PLANNING COMMISSION WORK SESSION AGENDA
Monday, June 10, 2024 - 6:00 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

Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, Dustin Capri, and Greg Sutton.

2. NEW BUSINESS

2.A Progress Report: The Newport Comprehensive Plan Streamlining Project.
Memorandum
1. List of Amending Ordinances
2. Urbanization (Chapter 8a)
3. Excerpts from the Salem Area Comprehensive Plan
4. Current Organization of the Newport Comprehensive Plan as of 6-6-24
5. Proposed Organization of the Newport Comprehensive Plan Update

3. UNFINISHED BUSINESS

3.A Follow-up Review of Amendments to Facilitate Construction of Needed Housing.
Memorandum
Updated draft of Ordinance No. 2222
SB 1537- City Code Amendment Comparison
May 22, 2024 Memo from Attorney Carrie Connelly with the Local Government Law Group
SB 1537 (enrolled)

3.B Planning Commission Work Program Update.
PC Work Program 6-6-24

4. ADJOURNMENT

City of Newport

Community Development Department

Memorandum

To: Planning Commission / Commission Advisory Committee

From: Associate Planner Beth Young, AICP

Date: June 6, 2024

Re: Progress Report: The Newport Comprehensive Plan Streamlining Project

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Background

A comprehensive, or comp, plan includes goals, policies, a Comprehensive Plan Map, and other components that inform how and where land is developed and infrastructure is provided to meet the needs of current and future residents. It is meant to provide guidance on how the community is engaged in planning and decision-making and inform other planning documents and investments related to future growth. Under state law, a city's plans, zoning codes, permits, and public improvements must be consistent with its comprehensive plan. Comprehensive Plans are acknowledged by the Department of Land Conservation and Development, and as is every amendment to the plan.

Our comprehensive plan was first acknowledged by the State of Oregon on June 1, 1984. Since acknowledgement the City Council has approved, by ordinance, 49 map amendments and 47 text amendments. Map amendments change the City Map (which is part of the Comprehensive Plan). Text amendments are incorporated into the Comp Plan. All changes, whether map and/or text, are noted in the existing City of Newport Comprehensive Plan (See Attachment 1).

The Streamlining Project

The Community Development Department has started to streamline the City's Comprehensive Plan. Our goals are to make the document easy to navigate, both online and in print; reduce the time required to access specific information; and ensure that the document is respectful of all Newport citizens and interested parties. We will do this by:

- combining and streamlining chapters;
- moving technical data and reports to appendices; and
- paraphrasing or omitting language that is excessively detailed, redundant or outdated

The Newport Comprehensive Plan includes Goals, Policies and Implementation Measures at the end of each chapter. These will not change in any way. No policy language will be changed as part of this process.

Every chapter provides background information, which is usually outdated, wordy, and not consistent from chapter to chapter. This background information is what I will be working on. I will be careful to read, understand and, if needed, edit without losing the meaning or intent. Suggested changes will be shown by cross-outs, highlights, bold text, etc., and notes will be included, where appropriate, to see the reasoning behind the suggested change (see Attachment 2).

Format

Derrick and I reviewed other cities' comprehensive plans, in terms of format and organization and the Salem Area Comprehensive Plan stood out in terms of simplicity and easy access. It is is not long--117 pages--and has a simple organization with color-coded chapters. Their comprehensive plan includes lots of positive, Salem-specific photos. Our comprehensive plan may not have as many photos, but the overall effect is that their comp plan is interesting, readable and fun (see Attachment 3).

Organization

In Oregon, the basic premise of a comprehensive plan is to show how the city will implement Oregon's Statewide Planning Goals. Therefore in the Comp Plan update, the chapter headings will change so that each chapter will correspond to a Statewide Goal (or Goals). Chapter order will reflect the Statewide Goal order; for example, Chapter 1 would address citizen involvement which is Statewide Goal 1 (see Attachments 4 and 5).

Expanding Accessibility

Many Newporters (and people who are seeking to live, work or do business in Newport) never set foot in City Hall and prefer to do everything online. We are updating the Comp Plan with this in mind. The goal is to have everything easily navigable so people can quickly get to specific information they need. Although it is difficult to plan for future technological changes, this Comprehensive Plan update will, we hope, make the Comp Plan easy to translate and easy for people with hearing or sight difficulties to access online.

Attachments

1. List of Amending Ordinances
2. Urbanization (Chapter 8a)
3. Excerpts from the Salem Area Comprehensive Plan
4. Current Organization of the Newport Comprehensive Plan as of 6/6/24
5. Proposed Organization of the Newport Comprehensive Plan Update

APPENDIX B

LIST OF AMENDING ORDINANCES NOTING SECTIONS AMENDED

Ordinance No. 1621 (10-7-91)/Periodic Review Amendment: Repeals Ordinance No. 1217.

Ordinance No. 1633 (6-1-92)/Map Amendment: Lots 1, 2, and 3, Block B, CASE & BAYLEY'S 2ND ADDITION (Tax Map 11-11-8BD, Tax Lot 800/517 S.W. Hurbert Street); changed from medium density multi-family residential (R-3) to retail and service commercial (C-1).

Ordinance No. 1645 (9-21-92)/Map Amendment: Tax Map 10-11-32AB, Tax Lot 4400 (3821 N.W. Ocean View Drive); changed from low density residential (R-1) to high density residential (R-4).

Ordinance No. 1655 (12-21-92)/Map Amendment: Lots 11 and 12, Block 146, AGATE BEACH NO. 2 (Tax Map 10-11-29BD, Tax Lot 2100; 115 N.E. 54th Street) changed from retail and service commercial (C-2) to low density residential (R-2).

Ordinance No. 1660 (1-4-93)/Map Amendment: Amends #1655; scrivener's error.

Ordinance No. 1664 (3-15-93)/Map Amendment: Blocks 45, 46, and 47 or BEACH PARK ADDITION; changed from low density residential to commercial (Wal-Mart).

Ordinance No. 1665 (3-15-93)/Map Amendment: Tax Map 11-11-30DD, Tax Lot 6100; changed from public to commercial; corrects error done at time of Wolf Tree.

Ordinance No. 1649 (4-6-93)/Map Amendment: Tax Map 11-11-4D, Tax Lots 1500 and 1502; changed from county to city's low density residential.

Ordinance No. 1677 (7-6-93)/Text Amendment: Adds Newport Peninsula Urban Design chapter to Section 4/"Socioeconomic Characteristics" (page 136b).

Ordinance No. 1684 (9-20-93)/Map Amendment: Tax Map 11-11-20, Tax Lots 201, 203, 206, 207, and portions of 200 and 202 **deleted** from urban growth boundary and Comprehensive Plan Map; back to the county.

Ordinance No. 1686 (10-4-93)/Text Amendment: Amends Parks and Recreation Section (Section 6/"Public, Cultural, and Educational Services") and adopts the Parks System Master Plan.

Ordinance No. 1691 (11-15-93)/Text and Map Amendments: Adds "Aggregate and Mineral Resources" chapter to Environment section.

Ordinance No. 1700 (3-21-94)/Map Amendment: Previously annexed Gates property (see #1-AX-90) on northeast corner of N.E. Avery and N.E. 73rd Streets (10-11-20 --902) changed from county timber conservation to city industrial.

Ordinance No. 1701 (3-21-94)/Text and Map Amendments: Adds to Goal 5 overlay (Ordinance No. 1691) by addition of 10-11-20--900 and 902.

Ordinance No. 1703 (4-18-94)/Text: Amends pages 107-108 of Housing Section and adds Policy 9, reflecting changes brought about by House Bill 2835.

Ordinance No. 1708 (7-5-94)/Text and Map Amendments: Amends Ordinance No. 1701 (scrivener's error).

Ordinance No. 1711 (11-9-94)/Map: Amends Comprehensive Plan Map by addition of 10-11-20--900;

designated "Industrial"; was previously annexed by Ordinance No. 1587 on 9-16-91.

Ordinance No. 1713 (10-17-94)/Map: Subject properties annexed and designated as follows: Shoreland (W-2) – 11-11-9CA—2500 and 2600/Industrial (I-1) – 11-11-9CA—1400, 11-11-9D west half of Tax Lot 200/Low Density Residential – 11-11-9CA—100, 102, 103, 104, 105, 190, 191, 192, 300, 500, 700, 701, 800, 900, 1000, 1100, 1200, 1300, 1600, 1700, 2100, 3000, 3100, 3200, 3300, 3400, 3500 and 11-11-9D east half of 200, and 11-11-9DB—101, 1800, 2000, 2001, 2100, 2200, 2300, 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, and 3600.

Ordinance No. 1714 (10-17-94)/Map: Tax Map 11-11-9B—1514 and 1516 annexed and designated Low Density Residential.

Ordinance No. 1715 (10-17-94)/Map: Tax Map 10-11-20—westerly 440 feet of Tax Lots 1401, 1402 and 1403 annexed and designated Low Density Residential.

Ordinance No. 1716 (10-17-94)/Map: Subject properties annexed and designated as follows: Low Density Residential – 10-11-29BC—2700, 2701, 2800 and 10-11-30AD—1101 and 1103/Public – 10-11-30—200, 300 and 10-11-29BC—2500, 2600, 2900, 3000 and 10-11-30AD—1200, 1400, 1500, 1600.

Ordinance No. 1723 (4-3-9)/Map: Amends Comprehensive Plan Map by changing 10-11-32DC--400, 600, 700, 900, and 1000 from low density residential (R-1) to commercial (R-2).

Ordinance No. 1724 (6-19-95)/Map: Lots 9 and 10, Block 15, OCEANVIEW (Tax Map 11-11-5CA, Tax Lot 2800); changed from commercial (C-3) to low density residential (R-2).

Ordinance No. 1741 (2-5-96)/Map: Involves Tax Lot 1900 of Tax Map 11-11-4CB and Tax Lot 1700 of Tax Map 11-11-4CC (3 parcels); first 100 feet on the west side (Parcels 1 and 2) changed from county to low density residential; rest (Parcel 3) changed from county to public (P-1).

Ordinance No. 1742 (5-6-95)/Map: Tax Lots 301 and 400 of Tax Map 11-11-8BA (151 N.W. 3rd Street) amended from commercial (C-1) to high density residential (R-4).

Ordinance No. 1751 (8-22-96)/Map: Involves west 40 acres of Tax Lot 200 of Tax Map 11-11-4; portion went from Low Density Residential to Public (new middle school).

Ordinance No. 1753 (10-7-96)/Map: Tax Lot 801 of Tax Map 11-11-17DC amended and designated Industrial (I-1).

Ordinance No. 1755 (11-18-96)/Text: Revises Economic Section of the Comprehensive Plan (Yaquina Bay Economic Foundation Study).

Ordinance No. 1757 (12-16-96)/Map: Tax Lot 1800 of Tax Map 11-11-17DB amended from Public (P-1) to Commercial (C-1).

Ordinance No. 1765 (5-5-96)/Map: Urban Growth Boundary amended and subject property annexed and designated Industrial (I-1).

Ordinance No. 1767 (4-7-97)/Map: Tax Lots 2400 and 2401 of Tax Map 11-11-8CA amended from Public (P-1) to Shorelands (W-2).

Ordinance No. 1768 (4-7-97)/Map: Tax Lot 1000 of Tax Map 11-11-8CA amended from High Density Residential (R-4) to Commercial (C-3).

Ordinance No. 1771 (4-21-97)/Map: Urban Growth Boundary amended and Tax Lot 200 of Tax Map 11-11-4 annexed and designated Low Density Residential (R-1).

Ordinance No. 1772 (6-2-97)/Map: Tax Lot 500 of Tax Map 11-11-9BA amended from Low Density Residential to High Density Residential.

Ordinance No. 1774 (8-4-97)/Map: Tax Lot 11100 and 12900 of Tax Map 11-11-5CC amended from High Density Residential (R-4) to Commercial (C-2).

Ordinance No. 1792 (7-6-98)/Text: Adds Section 13 "Neighborhood Plans" and adopts the Agate Beach Neighborhood Plan.

Ordinance No. 1799 (4-19-99)/Map: Tax Lot 801 of Tax Map 11-11-17DC amended and designated Industrial (I-1).

Ordinance No. 1800 (9-21-98)/Map: Tax Lot 5000 and 5001 of Tax Map 11-11-8BA amended from High Density Residential (R-4) to Public (P-1).

Ordinance No. 1802 (1-4-99)/Text: Repeals existing Roadway Transportation Facilities and the Transportation Goals and Policies and adds a Newport Transportation System Plan.

Ordinance No. 1809 (5-17-99)/Map: Urban Growth Boundary amended to add Tax Lot 200 of Tax Map 11-11-30AD and designate Low Density Residential.

Ordinance No. 1810 (6-7-99)/Map: Urban Growth Boundary amended to add Tax Lot 2700 and the easterly portion of 2501 of Tax Map 11-11-20 and Tax Lot 1600 of Tax Map 11-11-21 and designated Public (P-1).

Ordinance No. 1811 (7-6-99)/Text: Adding the Bay Front Plan to Section 13.

Ordinance No. 1814 (8-16-99)/Map: Amends Ord. 1810/Corrects legal description.

Ordinance No. 1837 (8-6-01)/Map: Tax Lot 9700 of Tax Map 11-11-8CB amended from Low Density Residential (R-2) to High Density Residential (R-4).

Ordinance No. 1840 (10-1-01)/Text: Amends the Bay Front Plan (Section 13/"Neighborhood Plans").

Ordinance No. 1842 (2-5-02)/Map: Changes zoning designations of a portion of Tax Lots 500 and 12800 of Assessor's Map 11-11-8-AC from a combination of Shoreland and Low Density Residential to High Density Residential and Low Density Residential.

Ordinance No. 1858 (9-2-03)/Text & Map: Adopts South Beach State Park Master Plan.

Ordinance No. 1868 (2-17-04)/Text: Adds procedure for correction of errors on comprehensive plan map.

Ordinance No. 1869 (3-2-04)/Map: Corrects map to establish zone designation for an unzoned property (Assessor's Map 11-11-17, Tax Lot 1400) to Commercial (C-1/"Retail and Service Commercial").

Ordinance No. 1870 (3-1-04)/Text & Map: Adopts the revised Economic Section, expands the UGB, and adopts map designations for property included within the expanded UGB (Assessor's Map 10-11-17, Tax Lots 1300 & 1305; Assessor's Map 10-11-20, Tax Lots 200, 300, 301, 400, 500 & 501).

Ordinance No. 1876 (7-19-04)/Map: Amends Ord. No. 1870/Corrects illustrations included as Exhibits C & E.

Ordinance No. 1878 (10-18-04)/Text: Amends Aggregate and Mineral Resources Section.

Ordinance No. 1883 (3-21-05)/Text: Amends Noise Section.

Ordinance No. 1891 (6-5-06)/Text: Revises Economic Section, Appendix C, and Bibliography.

Ordinance No. 1894 (11-15-06)/Map: Amends the existing Comprehensive Plan Ocean Shorelands Map by removing the "Park and Outstanding Natural Resource Boundary" designation on the Ocean Shorelands Map from the subject property currently identified as Lincoln County Assessor's Map 11-11-17-DB, Tax Lot 1800.

Ordinance No. 1895 (12-6-06)/Map: Corrects map to establish the designation of "Public" (rather than Commercial) for 5.7 acres of property used in conjunction with South Beach State Park (Assessor's Map 11-11-18-D—100).

Ordinance No. 1897 (12-6-06)/Map: Amends the zone designation to establish a "Commercial" designation on that portion of Assessor's Map 11-11-8-CA Tax Lot 16300 that became part of Tax Lot 800 as a result of a property line adjustment; and establish a "Residential" designation for the west half of SW Alder Street that became part of Assessor's Map 11-11-8-CA Tax Lots 16300 and 17000 as a result of a street vacation.

Ordinance No. 1899 (12/4/06)/Map & Text: Adopts the 2006 revised South Beach Neighborhood Plan (SBNP) generated by the Newport Employment Lands & Conceptual Land Use Planning Project.

Ordinance No. 1905 (1-16-07)/Text: Adds the following amendments to the Yaquina Bay and Estuary Section: 1) an additional policy under the "Special Policies" section for Management Unit 8; 2) an additional policy under the "Special Policies" section for Management Unit 9-A; and additional language to the end of Policy 9 of the Yaquina Bay and Estuary Section.

Ordinance No. 1907 (4/4/07)/Map: Amends the zone designation to establish a "Commercial" designation for property described as Lots 1-4 of Block 48, Case & Bayley's Second Addition to Newport (also currently identified as 810 SW Alder Street and as Lincoln County Assessor's Map 11-11-08-BD Tax Lots 10400, 10500, and 10600).

Ordinance No. 1909 (4/2/07)/Map: Establishes a "High Density Residential" designation for property consisting of Lots 7, 8, 9, and 10 of Block 34, AGATE BEACH (currently identified as Lincoln County Assessor's Map 10-11-29-BD Tax Lots 13200, 13400, and 13500) fronting on NW Agate Way, NW Gilbert Way, and NW Circle Way except for a 2-foot portion of property to be left as a "Commercial" designation along both: 1) the entire frontage of the subject property along both NW Agate Way and NW Circle Way, and 2) the northeasterly property line (that being the common property line between the subject property and Lots 6 and 11 of Block 34, AGATE BEACH).

Ordinance No. 1933 (9/4/07)/Text: Amends Policies of the Public Facilities and Urbanization Sections.

Ordinance No. 1942 (1/7/08)/Map: Changes designation of Tax Lots 600, 601 & 90000 (Supp. Map No. 1) of Lincoln County Assessor's Map 11-11-08-CC) (1012 & 1022 SW 8th St. & pkg. lot on SW 8th St.) from low density residential to commercial.

Ordinance No. 1963 (8/18/08)/Text: Amends the Newport Transportation System Plan summary (currently beginning on page 152a) to adopt changes to the Newport Transportation System Plan.

Ordinance No. 1968 (12/1/08)/Map: Changes designations of Tax Lots 100 & 101 of Lincoln County Assessor's Map 11-11-20 (Parcels 1 & 2 of Partition Plat 2007-39) and a portion of Tax Lot 700 of Map 11-11-21 by increasing the "Low Density Residential" designation from 33.7 acres to 47.0 acres, decreasing the "High Density Residential" designation from 16.9 acres to 9.8 acres, decreasing the "Commercial" designation from 9.2 acres to 4.9 acres, and decreasing the "Public" designation from 26.2 acres to 24.3 acres.

Ordinance No. 1969 (12/15/08)/Map: Changes designation of an approximately 1.5 acre portion of property that is currently designated as "High Density Residential" in the southeast corner of a 1.5 acre property

(currently identified as Tax Lot 100 of Lincoln County Assessor's Map 11-11-20-AB) to "Industrial" designation.

Ordinance No. 1978 (4/20/09)/Text: Amends the Public Facilities Section and adopts the 2008 Water System Master Plan.

