fee for the first property tax year that the loan is outstanding shall be the portion of the increment determined under section 27 (1)(c) of this 2024 Act that is attributable to the eligible housing project property to which the fee relates.

(b) For each subsequent property tax year, the amount of the fee shall be 103 percent of the amount of the fee for the preceding property tax year.

(3)(a) Not later than July 15 of each property tax year during the term of the fee obligation, the sponsoring jurisdiction shall certify to the assessor each fee amount that became due under this section on or after July 16 of the previous property tax year from fee payers with respect to eligible housing projects located in the sponsoring jurisdiction.

(b) The assessor shall place each fee amount on the assessment and tax rolls of the county and notify:

(A) The sponsoring jurisdiction of each fee amount and the aggregate of all fee amounts imposed with respect to eligible housing project property located in the sponsoring jurisdiction.

(B) The Housing and Community Services Department of each fee amount and the aggregate of all fee amounts with respect to all eligible housing project property located in the county.

(4)(a) The assessor shall include on the tax statement of each tax account that includes exempt eligible housing project property the amount of the fee imposed on the fee payer with respect to the eligible housing project property.

(b) The fee shall be collected and enforced in the same manner as ad valorem property taxes, including nonexempt taxes, are collected and enforced.

(5)(a) For each property tax year in which a fee is payable under this section, the treasurer shall:

(A) Estimate the amount of fire district taxes that would have been collected on eligible housing project property if the property were not exempt;

(B) Distribute out of the fee moneys the amounts determined under paragraph (a) of this subsection to the respective fire districts when other ad valorem property taxes are distributed under ORS 311.395; and

(C) Transfer the net fee moneys to the Housing and Community Services Department for deposit in the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act in repayment of the loans to which the fees relate.

(b) Nonexempt taxes shall be distributed in the same manner as other ad valorem property taxes are distributed.

(6) Any person with an interest in the eligible housing project property on the date on which any fee amount becomes due shall be jointly and severally liable for payment of the fee amount.

(7) Any loan amounts that have not been repaid when the fee payer has discharged its obligations in full under this section remain the obligation of the sponsoring jurisdiction that obtained the loan from the department under section 28 of this 2024 Act.

<u>SECTION 33.</u> (1)(a) A developer that received a grant award under section 29 of this 2024 Act shall become liable for immediate payment of any outstanding annual fee payments imposed under section 32 of this 2024 Act for the entire term of the fee if:

(A) The developer has not completed the eligible housing project within three years following the date on which the grant moneys were distributed to the developer;

(B) The eligible housing project changes substantially from the project for which the developer's application was approved such that the project would not have been eligible for the grant; or

(C) The developer has not complied with a requirement specified in the grant agreement.

(b) The sponsoring jurisdiction may, in its sole discretion, extend the date on which the eligible housing project must be completed.

(2) If the sponsoring jurisdiction discovers that a developer willfully made a false statement or misrepresentation or willfully failed to report a material fact to obtain a grant with respect to an eligible housing project, the sponsoring jurisdiction may impose on the developer a penalty not to exceed 20 percent of the amount of the grant so obtained, plus any applicable interest and fees associated with the costs of collection.

(3) Any amounts imposed under subsection (1) or (2) of this section shall be a lien on the eligible housing project property and the nonexempt property in the tax account.

(4) The sponsoring jurisdiction shall provide written notice of any amounts that become due under subsections (1) and (2) of this section to the county tax officers and the Housing and Community Services Department.

(5)(a) Any and all amounts required to be paid under this section shall be considered to be liquidated and delinquent, and the Housing and Community Services Department shall assign such amounts to the Department of Revenue for collection as provided in ORS 293.250.

(b) Amounts collected under this subsection shall be deposited, net of any collection charges, in the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

<u>SECTION 34.</u> (1) Not later than June 30 of each year in which a grant agreement entered into under section 29 of this 2024 Act is in effect, a developer that is party to the agreement shall submit a report

to the sponsoring jurisdiction in which the eligible housing project is located that contains:

(a) The status of the construction or conversion of the eligible housing project property, including an estimate of the date of completion;

(b) An itemized description of the uses of the grant moneys; and

(c) Any information the sponsoring jurisdiction considers important for evaluating the eligible housing project and the developer's performance under the terms of the grant agreement.

(2) Not later than August 15 of each year, each sponsoring jurisdiction shall submit to the Housing and Community Services Department a report containing such information relating to eligible housing projects within the sponsoring jurisdiction as the department requires.

(3)(a) Not later than November 15 of each year, the department shall submit, in the manner required under ORS 192.245, a report to the interim committees of the Legislative Assembly related to housing.

(b) The report shall set forth in detail:

(A) The information received from sponsoring jurisdictions under subsection (2) of this section;

(B) The status of the repayment of all outstanding loans made under section 28 of this 2024 Act and of the payment of all fees imposed under section 32 of this 2024 Act and all amounts imposed under section 33 of this 2024 Act; and

(C) The cumulative experience of the program developed and implemented under sections 24 to 35 of this 2024 Act.

(c) The report may include recommendations for legislation.

<u>SECTION 35.</u> (1) The Housing Project Revolving Loan Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing Project Revolving Loan Fund shall be credited to the fund.

(2) Moneys in the fund may be invested as provided by ORS 293.701

to 293.857, and the earnings from the investments shall be credited to the fund.

(3) Moneys in the Housing Project Revolving Loan Fund shall consist of:

(a) Amounts appropriated or otherwise transferred or credited to the fund by the Legislative Assembly;

(b) Net fee moneys transferred under section 32 of this 2024 Act;

(c) Amounts deposited in the fund under section 33 of this 2024 Act;

(d) Interest and other earnings received on moneys in the fund; and

(e) Other moneys or proceeds of property from any public or private source that are transferred, donated or otherwise credited to the fund.

