



**PLANNING COMMISSION REGULAR SESSION AGENDA**  
**Monday, December 11, 2023 - 7:00 PM**  
**City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365**

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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](mailto: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](mailto:publiccomment@newportoregon.gov). Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

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

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**1. CALL TO ORDER AND ROLL CALL**

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

**2. APPROVAL OF MINUTES**

**2.A Approval of the Planning Commission Work Session Meeting Minutes of November 13, 2023.**

[Draft PC Work Session Minutes 11-13-2023](#)

[11-13-23 PC Work Session Meeting Video Link](#)

**2.B Approval of the Planning Commission Regular Session Meeting Minutes of November 13, 2023.**

[Draft PC Reg Session Minutes 11-13-2023](#)

[11-13-23 PC Regular Session Meeting Video Link](#)

**3. CITIZENS/PUBLIC COMMENT**

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

**4. ACTION ITEMS**

**5. PUBLIC HEARINGS**

**5.A File File 1-Z-23: Land Use Amendments to Implement 2023 State of Oregon Legislative Mandates.**

[Staff Report](#)

[Attachment A - Draft Copy of Ordinance No. 2216 \(Changes shown in mark-up format\)](#)

[Attachment B - House Bills 2898, 3167, and 3395](#)

[Attachment C - Minutes from the 8/14/23, and 10/23/23 Planning Commission work sessions](#)

[Attachment D - Minutes from the 10/23/23 Planning Commission regular session](#)

[Attachment E - Email confirmation of 35-day DLCD PAPA notice](#)

[Attachment F - Published public hearing notice](#)

**6. NEW BUSINESS**

**7. UNFINISHED BUSINESS**

**8. DIRECTOR COMMENTS**

## 9. ADJOURNMENT

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

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

**ATTENDANCE LOG/ROLLCALL**

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

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

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

Submitted by: \_\_\_\_\_

Sherri Marineau, Executive Assistant

**11-13-2023 - Planning Commission Work Session Meeting Video Link:**

[https://thecityofnewport.granicus.com/player/clip/1148?view\\_id=2&redirect=true&h=07fa0727bb19955a6ccd56e568b3433b](https://thecityofnewport.granicus.com/player/clip/1148?view_id=2&redirect=true&h=07fa0727bb19955a6ccd56e568b3433b)

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

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

**ATTENDANCE LOG/ROLLCALL**

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

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

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

Submitted by: \_\_\_\_\_

Sherry Marineau, Executive Assistant



**11-13-2023 - Planning Commission Regular Session Meeting Video Link:**

[https://thecityofnewport.granicus.com/player/clip/1149?view\\_id=2&redirect=true&h=09bed3d34c6fc997f4ce41214fd23ecf](https://thecityofnewport.granicus.com/player/clip/1149?view_id=2&redirect=true&h=09bed3d34c6fc997f4ce41214fd23ecf)

**PLANNING STAFF MEMORANDUM**  
**FILE No. 1-Z-23**

- I. **Applicant:** Initiated by motion of the Newport Planning Commission on October 23, 2023.
- II. **Request:** Amendments to Chapters 14.01, 14.03, 14.09, 14.15, 14.44, 14.48 and 14.52 of Title XIV of the Newport Municipal Code to implement land use mandates from the 2023 Oregon Legislative Session.
- III. **Findings Required:** This is a legislative action whereby the City Council, after considering a recommendation by the Newport Planning Commission, must determine that the changes to the Newport Municipal Code (NMC) are necessary and further the general welfare of the community (NMC 14.36.010).
- IV. **Planning Staff Memorandum Attachments:**
  - Attachment "A" – Draft Copy of Ordinance No. 2216 (Changes shown in mark-up format)
  - Attachment "B" – House Bills 2898, 3167, and 3395
  - Attachment "C" – Minutes from the 8/14/23, and 10/23/23 Planning Commission work sessions
  - Attachment "D" – Minutes from the 10/23/23 Planning Commission regular session
  - Attachment "E" – Email confirmation of 35-day DLCDD PAPA notice
  - Attachment "F" – Published public hearing notice
- V. **Notification:** The Department of Land Conservation & Development was provided notice of the proposed legislative amendment on May 5, 2023 (Attachment "E"). Notice of the December 11, 2023 Planning Commission hearing was published in the Newport News-Times on Friday, December 1, 2023 (Attachment "F").
- VI. **Comments:** No comments have been received regarding the proposed amendments.
- VII. **Discussion of Request:** The Planning Commission reviewed HB 2898, HB 3167 and HB 3395 at an August 14, 2023 work session, and considered a package of amendments to implement the new laws at a work session on October 23, 2023. Copies of the work session minutes are enclosed (Attachment "C"). At its October 23, 2023 regular meeting, the Commission approved a motion to initiate the legislative amendments consistent with authority granted to the policymaking body under Chapter 14.36 of the Newport Municipal Code (Attachment "D"). The proposed amendments are illustrated in mark-up form in draft Ordinance No 2216 (Attachment "A",) and are summarized as follows:

Newport Municipal Code (NMC) Chapter 14.01, Definitions, is being amended to include definitions for the terms “emergency shelter” and “single room occupancy” both of which are prescribed by statute and implement Sections 7 and 17 of House Bill 3395.