Resolution No. 3486 (1/1/10)/Text: Amends Appendix "A", which sets fees for land use actions and repeals the previous land use fee resolution.

Resolution No. 3488 (1/1/10)/Text: Amends Appendix "A-1", which amends the System Development Charge Rates.

Ordinance No. 1994 (1/6/10)/Map: Changes designation of Tax Lot 3100 of Lincoln County Assessor's Map 10-11-29-CD from a split designation of "Low Density Residential" and "High Density Residential" to entirely "High Density Residential".

Ordinance No. 1995 (1/6/10)/Text: Amends Yaquina Bay and Estuary Provisions of the Comprehensive Plan by amending the Special Policies Subsection of Management Unit No. 4.

Ordinance No. 2015 (7/21/11)/Text: Replaces in their entirety the Population Growth and Characteristics section and the Housing section; adds Appendix "D" (Final Report: Newport Housing Needs Analysis, 2011 to 2031).

Ordinance No. 2017 (8/17/11)/Text: Amends the Shoreland Hazards section of the Natural Features chapter and amends Goal 1, Policy 3 of the Natural Features chapter.

Ordinance No. 2042 (11/1/12)/Text: Repeals the Economic section of the Socioeconomic Characteristics chapter and replaces it with a new Economy section. Also repeals Appendix C entitled "Employment Lands and Conceptual Land Use Planning Project: Economic Planning" and replaces it with Appendix C entitled "Commercial and Industrial Buildable Lands Inventory and Economic Opportunity Analysis".

Ordinance No. 2045 (12/5/12)/Text: Repeals and replaces the Transportation System Plan element of Chapter 5 "Public Facilities".

Ordinance No. 2049 (3/21/13)/Text: Repeals and replaces the Goals and Policies section of the Public Facilities element and repeals and replaces the Urbanization element.

Ordinance No. 2056 (9/5/13)/Text: Replaces in its entirety the Port Facilities element of the Public Facilities Section and adds the Port of Newport subsection to the Goals and Policies section of the Public Facilities element.

Ordinance No. 2066 (7/17/14)/Text: Replaces in its entirety the Library Services section of the Public, Cultural, and Educational Services element.

Ordinance No. 2076 (3/20/15)/Text: Amends the Goals, Policies, and Implementation Measures of the Housing element to include Policy 9 and Implementation Measures. Also amends Appendix D to include the document titled, "Newport Student Housing – Expansion of the Hatfield Marine Science Center in Newport," prepared by ECONorthwest, dated November 2014.

Ordinance No. 2093 (5/19/16)/Text: Amends the Goals & Policies section of the Public Facilities element to put in place policies to provide guidance for when and how LIDs are to be used to fund public facilities (added Policies 6 & 7 under General).

Ordinance No. 2101 (6/18/16)/Map: Amends the Newport Urban Growth Boundary and Comprehensive Plan Map to facilitate an equal area land exchange along the eastern boundary of the Wolf Tree Destination Resort Site.

<u>Ordinance No. 2103</u> (9/6/16)/Map: Changes designation of Tax Lots 100 and 103 of Assessor's Map 11-11-20 (Wilder Planned Development). The Comprehensive Plan Map designation of "High Density Residential" is changed to "Low Density Residential" for Phase 4 and Phase 5. The Newport Zoning Map for Phase 4 and Phase 6 is changed from R-3/"Medium Density Multi-Family Residential" to R-2/"Medium Density Single-Family Residential." The Newport Comprehensive Plan Map for the southerly portion of Phase 5 is changed from "High Density Residential" to "Low Density Residential". The Newport Zoning Map for the same southerly portion of Phase 5 is changed from R3/"Medium Density Multi-Family Residential" to R-2/"Medium Density Single-Family Residential."

<u>Ordinance No. 2109</u> (2/7/17)/Map: Changes to the Newport Comprehensive Plan and Zoning Map to facilitate the Pacific Communities Health District Hospital Expansion for Tax Lots 12900, 13000, 13001, 13100, 13200, 13300, 13400, 13500, 13501, 13502, 13600 and 13700 of Assessor's Map 11-11-08-CA. The Comprehensive Plan Map designation for the subject property is revised from "High Density Residential" to "Public" and the Newport Zoning Map designation for the same property is amended from R-4/"High Density Multi-Family Residential" to P-1/"Public Structures."

<u>Ordinance No. 2128</u> (2/5/18)/Text: Replaces in its entirety the Airport Facilities section of the Public Facilities element of the Comprehensive Plan, and amends the Goals and Policies section of the Public Facilities element of the Comprehensive Plan to replace the existing goal "To provide for the aviation needs of the City of Newport and Lincoln County."

<u>Ordinance No. 2147</u> (3/18/19)/Text: Replaces in its entirety the Goals, Policies, and Implementation language in the Parks and Recreation section of the Public, Cultural, and Educational Services Chapter of the Comprehensive Plan.

<u>Ordinance No. 2155</u> (9/17/19)/Text: Repeals and replaces the Parks and Recreation section of the Public, Cultural, and Educational Services Chapter of the Comprehensive Plan and adopts the Park System Master Plan.

<u>Ordinance No. 2163</u> (3/2/20)/Text: Adds the "Public Parking Facilities" element and the "Goals and Policies Public Facilities Element" to the Public Facilities Chapter of the Comprehensive Plan.

<u>Ordinance No. 2167</u> (4/20/20)/Text: Amends the Wastewater Section and the Goals and Policies Section of the Public Facilities element of the Comprehensive Plan.

<u>Ordinance No. 2169</u> (7/20/20)/Text: Amends the Storm Sewer Facilities Section of the City of Newport Comprehensive Plan.

<u>Ordinance No. 2166</u> (8/4/20)/Text: Amends the Natural Features Section of the Newport Comprehensive Plan and the Newport Municipal Code related to Tsunami Hazards.

<u>Ordinance No. 2175</u> (1/19/21)/Map: Tax Map 12-11-05, Tax Lot 801 deleted from urban growth boundary and Comprehensive Plan Map, and returned back to the county; Tax Map 10-11-33, Tax Lots 100 and 101 added and designated High Density Residential.

<u>Ordinance No. 2199</u> (8/15/22)/Text: Amends the Transportation Element and the Transportation Goals and Policies Sections of the Newport Comprehensive Plan. Amends the Newport Municipal Code related to the Transportation System Plan. Adopts the 2022 Transportation System Plan.

<u>Ordinance No. 2196</u> (11/7/22)/Map: Changes to the Newport Comprehensive Plan and Zoning Map to implement the recommendations of the South Beach US 101 Refinement Plan for Assessor's Map 11-11-17-DA as Tax Lots 00300, 00301, 00400, 00401, 00500 and 90000 through 90014; Map 11-11-17-DB as Tax Lots 00600, 00601, 00700, 00800, 00900, 01000, 01100, 01101, 01102, 01103, 01400, 01500, 01501, 01600, 01700, 02000, 02100, and 02200; Map 11-11-17-DC as Tax Lots 00100, 00200, 00201, 00300, 00301, 00302,

00303, 00401, 00402, 00403, 01300, 01500 and 01501; together with abutting rights-of-way. The Comprehensive Plan Map designation for the subject properties are revised from ""Industrial" to "Commercial." Changes also include property between US 101 and the Pacific Ocean, immediately north of the Southshore Planned Development, identified on Lincoln County Assessors Map 11-11-20 as Tax Lots 03300, and the southernmost portion of Tax Lot 00100 on Map 11-11-19 that is not presently inside the Newport City limits; together with the abutting US 101 right-of-way. The Comprehensive Plan Map designation for the subject properties are revised from ""High Density Residential" to "Public."

Ordinance No. 2204 (11/7/22)/Text: Amends the Transportation subsection of the Goals and Policies Public Facilities Element of the Newport Comprehensive Plan (2022 Yaquina Head Traffic Study).

Ordinance No. 2207 (3/6/23)/Text: Amends the Housing Section of the City of Newport Comprehensive Plan. Repeals the Population Growth and Characteristics section of chapter 4, Socioeconomic Characteristics. Newport Comprehensive Plan, Housing. Repeals and replaces the Housing section of chapter 4, Socioeconomic Characteristics, with a new Housing section. Repeals and replaces Appendix D of the Newport Comprehensive Plan titled "Final Report: Newport Housing Needs Analysis, 2011 to 2031 (ECONorthwest, May 2011)" with a new Appendix D titled "City of Newport 2022 – 2042 Housing Capacity Analysis (ECONorthwest, November 2022)".

Ordinance No. 2209 (3/20/23)/Text: Amends the History subsection of the Physical and Historical Characteristics Element of the Newport Comprehensive Plan.

URBANIZATION*

The Newport urban area includes lands within the city limits. It becomes necessary, however, to identify lands outside those limits that will become available for future growth. With that in mind, the City of Newport and Lincoln County have agreed upon a site specific boundary that limits city growth until the year 2031.

The urban growth boundary (UGB) delineates where annexations and the extension of city services will occur. Converting those county lands within the UGB requires coordination between the county, the property owners, and the city. This section provides the framework and the policies for those conversions and service extensions. The decision makers can also use this section as a guide for implementation of the urbanizing process.

The city and county made the policies of this section as part of a coordinated effort. Involved in the process were the governing bodies and planning commissions of both jurisdictions. The Citizen's Advisory Committee, concerned citizens, and other affected agencies also participated in the process.

Newport Urban Growth Areas:

Land forms are the most important single determinant of the directions in which Newport can grow. Newport is bounded on the west by the Pacific Ocean and on the east by the foothills of the Coast Range. In addition, the city is divided by Yaquina Bay. The only suitable topography for utility service and lower cost urban development is along the narrow coastal plain. Some development has occurred in the surrounding foothills and along the Yaquina River and creek valleys, but this is generally rural development of low density without urban utilities. The following inventory describes areas evaluated as to their suitability to accommodate expected growth.

A. Agate Beach Area (North Newport/390 Acres):

Inventory. This study area consists of both urbanized and undeveloped land (see map on page 283). Of the 390 acres available for residential development, 225 lie within the unincorporated area of the UGB, and 165 acres are within Newport's city limits. (The urbanized area contains approximately 60 acres.)

The urbanized area was platted in the 1930's, with growth occurring gradually since that time. The area is primarily residential and has a mixture of houses, mobile homes, trailers, and some limited commercial uses along U.S. Highway 101. The area was previously served by the Agate Beach Water System, which frequently failed to meet federal water quality standards and had inadequate line size and pressure to serve existing customers and projected growth. The City of Newport rebuilt the water system and installed a sewer system at the cost of approximately $1.4 million.

The unincorporated portions of this study area have been included in Newport's UGB

entire Chapter repealed and replaced by Ordinance No. 2049 (3-21-13)

to help meet anticipated need for residential land. The land is relatively level, water services and road access are immediately adjacent, and sewer is available. The area has been urbanized to a degree already and is suitable for continued residential development. Much of this area has been platted into 5,000 square foot lots, which are both suitable for mobile home placement and "buildable" as sewer is extended.

Analysis. Because most of this area has been previously platted into 50 x 100 foot lots, land costs can be expected to be lower than in newly platted areas of the city. Many mobile homes and trailers currently exist in this area, and smaller lots are appropriate for mobile homes.

Finding. This area is suitable for continued residential development and is designated residential. In addition, because of the smaller lot sizes and the existence of many mobile homes in the area, a mobile home overlay zone is desirable and compatible with existing uses. Areas of larger acreage on both the east and west side are suitable for high density residential use with the mobile home overlay so that new mobile home parks may be built in the area as outright uses, as well as allowing apartments. Existing commercial development along U.S. Highway 101 should be allowed to remain.

B. Agate Beach Golf Course and Little Creek Drainage Area (North Newport/93 acres):

Inventory. This area lies south and east of the golf course, west of the west line of Section 33, and east of Highway 101, all of which is within the city limits (see map on page 283). The area is generally undeveloped, and it slopes steeply toward Little Creek.

The area has been planned to be served by city water and sewer and a major new road. It is zoned for low and high density residential development.

Analysis. Because of the steep slopes, this is the type of area where a planned development is often appropriate. It borders a mobile home park to the south and is geographically well separated from other areas of conventional housing; therefore, mixed residential development can be considered for the property with little possible conflict.

Finding. Because of the topography, either low density residential development with a planned development overlay or high density residential development would be appropriate designations. However, the former would insure more open space in the long range.

C. West Big Creek Drainage Area (North Newport/40 acres):

Inventory. This area lies south of the Pacific Beach Club, east of U.S. Highway 101, and west of Lakewood Hills (see map on page 283). It has not yet been developed.

Analysis. Much of the area is in a flood plain. However, it has been studied for a planned development and is suitable for high density residential use.

Finding. High density residential will be the designation for this property. The land

may be suitable for a planned unit development.

D. East Big Creek Drainage Area (City Reservoir):

Inventory. This area drains into the city reservoir, and the city owns the majority of the land (see map on page 283). There are several smaller private parcels with houses and livestock.

Finding. This area could eventually be used as a large city park or residential area once the reservoir is no longer used for the city water supply. During the planning period, this area should be protected from further residential development.

That land which is not needed for public park land shall be considered for return to the private sector for housing.

E. Jeffries Creek Drainage Area (Northeast Newport/220 Acres):

Inventory. This area is south of the city reservoir, north of Old Highway 20, east of Harney Street, and west of the eastern half of Section 4 (see map on page 283). This area contains the Terrace Heights, Virginia Additions, Kewanee Addition, and the Beaver State Land property. There is very little development in the area as yet. Fifty-five acres lie within Newport's city limits.

Analysis. Platted around the turn of the century, this area has long been planned for low density residential development. Little has occurred so far due to more accessible development closer to Newport. This is no longer the case, and this land is now needed for housing.

Finding. This area has steep slopes, no existing utilities as yet, and will be expensive to develop. However, much of the property will have ocean or bay view. The area is appropriate for low density development.

F. Harbor Heights Area (Southeast Newport/267 Acres):

Inventory. This study area lies east of Harbor Heights to the urban growth boundary and north of Bay Road to the urban growth boundary (see map on page 283). Of its 267 acres, approximately 44 are within Newport's city limits.

Analysis. This is an area where lot sizes might well be raised to a higher minimum to encourage the maintenance of the vegetation that helps stabilize the entire area. This would be a high cost housing area with very low density development.

Finding. The area is steep with some slide potential. Dotted with residential uses, the area commands a view of the bay and is in heavy demand. A low density residential designation is appropriate for this area.

G. Idaho Point Area (South Beach/120 Acres):

Inventory. This area stretches from South Bay Street to the Idaho Point Marina and from S.E. 32nd Street south to the forest lands (see map on page 283).

Analysis. The existing water system is inadequate and is being replaced, along with city sewer. Some of the area is in demand for its bay view, and much of the land could be developed for medium to high cost housing. The topography varies from flat to steeply sloping, with most in the in between category; therefore, development costs will vary.

Finding. The topography in the area varies from flat to steeply sloping, with most of it moderately sloping. The existing water system is inadequate and sewer is not yet available. Some low density residential uses currently exist, and the area has been planned for a mix of low and high density residential.

H. South Beach (South of Newport/560 Acres):

Inventory. The area extends from S.E. 32nd Street to the southern boundary of the Newport Municipal Airport and from the southerly extension of Bay Street to U.S. Highway 101 (see map on page 283).

Analysis. The area has long been planned for urban development and is currently coming along in that manner. Newport has planned for many years to encourage industrial development in South Beach.

Finding. It is the only area for which the city has planned industrial development that would allow non-water related or non-water dependent industrial development. The area will need city sewer and other city services.

I. Wolf Tree Destination Resort (South of Newport/1,000 Acres):

Inventory. The city extended its urban growth boundary and the city limits to include about 1,000 acres for the Wolf Tree Destination Resort consistent with Goal 8 (see map on page 284). The area includes about 800 acres south of the Newport Municipal Airport, with another 200 acres lying east of the airport. The region has a special plan and zoning designation that limits the land for a destination resort.

Analysis. Currently undeveloped except for a few scattered residences, the area has been planned for a destination resort since 1987. The south area is presently in the city limits, but the easterly 200 acres is not. The Wolf Tree property was brought into the UGB and annexed to the city only after a Goal 8 Destination Resort analysis and a limitation on

the property to the development of a destination resort. Many state and federal agencies were involved in the process that brought this property into the UGB and the city limits.

Finding. The project complies with Goal 8/"Destination Resort." The property cannot

be developed except as a destination resort consistent with state and city law.

Finding. The City of Newport has established its urban growth boundary as indicated on the city's Comprehensive Plan Map (available in the city's Planning Department office), in accordance with the following findings and as demonstrated in the inventory:

- The projected population growth requirements of the City of Newport, as demonstrated in the inventory, cannot be met within the existing city limits.
- In order to provide adequate housing opportunities and needed employment and to plan for a livable environment, there is a need for additional acreage beyond that currently available within the Newport city limits.
- The City of Newport has planned for the urbanization of the UGB area based upon the city's long-range plan and capacity to extend needed facilities and service during the planning period.
- In determining the most appropriate and efficient land uses and densities within the UGB, the City of Newport has considered current development pattern limitations posed by land forms, as well as the city's needs during the planning period.
- In establishing its UGB, the City of Newport has considered and accounted for environmental, energy, economic, and social consequences as demonstrated in the inventory.
- There are no agricultural lands adjacent to the Newport urban growth boundary.
- What alternative locations within the area have been considered for the proposed needs.

****

GOALS/POLICIES/IMPLEMENTATION MEASURES URBANIZATION

Goal: To promote the orderly and efficient expansion of Newport's city limits.

Policy 1: The City of Newport will coordinate with Lincoln County in meeting the requirements of urban growth to 2031.

Implementation Measure 1: The adopted urban growth boundary for Newport establishes the limits of urban growth to the year 2031.

1.) City annexation shall occur only within the officially adopted urban growth

boundary.

2.) The official policy shall govern specific annexation decisions. The city, in turn, will provide an opportunity for the county, concerned citizens, and other affected agencies and persons to respond to pending requests for annexation.

3.) Establishment of an urban growth boundary does not imply that all included land will be annexed to the City of Newport.

Policy 2: The city will recognize county zoning and control of lands within the unincorporated portions of the UGB.

Implementation Measure 2: A change in the land use plan designations of urbanizable land from those shown on the Lincoln County Comprehensive Plan Map to those designations shown on the City of Newport Comprehensive Plan Map shall only occur upon annexation to the city.

1.) Urban development of land will be encouraged within the existing city limits. Annexations shall address the need for the land to be in the city.

2.) Urban facilities and services must be adequate in condition and capacity to accommodate the additional level of growth allowed in the city's plans. Those facilities must be available or can be provided to a site before or concurrent with any annexations or plan changes.

Policy 3: The city recognizes Lincoln County as having jurisdiction over land use decisions within the unincorporated areas of the UGB.