(4) Moneys in the Housing Project Revolving Loan Fund are continuously appropriated to the Housing and Community Services Department for the following purposes:

(a) Making loans to sponsoring jurisdictions under section 28 of this 2024 Act; and

(b) Reimbursing the actual costs incurred by the department under sections 24 to 35 of this 2024 Act.

(5) Moneys in the Housing Project Revolving Loan Fund at the end of a biennium shall be retained in the fund and used for the purposes set forth in subsection (4) of this section.

SECTION 36. The Housing and Community Services Department shall have developed and begun operating the loan program that the department is required to develop under section 28 of this 2024 Act, including regional trainings and outreach for jurisdictional partners, no later than June 30, 2025.

HOUSING LAND USE ADJUSTMENTS

SECTION 37. Sections 38 to 41 of this 2024 Act are added to and made a part of ORS chapter 197A.

SECTION 38. Mandatory adjustment to housing development standards. (1) As used in sections 38 to 41 of this 2024 Act:

(a) "Adjustment" means a deviation from an existing land use regulation.

(b) "Adjustment" does not include:

(A) A request to allow a use of property not otherwise permissible under applicable zoning requirements;

(B) Deviations from land use regulations or requirements related to accessibility, affordability, fire ingress or egress, local tree codes, hazardous or contaminated site clean-up or statewide land use planning goals relating to natural resources, natural hazards, the Willamette River Greenway, estuarine resources, coastal shorelands, beaches and dunes or ocean resources;

(C) A complete waiver of land use regulations; or

(D) Deviations to requirements of building codes, federal or state water quality requirements or requirements of any federal, state or local law other than a land use regulation.

(2) Except as provided in section 40 of this 2024 Act, a local government shall grant a request for an adjustment in an application to develop housing as provided in this section and section 39 of this 2024 Act. An application qualifies for an adjustment under this section only if the following conditions are met:

(a) The application is for a building permit or a quasi-judicial, limited or ministerial land use decision;

(b) The development is on lands zoned to allow for residential uses, including mixed-use residential, at densities not less than those required under section 17 (2) of this 2024 Act;

(c) The development is within an urban growth boundary, not including lands that have not been annexed by a city;

(d) The development is of net new housing units in new construction projects, including single-family or multifamily, mixed-use

residential where at least 75 percent of the developed floor area will be used for residential uses, manufactured dwelling parks, accessory dwelling units or middle housing as defined in ORS 197A.420;

(e) The application requests not more than 10 distinct adjustments to development standards as provided in this section. A "distinct adjustment" means:

(A) An adjustment to one of the development standards listed in subsection (4) of this section; or

(B) An adjustment to one of the development standards listed in subsection (5) of this section; and

(f) The application states that at least one of the following criteria apply:

(A) The adjustments will enable development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations;

(B) The adjustments will enable development of housing that reduces the sale or rental prices per residential unit;

(C) The adjustments will increase the number of housing units within the application;

(D) All of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to moderate income households as defined in ORS 456.270 for a minimum of 30 years;

(E) At least 20 percent of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to low income households as defined in ORS 456.270 for a minimum of 60 years;

(F) The adjustments will enable the provision of accessibility or visitability features in housing units that are not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations; or

(G) All of the units in the application are subject to a zero equity, limited equity, or shared equity ownership model including resident-owned cooperatives and community land trusts making them affordable to moderate income households as described in ORS 456.270 to 456.295 for a period of 90 years.

(3) In reviewing an adjustment application under this section, a local government may:

(a) Use an existing process, or develop a new process, that complies with the requirements of section 39 of this 2024 Act; or

(b) Directly apply the process set forth in section 39 of this 2024 Act.

(4) A local government shall grant an adjustment to the following development standards:

(a) Side and rear setbacks, for an adjustment of not more than 10 percent.

(b) The common area, open space or area that must be landscaped, for a reduction of not more than 25 percent.

(c) Parking minimums.

(d) Minimum lot sizes, not more than a 10 percent adjustment, and including not more than a 10 percent adjustment to lot widths or depths.

(e) Maximum lot sizes, not more than a 10 percent adjustment, including not more than a 10 percent adjustment to lot width or depths and only if the adjustment results in an increase in the number of dwelling units.

(f) Building lot coverage requirements for up to a 10 percent adjustment.

(g) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multifamily housing and mixed-use residential housing:

(A) Requirements for bicycle parking that establish:

(i) The minimum number of spaces, for a reduction not greater than an adjustment that will allow for one-half space per residential

unit; or

(ii) The location of the spaces, provided that lockable, covered bicycle parking spaces are within or adjacent to the residential development;

(B) Building height maximums that:

(i) Are in addition to existing applicable height bonuses, if any; and

(ii) Are not more than an increase of the greater of:

(I) One story; or

(II) A 20 percent increase to base zone height with rounding consistent with methodology outlined in city code, if any;

(C) Unit density maximums, not more than an amount necessary to account for other adjustments under this section; and

(D) Prohibitions, for the ground floor of a mixed-use building, against:

(i) Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and

(ii) Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces, except for active uses in specifically and clearly defined mixed use areas or commercial corridors designated by local governments.

(5) A local government shall grant an adjustment to design standards that regulate:

(a) Facade materials, color or pattern.

(b) Facade articulation.

(c) Roof forms and materials.

(d) Entry and garage door materials.

(e) Garage door orientation, unless the building is adjacent to or across from a school or public park.