NMC Chapter 14.03, Zoning Districts, is being amended to add single room occupancy and emergency shelters to the table under Section 14.03.050 that lists permitted uses in residential areas. A single room occupancy use is permitted in all zones subject to the limitations noted in new footnote

4, which align with language contained in Sections 16 and 17 of House Bill 3395. With respect to emergency shelters, the City will allow them in all residential zones subject to a City Council public hearing to confirm that statutory criteria listed in ORS 197.782 are satisfied. Those criteria are also contained in Section 7 of House Bill 3395, and the bill makes it clear that the resulting determination is not a land use decision. The hearing requirement is addressed in the table under new footnote 5. Section 14.03.060 is amended to include emergency shelters under ORS 197.782 as a type of “community service” use and the table in Section 14.03.070 that lists permitted uses in commercial and industrial areas is amended to include a new footnote 7 that requires a Council hearing for emergency shelters to confirm that they meet statutory standards when proposed in C-2 and I-2 zone districts. Staff would perform the review in C-1, C-3, and I-1 zones and shelters would be prohibited in I-3 zones.

NMC Chapter 14.09, Temporary Uses, is being amended to extend the period of time persons can reside in a recreational vehicle on a lot or parcel where the residence was destroyed by natural disaster. The existing limit of 24-months is being revised to 60-months to comply with requirements of HB 2898. NMC Chapter 14.15, Residential Uses in Nonresidential Zoning Districts, is being amended to allow affordable housing at street grade in commercial areas irrespective of the form of ownership. This change implements Section 2 of House Bill 3395.

NMC Chapter 14.44, Transportation Standards, and NMC Chapter 14.48, Land Divisions, are being amended to include an additional type of financial guarantee that can be used to assure performance when an affordable housing developer elects to enter into an agreement to defer required public improvements. The change implements Section 15 of House Bill 3395. A cross-reference is also being added to Section 14.44.050 clarifying that improvement agreements for public improvements that are not associated with a land division are subject to the same requirements as those that are related to a partition or subdivision.

Lastly, NMC Chapter 14.52, Procedural Requirements, has been updated to allow legal notices to be published digitally, as allowed by House Bill 3167, and the decision time limits have been amended to provide an additional seven days for land use decisions to be finalized where they involve the approval of residential structures. That change implements Section 4 of House Bill 3395.

**VIII. Conclusion and Recommendation:** The Planning Commission should review the proposed amendments and make a recommendation to the City Council as to whether or not they are necessary and further the general welfare of the community (ref: NMC 14.36.010). This would be done by motion and vote of the Commission members present. In making a motion the Commission should specifically reference the policy options or any other revisions they wish to see incorporated as part of their recommendation. If the Commission is not prepared to make a recommendation, or desires additional information or code revisions before it does so, then it may continue the hearing to a date certain. The Commission’s next regular meeting hearing date/time would be January 8, 2024 at 7pm.



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

December 6, 2023

CITY OF NEWPORT

ORDINANCE NO. 2216

AN ORDINANCE IMPLEMENTING LAND USE MANDATES  
FROM THE 2023 OREGON LEGISLATIVE SESSION

(Newport File No. 1-Z-23)