Implementation Measure 3: All such decisions shall conform to both county and city policies.

1.) Unincorporated areas within the UGB will become part of Newport; therefore, development of those areas influences the future growth of the city. Hence, the city has an interest in the type and placement of that growth. Lincoln County shall notify the city of any land use decision in the UGB lying outside the city limits. The county shall consider recommendations and conditions suggested by the city and may make them conditions of approval.

2.) The city shall respond within 14 calendar days to notifications by the county of a land use decision inside the adopted UGB. The county may assume the city has comments only if they are received inside of that 14 days.

Policy 4: The development of land in the urban area shall conform to the plans,

policies, and ordinances of the City of Newport.

Implementation Measure 4a: The City of Newport may provide water and wastewater services outside the city limits consistent with the policies for the provision of such services as identified in the applicable Goals and Policies of the Public Facilities Element of the Comprehensive Plan.

Implementation Measure 4b: Amendments to UGB Boundaries or Policies. This subsection delineates the procedure for joint city and county review of amendments to the urban growth boundary or urbanization policies as the need arises.

1.) Major Amendments:

a.) Any UGB change that has widespread and significant influence beyond the immediate area. Examples include:

(1) Quantitative changes that allow for substantial changes in the population or development density.

(2) Qualitative changes in the land use, such as residential to commercial or industrial.

(3) Changes that affect large areas or many different ownerships.

b.) A change in any urbanization policy.

2.) Minor Boundary Line Adjustments: The city and county may consider minor adjustments to the UGB using procedures similar to a zone change. Minor adjustments focus on specific, small properties not having significant impact beyond the immediate area.

3.) Determination of Major and Minor Amendments: The planning directors for the city and county shall determine whether or not a change is a minor or major amendment. If they cannot agree, the planning commissions for the city and county shall rule on the matter. The request shall be considered a major amendment if the planning commissions cannot agree.

4.) Initiation, Application, and Procedure: Individual or groups of property owners, agencies that are

affected, the planning commissions, or the city or county governing bodies may initiate amendments. Applicants for changes are responsible for completing the necessary application and preparing and submitting the applicable findings with the application. The planning commissions

for the city and county shall review the request and forward recommendations to the Newport City Council and the Lincoln County Board of Commissioners.

The city and county governing bodies shall hold public hearings on the request. Amendments become final only if both bodies approve the request.

5.) Findings shall address the following:

a.) Land Need: Establishment and change of urban growth boundaries shall be based on the following:

1.) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

2.) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks and open space, or any combination of the need categories in this subsection;

b.) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

1.) Efficient accommodation of identified land needs;

2.) Orderly and economic provision of public facilities and services;

3.) Comparative environmental, energy, economic, and social consequences; and

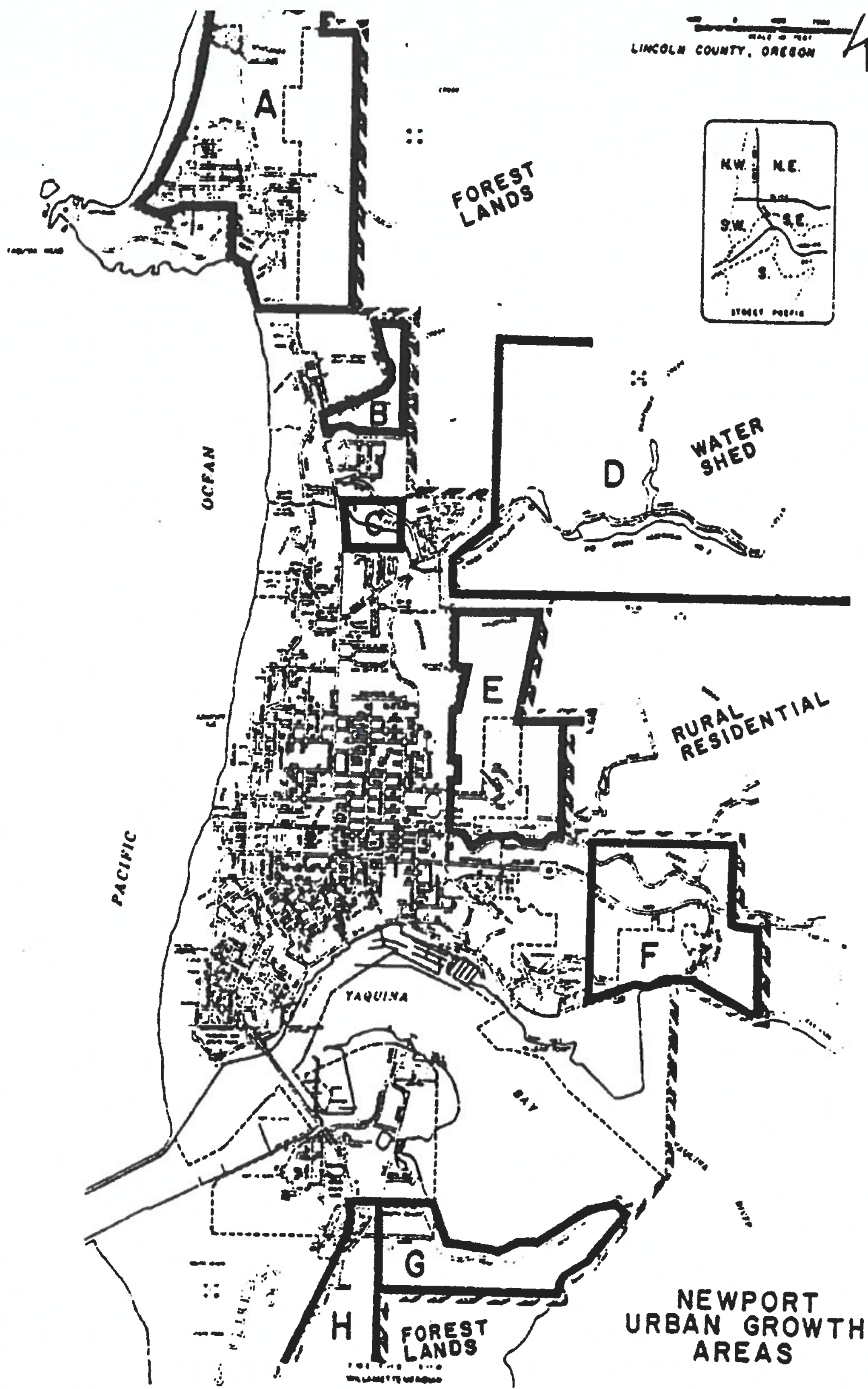
4.) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

c.) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement.

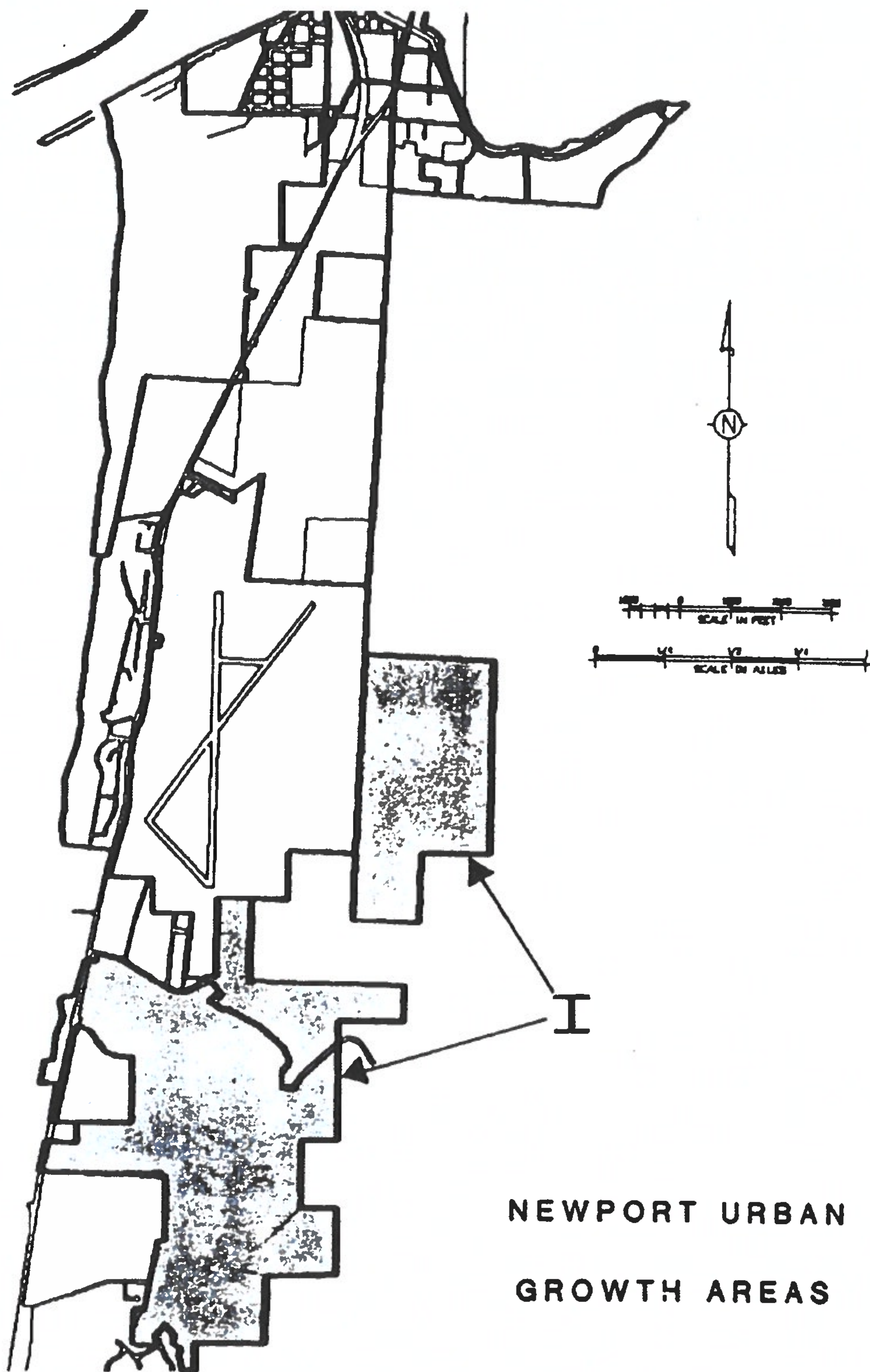
6.) Correction of Errors: Occasionally an error may occur. Errors such as cartographic mistakes, misprints, typographical errors, omissions, or duplications are technical in nature and not the result of new information or changing policies. If the Newport City Council and the Lincoln County Board of Commissioners become aware of an error in the map or text of

this adopted urbanization program, either body may cause an immediate amendment to correct the error. Both bodies must, however, agree that an error exists. Corrections shall be made by ordinance after a public hearing. The governing bodies may refer the matter to their respective planning commissions, but that is not required.

Policy 5: The city is responsible for public facilities planning within its urban growth boundary.



Page 283. CITY OF NEWPORT COMPREHENSIVE PLAN: Urbanization.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2 What is a Comprehensive Plan?

Comprehensive Plan Purpose and Use

The Salem Area Comprehensive Plan is a long-range plan that guides future growth and development in the Salem urban area. It establishes a framework to guide all land use and related activities in line with the community's vision, and it aims to ensure orderly and efficient development that meets the community's needs.

Specifically, the Comprehensive Plan includes goals, policies, a Comprehensive Plan Map, and other components that inform how and where land is developed and infrastructure is provided to meet the needs of current and future residents. It also provides guidance on how the community is engaged in planning and decision-making and how coordination occurs with the larger Salem/Keizer urban area.

The Comprehensive Plan further informs other City planning documents and investments related to future growth. Under state law, all area plans, zoning codes, permits, and public improvements must be consistent with comprehensive plans. The Comprehensive Plan is intended for use by all those who have interest in future growth and development in the Salem urban area, including local officials, appointed committees and boards, neighborhood and community groups, developers, property owners, public agencies, businesses, and others. It is used when making decisions and recommendations on future development, infrastructure, parks, natural systems and the environment, climate change and resiliency, equity, and related issues.

To ensure that the Comprehensive Plan remains a useful tool to guide growth, it must be monitored for its impact and modified periodically to reflect community conditions.

Implementation

This Comprehensive Plan is implemented over time through a variety of tools and measures. The plan specifically informs the development and revision of many implementation tools, including Salem's development code (SRC Title X - Unified Development Code), zoning map, annexation of land, urban renewal plans, urban growth management program, Capital Improvement Plan, and other City plans and programs.

These tools therefore play a critical role in advancing the goals and policies of the Comprehensive Plan and help to ensure that short-term decisions align with the

community's long-term vision. Some of the implementing tools are as follows:

1. **Development Code:** The Unified Development Code (UDC) implements the Comprehensive Plan as a regulatory tool. It specifically regulates the use of land by classifying different uses compatible with one another into zones, which are applied to the land (see "Zoning Map" below). The UDC also establishes development and design standards that regulate the shape and form of development. In addition, the UDC includes land division, site plan review, design review, and other land use procedures as well as standards for public infrastructure and requirements to preserve natural and historic resources.
2. **Zoning Map:** The zoning map implements the Comprehensive Plan Map. It is more detailed than the Comprehensive Plan Map and applies specific zones and overlay zones to the land. The uses allowed or prohibited in each zone are outlined in the UDC.
3. **Annexations:** Annexation is the process by which territory within the Salem urban area is added to the City of Salem. Annexation provides the basis for extending urban services and facilities to accommodate urban development.
4. **Capital Improvement Plan:** The Capital Improvement Plan (CIP) identifies major projects requiring the use of public funds beyond routine annual operating expenses. Projects can include new or improved parks, water and sewer infrastructure, City buildings, streets, and other facilities and utilities. The projects are scheduled out over five years based on priorities that reflect the need for the improvements and expected financial capabilities.
5. **Urban Growth Management Program:** The urban growth management program determines the extent and location of public facility extensions from the City and the obligation of benefitted development to pay for the extensions. It aims to strategically guide growth and development to where public facilities and services are available.
6. **Urban Renewal:** Urban renewal is a financial tool that funds projects and activities in specific areas of a city

– urban renewal areas – by reinvesting the increase in the area's property taxes. The purpose of urban renewal is to make public investments in designated areas to remove blight, improve property values, and leverage private investment.

7. **Incentives:** Incentives used to encourage certain types of private development can contribute significantly to the public good. Usually, these incentives relate to favorable financial arrangements such as: low-interest loans, tax exemptions, aids in land acquisition, or direct subsidy payments. Certain land use controls may provide positive inducements to develop in a more favorable manner.

Oregon Requirements and Statewide Planning Goals

Oregon state law requires all cities and counties to adopt comprehensive plans that are consistent with 19 Statewide Planning Goals, which were established by the Oregon State Legislature in 1973. These goals set broad statewide policy goals for citizen involvement, land use planning, housing supply, economic development, transportation systems, public facilities and services, natural resources management, recreation, and more.

This Comprehensive Plan incorporates and complies with the requirements of Oregon's Statewide Planning Goals, which are highlighted in each chapter.

History of Salem's Comprehensive Plan

The Salem Area Comprehensive Plan was first adopted by Salem, Marion and Polk Counties in 1973. Conditions have changed since 1973 and the Plan has been reviewed and revised accordingly. The adoption of State Land Use Goals in 1974 mandated a revision process to conform the Plan and implementing ordinances with State goals. Plan changes initiated after community wide workshops in 1976 led to Land Conservation and Development Commission acknowledgment of the revised plan in May 1982. A challenge of the 1982 Urban Growth Boundary led to a 1986 amendment of the Plan that reduced the designated urbanizable area by 2,400 acres. The incorporation of Keizer as a city in 1982 precipitated a separate Keizer Comprehensive Plan, adopted as a Salem Area Comprehensive Plan post acknowledgment amendment.

In 1988, State planning rules called for the "periodic review" and update of the Plan. The Plan was updated to reflect periodic review and subsequent officially adopted revisions. The most recent update – prior to this update – was in November 2015 following the adoption of the Salem Economic Opportunities Analysis.

This Plan represents a comprehensive update to most of the goals and policies in the 2015 Plan. The Regional Policies and Procedures have not been changed.

Organization of the Plan

Components and Support Documents

The Comprehensive Plan includes a variety of documents and maps, as outlined in SRC Chapter 64. That chapter provides the criteria and procedures to adopt and amend the

5 Comprehensive Plan Designations

The Comprehensive Plan Map represents and carries out the Comprehensive Plan's goals and policies. The map includes Comprehensive Plan Map designations that are applied to all areas of the Salem Urban Area. For land outside of Salem city limits, the Comprehensive Plan Map designations only apply upon annexation unless Marion or Polk county has adopted the designations.

The Comprehensive Plan Map designations are described below. The descriptions identify where the designations are generally intended to be applied in the Salem area and the primary uses generally envisioned to be allowed in each designation. The descriptions also identify the corresponding zones that implement each designation.

Farm and Resource Management

The Farm and Resource Management designation is applied to areas within Salem city limits but outside the Urban Growth Boundary where the continued practice of agricultural and related resource uses is required. This land is not currently urbanizable, and public services required for urban development are not currently available.

- **Primary uses:** The primary use is agriculture.
- **Corresponding zones:** Exclusive Farm Use (EFU)

Developing Residential

The Developing Residential designation is intended for urbanizable lands that have not yet been developed at urban densities. This designation is generally located on the periphery of the Salem urban area, outside City of Salem limits and the East Salem service districts. As a result, these areas may not be fully served by public facilities and may need to be annexed into the City to develop at urban densities.

- **Primary uses:** The primary uses are agriculture and single dwellings on acreage parcels. Land designated as Developing Residential is expected to be developed in the future with a range of housing types, including detached dwellings, accessory dwelling units, townhomes, duplexes, and other middle housing types. This designation also accommodates land uses that serve and support residents living in these areas, including schools, parks, and places of worship.
- **Corresponding zones:** Residential Agriculture (RA), Single Family Residential (RS)

Single Family Residential

The Single Family Residential designation applies to lower-density residential areas. This designation is generally located in existing residential neighborhoods or in areas that are served by public facilities and therefore suitable for residential development at urban densities.

- **Primary uses:** The primary uses are single dwellings and middle housing, including townhouses, duplexes, triplexes, fourplexes, and cottage clusters. This designation also accommodates other land uses that serve and support residents living in these areas, including schools, parks, and places of worship. Live-work spaces are also allowed along major corridors in this designation where lower-density housing exists.
- **Corresponding zones:** Single Family Residential (RS), Neighborhood Hub (NH)

Multi-Family Residential

The Multi-Family Residential designation is intended to promote medium- and high-density housing distributed across the Salem area. This designation is generally located near mixed-use and employment areas, low-density residential areas, major transportation corridors, transit routes, parks, and schools.