(f) Window materials, except for bird-safe glazing requirements.

(g) Total window area, for up to a 30 percent adjustment.

(h) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multifamily housing and mixed-use residential:

(A) Building orientation requirements, not including transit street orientation requirements.

(B) Building height transition requirements, not more than a 50 percent adjustment from the base zone.

(C) Requirements for balconies and porches.

(D) Requirements for recesses and offsets.

SECTION 39. Approval of allowed housing adjustments. (1)(a) Within 30 days after receiving a complete application under section 38 of this 2024 Act, the local government shall notify the applicant whether the local government believes that the application is deemed complete to make a review under section 38 of this 2024 Act. A local government may provide this notification concurrently with the application completeness determination described in ORS 215.427 (3) or 227.178 (3).

(b) If a local government notifies the applicant that any proposed adjustment is not ready for review, the applicant may submit additional evidence for evaluation under this subsection within 30 days following the notice.

(c) The completeness determination under this subsection is not a land use decision.

(2) A local government shall make a final decision on an application for an adjustment under section 38 of this 2024 Act on or before the development application decision and within any timelines imposed by ORS 197A.470, 215.416 or 227.175.

(3)(a) A denial of an application for an adjustment under section 38 of this 2024 Act must be in a brief written statement that explains the criteria and standards considered relevant to the decision, states the facts relied on in rendering the decision and explains the justification for the decision based on the stated criteria, standards and

facts.

(b) If the denial of an application for an adjustment is made separately from any other related application, the decision does not require notice under ORS 197.195 or 197.797. "Other related application" means a land use decision, if any exists, for which the developer has requested an approval of an adjustment under section 38 of this 2024 Act.

(4) A final decision on an application for an adjustment made under this section and section 38 of this 2024 Act is a limited land use decision. Only the applicant may appeal the decision.

SECTION 40. Mandatory adjustments exception process. (1) A local government may apply to the Housing Accountability and Production Office for an exemption to sections 38 and 39 of this 2024 Act only as provided in this section. After the application is made, sections 38 and 39 of this 2024 Act do not apply to the applicant until the office denies the application or revokes the exemption.

(2) To qualify for an exemption under this section, the local government must demonstrate that:

(a) The local government reviews design and development adjustments for all applications for the development of housing;

(b) All listed development and design adjustments under section 38 (4) and (5) of this 2024 Act are eligible under the local government's adjustment process; and

(c)(A) Within the previous 5 years the city has approved 90 percent of received adjustment requests; or

(B) The adjustment process is flexible and accommodates project needs as demonstrated by testimonials of housing developers who have utilized the adjustment process within the previous five years.

(3) Upon receipt of an application under this section, the office shall allow for public comment on the application for a period of no less than 45 days. The office shall enter a final order on the adjustment exemption within 120 days of receiving the application. The approval

of an application may not be appealed.

(4) Local governments with an approved or pending exemption under this section shall clearly and consistently notify applicants, including potential applicants, that are engaged in housing development:

(a) That the local government is employing a local process in lieu of sections 38 and 39 of this 2024 Act;

(b) Of the development and design standards for which an applicant may request an adjustment in a housing development application; and

(c) Of the applicable criteria for the adjustment application.

(5) In response to a complaint and following an investigation, the office may issue an order revoking an exemption issued under this section if the office determines that the local government is:

(a) Not approving adjustments as required by the local process or the terms of the exemption; or

(b) Engaging in a pattern or practice of violating housing-related statutes or implementing policies that create unreasonable cost or delays to housing production under ORS 197.320 (13)(a).

SECTION 41. Reporting. (1) A city required to provide a report under ORS 197A.110 shall include as part of that report information reasonably requested from the Department of Land Conservation and Development on residential development produced through approvals of adjustments granted under section 38 of this 2024 Act. The department may not develop a separate process for collecting this data or otherwise place an undue burden on local governments.

(2) On or before September 15 of each even-numbered year, the department shall provide a report to an interim committee of the Legislative Assembly related to housing in the manner provided in ORS 192.245 on the data collected under subsection (1) of this section. The committee shall invite the League of Oregon Cities to provide feedback on the report and the efficacy of section 38 of this 2024 Act.

SECTION 42. Operative date. Sections 38 to 41 of this 2023 Act be-

come operative on January 1, 2025.

SECTION 43. Sunset. Sections 38 to 41 of this 2024 Act are repealed on January 2, 2032.

LIMITED LAND USE DECISIONS

SECTION 44. Section 45 of this 2024 Act is added to and made a part of ORS chapter 197A.

SECTION 45. Applicability of limited land use decision to housing development. (1) Except as provided in subsection (3) of this section, each local government shall process as a limited land use decision any application for the development of housing within an urban growth boundary that requests:

(a) Partitions, subdivisions, replats or property line adjustments under ORS 92.010 to 92.192;

(b) Site plan review;

(c) Extensions, alterations or expansions of nonconforming uses; or

(d) Adjustments to land use regulations, as defined in section 38 (1) of this 2024 Act, including those with an exemption under section 40 of this 2024 Act and including but not limited to those listed in section 38 (4) or (5) of this 2024 Act.

(2) Notwithstanding ORS 197.195 (1), a local government that has not incorporated limited land use decisions into its comprehensive plan may directly apply the procedures described in ORS 197.195 (2) to (5).

(3) This section does not apply to:

(a) An application already processed as a ministerial use decision under the local government's acknowledged development standards.

(b) Decisions by a local government for which the Housing Accountability and Production Office has approved a hardship exemption

or time extension. The office may grant an exemption or time extension only if the local government demonstrates that a substantial hardship would result from the increased costs or staff capacity needed to implement procedures as required under this section.