**Findings:**

1. On October 23, 2023, the Newport Planning Commission initiated amendments to the Newport Zoning Ordinance, codified as Title XIV of the Newport Municipal Code, to implement land use mandates contained in HB 2898, HB 3167, and HB 3395 adopted during the 2023 Oregon legislative session.
2. The Planning Commission reviewed the bills at an August 14, 2023 work session, and worked with staff on a package of amendments to implement the new laws at a work session on October 23, 2023. The nature of the proposed amendments is more specifically described as follows:
  - a. Newport Municipal Code (NMC) Chapter 14.01, Definitions, is being amended to include definitions for the terms “emergency shelter” and “single room occupancy” both of which are prescribed by statute and implement Sections 7 and 17 of House Bill 3395.
  - b. NMC Chapter 14.03, Zoning Districts, is being amended to add single room occupancy and emergency shelters to the table under Section 14.03.050 that lists permitted uses in residential areas. A single room occupancy use is permitted in all zones subject to the limitations noted in new footnote 4, which align with language contained in Sections 16 and 17 of House Bill 3395. With respect to emergency shelters, the City will allow them in all residential zones subject to a City Council public hearing to confirm that statutory criteria listed in ORS 197.782 are satisfied. Those criteria are also contained in Section 7 of House Bill 3395, and the bill makes it clear that the resulting determination is not a land use decision. The hearing requirement is addressed in the table under new footnote 5. Section 14.03.060 is amended to include emergency shelters under ORS 197.782 as a type of “community service” use and the table in Section 14.03.070 that lists permitted uses in commercial and industrial areas is amended to include a new footnote 7 that requires a Council hearing for emergency shelters to confirm that they meet statutory standards when proposed in C-2 and I-2 zone districts. Staff would perform the review in C-1, C-3, and I-1 zones and shelters would be prohibited in I-3 zones.
  - c. NMC Chapter 14.09, Temporary Uses, is being amended to extend the period of time persons can reside in a recreational vehicle on a lot or parcel where the residence was destroyed by natural disaster. The existing limit of 24-months is being revised to 60-months to comply with requirements of HB 2898.

d. NMC Chapter 14.15, Residential Uses in Nonresidential Zoning Districts, is being amended to allow affordable housing at street grade in commercial areas irrespective of the form of ownership. This change implements Section 2 of House Bill 3395.

e. NMC Chapter 14.44, Transportation Standards, and NMC Chapter 14.48, Land Divisions, are being amended to include an additional type of financial guarantee that can be used to assure performance when an affordable housing developer elects to enter into an agreement to defer required public improvements. The change implements Section 15 of House Bill 3395. A cross-reference is also being added to Section 14.44.050 clarifying that improvement agreements for public improvements that are not associated with a land division are subject to the same requirements as those that are related to a partition or subdivision.

f. Lastly, NMC Chapter 14.52, Procedural Requirements, has been updated to allow legal notices to be published digitally, as allowed by House Bill 3167, and the decision time limits have been amended to provide an additional seven days for land use decisions to be finalized where they involve the approval of residential structures. That change implements Section 4 of House Bill 3395.

3. The Newport Planning Commission held a public hearing on December 11, 2023 to consider public 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.

4. 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.

5. 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 Title XIV of the Newport Municipal Code adopted by Section 2 of this Ordinance.

**Section 2.** Municipal Code Amendment. Chapters 14.01, 14.03, 14.09, 14.15, 14.44, 14.48 and 14.52 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 passage.

Date adopted and read by title only: \_\_\_\_\_

Signed by the Mayor on \_\_\_\_\_, 2024.

\_\_\_\_\_  
Jan Kaplan, Mayor

ATTEST:

\_\_\_\_\_  
Erik Glover, Asst. City Manager/City Recorder

DRAFT

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

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

## 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:

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**Emergency Shelter.** A building or cluster of buildings that provides shelter on a temporary basis for individuals and families who lack permanent housing.

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**Single Room Occupancy.** A residential development with no fewer than four attached units that are independently rented and lockable and providing living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.

*Staff: Definitions added as drafted or referenced in Sections 7 and 17 of House Bill 3395. The City did not previously have a definition for a single room occupancy use.*

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## CHAPTER 14.03 ZONING DISTRICTS

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### 14.03.050 Residential Uses.

The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed. Short-

term rentals are permitted uses in the City of Newport's R-1, R-2, R-3 and R-4 zone districts subject to requirements of [Section 14.25](#).

"P" = Permitted uses.

"C" = Conditional uses; permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

A.	Residential	R-1	R-2	R-3	R-4
	1. Single-Family	P	P	P	P
	2. Two-family	P	P	P	P
	3. Townhouse	X	P	P	P
	<u>4. Single Room Occupancy</u> <sup>4</sup>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<del>45.</del> Cottage Cluster	X	X	P	P
	<del>56.</del> Multi-family	X	X	P	P
	<del>67.</del> Manufactured Homes <sup>1</sup>	P	P	P	P
	<del>78.</del> Manufactured Dwelling Park	X	P	P	P
B.	Accessory Dwelling Units	P	P	P	P
	(B. was added on the adoption of Ordinance No 2055 on June 17, 2013; and subsequent sections relettered accordingly. Effective July 17, 2013.)				
C.	Accessory Uses	P	P	P	P
D.	Home Occupations	P	P	P	P
E.	Community Services				
	1. Parks	P	P	P	P
	2. Publicly Owned Recreation Facilities	C	C	C	C
	3. Libraries	C	C	C	C
	4. Utility Substations	C	C	C	C
	5. Public or Private Schools	C	C	C	P
	6. Family Child Care Home	P	P	P	P
	7. Child Care Center	C	C	C	C
	8. Religious Institutions/Places of Worship	C	C	C	C
	<u>9. Emergency Shelter</u> <sup>5</sup>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
F.	Residential Care Homes	P	P	P	P
G.	Nursing Homes	X	X	C	P
H.	Motels and Hotels <sup>3</sup>	X	X	X	C
I.	Professional Offices	X	X	X	C
J.	Rooming and Boarding Houses	X	X	C	P
K.	Beauty and Barber Shops	X	X	X	C
L.	Colleges and Universities	C	C	C	C
M.	Hospitals	X	X	X	P
N.	Membership Organizations	X	X	X	p
O.	Museums	X	X	X	P