- **Primary uses:** The primary use is multifamily housing. Middle housing types are also allowed as are a limited mix of other land uses that support and serve residents living in these areas, such as personal services, schools, parks, and places of worship.
- **Corresponding zones:** Multiple Family Residential I (RM-I), Multiple Family Residential II (RM-II), Multiple Family Residential III (RM-III)

Commercial

The Commercial designation is intended to provide a variety of office, retail, service, recreation, and entertainment uses. This designation is generally located near major intersections and along a limited number of transportation corridors. Commercial areas range in size and scale from neighborhood services to regional shopping centers.

- **Primary uses:** The primary uses are offices, retail sales and services, business services, and recreational and entertainment uses. Residential and light industrial uses are allowed on a limited basis.
- **Corresponding zones:** Commercial Office (CO), Retail Commercial (CR), General Commercial (CG)

Central Business District

The Central Business District designation applies to the downtown core of the Salem urban area where a compact mix of high-density residential, commercial, and recreational uses are encouraged. This designation is intended to promote a pedestrian-friendly center of business, commerce, entertainment, and cultural amenities in downtown that serves Salem and the region. It is also intended to create a

1 **PREFACE:** Council, Planning Commission, Advisory Committee, and City Staff, i; Introduction, ii.

2 **PHYSICAL AND HISTORICAL CHARACTERISTICS:** Physical Description, 1; History, 11.

3 **ENVIRONMENT:** Natural Features, 27 [Geology, 27; Earthquakes, 33; Flood-prone Areas, 35; Ocean Shorelands, 36; Ocean Shorelands Map, 51]; Forest Lands, 56; Agriculture, 60; Water Quality, 62; Air Quality, 64; Noise, 66; Energy, 69; Solid Waste, 74; Wetlands, 76; Aggregate and Mineral Resources, 79.

4 **SOCIOECONOMIC CHARACTERISTICS:** Housing, 123; Economics, 131; Newport Peninsula Urban Design Plan, 198.

5 **PUBLIC FACILITIES:** Introduction to Public Facilities, 204; Water Supply Facilities, 207; Wastewater Facilities, 219; Newport Transportation System Plan, 228; Public Parking Facilities, 271; Airport Facilities, 283; Port Facilities, 289; Storm Drainage Facilities, 297; Goals and Policies, 302.

6 **PUBLIC, CULTURAL AND EDUCATIONAL SERVICES:** Parks and Recreation, 323; Fire Emergency Services, 339; Police Services, 342; Entertainment and the Arts, 348; Library Services, 351; School Services, 354.

7 **THE BAY AREA:** Yaquina Bay and Estuary Section, 360 [Yaquina Bay Estuary, 360; Yaquina Bay Shorelands, 390; Port Development Plan, 394; Yaquina Bay Estuary and Shorelands Map, 403].

8 **PLAN MANAGEMENT:** Urbanization, 406; Administration, 417.

9 **APPENDIX A:** Resolution establishing land use fee schedule, 427.

10 **APPENDIX B:** List of amending ordinances noting sections amended, 433.

11 **APPENDIX C:** "Employment Lands & Conceptual Land Use Planning Project: Economic Planning" (Benkendorf Associates Corp., et al., September, 2005), 440.

12 **APPENDIX D:** "City of Newport 2022 – 2042 Housing Capacity Analysis" (ECONorthwest, November 2022), 652.

13 **BIBLIOGRAPHY:** 832.

14 **NEIGHBORHOOD PLANS:** "Agate Beach Neighborhood Plan" (July 6, 1998), 836; "Bay Front Plan" (July 6, 1999), 879.

(Unless otherwise specified, new language is shown in red and/or 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.)

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City of Newport

Community Development Department

Memorandum

To: Planning Commission/Commission Advisory Committee

From: Derrick Tokos, Community Development Director

Date: June 6, 2024

Re: Follow-up Review of Amendments to Facilitate Construction of Needed Housing

---

Attached to this memo is an updated draft set of code amendments for the Planning Commission's consideration. The proposed changes will, on balance, provide greater flexibility to housing developers struggling to meet certain dimensional standards, building height limitations, and parking requirements. The revisions also allow transitional housing as a community service use in commercial and industrial zoned areas. The changes were developed with Planning Commission input at work sessions on December 11, 2023 and January 8, 2024, and the Commission recommended their adoption following a public hearing on February 26, 2024.

The Newport City Council held a work session on March 4, 2024, at which they asked staff to clarify some of the proposed changes. A public hearing on a further revised version of the amendments (i.e. Ordinance No. 2222) was held on March 18, 2024. The Governor's Housing Bill, SB1537, was approved by the Oregon Legislature on March 4, 2024 and signed into law on April 4, 2024. The City Council, concerned about the interplay and potential compounding effect of the new law as it relates to the proposed amendments, elected to table Ordinance No. 2222. The City then hired the services of the Local Government Law Group to provide legal guidance on how the City might best be able to implement SB 1537 given the various incentives and regulatory changes it has been developing to promote housing construction. A memo from the Local Government Law Group, dated May 22, 2024 (attached), responds to a series of SB 1537 related questions. Taking their feedback, staff has prepared a series of additional revisions to Ordinance No. 2222 that create a process and criteria for evaluating SB 1537 adjustment applications and clarify the relationship between such adjustments and the City's other housing related regulatory and financial incentive programs.

A copy of the updated ordinance is enclosed, and I have highlighted in yellow the changes that have been made to the document. There is also a new Chapter 14.51 to implement SB 1537. Enclosed is the one page comparison of the ministerial adjustments the City developed, and those in SB 1537 that must go through a land use decision making process. For this work session, I'll be prepared to walk through and explain the reasoning for each of the changes and look forward to your feedback. If the Commission is comfortable with the revisions, then a public hearing on the amended ordinance can be scheduled for July 8, 2024. While the SB 1537 adjustment process isn't effective until January of 2025, several of the City initiated changes are important to housing projects that are being designed, so it is important that the package of amendments move forward in a timely manner.

Attachments: Updated draft of Ordinance No. 2222, SB 1537 – City Code Amendment Comparison, May 22, 2024 Memo from Attorney Carrie Connelly with the Local Government Law Group, and SB 1537 (enrolled).

CITY OF NEWPORT

ORDINANCE NO. 2222

AN ORDINANCE AMENDING CHAPTERS 14.01, 14.03, 14.06, 14.11, 14.13, 14.14, 14.33 AND 14.52 OF TITLE XIV OF THE NEWPORT MUNICIPAL CODE TO PROMOTE THE CONSTRUCTION OF NEEDED HOUSING

(Newport File No. 3-Z-23)

Findings:

1. On May 15, 2023 the Newport City Council approved Resolution No. 3978, adopting the 2023 Newport Housing Production Strategy (HPS). The strategy sets out 13 action items the City has committed to pursuing in order to promote the construction and/or availability of needed housing. One of the action items, Item "C", calls for the City to evaluate its development codes to reduce barriers to housing development.

2. At its June 12, 2023 work session, the Planning Commission considered topic areas outlined in the Housing Production Strategy (HPS) as potential barriers to the construction of needed housing. Following that discussion, the Commission expressed its interest in seeing a draft set of code amendments that respond to those concerns. Draft amendments were developed with the Commission's input at work sessions on December 11, 2023 and January 8, 2024.

3. During its regular meeting on January 8, 2024, the Planning Commission chose to initiate the process of amending Newport Zoning Ordinance, codified as Title XIV of the Newport Municipal Code consistent with the process set out in Newport Municipal Code (NMC) Chapter 14.36.

4. The Newport Planning Commission held a public hearing on February 26, 2024 to consider testimony and comment on the draft amendments and, at the conclusion of the hearing, passed a motion recommending the City Council adopt the changes. In making its recommendation, the Commission concluded that the amendments satisfy the City’s requirement that legislative amendments be necessary and further the general welfare of the community because they ensure that the Municipal Code provisions that the City enforces align with new state law. The specific amendments forwarded by the Commission for the City Council’s consideration are summarized as follows:

    a. NMC 14.01.020, Definitions, is being revised to clarify the definition of “affordable housing.” The new definition aligns with the definition of the same term in NMC Chapter 3.20, making it clear that a housing development with at least half of the units being available to own or rent to families at or below 60 percent of median income qualify as “affordable.”

b. NMC 14.03.060 and 070 are being amended to allow transitional housing as a "community service" use when operated by a public or non-profit entity as defined in ORS 197.746. Tenancy is limited to a period of time that is not to exceed 30 days. This amendment adds an additional housing option in commercial and industrial zoned areas and addresses a code barrier issue identified in the HPS.

c. NMC 14.06.060, which sets out the requirements for constructing recreational vehicle parks, has been substantially re-written for clarity and ease of use. Relevant provisions of OAR Chapter 918, Division 650, which govern the construction of recreational vehicle parks, have been incorporated into the code. Some of the changes will help reduce construction costs and others address services needed to support long term occupancy, both of which were focus areas in the HPS. The amendments allow gravel roads, limit areas where perimeter fencing/screening is required, and reduce the size requirements for RV spaces. A prohibition on outdoor storage has also been removed. Requirements that spaces be fully served, and that washer/dryer facilities be provided, are being retained recognizing that tenants could be at the parks for extended periods of time.

d. NMC 14.11.020, relating to required outdoor recreational areas, has been updated to note that the square footage requirements can be combined into a single, usable space. This is consistent with how the provision has been applied. The requirement that the recreational areas be enclosed is also being removed, as it is not value additive. This will also save on costs.

e. NMC 14.11.030 clarifies the City's garage setback requirements. The new language establishes that, within rights-of-way, the boundary of the access street from which the setback is measured is the curb line or, where curbs are absent, the edge of the asphalt or other boundary of the travel surface. This will provide additional flexibility in siting dwellings.

f. NMC 14.13.020 sets out the height limitations for buildings within the City. The existing maximum building height in the City's medium and high density multi-family zone districts is 35-feet. That limit is being increased to 40-feet for multi-family buildings that have a 4:12 or steeper roof pitch. This addresses a concern raised in the HPS that multi-family projects cannot achieve three full floors of units under the existing height limits.

g. NMC 14.14.030 stipulates the amount of off-street parking required for new development projects. It is being revised to include a parking ratio for Single Room Occupancy (SRO) uses, which the City added as a new development type to comply with mandates from the 2023 Oregon legislative session. The parking ratio will also apply to boarding houses, a use type that has been in the City's land use code for a number of years. Boarding houses are a short-term tenancy equivalent of SROs.

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h. NMC 14.14.030 is further amended to include new on-street parking credit language. The HPS points out that a requirement that off-street parking be constructed with new residential development contributes to higher housing costs. Due to terrain and existing development patterns, Newport has a number of narrow roadways that cannot safely accommodate on-street parking; therefore, this amendment only allows developers relief from off-street parking in circumstances where there is capacity to accommodate parking demand on both sides of a public street.

i. NMC 14.33.020 includes language that describes the types of standards that the City allows to be modified through an adjustment or variance procedure. It is being amended to remove the prohibition on adjustments or variances that would increase densities in residential zones. This will give applicants the opportunity to pursue minimum lot size adjustments that would allow land divisions resulting in lots or parcels that fall short of minimum lot sizes. This will result in additional residential development opportunities, particularly in infill areas.

j. NMC 14.33.030 identifies who at the City has the authority to approve adjustments and variances. It is being amended to add a new process that allows the Community Development Director to approve a deviation less than or equal to 10% of a numerical standard if it will allow more dwelling units than would otherwise be achievable through strict adherence to the numerical standard. The granting of such a City offered deviation, as opposed to a SB 1537 adjustment, is to be a ministerial action, avoiding the time and uncertainty associated with a land use decision making process.

k. NMC 14.52.030 is a section of the City's land use procedural requirements that identifies who the approval authorities are for various application types. It is being amended to clarify that it is the Community Development Director, or designee, that is responsible for carrying out ministerial actions. Common types of ministerial actions are also listed.

5. The City Council held a work session on March 4, 2024 regarding the question of the proposed amendments and, after due deliberation, requested changes to clarify the scope of certain amendments, as follows:

   a. NMC 14.11.030 has been further revised to note that the garage must adhere to the standard building setbacks from property lines listed in NMC 14.13.020, Table A. This is how the code has been interpreted, and the change makes that interpretation explicitly clear.

   b. NMC 14.33.030 has been further revised to note that the 10% ministerial adjustment to building height does not apply to building height limits at or above 40-feet in height. The amendment to NMC 14.13.020 allows multi-family developments to be increased to 40-feet in height to ensure projects can construct three floors of housing. Buildings above forty feet in height may require public review available

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through land use decision making processes given the potential impact to fire services and solar access on nearby properties.

6. Statewide Planning Goal 10, and its implementing statutes and administrative rules, are designed to ensure that there is (a) an opportunity within a city for the provision of adequate numbers of needed housing units, (b) the efficient use of buildable land within urban growth boundaries, and (c) to provide greater certainty in the development process so as to reduce housing costs. The amendments, summarized above, respond to the last point by allowing modest adjustments to land use requirements in a ministerial manner, eliminating the need for discretionary land use decision-making processes where there is uncertainty as to whether or not an applicant will be successful. Changes like the on-street parking credit might also help reduce costs. Accordingly, the proposed amendments are consistent with these stated objectives of Statewide Planning Goal 10.

7. The City Council held a public hearing on March 18, 2024 regarding the question of the proposed amendments, and, after considering the recommendation of the Planning Commission and evidence and argument in the record, elected to table the ordinance so that additional amendments could be made to implement housing adjustment provisions contained in SB 1537, approved by the legislature on March 4, 2024 and signed by the governor on April 4, 2024.~~adopted the ordinance, concluding that it is necessary and furthers the general welfare of the community.~~

8. Work sessions were held by the Newport Planning Commission on June 10, 2024, and City Council on June 17, 2024, to consider the following addition changes to implement SB1537, as codified in ORS Chapter 197A:

    a. NMC 3.25.030, Program Requirements, specifies that housing projects utilizing adjustments authorized by SB 1537 will be not be eligible to receive a multiple use property exemption.

    b. NMC 3.30.030, Eligibility Requirements, specifies that housing projects utilizing adjustments authorized by SB 1537 will be not be eligible to receive a multiple use property exemption.

    c. NMC 14.13.020(Table "A"), Density Limitations, is being amended to note that the additional 5-feet of height allowance for multi-family construction is an alternative to, and cannot be paired with, adjustments authorized by SB 1537.

    d. NMC 14.14.030, Number of Parking Spaces Required, is being amended to note that the new on-street parking credit standards are an alternative to, and cannot be paired with, adjustments authorized by SB 1537.

    e. NMC 14.33.010, Purpose, is being amended to make a distinction between established City adjustment and variance processes and the standards and

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procedures the City will be putting in place for adjustment authorized by SB 1537, as codified in ORS Chapter 197A.

f. NMC 14.44.060, Streets, Accessways, and Trails, is being amended to note that the yield and shared street standards available in low volume residential areas may not be used if adjustments are being sought to off-street parking requirements as authorized by SB 1537, and implemented in new Chapter 14.51.

g. NMC Chapter 14.51, SB 1537 Housing Adjustments, is a new Chapter that is being added to the Title XIV of the Newport Municipal Code that includes application requirements, criteria, and procedural provisions that the City will use to review adjustment applications authorized by SB 1537.

9. The Newport Planning Commission held a public hearing on ___________ to consider testimony and comment on this updated draft of Ordinance No. 2222 and, at the conclusion of the hearing, passed a motion recommending the City Council adopt the changes. In making its recommendation, the Commission concluded that the amendments satisfy the City's requirement that legislative amendments be necessary and further the general welfare of the community because they ensure that the Municipal Code provisions that the City enforces align with new state law.

10. The City Council held a public hearing on ______________ regarding the question of the proposed amendments, and, after considering the recommendation of the Planning Commission and evidence and argument in the record, adopted the ordinance, concluding that it is necessary and furthers the general welfare of the community.

~~8~~11. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Findings. The findings set forth above are hereby adopted in support of the amendments to Chapters 3.25, 3.30, 14.01, 14.03, 14.06, 14.11, 14.13, 14.14, 14.33, 14.44 and 14.52, and new Chapter 14.51, of Title XIV of the Newport Municipal Code adopted by Section 2 of this Ordinance.

Section 2. Municipal Code Amendment. Chapters 3.25, 3.30, 14.01, 14.03, 14.06, 14.11, 14.13, 14.14, 14.33, 14.44 and 14.52, and new Chapter 14.51, of Title XIV of the Newport Municipal Code are hereby amended as set forth in Exhibit "A".

Section 3. Effective Date. This ordinance shall take effect 30 days after adoption.

Date adopted and read by title only: ______________________

Signed by the Mayor on ___________________, 2024.

____
Jan Kaplan, Mayor

ATTEST:

____
Erik Glover, Asst. City Manager/City Recorder

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(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Highlighted revisions were added in response to Council feedback at the 3/4/24 work session. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 3.25 MULTIPLE UNIT HOUSING PROPERTY TAX EXEMPTION (MUPTE)

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3.25.030 Program Requirements

In order to be considered for an exemption under this Chapter, an applicant must establish that the project meets the following program requirements:

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B. Project eligibility.

1. Projects must be located within the taxing jurisdiction of the City of Newport and:

    i. Within ¼ mile of fixed route transit service.

    ii. Within an R-3 Zone or an R-4 Zone or a C-1 or C-3 Zone south of NE 4th St.

    iii. Entirely outside of known hazard areas, including Active Erosion Hazard Zones, Active Landslide Hazard Zones, High Risk Bluff Hazard Zones, High Risk Dune Hazard Zones, Other Landslide Hazard Zones, and the "XXL" tsunami inundation area boundary, as depicted on the maps titled "Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport North, Oregon" and "Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport South, Oregon" produced by the Oregon Department of Geology and Mineral Industries (DOGAMI), dated February 8, 2013.

2. The project will be housing which is completed on or before the date specified in ORS 307.637 (Deadlines for actions required for exemption).

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3. The project is not utilizing adjustments authorized under ORS Chapter 197A, and implemented in NMC Chapter 14.51.

Staff: This addresses concerns raised by the Planning Commission and City Council that the City should not be subsidizing housing projects that are working around land use standards that have been carefully crafted with community input.

CHAPTER 3.30 NON-PROFIT CORPORATION LOW-INCOME HOUSING TAX EXEMPTION

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3.30.030 Eligibility Requirements

A. Properties that satisfy the following requirements are eligible for tax exemption:

1. The property is owned or being purchased by a corporation that qualifies as an "eligible organization," as described in 3.30.020 Subsection (2) of this Chapter, that is exempt from income taxation under 501(a) of the Internal Revenue Code.

2. The property is:

   i. Occupied by low-income persons; or

   ii. Held for the purpose of developing low-income housing for a period of not more than three years. If the corporation requires additional time to develop the property for low-income housing and still seeks an exemption under this chapter, the corporation shall seek approval from the Community Development Director for an extension of time in the manner described in 3.30.060.