SECTION 46. Operative date. Section 45 of this 2024 Act becomes operative on January 1, 2025.

SECTION 47. Sunset. Section 45 of this 2023 Act is repealed on January 2, 2032.

ONE-TIME SITE ADDITIONS TO URBAN GROWTH BOUNDARIES

SECTION 48. Sections 49 to 59 of this 2024 Act are added to and made a part of ORS chapter 197A.

SECTION 49. Definitions. As used in sections 49 to 59 of this 2024 Act:

(1) "Net residential acre" means an acre of residentially designated buildable land, not including rights of way for streets, roads or utilities or areas not designated for development due to natural resource protections or environmental constraints.

(2) "Site" means a lot or parcel or contiguous lots or parcels, or both, with or without common ownership.

SECTION 50. City addition of sites outside of Metro. (1) Notwithstanding any other provision of ORS chapter 197A, a city outside of Metro may add a site to the city's urban growth boundary under sections 49 to 59 of this 2024 Act, if:

(a) The site is adjacent to the existing urban growth boundary of the city or is separated from the existing urban growth boundary by only a street or road;

(b) The site is:

(A) Designated as an urban reserve under ORS 197A.230 to 197A.250, including a site whose designation is adopted under ORS 197.652 to

197.658;

(B) Designated as nonresource land; or

(C) Subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland;

(c) The city has not previously adopted an urban growth boundary amendment or exchange under sections 49 to 59 of this 2024 Act;

(d) The city has demonstrated a need for the addition under section 52 of this 2024 Act;

(e) The city has requested and received an application as required under sections 53 and 54 of this 2024 Act;

(f) The total acreage of the site:

(A) For a city with a population of 25,000 or greater, does not exceed 150 net residential acres; or

(B) For a city with a population of less than 25,000, does not exceed 75 net residential acres; and

(g)(A) The city has adopted a binding conceptual plan for the site that satisfies the requirements of section 55 of this 2024 Act; or

(B) The added site does not exceed 15 net residential acres and satisfies the requirements of section 56 of this 2024 Act.

(2) A county shall approve an amendment to an urban growth boundary made under this section that complies with sections 49 to 59 of this 2024 Act and shall cooperate with a city to facilitate the coordination of functions under ORS 195.020 to facilitate the city's annexation and the development of the site. The county's decision is not a land use decision.

(3) Notwithstanding ORS 197.626, an action by a local government under sections 49 to 59 of this 2024 Act is not a land use decision as defined in ORS 197.015.

<u>SECTION 51.</u> <u>Petition for additions of sites to Metro urban growth boundary.</u> (1) A city within Metro may petition Metro to add a site within the Metro urban growth boundary if the site:

(a) Satisfies the requirements of section 50 (1) of this 2024 Act; and

(b) Is designated as an urban reserve.

(2)(a) Within 120 days of receiving a petition under this section, Metro shall determine whether the site would substantially comply with the applicable provisions of sections 49 to 59 of this 2024 Act.

(b) If Metro determines that a petition does not substantially comply, Metro shall:

(A) Notify the city of deficiencies in the petition, specifying sufficient detail to allow the city to remedy any deficiency in a subsequent resubmittal; and

(B) Allow the city to amend its conceptual plan and resubmit it as a petition to Metro under this section.

(c) If Metro determines that a petition does comply, notwithstanding any other provision of ORS chapter 197A, Metro shall adopt amendments to its urban growth boundary to include the site in the petition, unless the amendment would result in more than 600 total net residential acres added under this subsection.

(3) If the net residential acres included in approved petitions received on or before July 1, 2025, total less than 600 net residential acres, Metro shall adopt amendments to its urban growth boundary under subsection (2)(c) of this section:

(a) On or before November 1, 2025, for petitions received on or before July 1, 2024; or

(b) Within 120 days after the receipt of a petition received after July 1, 2025, in the order in which the petitions are received.

(4) If the net residential acres included in approved petitions received on or before July 1, 2025, total 600 or more net residential acres, on or before January 1, 2027, Metro shall adopt amendments to its urban growth boundary under subsection (2)(c) of this section to include the sites in those petitions that Metro determines will:

(a) Best comply with the provisions of section 55 of this 2024 Act;

and

(b) Maximize the development of needed housing.

(5) Metro may not conduct a hearing to review or select petitions or adopt amendments to its urban growth boundary under this section.

SECTION 52. City demonstration of need. A city may not add, or petition to add, a site under sections 49 to 59 of this 2024 Act, unless:

(1) The city has demonstrated a need for additional land based on the following factors:

(a)(A) The city has had no urban growth boundary expansions in the prior 20 years; and

(B) The city does not have within its existing urban growth boundary an undeveloped, contiguous tract that is zoned for residential use that is larger than 20 acres; or

(b) Within urban growth boundary expansion areas adopted by the city over the previous 20 years, 75 percent of the lands are developed or development-ready lands; and

(2) The city has demonstrated a need for affordable housing, based on having a greater percentage of extremely cost-burdened households than the average for this state based on data from the United States Department of Housing and Urban Development.

SECTION 53. City solicitation of site applications. (1) Before a city may select a site for inclusion within the city's or Metro's urban growth boundary under sections 49 to 59 of this 2024 Act, a city must provide public notice that includes:

(a) The city's intention to select a site for inclusion within the city's urban growth boundary.

(b) Each basis under which the city has determined that it qualifies to include a site under section 52 of this section.

(c) A deadline for submission of applications under this section that is at least 45 days following the date of the notice;

(d) A description of the information, form and format required of

an application, including the requirements of section 55 (2) of this 2024 Act.