P.	Condominiums <sup>2</sup>	X	P	P	P
Q.	Hostels	X	X	X	C
R.	Golf Courses	C	C	C	X
S.	Recreational Vehicle Parks	X	X	X	C
T.	Necessary Public Utilities and Public Service Uses or Structures	C	C	C	C
U.	Residential Facility*	X	X	P	P
V.	Movies Theaters**	X	X	X	C
W.	Assisted Living Facilities***	X	C	P	P
X.	Bicycle Shop****	X	X	X	C
Y.	Short-Term Rentals (subject to requirements of Chapter 14.25)	P	P	P	P
Z.	Transportation Facilities	P	P	P	P

<sup>1</sup> Manufactured homes may be located on lots, parcels or tracts outside of a manufactured dwelling park subject to the provisions listed in NMC 14.06.020.

<sup>2</sup> Condominiums are a form of ownership allowed in all zones within dwelling types otherwise permitted pursuant to subsection (A).

<sup>3</sup> Hotels/motels units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone.

<sup>4</sup> A building with four to six units on a lot or parcel in an R-1 or R-2 zone district, or a combination of buildings of at least four units each subject to the density limitations of an R-3 or R-4 zone district.

<sup>5</sup> Subject to a public hearing before the Newport City Council to establish compliance with the requirements of ORS 197.782.

*Staff: Implements Sections 16 and 17, House Bill 3395, which requires local governments allow single room occupancy development in this manner.*

*Provisions related to emergency shelters implement Section 7, House Bill 3395, which allows emergency shelters irrespective of zoning subject to specific standards set forth in the statute. At least a couple of the standards are discretionary, such as adequate access to commercial and medical services and whether or not it poses an unreasonable risk to public health or safety. A public hearing is optional and the law makes it clear that any resulting decision is not a land use decision. At its 10/23/23 work session, the Commission elected to require a public hearing before the Council to establish compliance with statutory approval standards. Land use notice*

*standards in NMC Chapter 14.52 will not apply, since the City's determination is not a land use decision.*

#### 14.03.060 Commercial and Industrial Districts.

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

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### **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 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: All types of emergency shelters might not fall under the existing language, so this change clarifies that there is an alternate path forward for shelters under ORS 197.782.*

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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 <sup>1</sup>	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 <sup>2</sup>	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 <sup>6</sup>	X	X	P	P	P	X
6.	Parking Facility	P	P	P	P	P	P
7.	Contractors and Industrial Service <sup>6</sup>	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 <sup>3</sup>	P	P	P	P	P	P
13.	Utility Corridors	C	C	C	C	C	C
14.	Community Service <u>7</u>	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						
	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 <sup>4</sup>	P	X	P	P	P	P
22.	Residences on Floors Other than Street Grade	P	P	P	X	X	X
23.	Affordable Housing <sup>5</sup>	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.

7. For emergency shelters subject to ORS 197.782, city staff shall determine if standards listed under ORS 197.782 have been satisfied when the shelter is located in a zone where community service uses

are listed as permitted. In those zones where community service uses are listed as conditional, a public hearing shall be held by the Newport City Council to establish compliance with statutory requirements.

*Staff: Like the R-1, R-2, and R-3 zones, a shelter in a C-2 or I-2 might have a difficult time satisfying discretionary standards listed in the statute and the Commission might want to have a policymaking body like the City Council determine whether or not the standards are met (as opposed to staff).*

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## CHAPTER 14.09 TEMPORARY USES

### 14.09.010 Purpose

The purpose of this section is to provide some allowance for short-term uses that are temporary in nature, where no permanent improvements are made to the site, and the use can be terminated and removed immediately. Temporary activities include special events as defined in [9.80.010](#) of the Newport Municipal Code, temporary living quarters, construction trailers, leasing offices, mobile food units, kiosks, storage buildings, and similar structures.