3. The property or portion of the property receiving the exemption is actually and exclusively used in a manner authorized by Section 501(c)(3) or (4) of the Internal Revenue Code.

4. The corporation:

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i. Is not presently debarred, suspended, proposed for debarment, or declared ineligible by any Federal or State agency;

ii. Has not, within the three-year period preceding the application, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; or been convicted of any Federal or State statutes of embezzlement, theft, forgery, bribery, falsification, destruction of records, making false statements, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty; and

iii. Is not presently indicted for or otherwise criminally or civilly charged by a Federal, State, or local government entity with commission of any of the offenses enumerated in Subsection (A)(4)(II) of this Section.

5. The project is not utilizing adjustments authorized under ORS Chapter 197A, and implemented in NMC Chapter 14.51.

Staff: This addresses concerns raised by the Planning Commission and City Council that the City should not be subsidizing housing projects that are working around land use standards that have been carefully crafted with community input.

CHAPTER 14.01 PURPOSE, APPLICABILITY, AND DEFINITIONS**

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14.01.020 Definitions

As used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

Affordable Housing. Means residential property in which:

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A. Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or

B. ~~The average of all~~At least half of the units on the property ~~is~~ are made available to own or rent to families with incomes of 60 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

Affordability under either of the above metrics is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

Staff: This change is being made for clarity, and it aligns with a change the Planning Commission recommended at its November 13, 2023 meeting to the same definition contained in NMC Chapter 3.20, relating to the Affordable Housing Construction Excise Tax.

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Ministerial Action. A decision that does not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. The review of a ministerial action requires no notice to any party other than the applicant and agencies that the Community Development Director, or designee, determines may be affected by the decision. A ministerial action does not result in a land use decision, as defined in ORS 197.015(10).

Staff: No change. Definition for ministerial action is listed because it relates to proposed changes to NMC Chapter 14.52.

CHAPTER 14.03 ZONING DISTRICTS

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14.03.060 Commercial and Industrial Districts.

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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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E. Institutional and Civic Use Categories

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3. Community Services

a. Characteristics. Public, non-profit or charitable organizations that provide local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. Services are ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join. Uses may include shelter or housing for periods of less than one month when operated by a public or non-profit agency, including transitional housing pursuant to ORS 197.746, or emergency shelters pursuant to ORS 197.782. Uses may also provide special counseling, education, or training of a public, nonprofit or charitable nature.

b. Examples. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, police stations, religious institutions/places of worship, fire and ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, soup kitchens, and surplus food distribution centers.

c. Exceptions.

i. Private lodges, clubs, and private commercial athletic or health clubs are classified as Entertainment and Recreation. Commercial museums (such as a wax museum) are in Retail Sales and Service.

Staff: This change provides for transitional housing as a "community service" use when operated by a public or non-profit entity as defined in ORS 197.746. Tenancy is

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as currently listed, which is for a period of time that is less than one month. Attached is a copy of the statute. This amendment adds an additional housing option in commercial and industrial zoned areas and addresses a code barrier issue listed on page 34 of the Housing Production Strategy (HPS).

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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.
"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. Light Manufacturing	X	X	C	P	P	P
	b. 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 [7,8]	P	C	P	P	C	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						

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	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

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.

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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. Transitional housing as defined in ORS 197.746 must be operated by a public or non-profit entity, with residential tenancy limited to a period of time that is not more than 30 days.

Staff: This is a companion change to the one above, pointing out that transitional housing is allowed, subject to limitations. Reference to "month" changed to not more than 30 days to be more precise (per public comment from Cheryl Connell, dated 2/22/24.

CHAPTER 14.06 MANUFACTURED DWELLINGS, PREFABRICATED STRUCTURES, SMALL HOMES AND RECREATIONAL VEHICLES

14.06.010 Purpose

The purpose of this section is to provide criteria for the placement of manufactured dwellings and recreational vehicles within the City of Newport. It is also the purpose of this section to provide for dwelling units other than site-built structures.

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14.06.060 Recreational Vehicle Parks

Recreational vehicle parks are allowed conditionally in an R-4 or I-2 zone district, and conditionally if publicly owned in the P-1 and P-2 zoning districts (excluding those P-1 properties within the Historic Nye Beach Design Review District), subject to subsections A through D below and in accordance with Section 14.52, Procedural Requirements. Recreational vehicle parks are allowed outright in C-1, C-2, C-3, and I-1 zoning districts (excluding those C-2 properties within the Historic Nye Beach Design Review District), subject to the subsections A through D as follows:

A. A building permit(s) shall be obtained demonstrating that the recreational vehicle park ~~The park~~ complies with the standards contained in ~~state statutes and~~Chapter 918, Division 650 of the Oregon Administrative Rules.

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Staff: The existing language is vague. Staff confirmed with Richard Baumann, the Oregon Building Codes Division Recreational Parks and Camps Specialist, that provisions relevant to RV Park construction are all contained in OAR Chapter 918, Division 650. This division of the OARs is adopted by reference in the building codes chapter of the Newport Municipal Code (Chapter 11.05).

B. The developer of the park ~~obtains a permit from the state~~ obtains verification from Lincoln County Environmental Health that the recreational vehicle park satisfies applicable Oregon Health Authority Rules.

Staff: The existing language is no longer needed because review of recreational vehicle park projects for compliance with state laws has been delegated to local governments. The City of Newport, through its building services program, evaluates projects for compliance with construction standards listed in OAR Chapter 918, Division 650. The other local government that is involved is Lincoln County Environmental Health. They are responsible for ensuring the project complies with Oregon Health Authority Rules listed in OAR Chapter 333, Division 31. Those rules are focused on safety and sanitation, as opposed to construction. This provision of the City's Municipal Code is being amended to point out to a prospective park developer that they will need to coordinate with Lincoln County Environmental Health.

C. The developer provides a ~~map~~ plan of the proposed park ~~to the City Building Official~~that contains the following.

1. A cover sheet that includes:

   a. The name of the recreation park and a vicinity map identifying its location;

   b. The name of the owner;

   c. The name of the operator;

   d. The name of the person who prepared or submitted the plans; and

   e. A key identifying the symbols used on the plan.

2. The plot plan (on a separate sheet) that includes:

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a. Proposed and existing construction; and

b. A scale drawing of the general layout of the entire recreation park showing property survey monuments in the area of work and distances from park boundaries to public utilities located outside the park (indicated by arrows without reference to scale).

c. For work that involves an addition to, or a remodeling of, an existing recreation park, the plot plan must show the facilities related to the addition and/or the facilities to be remodeled.

d. The following features must be clearly shown and identified on the plot plan:

i. The footprint of permanent buildings, including dwellings, mobile homes, washrooms, recreation buildings, and similar structures;

ii. Any fixed facilities that are to be constructed in each space, such as tables, fire pits, or patios;

iii. Property line boundaries and survey monuments in the area of work;

iv. The location and designation of each space by number, letter or name; **and**

v. Plans for combination parks must also show the portions of the park that are dedicated to each activity (e.g. camp ground, organizational camp, mobile home park, picnic park, recreational vehicle park, etc.).

3. Park utility systems must be clearly shown and identified on a separate sheet that contains the following information:

a. Location of space sewer connections, space water connections and service electrical outlets;

b. The location of the public water and wastewater lines from which service is to be obtained, including the location and size of the water meter;

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c. The location, type and size of private water and wastewater lateral lines that are to be constructed internal to the park;

d. Street layout and connections to public street(s);

e. Disposal systems, such as septic tanks and drain fields, recreational vehicle dump stations, gray water waste disposal sumps, washdown facilities, sand filters, and sewer connections;

f. Fire protection facilities, such as fire hydrants, fire lines, tanks and reservoirs, hose boxes and apparatus storage structures;

g. The location of trash enclosures and receptacles; and

h. Placement of electrical transformers, electrical lines, gas lines, and Liquid Petroleum Gas (LPG) tank placement within the park.

4. Existing and finished grade topography for portions of the property where the park is to be located, if existing grades exceed five percent.

Staff: The above list replicates plan requirements listed in OAR 918-650-0035. The language has been adjusted for clarity, and it has been streamlined somewhat since this chapter of the Municipal Code applies only to RV parks.

D. The park complies with the following provisions (in case of overlap with a state requirement, the more restrictive of the two requirements shall apply):

1. The space provided for each recreational vehicle shall not be less than ~~600~~ 400 square feet, exclusive of any space used for common areas (such as roadways, general use structures, walkways, parking spaces for vehicles other than recreational vehicles, and landscaped areas). The number of recreational vehicles shall be limited to a maximum of 22 per gross acre.

Staff: OAR Chapter 918, Division 650 provides some flexibility on sizing spaces as it covers camps in addition to recreational; vehicle parks. The definition for RV's limits them to a maximum of 400 sq. ft. gross floor area in setup mode. At its 1/8/24 work session, the Planning Commission elected to reduce the

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minimum area requirement for a recreational vehicle space to 400 sq. ft. The Commission reviewed the existing density limit, and confirmed that it is reasonable, being roughly equivalent to high density multi-family residential construction in the city (e.g. Wyndhaven Ridge).

2. One-way roadways shall be a minimum of 12-feet in width and two-way ~~Roadways~~ roadways shall not be less than ~~30~~ 20 feet in width. ~~if~~ If parking is permitted on the margin of the roadway, then the parking area must be a minimum of 10-feet in width. ~~or less than 20 feet in width if parking is not permitted on the edge of the roadway, they shall be paved with asphalt, concrete, or similar impervious surface and designed to permit easy access to each recreation vehicle space.~~ Roadways must be designed such that they are capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds, and they may be surfaced with asphalt, concrete, crushed rock, gravel or other similar materials.

   Staff: The above language has been revised to align with the one-way drive isle width limitation set out in NMC 14.46.030(P). As for the overall width of the roadway and parking areas, the code has been amended to comply with the OARs, which are stricter than the City's existing code. At its 1/8/24 work session, the Planning Commission expressed a willingness to allow gravel roads, so that option has been added. Engineering load requirements, draw from Appendix D to the 2019 Oregon Fire Code.

3. A space provided for a recreational vehicle shall be covered with crushed gravel or paved with asphalt, concrete, or similar material and be designed to provide run-off of surface water. The part of the space which is not occupied by the recreational vehicle, not intended as an access way to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is landscaped or otherwise treated to prevent dust or mud.

4. A recreational vehicle space shall be provided with piped potable water and sewage disposal service. A recreational vehicle staying in the park shall be connected to the water and sewage service provided by the park if the vehicle has equipment needing such service.

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5. A recreational vehicle space shall be provided with electrical service.

6. ~~Trash~~ Solid waste, recycling, and compostable receptacles shall adhere to the enclosure and access requirements set forth in NMC 14.11.060(B) and (C), unless an alternative approach is approved, in writing, by the solid waste and recycling service provider. ~~for the disposal of solid waste materials~~ Receptacles ~~shall be provided in convenient locations for the use of guests of the park and located in such number and be of such capacity that there is no uncovered accumulation of trash at any time.~~must have tight-fitting lids, covers or closable tops, and be constructed out of durable, rust-resistant, water tight, rodent-proof and washable material. Receptacles are to be provided at a minimum rate of one 30-gallon container for each four recreational vehicle parking spaces and be located within 300 feet of each recreational vehicle parking space. If the solid waste and recycling service provider indicates, in writing, that larger receptacles and/or tighter spacing is needed, then their recommendation shall be followed.

   Staff: At its 1/8/24 meeting, the Commission asked if the code section could be amended to incorporate the solid waste and enclosure access requirements that the City added to NMC 14.11.060, and that change has been made. The City's discretionary language regarding the placement and sizing of receptacles has also been replaced with specific standards listed in the OARs. Language deferring to the solid waste and recycling provider in terms of the number and size of the required receptacles was added, at the Commission's request, following the 2/26/24 hearing.

7. The total number of off-street parking spaces in the park shall be provided in conformance with Section 14.14.030. Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete, or similar material.

8. The park shall provide toilets, lavatories, and showers for each sex in ~~the following ratios: For each 15 recreational vehicle spaces, or any fraction thereof, one toilet (up to 1/3 of the toilets may be urinals), one lavatory, and one shower for men; and one toilet, one lavatory, and one shower for women~~accordance with Table 14.06.060-A. The toilets and showers shall afford privacy, and the showers shall be provided with private dressing rooms. Facilities for each sex shall be located in

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separate buildings, or, if in the same building, shall be separated by a soundproof wall.

Table 14.06.060-A

Parking Spaces	Number of Toilets		Number of Sinks[1]	
	Men's[2]	Women's	Men's	Women's
1-15	1	1	1	1
16-30	1	2	1	2
31 – 60	2	3	2	3
61 - 100[3]	3	4	3	4

[1]. One additional sink must be provided for each two toilets when more than six toilets are required.

[2]. Urinals may be acceptable for not more than 1/3 of the required toilets.

[3]. Recreational parks with more than 100 parking spaces shall provide one additional toilet per sex for each additional 30 spaces or fraction thereof.

Staff: At its 1/8/24 work session, the Planning Commission requested that Table 3-RV be incorporated into the code in lieu of the text explanation. That has been accomplished. The City Comprehensive Plan requires they connect to sewer service if it is within 250-feet of the site. This may be more expensive then vault toilets or privies, but is more sanitary and less likely to create odor issues.

9. The park shall provide one utility building or room containing one clothes washing machine, and one clothes drying machine for each ten recreational vehicle spaces, or any fraction thereof.

10. Building spaces required by Subsection ~~9~~ 8 and ~~10~~ 9 of this section shall be lighted, ~~at all times of the night and day, shall be~~ ventilated, and otherwise designed in accordance with the requirements of the Oregon Structural Specialty Code.~~shall be provided with heating facilities which shall maintain a room temperature of at least 62˚F, shall have floors of waterproof material, shall have sanitary ceilings, floor and wall surfaces, and shall be provided with adequate floor drains to permit easy cleaning.~~

Staff: Per the Commission's request at its 1/8/24 meeting, this section has been amended to cross-reference to the building code.

11. Except for the access roadway ~~into the park~~, ~~the~~ a park that is located within or adjacent to a residentially zoned area shall be screened on all sides by a sight-obscuring hedge or fence not less than six feet in height unless modified through ~~either the~~a conditional use permit process as provided in NMC Chapter 14.34 (if a conditional use permit is required for the RV park) or ~~other applicable land use~~an adjustment or variance procedure outlined in NMC Chapter 14.33. Reasons to modify the hedge or fence buffer required by this section may include, but are not limited to, the location of the RV park is such that adequate other screening or buffering is provided to adjacent properties (such as the presence of a grove or stand of trees), the location of the RV park within a larger park or development that does not require screening or has its own screening, or screening is not needed for portions not adjacent to other properties (such as when the RV park fronts a body of water). Any ~~Modifications~~ modifications to the hedge or fence requirement of this subsection ~~shall not act to modify the requirement for a solid wall or~~should factor in any applicable screening and setback requirements ~~fence that may otherwise be required~~ under Section 14.18.020 (Adjacent Yard Buffer) for non-residentially zoned property abutting a residentially zoned property.

Staff: At its 1/8/24 meeting, the Commission asked that the site obscuring hedge or fence requirement be limited to parks located within or adjacent to in residential zoned areas. – The language has also been amended to clarify processes for adjusting the screening requirements.

~~12. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest in the park.~~

Staff: At its 1/8/24 meeting, the Commission supported deleting this provision. The City's nuisance code requires that materials stored outside be organized in a neat and tidy manner or that they be screened from view from rights-of-way and adjacent properties.

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~~13. Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.~~

Staff: This is legacy language that was relevant when the State of Oregon handled RV Park permitting. It is being deleted because it is no longer applicable. Adequacy of sanitation services is evaluated at plan review and confirmed through the building inspection process.

12. Each space within a recreational vehicle park shall be provided a minimum of 50 square feet of outdoor area landscaped or improved for recreational purposes as provided in NMC 14.11.020.

Staff: This cross-reference has been added for clarity and to ensure that the requirement is addressed as part of the review (since it is housed in a different part of the code).

CHAPTER 14.11 REQUIRED YARD, SETBACKS, AND SOLID WASTE/RECYCLABLE MATERIALS STORAGE AND ACCESS REQUIREMENTS

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14.11.020 Required Recreation Areas

All multi-family dwellings, hotels, motels, manufactured dwelling parks, trailer parks, and recreational vehicle parks shall provide for each unit/space a minimum of 50 square feet of ~~enclosed~~ outdoor area landscaped or improved for recreation purposes exclusive of required yards such as a patio, deck, or terrace. This landscaping requirement can be combined into a single active or passive recreational area accessible to all occupants of the property.

Staff: This change eliminates the requirement that the area be enclosed, as that typically requires fencing which is expensive. Further, requiring the areas be enclosed is not value additive. The City has interpreted the existing language as allowing the recreational space to be combined for multi-family projects, and the added language memorializes that interpretation.

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14.11.030 Garage Setback

The entrance to a garage or carport shall adhere to the required setbacks listed in NMC 14.13.020, Table A, and be set back at least 20 feet from the access street for all residential structures. Within rights-of-way, the boundary of the access street is the curb line or, where curbs are absent, the edge of the asphalt or other boundary of the travel surface.

Staff: This change aligns with how the standard is applied, and provides flexibility for siting housing on small properties. The drawback is that driveways can be rendered substandard if the right-of-way is fully developed in the future. Changed "Within underdeveloped rights-of-way" to "Within rights-of-way" at the request of the Commission during its 12/11/23 work session. At a 3/4/24 work session, the Council asked for clarity on how the garage setback works with the building setbacks. Both apply, and that clarification has been made to the code.

CHAPTER 14.13 DENSITY LIMITATIONS

14.13.010 Density Limitations

A residential building structure or portion thereof hereafter erected shall not exceed the maximum living unit density listed in Table A, as hereinafter set forth, for the zone indicated, except in the case of a lot having less than is required and of record prior to December 5, 1966, which may be occupied by a single-family dwelling unit, providing other requirements of this ordinance are complied with, except to the extent that a higher density may specifically be allowed by any term or provision of this Ordinance.

(BY THIS REFERENCE, THERE IS INCLUDED HEREIN AND MADE A PART HEREOF, A TABLE OF DENSITY AND OTHER REQUIREMENTS, DESIGNATED "TABLE A".)