(2) A copy of the notice of intent under this section must be provided to:

(a) Each county in which the city resides;

(b) Each special district providing urban services within the city's urban growth boundary;

(c) The Department of Land Conservation and Development; and

(d) Metro, if the city is within Metro.

SECTION 54. City review of site applications. (1) After the deadline for submission of applications established under section 55 of this 2024 Act, the city shall:

(a) Review applications filed for compliance with sections 49 to 59 of this 2024 Act.

(b) For each completed application that complies with sections 49 to 59 of this 2024 Act, provide notice to the residents of the proposed site area who were not signatories to the application.

(c) Provide opportunities for public participation in selecting a site, including, at least:

(A) One public comment period;

(B)(i) One meeting of the city's planning commission at which public testimony is considered;

(ii) One meeting of the city's council at which public testimony is considered; or

(iii) One public open house; and

(C) Notice on the city's website or published in a paper of record at least 14 days before:

(i) A meeting under subparagraph (B) of this paragraph; and

(ii) The beginning of a comment period under subparagraph (A) of this paragraph.

(d) Consult with, request necessary information from and provide

the opportunity for written comment from:

(A) The owners of each lot or parcel within the site;

(B) If the city does not currently exercise land use jurisdiction over the entire site, the governing body of each county with land use jurisdiction over the site;

(C) Any special district that provides urban services to the site; and

(D) Any public or private utility that provides utilities to the site.

(2) An application filed under this section must:

(a) Be completed for each property owner or group of property owners that are proposing an urban growth boundary amendment under sections 49 to 59 of this 2024 Act;

(b) Be in writing in a form and format as required by the city;

(c) Specify the lots or parcels that are the subject of the application;

(d) Be signed by all owners of lots or parcels included within the application; and

(e) Include each owner's signed consent to annexation of the properties if the site is added to the urban growth boundary.

(3) If the city has received approval from all property owners of such lands, in writing in a form and format specified by the city, the governing body of the city may select an application and the city shall adopt a conceptual plan as described in section 55 of this 2024 Act for all or a portion of the lands contained within the application.

(4) A conceptual plan adopted under subsection (3) of this section must include findings identifying reasons for inclusion of lands within the conceptual plan and reasons why lands, if any, submitted as part of an application that was partially approved were not included within the conceptual plan.

<u>SECTION 55.</u> <u>Conceptual plan for added sites.</u> (1) As used in this section:

(a) "Affordable units" means residential units described in sub-

section (3)(f)(A) or (4) of this section.

(b) "Market rate units" means residential units other than affordable units.

(2) Before adopting an urban growth boundary amendment under section 50 of this 2024 Act or petitioning Metro under section 51 of this 2024 Act, for a site larger than 15 net residential acres, a city shall adopt a binding conceptual plan as an amendment to its comprehensive plan.

(3) The conceptual plan must:

(a) Establish the total net residential acres within the site and must require for those residential areas:

(A) A diversity of housing types and sizes, including middle housing, accessible housing and other needed housing; and

(B) That the development will be on lands zoned for residential or mixed-use residential uses at densities not less than those required under section 17 (2) of this 2024 Act;

(b) Designate within the site:

(A) Recreation and open space lands; and

(B) Lands for commercial uses, either separate or as a mixed use, that:

(i) Primarily serve the immediate surrounding housing;

(ii) Provide goods and services at a smaller scale than provided on typical lands zoned for commercial use; and

(iii) Are provided at the minimum amount necessary to support and integrate viable commercial and residential uses;

(c) If the city has a population of 5,000 or greater, include a transportation network for the site that provides diverse transportation options, including walking, bicycling and transit use if public transit services are available, as well as sufficient connectivity to existing and planned transportation network facilities as shown in the local government's transportation system plan as defined in Land Conser-

vation and Development Commission rules;

(d) Demonstrate that protective measures will be applied to the site consistent with the statewide land use planning goals for:

(A) Open spaces, scenic and historic areas or natural resources;

(B) Areas subject to natural hazards;

(C) The Willamette River Greenway;

(D) Estuarine resources;

(E) Coast shorelands; or

(F) Beaches and dunes;

(e) Include a binding agreement among the city, each owner within the site and any other necessary public or private utility provider, local government or district, as defined in ORS 195.060, or combination of local governments and districts that the site will be served with all necessary urban services as defined in ORS 195.065, or an equivalent assurance; and

(f) Include requirements that ensure that:

(A) At least 30 percent of the residential units are subject to affordability restrictions, including but not limited to affordable housing covenants, as described in ORS 456.270 to 456.295, that require for a period of not less than 60 years that the units be:

(i) Available for rent, with or without government assistance, by households with an income of 80 percent or less of the area median income as defined in ORS 456.270; or

(ii) Available for purchase, with or without government assistance, by households with an income of 130 percent or less of the area median income;

(B) The construction of all affordable units has commenced before the city issues certificates of occupancy to the last 15 percent of market rate units;

(C) All common areas and amenities are equally available to residents of affordable units and of market rate units; and

(D) The requirement for affordable housing units is recorded before the building permits are issued for any property within the site, and the requirements contain financial penalties for noncompliance.

(4) A city may require greater affordability requirements for residential units than are required under subsection (3)(f)(A) of this section, provided that the city significantly and proportionally offsets development costs related to:

(a) Permits or fees;

(b) System development charges;

(c) Property taxes; or

(d) Land acquisition and predevelopment costs.