NMC 14.13.020

Table "A"

Zone District	Min. Lot Area (sf)	Min. Width	Required Setbacks [3, 7]			Lot Coverage (%)	Max. Building Height	Density (Land Area Required Per
			Front/2nd Front [1]	Side	Rear			

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								Unit (sf))
R-1	7,500 sf	65-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft & 8-ft	15-ft	54 %	30-ft	SFD - 7,500 sf [2] Duplex - 3,750 sf [2]
R-2	5,000 sf [3]	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	57%	30-ft	SFD – 5,000 sf [2] Duplex - 2,500 sf [2] Townhouse - 2,500 sf [3]
R-3	5,000 sf [3]	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	60%	35-ft or 40-ft [9]	1,250 sf [3]
R-4 [4]	5,000 sf [3]	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	64%	35-ft or 40-ft [9]	1,250 sf [3, 5]
C-1	5,000 sf	0	0 or 15-ft from US 101 [8]	0	0	85-90% [6]	50-ft [6]	n/a
C-2 [4]	5,000 sf	0	0 or 15-ft from US 101 [8]	0	0	85-90% [6]	50-ft [6]	n/a
C-3	5,000 sf	0	0 or 15-ft from US 101 [8]	0	0	85-90% [6]	50-ft [6]	n/a
I-1	5,000 sf	0	15-ft from US 101	0	0	85-90% [6]	50-ft [6]	n/a
I-2	20,000 sf	0	15-ft from US 101	0	0	85-90% [6]	50-ft [6]	n/a
I-3	5 acres	0	15-ft from US 101	0	0	85-90% [6]	50-ft [6]	n/a
W-1	0	0	0	0	0	85-90% [6]	40-ft [6]	n/a
W-2	0	0	0	0	0	85-90% [6]	35-ft [6]	n/a
MU-1 to MU-10 Mgmt. Units	0	0	0	0	0	100%	40-ft [6]	n/a
P-1	0	0	0	0	0	100%	50-ft	n/a
P-2	0	0	0	0	0	100%	35-ft	n/a
P-3	0	0	0	0	0	100%	30-ft	n/a

[1] Front and second front yards shall equal a combined total of 30-feet. Garages and carports shall be setback at least 20-feet from the access street for all residential structures.

[2] Density limitations apply where there is construction of more than one single-family dwelling (SFD) or duplex on a lot or parcel.

[3] Density limitations for townhouses and cottage clusters is the minimum area required per townhouse or cottage cluster unit; whereas, minimum lot area, minimum lot width, and setbacks, apply to the perimeter of the lot, parcel, or tract dedicated to the townhouse or cottage cluster project.

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[4] Special Zoning Standards apply to R-4 and C-2 zoned property within the Historic Nye Beach design Review District as outlined in NMC 14.30.100.
[5] Density of hotels, motels, and non-residential units shall be one unit for every 750 sf of land area.
[6] Height limitations, setbacks, and lot coverage requirements for property adjacent to residential zones are subject to the height and yard buffer requirements of NMC Section 14.18.
[7] Front and 2nd front setbacks for a townhouse project or cottage cluster project shall be 10-feet except that garages and carports shall be setback a distance of 20-feet.
[8] The 15-foot setback from US 101 applies only to land situated south of the Yaquina Bay Bridge.
[9.] The 40-ft height allowance is limited to multi-family uses with pitched roof construction, where the predominate roof pitch is 4:12 or steeper, and where no adjustments are being sought under the provisions of NMC Chapter 14.51.

Staff: This amendment addresses the concern outlined in the HPS that multi-family construction with pitched roofs cannot achieve three full floors of units with a 35-ft maximum building height. Wyndhaven Ridge Phase II is an example, where a 10% adjustment was needed in order for three-story apartment buildings to be constructed (File No. 1-ADJ-22). The roof pitch in that case was 5:12. Setting a roof pitch minimum is reasonable, since one of the purposes behind a building height limit is to ensure neighboring properties have reasonable solar access. Pitched roof construction has less of an impact in that regard as opposed to a building with a flat roof. Further, buildings with a lower roof pitch, or none at all, should be able to achieve three floors of dwelling units with a 35-foot building height limit. Revised roof pitch to 4:12 per the Commission's request at its 12/11/23 work session.
The City's intent is to offer the 40-foot building height allowance for multi-family projects and other changes outlined in this ordinance as a ministerial alternative to the adjustment options outlined in SB 1537, and implementing with a new NMC Chapter 14.51. Additional language, added to Footnote 9, makes it clear that the two are not additive, with applicant's being able to pursue one or the other but not both.

CHAPTER 14.14 PARKING AND LOADING REQUIREMENTS

14.14.010 Purpose

The purpose of this section is to establish off-street parking and loading requirements, access standards, development standards for off-street parking lots, and to formulate special parking areas for specific areas of the City of Newport. It is also the purpose of this section to implement the Comprehensive Plan, enhance property values, and preserve the health, safety, and welfare of citizens of the City of Newport.

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14.14.030 Number of Parking Spaces Required

A. Off-street parking shall be provided and maintained as set forth in this section. Such off-street parking spaces shall be provided prior to issuance of a final building inspection, certificate of occupancy for a building, or occupancy, whichever occurs first. For any expansion, reconstruction, or change of use, the entire development shall satisfy the requirements of Section 14.14.050, Accessible Parking. Otherwise, for building expansions the additional required parking and access improvements shall be based on the expansion only and for reconstruction or change of type of use, credit shall be given to the old use so that the required parking shall be based on the increase of the new use. Any use requiring any fraction of a space shall provide the entire space. In the case of mixed uses such as a restaurant or gift shop in a hotel, the total requirement shall be the sum of the requirements for the uses computed separately. Required parking shall be available for the parking of operable automobiles of residents, customers, or employees, and shall not be used for the storage of vehicles or materials or for the sale of merchandise. A site plan, drawn to scale, shall accompany a request for a land use or building permit. Such plan shall demonstrate how the parking requirements required by this section are met.

Parking shall be required at the following rate. All calculations shall be based on gross floor area unless otherwise stated.

1.	General Office	1 space/600 sf
2.	Post Office	1 space/250 sf
3.	General Retail (e.g. shopping centers, apparel stores, discount stores, grocery stores, video arcade, etc.)	1 space/300 sf
4.	Bulk Retail (e.g. hardware, garden center, car	1 space/600 sf

	sales, tire stores, wholesale market, furniture stores, etc.)	
5.	Building Materials and Lumber Store	1 space/1,000 sf
6.	Nursery – Wholesale Building	1 space/2,000 sf 1 space/1,000 sf
7.	Eating and Drinking Establishments	1 space/150 sf
8.	Service Station	1 space/pump
9.	Service Station with Convenience Store	1 space/pump + 1 space/ 200 sf of store space
10.	Car Wash	1 space/washing module + 2 spaces
11.	Bank	1 space/300 sf
12.	Watersport/Marine Terminal	20 spaces/berth
13.	General Aviation Airport	1 space/hangar + 1 space/300 sf of terminal
14.	Truck Terminal	1 space/berth
15.	Industrial	1.5 spaces/1000 sf
16.	Industrial Park	1.5 spaces/5,000 sf
17.	Warehouse	1 space/2,000 sf
18.	Mini-Warehouse	1 space/10 storage units
19.	Single-Family Detached Residence	2 spaces/dwelling
20.	Duplex	1 space/dwelling
21.	Apartment	1 space/unit for first four units + 1.5 spaces/unit for each Additional unit
22.	Condominium (Residential)	1.5 spaces/unit
23.	Townhouse	1.5 spaces/unit
24.	Cottage Cluster	1 space/unit
25.	Elderly Housing Project	0.8 space/unit if over 16 dwelling units
26.	Boarding House/Single Room Occupancy	0.5 spaces/guest room or unit
~~26~~27.	Congregate Care/Nursing Home	1 space/1,000 sq. ft.
~~27~~28.	Hotel/Motel	1 space/room + 1 space for the manager (if the hotel/motel contains other uses, the other uses Shall be calculated separately
~~28~~29.	Park	2 spaces/acre
~~29~~30.	Athletic Field	20 spaces/acre
~~30~~31.	Recreational Vehicle Park	1 space/RV space + 1 space/10 RV spaces

~~31~~32.	Marina	1 space/5 slips or berths
~~32~~33.	Golf Course	4 spaces/hole
~~33~~34.	Theater	1 space/4 seats
~~34~~35.	Bowling alley	4 spaces/alley
~~35~~36.	Elementary/Middle School	1.6 spaces/classroom
~~36~~37.	High School	4.5 spaces/classroom
~~37~~38.	Community College	10 spaces/classroom
~~38~~39.	Religious/Fraternal Organization	1 space/4 seats in the main auditorium
~~39~~40.	Day Care Facility	1 space/4 persons of license occupancy
~~40~~41.	Hospital	1 space/bed
~~41~~42.	Assembly Occupancy	1 space/8 occupants (based on 1 occupant/15 sf of exposition/meeting/assembly room conference use not elsewhere specified

Staff: With Ordinance No. 2216, the City implemented land use related mandates from the 2023 Oregon Legislative Session. This included adding Single Room Occupancy (SRO) uses in all residential zones. That set of amendments did not include a set of minimum parking requirements. This revision creates a minimum off-street parking requirement for SRO projects. It is in line with standards from other jurisdictions (see attached Eugene, Medford, and Salt Lake examples). The City allows Boarding Houses, which are effectively the short-term tenancy equivalent of SROs, but never established a minimum parking standard for them. Since the uses are so similar, this change will apply to them as well. This change was added by staff following the 1/8/24 Commission work session.

B. On-Street Credit. A dwelling unit on property zoned for residential use, located outside of special parking areas as defined in NMC 14.14.100, shall be allowed an on-street parking credit that reduces the required number of off-street parking spaces by one off-street parking space for every one on-street parking space abutting the property subject to the following limitations:

1. On-street parking is available on both sides of the street adjacent to the property; and

2. The dwelling unit is not a short-term rental; and

3. Each on-street parking space is 22-ft long by 8-ft wide and parallel to the edge of the street, unless an alternate

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configuration has been approved and marked by the City of Newport; and

4. Each on-street parking space to be credited must be completely abutting, and on the same side of the street, as the subject property. Only whole spaces qualify for the on-street parking credit; and

5. On-street parking spaces will not obstruct a clear vision area required pursuant to Section 14.17; and

6. No adjustments are being sought under the provisions of NMC Chapter 14.51; and

7. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street parking spaces are allowed except as authorized by the City of Newport.

Staff: This is the final draft of on-street parking credit language that the Planning Commission considered in 2021, but elected not to implement at that time. It was part of a package of code amendments to address HB 2001 requirements. As noted in the HPS (pg. 34), the requirement that off-street parking be constructed with new residential development contributes to the higher housing costs. This would allow a credit only where there is capacity to accommodate parking demand along a public street. It would not be an option along narrow roads where parking areas do not exist or are limited to one side of the street.

SB 1537 allows an applicant to seek relief from off-street parking requirements and other city residential land use standards through a limited land use decision making process. The above on-street parking credit standards and other changes in this ordinance are intended to serve as a ministerial alternative to the adjustment options outlined in SB 1537, and implementing with a new NMC Chapter 14.51.

The location where parking can occur within the right-of-way was clarified in response to feedback from the Commission at the 12/11/23 work session. The above provisions align with Chapter 6.15, Parking in Rights-of-Way, which provides;

"6.15.005(A) Method of Parking. Parking is permitted only parallel with the edge of the street, headed in the direction of lawful traffic

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movement, except where the street is marked or signed for angle parking. Where parking spaces are marked, vehicles shall be parked within the marked spaces. Parking in angled spaces shall be with the front head-in to the curb, except that vehicles delivering or picking up goods may be backed in. Where curbs exist the wheels of a parallel-parked vehicle shall be within 12 inches of the curb, and the front of an angle-parked car shall be within 6 inches of the curb."

CHAPTER 14.33 ADJUSTMENTS AND VARIANCES

14.33.010 Purpose

The purpose of this section is to provide flexibility to numerical development standards in recognition of the wide variation in property size, configuration, and topography within the City of Newport and to allow reasonable and economically practical development of a property. Adjustment and variance options outlined in this Chapter are separate from statutory adjustments listed in ORS Chapter 197A, and codified in Chapter 14.51.

14.33.020 General Provisions

A. Application for an Adjustment or Variance from a numerical standard including, but not limited to, size, height, or setback distance may be processed and authorized under a Type I or Type III decision-making procedure as provided by Section 14.52, Procedural Requirements, in addition to the provisions of this section.

B. No Adjustment or Variance from a numerical standard shall be allowed that would result in a use that is not allowed in the zoning district in which the property is located~~, or to increase densities in any residential zone~~.

C. In granting an Adjustment or Variance, the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

Staff: This amendment would open the door to minimum lot size adjustments that would allow land divisions resulting in lots or parcels that fall short of the minimum lot size. This could create additional residential development opportunities, particularly in infill areas.

14.33.030 Approval Authority

Upon receipt of an application, the Community Development Director or designate shall determine if the request is to be processed as an Adjustment or as a Variance based on the standards established in this subsection. There shall be no appeal of the Director's determination as to the type of application and decision-making process, but the issue may be raised in any appeal from the final decision on the application.

A. A deviation less than or equal to 10% of a numerical standard shall be granted if the Community Development Director determines that it will allow one or more dwelling units than would otherwise be achievable through strict adherence to the numerical standard. The granting of such deviation shall be a ministerial action. This subsection does not apply to building height limitations, where the maximum height allowance is set at or above 40-feet.

~~A~~ B Other deviations ~~of~~ less than or equal to 10% of a numerical standard shall satisfy criteria for an Adjustment as determined by the Community Development Director using a Type I decision-making procedure.

~~B~~C. A deviation of greater than 10%, but less than or equal to 40%, of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision-making procedure.

~~C~~D. Deviations of greater than 40% from a numerical standard shall satisfy criteria for a Variance as determined by the Planning Commission using a Type III decision-making procedure.

Staff: This change is an alternative way of addressing the challenge that three story multi-family projects have with a 35-foot height limit. It would allow staff to authorize adjustments to dimensional standards (up to 10%) in a ministerial fashion if the change results in additional dwelling units. The Wyndhaven Ridge Phase II example, where they needed 38.5 feet of building height, would have benefitted from this change.

Like the parking example, this code change would also get ahead of the new version of HB 3414, which is seeking to mandate that local governments provide small adjustments of this nature when requested by a housing developer.

The language was reworked, at the Planning Commission's request, to clarify that it is the Community Development Director that

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determines whether or not the change will allow additional dwelling units. That discussion occurred at the 12/11/23 work session. The Commission also inquired about options if the Director finds the change will not result in additional units. If that occurs, then the applicant would have the option of pursuing the deviation under Subsection (B) which involves an appealable land use decision.

At a 3/4/24 work session, Council members expressed a concern about the potential aggregate impact of the 40-ft height allowance for multi-family and this 10 percent ministerial adjustment. The chance that a multi-family housing developer would seek up to a 10% adjustment to the 40-foot height limit to get an additional fourth floor is slim, but possible. It is a cost factor, as four floor apartments trigger the need for a Secondary access (OSSC Table 504.3) and the fire sprinkler system has to be upgraded, which is costly (OSSC Table 1006.34(1)). That said, , the highlighted language has been added to preclude approval of a second height adjustment as a ministerial act.

CHAPTER 14.44 TRANSPORTATION STANDARDS

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14.44.060 Streets, Pathways, Accessways, and Trails

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B. Travel Lane and On-Street Parking. Travel lanes and on-street parking areas shall be sized in accordance with the standards in Table 14.44.060-B

Table 14.44.060-B. Minimum On-Street Parking and Roadway Widths

Roadway Classification	Arterial Street [1]	Major Collector	Neighborhood Collector	Local Street	Yield/ Shared Street [2]
Through Lanes	2 to 4	2	2	2	1
Min. Lane Width	11-12 ft. [3]	10 ft. [4]	10 ft. [4]	10 ft.	12 – 16 ft.
Median/Center Turn Lane	11-14 ft. [6]	11 ft. [7]	11 ft. [7]	None	None
Min. On-Street Parking Width	Context Dependent, 7-8 ft.	8 ft.	8 ft.	7-8 ft. [8]	7-ft one side [8]

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1. Although guidance is provided for arterial streets, these are under State jurisdiction. Values presented in this table are consistent with ODOT's urban design guidance. For detailed design recommendations on US 101 and US 20, the identified urban contexts for Newport are provided in the appendix and ODOT's urban design guidance is publicly available.

2. For use along low volume local streets in residential areas only, where no adjustments are being sought to off-street parking requirements as authorized under ORS Chapter 197A, and implement in NMC Chapter 14.51. Yield streets are an option for new streets, while shared streets are an option for existing streets. Requires intermittent on-street parking on at least one side to allow for vehicle queuing and passing opportunities. For blocks of no more than 300 ft. in length, and with fire access roads at both ends, a 16 ft. width may apply to local streets that carry fewer than 500 vehicles per day, or a 12 ft. width may apply to local streets that carry fewer than 150 vehicles per day. For blocks longer than 300 feet, this also requires 30 ft. long pullouts/no parking zones every 150 ft. to allow for 20 ft. wide clear areas (excluding drainage swales) or 26 ft. wide clear areas near fire hydrants.

3. 11 ft. travel lanes are preferred for most urban contexts within Newport. 11 ft. travel lanes are standard for central business district areas in ODOT's urban design guidance. Adjustments may be required for freight reduction review routes. Final lane width recommendations are subject to review and approval by ODOT.

4. Travel lanes widths of 11-12 ft. are required along designated local truck routes.

5. A minimum 8-ft.-wide pedestrian refuge should be provided at marked crossings. Otherwise, a median can be reduced to a minimum of 4 ft. at midblock locations that are more than 150 ft. from an arterial (i.e., US 101 and US 20), before widening at intersections for left-turn lanes (where required or needed).

6. ODOT's urban design guidance recommends a 14 ft. lane for speeds above 40 mph. Final lane width recommendations are subject to review and approval by ODOT.

7. Center turn lane required at and within 150 ft. of intersections with arterials (i.e., US 101 and US 20). Otherwise, it is optional and should be used to facilitate turning movements and/or street crossings; minimum 8-ft-wide median required where refuge is needed for pedestrian/bicycle street crossings.

8. On-street parking is preferred along all City streets where block spacing, and system connectivity standards are met. An 8 ft. width is required in most areas, with a 7 ft. width only allowed along local streets in residential areas. Local yield/shared streets require intermittent on-street parking on at least one side to allow for vehicle queuing and passing opportunities, with an 8 ft. width required when on only one side, and 7 ft. width allowed when on both sides. Shoulders totaling 8 ft. in collective width may also be provided in lieu of parking.

Staff: This change is being made because these narrow street standards, adopted in part to reduce capital costs for housing development, lack on-street options that other City street sections possess. Consequently, if adjustments to off-street parking requirements were to be granted, these streets would become heavily congested, if not impassible, limiting accessibility and compromising fire ingress and egress and public safety in general.

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CHAPTER 14.51 SB 1537 HOUSING ADJUSTMENTS

14.51.005 Purpose

The purpose of this chapter is to allow housing adjustments in accordance with SB 1537(2024) as codified in ORS Chapter 197A.

Staff: A 2024 version of the Oregon revised statutes has not yet been released. The housing adjustment allowances in SB 1537(2024) have been placed in ORS Chapter 197A. The citations listed below will be adjusted to align with changes made as part of the State's codification process.

14.51.010 Criteria to Allow an Adjustment

Applicants submitting applications meeting the requirements of this Chapter 14.51 and all requirements of SB 1537, Section 38(2) may request up to ten (10) "adjustments," as that term is defined and described in SB 1537, Subsections 38(1), (4) and (5) (referred to herein to as "housing adjustments"). Each requested housing adjustment must be justified by at least one of the following criteria:

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

B. The adjustment will enable development of housing that reduces the sale or rental prices per residential unit;

C. The adjustment 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

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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.

Staff: This is a basic approach, offered by the Local Government Law Group, for folding the SB 1537(2024) housing adjustment provisions into the City's Municipal Code. While the code could be further fleshed out with details contained in the above referenced ORS subsections, that level of effort may not be warranted given that the statutes sunset in 2032.

14.51.015 Application Information

An applicant shall support each requested housing adjustment with a statement explaining how the requested adjustment meets at least one of the criteria established in NMC 14.51.010. Such explanations may include, but are not limited to:

A. Design plans that compare project designs with and without the adjustment showing that the requested adjustment is necessary to increase the number of units within the project.

B. Financial analyses showing the costs of the project with and without the adjustment and showing that the proposed adjustment is either:

1. Essential to ensure the overall project feasibility; or

2. Will meaningfully reduce the sale price and/or rents of the project for future occupants.

C. Where cost savings are proposed, a description of how savings associated with the adjustment will be passed onto future purchasers or renters of the project.

D. Legal documents regarding how the affordability provisions justifying the adjustment will be maintained for the periods listed in Subsection 14.51.010 (4), (5) and (7), if applicable.

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Staff: This is a middle of the road approach on requiring an applicant to substantiate its eligibility statement. It can be scaled back to reflect only the statutory language, or it can be enhanced to require more evidentiary support. The legislature intended the process to be expeditious, so the City should be cautious about asking for too much information.

14.51.020 Housing Adjustment Process

A. An application for each requested housing adjustment is required in addition to any other land use application required for the proposed project. Applicants may choose to consolidate one or more housing adjustment applications, including any land use action required for the project.

B. A property owner may initiate a housing adjustment application by submitting:

1. An application on forms provided by the City.

2. A statement identifying the criterion established in NMC 14.51.010 met by the proposal.

3. Submittals satisfying Section 14.51.015 that conclusively demonstrate that the proposed adjustment meets the identified criterion.

4. An application fee, as established by Council resolution.

C. A housing adjustment application shall be processed as a limited land use decision, in accordance with SB 1537, Section 38(3) and ORS 197.195. Such review procedures include, but are not limited to:

1. Written notice to property owners within 100 feet of the subject property.

2. 14-day written comment period prior to decision issuance.

3. Only the applicant may appeal the decision.

4. Any appeal is filed as outlined in Subsection 14.52.100, and shall be heard by the Newport Planning Commission.

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5. Housing adjustment appeal hearings shall be consolidated with any associated public hearing required for the project, unless the applicant requests separate hearings.

Staff: SB 1537 includes a modified version of the statutory limited land use decision making process, which has been incorporated above.

14.51.025 No Cumulative Effect

Adjustments to development and design standards, as required by SB 1537 and available under this Chapter, may not be combined with or added to any other adjustment available elsewhere under the provisions of Title XIV of the Newport Municipal Code.

Staff: This language addresses a concern expressed by the Planning Commission and City Council about the potential compounding effect of the City's new ministerial adjustments and those offered through SB 1537. This language makes it clear that applicants must choose one or the other.

14.51.030 Operative Dates

This chapter is operative effective January 1, 2025 through January 2, 2032, unless the sunset date is extended by the Oregon Legislature.

Staff: The operative and sunset dates have been taken from SB 1537.

CHAPTER 14.52 PROCEDURAL REQUIREMENTS

***

14.52.030 Approving Authorities

The approving authority for the various land use and ministerial actions shall be as follows:

***

C. Community Development Director. Land use actions decided by the Director are identified below. A public hearing is not required prior to a decision being rendered. Items with an "*" are subject to Director review as defined in the section of the ordinance containing the standards for that particular type of land use action.

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Decisions made by the Community Development Director may be appealed to the Planning Commission.

1. Conditional use permits*.

2. Partitions, minor.

3. Replats, minor.

4. Estuarine review.

5. Adjustments*.

6. Nonconforming use changes or expansions*.

7. Design review*.

8. Ocean shorelands review.

9. Any land use action defined as a Type I or Type II decision for which the Community Development Director is the initial approving authority.

10. Any land use action seeking to modify any action or conditions on actions above previously approved by the Community Development Director where no other modification process is identified.

11. Ministerial actions necessary to implement Title XIV of the Newport Municipal Code, including final plats, property line adjustment conveyance documents, public improvement agreements, temporary uses (unless an alternative process is provided), and confirmation that building permits satisfy clear and objective approval standards.

Staff: This revision is needed to clarify that it is the Community Development Director, or designee, that is responsible for carrying out ministerial actions. Common types of ministerial actions are also listed.

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COMPARISON OF ADJUSTMENTS IN THE GOVERNOR'S HOUSING BILL (SB 1537) AND NEWPORT ORDINANCE NO. 2222, IMPLEMENTING THE CITY'S HOUSING PRODUCTION STRATEGY

		Governor's Housing Bill (SB1537 Enrolled)	Draft Ordinance No. 2222
Scope		Net new housing units	All development types
Maximum Adjustments		10	No limit
Eligibility		Less costly, more timely housing, reduce sales/rental prices, affordable units, and accessibility. Density must be 6 units to the acre.	For housing, additional units
Decision Type		Limited land use (modified process)	Ministerial
Fee		TBD	N/A
Sunset		January 2, 2032	None
Type of Adjustments			
a.	Setbacks	10% to side or rear	10% front, rear or side
b.	Landscaping	25%	10% (no landscape requirement for single family detached/attached)
c.	Parking Minimums	Total waiver	1:1 on-street credit option where parking existing on both sides of a street
d.	Minimum lot size	10% size, width, depth	10% all dimensional provisions
e.	Maximum lot size	10% size, width, depth	10% size
f.	Building coverage	10%	10%
g.	Bike parking stalls	Down to .5 spaces per unit	City standard is below threshold
h.	Bike parking location	Must allow alternate location if lockable and covered	Not regulated
h.	Building height	One-story or 20% of base zoning limit. Applies to manufactured dwelling parks, middle housing, multi-family, mixed-use. Excludes cottage clusters	Increases multi-family height limit to 40-ft (14% increase) if roof pitch is 4:12 or greater. All other buildings 10%.
i.	Unit density maximums	Not more than amount necessary to account for other allowed adjustments. Applies to the same housing types	10%
j.	Mixed-use prohibition ground floor residential	Must allow ground floor residential except one-face of the building that faces the street and is within 20-ft of the street	N/A
k.	Mixed-use prohibition of ground floor non-residential	Must allow non-residential activities on ground floor that support residential uses, like day care, live-work space, offices, exercise facilities, etc. unless alternative uses specifically designated by government in a commercial corridor.	N/A
l.	Design standards	Façade materials, color or pattern, façade articulation, roof forms and materials, entry and garage materials, garage door orientation (unless the building is adjacent to or across from a school or park), window materials (except bird-safe glazing), and window area (up to 30% provided at least 12% of the total façade is window area)	N/A
m.	Building orientation requirements	Must allow for manufactured dwelling parks, middle housing, multi-family housing, and mixed use, unless they are transit street orientation requirements	N/A
n.	Building height transition requirements	Not more than 50%. Same set of housing types	10%
o	Balconies and porches	Must allow adjustment. Same set of housing types	N/A
p.	Recesses and off-sets	Must allow adjustment. Same set of housing types	10%

LOCAL
GOVERNMENT
LAW GROUP
An Oregon Professional Corporation

Memo

To: City of Newport

From: Carrie Connelly, Attorney

Date: May 22, 2024

Re: SB 1537 Related Questions

Overview: The City of Newport engaged our office to advise particularly on the impacts of SB 1537 (2024) housing land adjustment provisions[1] on planned City Development Code amendments. Prior to the passage of SB 1537, the City was working on a number of updates to its Development Code to eliminate barriers to housing development. The Planning Commission recommended that the Council adopt a set of amendments authorizing various "adjustments" which differ from those mandated by SB 1537. The City's amendments are now on hold, until the Council determines the impact of the new legislation on its planned amendments.

Question 1: Can the City require developers to choose to lower development costs by requesting either SB 1537 adjustments or otherwise available City financial incentives?

> **Answer 1:** We identified no language in SB 1537, Sections 38 to 41, that prohibits the City from conditioning City offered financial incentives upon compliance with the City Code. Consequently, the City should be able to require an applicant to either: 1) lower development costs by requesting up to ten adjustments under SB 1537; or 2) off-set the cost of complying with the City's unadjusted Code by accessing City funds and other incentive programs.
>
> This conclusion seems consistent with other state land use laws. For example, ORS 197A.400 allows a local government to offer alternative sets of standards and criteria, as long as an applicant can choose between compliant and non-compliant criteria.

Question 2: Must the City allow SB 1537 adjustments to eliminate off-street parking minimums in conjunction with the City's shared street sections, which were developed to

[1] Sections 38 through 41 of SB 1537 take effect January 1, 2025, and sunset on January 2, 2032.

reduce the cost of frontage improvements in areas that are terrain constrained or lack adequate right-of-way.

Answer 2: As concluded above, SB 1537 does not prohibit the City from offering mutually exclusive programs to reduce the cost of housing development. SB 1537, Section 38 specifically authorizes a local government to either " . . . [u]se an existing process, *or* develop and apply a new process, that complies with the requirements of . . ." Section 38. Section 38(3)(a). This should not prohibit a local government from offering two housing programs, one that complies with SB 1537 and another that offers different adjustments. As long as a residential developer has the option to request adjustments which comply with SB 1537, the City need not repeal or otherwise eliminate a preexisting program.

SB 1537 does require that, upon a developer's request, the City must grant up to ten of the specific development and design adjustments set out in Section 38(4) and (5). However, such a request must meet qualifying requirements, and can only request certain "adjustments." The term "adjustment" is defined to exclude "[d]eviations from land use regulations or requirements related to *accessibility*, affordability, *fire ingress or egress, safety* . . . ." Section 38(1)(b)(B) (emphasis added).

To the extent that the City can show that a request adjusts a City regulation or requirement related to accessibility, fire ingress or egress, or public safety, that regulation may not be adjusted. Along this line of reasoning, the City may be able to show that off-street parking minimums are necessary to preserve accessibility, fire ingress or egress, and general public safety where reduced street widths are allowed.

Question 3: How can City fees differ between City offered and SB 1537 required adjustments?

Answer 3: SB 1537, Section 38(3) directs that an application for an adjustment "is a limited land use decision." Land use application fees generally may not exceed the City's actual or average costs to process the application at issue. See, ORS 227.175(1) (authorizing permit application fees); ORS 92.044(3)-(4) and 92.046(4) (authorizing fees for subdivision and partition review).

Assuming that the City already requires fees for other types of limited land use decisions, the City will likely be able to support a similar fee reflecting the City's actual or average costs to process SB 1537 adjustments. On that same rationale, an application that is processed administratively by staff could merit a lower fee.

While the City cannot charge land use fees that are more than its actual or average costs, it can always charge less. Best practices, however, support calculating all land use fees on the same basis (actual or average costs.)

Question 4: Can the City require an applicant to substantiate statements that they are eligible for an SB 1537 adjustment per Section 38(2)(g)?

> **Answer 4:** The referenced section states: "(g) The application *states how* at least one of the following criteria apply . . . ." One interpretation is that a SB 1537 adjustment application need only identify at least one satisfied criterion. However, the plain language of the statute requires an applicant to state "how" at least one criterion applies. For this reason, it seems that *some* explanation of how the claimed criteria will be met is required by Section 38(2)(g).
>
> On the other hand, Section 38 provides no basis for a City to evaluate or measure an applicant's submittal. Once a developer "states how" at least one required criterion is met, the application standard is arguably satisfied. Given this, echoing the statutory language may be the most defensible course of action (i.e. "The application must state how at least one of the following criteria apply . . ."). This approach should meet the statutory requirement, while allowing for some local flexibility and the ability to follow caselaw, as LUBA and Oregon courts interpret this legislation.

Question 5: How should the City structure its review process for deciding SB 1537 adjustments?

> **Answer 5:** To comply with SB 1537, Section 45(6), the City must update its Type II limited land use procedures to reflect the amended definition of that term and adhere to ORS 197.195. To date, the statutory process was optional. As of January 1, 2025, it is mandatory. Once the City's Code is updated, that limited land use process will govern SB 1537 adjustment applications – with the exceptions identified in Section 38(3). Those include: 1) no notice of the decision is required if the application is denied, other than notice to the applicant; and 2) only the applicant is allowed to appeal an adjustment decision.

Question 6: Are coastal shorelands exempt from the SB 1537 adjustment allowance pursuant to Section 38(1)(b)(B)?

> **Answer 6:** Section 38(1)(b)(B) of SB 1537 prohibits:
>
> > "*Deviations from* land use regulations or requirements related to accessibility, affordability, fire ingress or egress, safety, local tree codes, hazardous or contaminated site clean-up, wildlife protection, 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." (Emphasis supplied.)

This language does not exempt coastal shorelands from SB 1537 adjustments – unless the requested adjustment requires a deviation from the City development and design standards that implement Goal 17, Coastal Shorelands, or other coastal planning goals.

Question 7: Does the City need to officially designate Nye Beach and Bayfront as commercial corridors, as the term is used in SB 1537, Section 38(4)(g)(D)(ii), to preserve ground floor areas for commercial uses?

Answer 7: SB 1537, Section 38(4)(g)(D)(ii) requires the City to grant an adjustment to:

> "Prohibitions for the ground floor of a mixed-use building, against . . . [n]onresidential 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*." (Emphases added.)

For the City to preserve any prohibitions against the above-described nonresidential active uses in any area of the City, that area must be a clearly defined mixed-use area or a clearly defined commercial corridor designated by the City Council. Therefore, if Nye Beach and Bayfront are already designated mixed-use areas, no further Council action is required. If not so designated, as staff anticipates, the Council will need to clearly designate those areas as commercial corridors in order to preserve applicable nonresidential active use prohibitions. SB 1537 does not identify what is required to specifically and clearly designate those commercial corridor areas, but a descriptive overlay zone would likely suffice.

Enrolled
Senate Bill 1537

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for Office of the Governor)

CHAPTER ....

AN ACT

Relating to housing; creating new provisions; amending ORS 183.471, 197.015, 197.195, 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 procedures 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, typical drawings and specifications as described in ORS 455.062, procedures and practices by which local governments may comply with housing laws.

(e) Provide optional 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, but not limited to, the Department of Land Conservation and Development, Department of

Consumer and Business Services, Housing and Community Services Department 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, but not limited to, making recommendations for moneys needed for the purposes of section 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.

SECTION 2. 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 (c) 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 shall 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;

(B) Providing technical assistance to the local government unrelated to the resolution of the specific complaint; or

(C) 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 or remedy the suspected violation through mediation, the execution of a compliance agreement to voluntarily remedy the situation, the adoption of suitable model codes developed by the office under section 1 (3)(b) of this 2024 Act or other remedies suitable to the specific violation.

(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, judicial or quasi-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 not subject to appeal.

(4) After receiving notice of an enforcement order request under subsection (3) of this section, the local government shall deliver a notice to an affected applicant, if any, 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 or order of dismissal, including recommended findings and conclusions of law.

(b) A proposed enforcement order may require the local government to take any necessary action to comply with housing laws that is suitable to address the basis for the proposed enforcement order, including requiring the adoption or application of suitable models that have been developed by the office under section 1 (3)(b) of this 2024 Act.

(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 proposed 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 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 one or more organizations 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, 35, 39 and 46 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 relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(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, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on 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;

(C) A county may deny a request under paragraph (a)(B) of this subsection if:

(i) The county has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

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

(i) Pay a fee, except to cover additional costs incurred by the county to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; 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 application 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 relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(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, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on 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;

(C) A city may deny a request under paragraph (a)(B) of this subsection if:

(i) The city has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

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

(i) Pay a fee, except to cover additional costs incurred by the city to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; 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**:**

(a) 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*], if the board [*affirms a quasi-judicial land use decision approving the application or*] reverses a quasi-judicial land use decision denying the application[*.*]**;**

(b) An applicant whose application is only for the development of housing and was approved by the local government, if the board affirms the decision; and

(c) The local government that approved a quasi-judicial land use decision described in paragraph (b) of this subsection.

(2) For housing other than affordable housing, the attorney fees specified in subsection (1)(b) and (c) of this section apply only within urban growth boundaries.

[*(2)*] **(3)** A party who was 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** housing.

[*(3)*] **(4)** 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.*]

(a) "Affordable housing" means affordable housing, as defined in ORS 197A.445, or publicly supported housing, as defined in ORS 456.250.

(b) "Attorney fees" includes prelitigation legal expenses, including preparing **and processing** 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.

INFRASTRUCTURE 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 55 (3)(a)(C) of this 2024 Act. "Capacity and support" includes assistance with local financing opportunities, state and federal grant navigation, writing, review and administration, 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) Interest earned by the fund shall be credited to the fund.

(4) 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, 2030.

(2) Any unobligated moneys in the Housing Infrastructure Support Fund on January 2, 2030, must be transferred to the General Fund for general governmental purposes.

SECTION 16. Infrastructure recommendation and reporting. (1) On or before December 31, 2024, the Department of Land Conservation and Development, in consultation with the Housing and Community Services Department, the Oregon Business Development Department and other agencies that fund and support local infrastructure projects, shall submit a report to an appropriate interim committee of the Legislative Assembly in the manner provided in ORS 192.245 that includes a list of key considerations and metrics the Legislative Assembly could use to evaluate, screen and prioritize proposed local infrastructure projects that facilitate and support housing within an urban growth boundary.

(2) The Department of Land Conservation and Development shall facilitate an engagement process with local governments, tribal nations, the development community, housing advocates, conservation groups, property owners, community partners and other interested parties to inform the list of key considerations and metrics.

NOTE: Sections 17 through 23 were deleted by amendment. Subsequent sections were not renumbered.

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) Infrastructure costs, including, but not limited to, 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) Affordable to households with low income or moderate income as those terms are defined in ORS 458.610;

(b) If for-sale property, a single-family dwelling, middle housing as defined in ORS 197A.420 or a multifamily dwelling that is affordable as described in paragraph (a) of this subsection continuously from initial sale for a period, to be established by the Housing and Community Services Department and the sponsoring jurisdiction, of not less than the term of the loan related to the for-sale property; or

(c) 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, such affordability to be maintained for a period, to be established by the department and the sponsoring jurisdiction, of not less than the term of the loan related to the rental property.

(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.