SECTION 56. Alternative for small additions. (1) A city that intends to add 15 net residential acres or less is not required to adopt a conceptual plan under section 55 of this 2024 Act if the city has entered into enforceable and recordable agreements with each landowner of a property within the site to ensure that the site will comply with the affordability requirements described in section 55 (3)(f) of this 2024 Act.

(2) This section does not apply to a city within Metro.

SECTION 57. Department approval of site additions. (1) Within 21 days after the adoption of an amendment to an urban growth boundary or the adoption or amendment of a conceptual plan under sections 49 to 59 of this 2024 Act, and the approval by a county if required under section 50 (2) of this 2024 Act, the conceptual plan or amendment must be submitted to the Department of Land Conservation and Development for review. The submission must be made by:

(a) The city, for an amendment under section 50 or 58 of this 2024 Act; or

(b) Metro, for an amendment under section 51 of this 2024 Act.

(2) Within 60 days after receiving a submittal under subsection (1) of this section, the department shall:

(a) Review the submittal for compliance with the provisions of

sections 49 to 59 of this 2024 Act.

(b)(A) If the submittal substantially complies with the provisions of sections 49 to 59 of this 2024 Act, issue an order approving the submittal; or

(B) If the submittal does not substantially comply with the provisions of sections 49 to 59 of this 2024 Act, issue an order remanding the submittal to the city or to Metro with a specific determination of deficiencies in the submittal and with sufficient detail to identify a specific remedy for any deficiency in a subsequent resubmittal.

(3) If a conceptual plan is remanded to Metro under subsection (2)(b) of this section:

(a) The department shall notify the city; and

(b) The city may amend its conceptual plan and resubmit a petition to Metro under section 51 of this 2024 Act.

(4) Judicial review of the department's order:

(a) Must be as a review of orders other than a contested case under ORS 183.484; and

(b) May be initiated only by the city or an owner of a proposed site.

(5) Following the approval of a submittal under this section, a local government must include the added lands in any future inventory of buildable lands or determination of housing capacity under ORS 197A.270, 197A.280, 197A.335 or 197A.350.

<u>SECTION 58.</u> <u>Alternative urban growth boundary land exchange.</u> (1) In lieu of amending its urban growth boundary under any other process provided by sections 49 to 59 of this 2024 Act, a city outside of Metro may amend its urban growth boundary to add a site to the urban growth boundary and to remove one or more tracts of land from the urban growth boundary as provided in this section.

(2) The acreage of the added site and removed lands must be roughly equivalent.

(3) The removed lands must have been zoned for residential uses.

Notwithstanding any other provision of ORS chapter 197 or 197A or any land use regulation, for lands removed from an urban growth boundary under this section the city or county may, without further process, consider the removed lands as:

(a) Zoned or designated for rural uses;

(b) Designated as lands subject to an exception under ORS 197.732 to goals for agriculture or forest; or

(c) Designated as urban reserve, as defined in ORS 197A.230.

(4) The added site must be zoned for residential uses at the same or greater density than the removed lands.

(5)(a) Except as provided in paragraph (b) of this subsection, land may be removed from an urban growth boundary under this section without landowner consent.

(b) Land may not be removed from an urban growth boundary under this section if the landowner enters into a recorded agreement with the city agreeing to consent to annexation of the land and to develop the land within 20 years.

(6) Review of a city's exchange of lands made under this section may only be made by the county as provided in section 50 (2) of this 2024 Act and by the Department of Land Conservation and Development, subject to judicial review, as provided in section 57 of this 2024 Act.

(7) Sections 50 (1), 52, 53, 54, 55 and 56 of this 2024 Act do not apply to a site addition made under this section.

<u>SECTION 59.</u> <u>Reporting on added sites.</u> A city for which an amendment was made to an urban growth boundary and approved under sections 49 to 59 of this 2024 Act shall submit a report describing the status of development within the included area to the Department of Land Conservation and Development every two years until:

(1) January 2, 2033; or

(2) The city determines that development consistent with the ac-

knowledged conceptual plan is deemed complete.

SECTION 60. Sunset. Sections 49 to 59 of this 2024 Act are repealed on January 2, 2033.

APPROPRIATIONS

SECTION 61. Appropriation for Housing Accountability and Production Office. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for deposit into the Housing Accountability and Production Office Fund under section 4 of this 2024 Act, for the biennium ending June 30, 2025, out of the General Fund, the following amounts:

(1) $___ to operate the Housing Accountability and Production Office under sections 1 to 5 of this 2024 Act.

(2) $10,000,000 for the office to provide technical assistance, including grants, under section 1 (1) of this 2024 Act.

SECTION 62. Appropriation to Oregon Business Development Department. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium ending June 30, 2025, out of the General Fund, the following amounts:

(1) $200,000,000 for deposit into the Housing Infrastructure Project Account under section 18 of this 2024 Act.

(2) $10,000,000 for deposit into the Brownfields Redevelopment Fund to provide financial assistance under section 20 of this 2024 Act.

(3) $5,000,000 for deposit into the Housing Infrastructure Support Fund under section 14 of this 2024 Act.

SECTION 63. Appropriation to Housing and Community Services Department. In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services De-

partment, for the biennium ending June 30, 2025, out of the General Fund, the following amounts:

(1) $200,000,000 for deposit into the Housing Project Revolving Loan Fund under section 35 of this 2024 Act.

(2) $40,000,000 for deposit into the Housing and Community Services Department Fund to provide financial assistance under section 22 of this 2024 Act.

(3) $20,000,000 for deposit into the Housing and Community Services Department Fund to provide financial assistance under section 23 of this 2024 Act.