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

(b) Before adopting the program, the sponsoring jurisdiction shall consult with the governing body of any city or county with territory inside the boundaries of the sponsoring jurisdiction.

(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.

SECTION 26. (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) A detailed explanation of the affordability of the eligible housing project;

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

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

(E) A project pro forma demonstrating that the project would not be economically feasible but for receipt of the grant moneys; and

(F) 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)(E) 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 amounts determined 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 the greater of:

(A) Ten years following July 1 of the first property tax year for which the completed eligible housing project property is estimated to be taken into account; or

(B) If agreed upon by the sponsoring jurisdiction and the department, the period required for the loan principal and fees to be repaid in full;

(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 Department.

(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)(E) 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.

SECTION 27. (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 operating taxes as defined in ORS 310.055 and local option taxes as defined in ORS 310.202 levied by fire districts 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 operating taxes and local option taxes levied by fire districts 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 section, the county tax officers shall provide written notice to the sponsoring jurisdiction of the amounts.

SECTION 28. (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 for a payment in an amount equal to the total of:

(A) Loan proceeds in an amount equal to the grant award for the application set under section 26 (3)(d) of this 2024 Act; and

(B) The administrative costs set forth in subsection (3) of this section; and

(b) Pay to the sponsoring jurisdiction the total amount set forth in paragraph (a) of this subsection out of the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(3) The administrative costs referred to in subsection (2)(a)(B) of this section are:

(a) An amount not greater than five percent of the loan proceeds to reimburse the sponsoring jurisdiction for the costs of administering the grant program, other than the costs of tax administration; and

(b) An amount equal to one percent of the loan proceeds to be transferred to 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.

(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.

SECTION 29. (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) Unless otherwise specified in the grant agreement, 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)(a)(A) 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.

<u>SECTION 30.</u> **(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 first property tax year that begins after completion of the eligible housing project to which the grant relates.

(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.

SECTION 31. (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 in which repayment of the loan is due under section 31 (1) of this 2024 Act shall equal the total of:

(A) 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; and

(B) The administrative costs described in section 28 (3) of this 2024 Act divided by the term of the grant agreement entered into under section 29 of this 2024 Act.

(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 operating taxes as defined in ORS 310.055 and local option taxes as defined in ORS 310.202 levied by fire districts 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 subparagraph (A) of this paragraph 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.

(8) Any fee amounts collected in excess of the loan amount shall be distributed in the same manner as other ad valorem property taxes are distributed.

SECTION 33. (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.

SECTION 34. (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 re-

lating 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.

SECTION 35. (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 purpose of paying amounts determined under section 28 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. (1) 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.

(2) In the first two years in which the loan program is operating, the department may not expend an amount in excess of two-thirds of the moneys appropriated to the department for the purpose under section 62 of this 2024 Act.

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, safety, local tree codes, hazardous or contaminated site

clean-up, wildlife protection, 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 any changes beyond the explicitly requested and allowed adjustments; or

(D) Deviations to requirements related to the implementation of fire or building codes, federal or state air, water quality or surface, ground or stormwater requirements, or requirements of any federal, state or local law other than a land use regulation.

(2) Except as provided in section 39 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. 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;

(c) The residential development is for densities not less than those required under section 55 (3)(a)(C) of this 2024 Act;

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

(e) The development is of net new housing units in new construction projects, including:

(A) Single-family or multifamily;

(B) Mixed-use residential where at least 75 percent of the developed floor area will be used for residential uses;

(C) Manufactured dwelling parks;

(D) Accessory dwelling units; or

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

(f) 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 where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment; or

(B) An adjustment to one of the development standards listed in subsection (5) of this section where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment; and

(g) The application states how 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) A decision on an application for an adjustment made under this section is a limited land use decision. Only the applicant may appeal the decision. No notice of the decision is required if the application is denied, other than notice to the applicant. In implementing this subsection, a local government may:

(a) Use an existing process, or develop and apply a new process, that complies with the requirements of this subsection; or

(b) Directly apply the process set forth in this subsection.

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

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

(b) For an individual development project, the common area, open space or area that must be landscaped on the same lot or parcel as the proposed housing, 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:

(A) More dwelling units than would be allowed without the adjustment; and

(B) No reduction in density below the minimum applicable density.

(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, multi-family housing and mixed-use residential housing:

(A) Requirements for bicycle parking that establish:

(i) The minimum number of spaces for use by the residents of the project, provided the application includes at least 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) For uses other than cottage clusters, as defined in ORS 197A.420 (1)(c)(D), 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, provided the application includes at least 12 percent of the total facade as window area.

(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. Mandatory adjustments exemption process. (1) A local government may apply to the Housing Accountability and Production Office for an exemption to section 38 of this 2024 Act only as provided in this section. After the application is made, section 38 of this 2024 Act does 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 requested design and development adjustments for all applications for the development of housing that are under the jurisdiction of that local government;

(b) All listed development and design adjustments under section 38 (4) and (5) of this 2024 Act are eligible for an adjustment under the local government's 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) In approving an exemption, the office may establish conditions of approval requiring that the city demonstrate that it continues to meet the criteria under subsection (2) of this section.

(5) Local governments with an approved or pending exemption under this section shall clearly and consistently notify applicants, including prospective applicants seeking to request an adjustment, that are engaged in housing development:

(a) That the local government is employing a local process in lieu of section 38 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.

(6) 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;

(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); or

(c) Failing to comply with conditions of approval adopted under subsection (4) of this section.

SECTION 40. Temporary exemption authority. Before January 1, 2025, notwithstanding section 39 of this 2024 Act:

(1) Cities may deliver applications for exemption under section 39 of this 2024 Act to the Department of Land Conservation and Development; and

(2) The Department of Land Conservation and Development may perform any action that the Housing Accountability and Production Office may take under section 39 of this 2024 Act. Decisions and actions of the department under this section are binding on the office.

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 2024 Act become 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. ORS 197.015 is amended to read:

197.015. As used in ORS chapters 195, 196, 197 and 197A, unless the context requires otherwise:

(1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) "Board" means the Land Use Board of Appeals.

(3) "Carport" means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) "Commission" means the Land Conservation and Development Commission.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Director" means the Director of the Department of Land Conservation and Development.

(8) "Goals" means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196, 197 and 197A.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines are advisory and do not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; or

(C) A decision of a county planning commission made under ORS 433.763;

(b) Does not include a decision of a local government:

(A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;

(B) That approves or denies a building permit issued under clear and objective land use standards;

(C) That is a limited land use decision;

(D) That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;

(E) That is an expedited land division as described in ORS 197.360;

(F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;

(G) That approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan; or

(H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the acknowledged comprehensive plan and land use regulations implementing the plan, if:

(i) The local government has already made a land use decision authorizing a use or activity that encompasses the proposed state agency action;

(ii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan; or

(iii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action requires a future land use review under the acknowledged comprehensive plan and land use regulations implementing the plan;

(c) Does not include a decision by a school district to close a school;

(d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

(e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

(B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

(C) A state agency action subject to ORS 197.180 (1), if:

(i) The local government with land use jurisdiction over a use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action has already made a land use decision approving the use or activity; or

(ii) A use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12)**(a)** "Limited land use decision"[*:*]

[*(a)*] means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(C) The approval or denial of an application for a replat.

(D) The approval or denial of an application for a property line adjustment.

(E) The approval or denial of an application for an extension, alteration or expansion of a nonconforming use.

(b) **"Limited land use decision"** does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

(13) "Local government" means any city, county or Metro or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

(15) "Metro planning goals and objectives" means the land use goals and objectives that Metro may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designee is considered a person for purposes of appeal under ORS chapters 195, 197 and 197A.

(19) "Special district" means any unit of local government, other than a city, county, Metro or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) "Urban growth boundary" means an acknowledged urban growth boundary contained in a city or county comprehensive plan or adopted by Metro under ORS 268.390 (3).

(21) "Urban unincorporated community" means an area designated in a county's acknowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

(22) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

(23) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 45. ORS 197.195 is amended to read:

197.195. (1) A limited land use decision shall be consistent with applicable provisions of city or county comprehensive plans and land use regulations. Such a decision may include conditions authorized by law. Within two years of September 29, 1991, cities and counties shall incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. A decision to incorporate all, some, or none of the applicable comprehensive plan standards into land use regulations shall be undertaken as a post-acknowledgment amendment under ORS 197.610 to 197.625. If a city or county does not incorporate its comprehensive plan provisions into its land use regulations, the comprehensive plan provisions may not be used as a basis for a decision by the city or county or on appeal from that decision.

(2) A limited land use decision is not subject to the requirements of ORS 197.797.

(3) A limited land use decision is subject to the requirements of paragraphs (a) to (c) of this subsection.

(a) In making a limited land use decision, the local government shall follow the applicable procedures contained within its acknowledged comprehensive plan and land use regulations and other applicable legal requirements.

(b) For limited land use decisions, the local government shall provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(c) The notice and procedures used by local government shall:

(A) Provide a 14-day period for submission of written comments prior to the decision;

(B) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;

(C) List, by commonly used citation, the applicable criteria for the decision;

(D) Set forth the street address or other easily understood geographical reference to the subject property;

(E) State the place, date and time that comments are due;

(F) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

(G) Include the name and phone number of a local government contact person;

(H) Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and

(I) Briefly summarize the local decision making process for the limited land use decision being made.

(4) Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(5) A local government may provide for a hearing before the local government on appeal of a limited land use decision under this section. The hearing may be limited to the record developed pursuant to the initial hearing under subsection (3) of this section or may allow for the introduction

of additional testimony or evidence. A hearing on appeal that allows the introduction of additional testimony or evidence shall comply with the requirements of ORS 197.797. Written notice of the decision rendered on appeal shall be given to all parties who appeared, either orally or in writing, before the hearing. The notice of decision shall include an explanation of the rights of each party to appeal the decision.

(6) A city shall apply the procedures in this section, and only the procedures in this section, to a limited land use decision, even if the city has not incorporated limited land use decisions into land use regulations, as required by ORS 197.646 (3), except that a limited land use decision that is made under land use standards that do not require interpretation or the exercise of policy or legal judgment may be made by city staff using a ministerial process.

SECTION 45a. Section 46 of this 2024 Act is added to and made a part of ORS chapter 197.

SECTION 46. Applicability of limited land use decision to housing development. (1) The Housing Accountability and Production Office may approve a hardship exemption or time extension to ORS 197.195 (6), during which time ORS 197.195 (6) does not apply to decisions by a local government.

(2) 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 ORS 197.195 (6).

(3) The office shall review exemption or time extension requests under the deadlines provided in section 39 (3) of this 2024 Act.

SECTION 47. Sunset. Section 46 of this 2024 Act is repealed on January 2, 2032.

SECTION 47a. Operative date. Section 46 of this 2024 Act and the amendments to ORS 197.015 and 197.195 by sections 44 and 45 of this 2024 Act become operative on January 1, 2025.

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 100 net residential acres; or

(B) For a city with a population of less than 25,000, does not exceed 50 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.

SECTION 51. Petition for additions of sites to Metro urban growth boundary. (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 300 total net residential acres added under this subsection.

(3) If the net residential acres included in petitions that Metro determines are in compliance on or before July 1, 2025, total less than 300 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 all petitions deemed compliant on or before July 1, 2025; or

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

(4) If the net residential acres included in petitions that Metro determines are in compliance on or before July 1, 2025, total 300 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) In the previous 20 years there have been no urban growth boundary expansions for residential use adopted by a city or by Metro in a location adjacent to the city; and

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

(b) Within urban growth boundary expansion areas for residential use adopted by the city over the previous 20 years, or by Metro in locations adjacent to the city, 75 percent of the lands either:

(A) Are developed; or

(B) Have an acknowledged comprehensive plan with land use designations in preparation for annexation and have a public facilities plan and associated financing plan.

(2) The city has demonstrated a need for affordable housing, based on:

(a) Having a greater percentage of severely cost-burdened households than the average for this state based on the Comprehensive Housing Affordability Strategy data from the United States Department of Housing and Urban Development; or

(b) At least 25 percent of the renter households in the city being severely rent burdened as indicated under the most recent housing equity indicator data under ORS 456.602 (2)(g).

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.

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

(a) "Affordable units" means residential units described in subsection (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;

(B) That the development will be on lands zoned for residential or mixed-use residential uses; and

(C) The development will be built at net residential densities not less than:

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

(ii) Ten units per net residential acre if sited in a city with a population of 30,000 or greater;

(iii) Six units per net residential acre if sited in a city with a population of 2,500 or greater and less than 30,000; or

(iv) Five units per net residential acre if sited in a city with a population less than 2,500;

(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 Conservation 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) Air, water and land resources quality;

(C) Areas subject to natural hazards;

(D) The Willamette River Greenway;

(E) Estuarine resources;

(F) Coast shorelands; or

(G) 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 properties designated for affordable units are dispersed throughout the site; 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:

(a) 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; and

(b) A binding agreement with 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 to ensure that the site will be served with all necessary urban services as defined in ORS 195.065.

(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 or 58 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.

SECTION 58. Alternative urban growth boundary land exchange. (1) In lieu of amending its urban growth boundary under any other process provided by sections 49 to 59 of this 2024 Act, Metro or a city outside of Metro may amend its urban growth boundary to add one or more sites described in section 51 (1)(a) and (b) of this 2024 Act 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.

(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) A landowner may not appeal the removal of the landowner's land from an urban growth boundary under this section unless the landowner agrees to enter into a recorded agreement with Metro or the city in which the landowner would consent to annexation and development of the land within 20 years if the land remains in the urban growth boundary.

(6) Review of an exchange of lands made under this section may only be made by:

(a) For cities outside of Metro, 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; or

(b) For Metro, the Department of Land Conservation and Development, subject to judicial review, as provided in section 57 of this 2024 Act.

(7) Sections 50 (1)(d) to (g), 52, 53, 54, 55 and 56 of this 2024 Act do not apply to a site addition made under this section.

SECTION 59. Reporting on added sites. 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 acknowledged 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 and expenditure limitation to Department of Land Conservation and Development. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium ending June 30, 2025, out of the General Fund, the amount of $5,629,017, for deposit into the Housing Accountability and Production Office Fund, established under section 4 of this 2024 Act, to take any action to implement sections 1 to 5, 16, 38 to 41, 46 and 49 to 59 of this 2024 Act and the amendments to ORS 183.471, 197.015, 197.195, 197.335, 215.427 and 227.178 by sections 8, 9, 44, 45, 64 and 65 of this 2024 Act.

(2) In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium ending June 30, 2025, out of the General Fund, the amount of $5,000,000, for deposit into the Housing Accountability and Production Office Fund, established under section 4 of this 2024 Act, for the Housing Accountability and Production Office, established under section 1 of this 2024 Act, to provide technical assistance, including grants, under section 1 (2) of this 2024 Act and to provide required studies under section 5 of this 2024 Act.

(3) Notwithstanding any other law limiting expenditures, the amount of $10,629,017 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Department of Land Conservation and Development from the Housing Accountability and Production Office Fund established under section 4 of this 2024 Act.

SECTION 62. Appropriation and expenditure limitation to Housing and Community Services Department. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium ending June 30, 2025, out of the General Fund, the amount of $75,000,000, for deposit into the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(2) Notwithstanding any other provision of law, the General Fund appropriation made to the Housing and Community Services Department by section 1, chapter 390, Oregon Laws 2023, for the biennium ending June 30, 2025, is increased by $878,071 for administrative expenses related to the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(3) Notwithstanding any other law limiting expenditures, the amount of $24,750,000 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Housing and Community Services Department from the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

SECTION 63. Appropriation and expenditure limitation to Oregon Business Development Department. (1) 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 amount of $3,000,000, for deposit into the Housing Infrastructure Support Fund established under section 14 of this 2024 Act.

(2) Notwithstanding any other law limiting expenditures, the amount of $3,000,000 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Oregon Business Development Department from the Housing Infrastructure Support Fund established under section 14 of this 2024 Act.

SECTION 63a. **Expenditure limitation to Department of Consumer and Business Services. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (6), chapter 354, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Department of Consumer and Business Services, for Building Codes Division, is increased by $296,944, to support operations of the Housing Accountability and Production Office established under section 1 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.

Passed by Senate February 29, 2024

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House March 4, 2024

....
Dan Rayfield, Speaker of House

Received by Governor:

........................M.,..., 2024

Approved:

........................M.,..., 2024

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Tina Kotek, Governor

Filed in Office of Secretary of State:

........................M.,..., 2024

....
LaVonne Griffin-Valade, Secretary of State

Tentative Planning Commission Work Program
(Scheduling and timing of agenda items is subject to change)

February 26, 2024 Work Session

- Planning Commission FY 24/25 Goal Setting Session
- City Zoning Requirements for Public/Private Schools

February 26, 2024 Regular Session

- Final Order and Findings File #1-CUP-24, Coffee Shop at 146 SW Bay Blvd
- Public Hearing on File #3-Z-23, Removing Regulatory Barriers for Needed Housing

March 11, 2024 Work Session

- Discuss Implementation Steps for SB 1537 "Governors Housing Bill" (Enrolled)
- Finalize Planning Commission FY 24/25 Goals

March 11, 2024 Regular Session

- Approval of Commission's FY 24/25 Goals

March 25, 2024 Work Session

- Review of Draft Comprehensive Plan Amendments to Implement the Estuary Management Plan

April 8, 2024 Regular Session

- Public Hearing on File #1-VAR-24, Harbor Freight Sign Variance (continued)

April 22, 2024 Regular Session

- Continued Public Hearing for File #1-VAR-24, Harbor Freight Sign Variance

May 13, 2024 Work Session

- Initial Review of Draft Zoning Amendments to Implement the Updated Yaquina Bay Estuary Management Plan
- Approach to Implementing Adjustment Provisions of Governor's Housing Bill (SB 1537)
- Next Steps with the City center Revitalization Planning Process

May 13, 2024 Regular Session

- Final Order and Findings for File #1-VAR-24, Harbor Freight Sign Variance
- Public Hearing on File #2-VAR-24, Setback Variance for Residential Addition at 5259 NW Rocky Way

May 28, 2024 CANCELLED

June 10, 2024 Work Session

- Overview of Comprehensive Plan Refinement Project (Beth Young)
- Review Amendments to Ordinance No. 2222 Removing Regulatory Barriers to Needed Housing and Implementing the Adjustment Component to SB 1537

June 10, 2024 Regular Session

- Final Order and Findings for File #2-VAR-24, Setback Variance for Residential Addition at 5259 NW Rocky Way

June 24, 2024 Work Session

- Second Review of Amendments to Implement the Updated Yaquina Bay Estuary Management Plan
- Public Outreach Plan and Web Updates for City Center Revitalization Plan
- Scope of Work for Water System Master Plan Update

June 24, 2024 Regular Session

- Initiate legislative process Legislative Process to Amend the City's Comprehensive Plan and Zoning Code to Implement the Updated Estuary Management Plan