CONFORMING AMENDMENTS

SECTION 64. ORS 197.335, as amended by section 17, chapter 13, Oregon Laws 2023, is amended to read:

197.335. (1) [*An order issued under ORS 197.328 and the copy of the order mailed*] **The Land Conservation and Development Commission shall mail a copy of an enforcement order** to the local government, state agency or special district**. An order** must set forth:

(a) The nature of the noncompliance, including, but not limited to, the contents of the comprehensive plan or land use regulation, if any, of a local government that do not comply with the goals or the contents of a plan, program or regulation affecting land use adopted by a state agency or special district that do not comply with the goals. In the case of a pattern or practice of decision-making, the order must specify the decision-making that constitutes the pattern or practice, including specific provisions the [*Land Conservation and Development*] commission believes are being misapplied.

(b) The specific lands, if any, within a local government for which the existing plan or land use regulation, if any, does not comply with the goals.

(c) The corrective action decided upon by the commission, including the specific requirements, with which the local government, state agency or

special district must comply. In the case of a pattern or practice of decision-making, the commission may require revisions to the comprehensive plan, land use regulations or local procedures which the commission believes are necessary to correct the pattern or practice. Notwithstanding the provisions of this section, except as provided in subsection (3)(c) of this section, an enforcement order does not affect:

(A) Land use applications filed with a local government prior to the date of adoption of the enforcement order unless specifically identified by the order;

(B) Land use approvals issued by a local government prior to the date of adoption of the enforcement order; or

(C) The time limit for exercising land use approvals issued by a local government prior to the date of adoption of the enforcement order.

(2) Judicial review of a final order of the commission is governed by the provisions of ORS chapter 183 applicable to contested cases except as otherwise stated in this section. The commission's final order must include a clear statement of findings which set forth the basis for the order. Where a petition to review the order has been filed in the Court of Appeals, the commission shall transmit to the court the entire administrative record of the proceeding under review. Notwithstanding ORS 183.482 (3) relating to a stay of enforcement of an agency order, an appellate court, before it may stay an order of the commission, shall give due consideration to the public interest in the continued enforcement of the commission's order and may consider testimony or affidavits thereon. Upon review, an appellate court may affirm, reverse, modify or remand the order. The court shall reverse, modify or remand the order only if it finds:

(a) The order to be unlawful in substance or procedure, but an error in procedure is not cause for reversal, modification or remand unless the court finds that substantial rights of any party were prejudiced thereby;

(b) The order to be unconstitutional;

(c) The order is invalid because it exceeds the statutory authority of the

agency; or

(d) The order is not supported by substantial evidence in the whole record.

(3)(a) If the commission finds that in the interim period during which a local government, state agency or special district would be bringing itself into compliance with the commission's order [*under ORS 197.320 or subsection (2) of this section*] it would be contrary to the public interest in the conservation or sound development of land to allow the continuation of some or all categories of land use decisions or limited land use decisions, it shall, as part of its order, limit, prohibit or require the approval by the local government of applications for subdivisions, partitions, building permits, limited land use decisions or land use decisions until the plan, land use regulation or subsequent land use decisions and limited land use decisions are brought into compliance. The commission may issue an order that requires review of local decisions by a hearings officer or the Department of Land Conservation and Development before the local decision becomes final.

(b) Any requirement under this subsection may be imposed only if the commission finds that the activity, if continued, aggravates the goal, comprehensive plan or land use regulation violation and that the requirement is necessary to correct the violation.

(c) The limitations on enforcement orders under subsection (1)(c)(B) of this section do not affect the commission's authority to limit, prohibit or require application of specified criteria to subsequent land use decisions involving land use approvals issued by a local government prior to the date of adoption of the enforcement order.

(4) As part of its order [*under ORS 197.320 or subsection (2) of this section*], the commission may withhold grant funds from the local government to which the order is directed. As part of an order issued under this section, the commission may notify the officer responsible for disbursing state-shared revenues to withhold that portion of state-shared revenues to which the local government is entitled under ORS 221.770, 323.455, 366.762 and 366.800 and

ORS chapter 471 which represents the amount of state planning grant moneys previously provided the local government by the commission. The officer responsible for disbursing state-shared revenues shall withhold state-shared revenues as outlined in this section and shall release funds to the local government or department when notified to so do by the commission or its designee. The commission may retain a portion of the withheld revenues to cover costs of providing services incurred under the order, including use of a hearings officer or staff resources to monitor land use decisions and limited land use decisions or conduct hearings. The remainder of the funds withheld under this provision shall be released to the local government upon completion of requirements of the [*commission*] **enforcement** order.

(5)(a) As part of its order under this section, the commission may notify the officer responsible for disbursing funds from any grant or loan made by a state agency to withhold such funds from a special district to which the order is directed. The officer responsible for disbursing funds shall withhold funds as outlined in this section and shall release funds to the special district or department when notified to do so by the commission.

(b) The commission may retain a portion of the funds withheld to cover costs of providing services incurred under the order, including use of a hearings officer or staff resources to monitor land use decisions and limited land use decisions or conduct hearings. The remainder of the funds withheld under this provision shall be released to the special district upon completion of the requirements of the commission order.

(6) As part of its order under this section, upon finding a city failed to comply with ORS 197.320 (13), the commission may, consistent with the principles in ORS 197A.130 (1), require the city to:

(a) Comply with the housing acceleration agreement under ORS 197A.130 (6).

(b) Take specific actions that are part of the city's housing production strategy under ORS 197A.100.

(c) Impose appropriate models that have been developed by department,

including model ordinances, procedures, actions or anti-displacement measures.

(d) Reduce maximum timelines for review of needed housing or specific types of housing or affordability levels, [*including*] through ministerial approval or any other expedited existing approval process.

(e) Take specific actions to waive or amend local ordinances.

(f) Forfeit grant funds under subsection (4) of this section.

(7) The commission may institute actions or proceedings for legal or equitable remedies in the Circuit Court for Marion County or in the circuit court for the county to which the [*commission's*] order is directed or within which all or a portion of the applicable city is located to enforce compliance with the provisions of any order issued under this section or to restrain violations thereof. Such actions or proceedings may be instituted without the necessity of prior agency notice, hearing [*and*] **or** order on an alleged violation.

(8) As used in this section, "enforcement order" or "order" means an order issued under ORS 197.320 or section 3 of this 2024 Act as may be modified on appeal under subsection (2) of this section.

SECTION 65. ORS 183.471 is amended to read:

183.471. (1) When an agency issues a final order in a contested case, the agency shall maintain the final order in a digital format that:

(a) Identifies the final order by the date it was issued;

(b) Is suitable for indexing and searching; and

(c) Preserves the textual attributes of the document, including the manner in which the document is paginated and any boldfaced, italicized or underlined writing in the document.

(2) The Oregon State Bar may request that an agency provide the Oregon State Bar, or its designee, with electronic copies of final orders issued by the agency in contested cases. The request must be in writing. No later than 30 days after receiving the request, the agency, subject to ORS 192.338, 192.345 and 192.355, shall provide the Oregon State Bar, or its designee, with an

electronic copy of all final orders identified in the request.

(3) Notwithstanding ORS 192.324, an agency may not charge a fee for the first two requests submitted under this section in a calendar year. For any subsequent request, an agency may impose a fee in accordance with ORS 192.324 to reimburse the agency for the actual costs of complying with the request.

(4) For purposes of this section, a final order entered in a contested case by an administrative law judge under ORS 183.625 (3) is a final order issued by the agency that authorized the administrative law judge to conduct the hearing.

(5) This section does not apply to final orders by default issued under ORS 183.417 (3) or to final orders issued in contested cases by:

(a) The Department of Revenue;

(b) The State Board of Parole and Post-Prison Supervision;

(c) The Department of Corrections;

(d) The Employment Relations Board;

(e) The Public Utility Commission of Oregon;

(f) The Oregon Health Authority;

(g) The Land Conservation and Development Commission**, except for enforcement orders under section 3 of this 2024 Act**;

(h) The Land Use Board of Appeals;

(i) The Division of Child Support of the Department of Justice;

(j) The Department of Transportation, if the final order relates to the suspension, revocation or cancellation of identification cards, vehicle registrations, vehicle titles or driving privileges or to the assessment of taxes or stipulated settlements in the regulation of vehicle related businesses;

(k) The Employment Department or the Employment Appeals Board, if the final order relates to benefits as defined in ORS 657.010;

(L) The Employment Department, if the final order relates to an assessment of unemployment tax for which a hearing was not held;

(m) The Employment Department, if the final order relates to:

(A) Benefits, as defined in ORS 657B.010;

(B) Employer and employee contributions under ORS 657B.150 for which a hearing was not held;

(C) Employer-offered benefit plans approved under ORS 657B.210 or terminated under ORS 657B.220; or

(D) Employer assistance grants under ORS 657B.200; or

(n) The Department of Human Services, if the final order was not related to licensing or certification.

SECTION 66. ORS 455.770 is amended to read:

455.770. (1) In addition to any other authority and power granted to the Director of the Department of Consumer and Business Services under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693 **and sections 1 to 5 of this 2024 Act**, with respect to municipalities, building officials and inspectors, if the director has reason to believe that there is a failure to enforce or a violation of any provision of the state building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693 or any rule adopted under those statutes, the director may:

(a) Examine building code activities of the municipality;

(b) Take sworn testimony; and

(c) With the authorization of the Office of the Attorney General, subpoena persons and records to obtain testimony on official actions that were taken or omitted or to obtain documents otherwise subject to public inspection under ORS 192.311 to 192.478.

(2) The investigative authority authorized in subsection (1) of this section covers the violation or omission by a municipality related to enforcement of codes or administrative rules, certification of inspectors or financial transactions dealing with permit fees and surcharges under any of the following circumstances when:

(a) The duties are clearly established by law, rule or agreement;

(b) The duty involves procedures for which the means and methods are clearly established by law, rule or agreement; or

(c) The duty is described by clear performance standards.

(3) Prior to starting an investigation under subsection (1) of this section, the director shall notify the municipality in writing setting forth the allegation and the rules or statutes pertaining to the allegation and give the municipality 30 days to respond to the allegation. If the municipality does not satisfy the director's concerns, the director may then commence an investigation.

(4) If the Department of Consumer and Business Services or the director directs corrective action[*, the following shall be done*]:

(a) The corrective action [*shall*] **must** be in writing and served on the building official and the chief executive officers of all municipalities affected;

(b) The corrective action [*shall*] **must** identify the facts and law relied upon for the required action; and

(c) A reasonable time [*shall*] **must** be provided to the municipality for compliance.

(5) The director may revoke any authority of the municipality to administer any part of the state building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693 or any rule adopted under those statutes if the director determines after a hearing conducted under ORS 183.413 to 183.497 that:

(a) All of the requirements of this section and ORS 455.775 and 455.895 were met; and

(b) The municipality did not comply with the corrective action required.

CAPTIONS

SECTION 67. The unit and section captions used in this 2024 Act

are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2024 Act.

EFFECTIVE DATE

SECTION 68. This 2024 Act takes effect on the 91st day after the date on which the 2024 regular session of the Eighty-second Legislative Assembly adjourns sine die.