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### 14.09.030 Temporary Living Quarters

A. Notwithstanding any other restrictions and prohibitions in this code, a recreational vehicle may be used as a temporary living quarters subject to the following conditions:

1. The individual(s) occupying the recreational vehicle are actively engaged in the construction or repair of a building on the premises; and
2. Any required building permits have been obtained; and
3. The recreational vehicle is used as a place of habitation for no more than 24-months, or the date that occupancy is granted, whichever is sooner; and
4. The recreational vehicle used as the temporary living quarters is self-contained for sanitary sewer; and

5. The location of the temporary living quarters on the site satisfies the vision clearance requirements as set forth in [Section 14.17](#).
- B. Temporary living situations for non-residential projects may use a job shack or other such structure instead of a recreational vehicle as the living quarters and may have a portable toilet instead of a self-contained unit.
- C. A permit is not required to utilize a recreational vehicle as a temporary living quarters as provided in this subsection.
- D. Notwithstanding the occupancy limit set forth in 14.09.030(A)(3), a recreational vehicle may be used as a place of habitation for up to 60-months in circumstances where the construction or repair of a building is in response to damage from a natural disaster, such as a wildfire, earthquake, flood, or severe storm.

*Staff: Implements HB 2898, which extended the period of time a recreational vehicle can be occupied while a dwelling is being repaired or rebuilt from 24-months to 60-months. The legislation is limited to circumstances where construction is related to a dwelling that is rendered uninhabitable as a result of a natural disaster. The City's language is more permissive in that it is not limited to repair or replacement of uninhabitable dwellings.*

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## CHAPTER 14.15 RESIDENTIAL USES IN NONRESIDENTIAL ZONING DISTRICTS

### 14.15.010 Purpose

It is the intent of this section to regulate the placement of residences in nonresidential zoning districts.

### 14.15.020 Residential Uses in Nonresidential Zoning Districts

Residences shall be allowed in nonresidential zones as follows:

- A. **C-1 zones:** Residences are prohibited at street grade. For floors other than street grade, residences are allowed as an outright permitted use.
- B. **C-2 zones:** For areas outside of the Historic Nye Beach Design Review District, residences are prohibited at street grade. For

floors other than street grade, residences are allowed as an outright permitted use. On lands zoned C-2 that are within the Historic Nye Beach Design Review District, residential uses shall be allowed as specified in Chapter 14.30, Design Review Standards.

- C. **C-3 zones:** Same as the C-1 zone.
- D. **For all I zones:** One residence for a caretaker or watchman as an accessory use is allowed as a permitted use.
- E. **W-2 zones:** Residences are prohibited at street grade. For floors other than street grade, residences are allowed subject to the issuance of a conditional use permit in accordance with the provisions of [Section 14.34](#), Conditional Uses, and [Section 14.52](#), [Procedural Requirements](#).
- F. **For all other nonresidential zones:** Residences are prohibited.
- G. **Affordable Housing:** Notwithstanding other provisions of this section, Affordable Housing ~~on property owned by a public body, or non-profit corporation,~~ shall be permitted at street grade provided:
  - 1. It is situated outside of the Tsunami Hazards Overlay Zone; and
    - a. The property is zoned for commercial or public use, as outlined in Section 14.03.020; or
    - b. The property is zoned I-1, is publicly owned, and is adjacent to land zoned for residential use or a school.
  - 2. Development standards for Affordable Housing under this subsection shall be the same as those that apply to the adjacent residentially zoned property. If there is no adjacent land zoned for residential use, then the development standards of the R-4 zone shall apply.
  - 3. Affordable Housing on property within the Historic Nye Beach Design Review District, shall satisfy the development standards specified in Chapter 14.30, Design Review Standards.

*Staff: Implements Section 2, HB 3395, which stipulates that affordable housing is to be allowed at street grade in commercial*

*zones irrespective of whether or not the property is owned by a public body or non-profit.*

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## CHAPTER 14.44 TRANSPORTATION STANDARDS

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### 14.44.020 When Standards Apply

The standards of this section apply to land divisions and new development or redevelopment for which a building permit is required that place demands on public or private transportation facilities and related city utilities. Unless otherwise provided, all construction, reconstruction, or repair of transportation facilities and related utilities shall comply with the standards of this Chapter.

This Chapter applies to the vacation of streets only to the extent that new lots created, consolidated, or modified as a result of such a vacation shall have at least 25 feet of frontage or approved access to a public street.

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### 14.44.050 Transportation Standards

- A. Street Improvement Requirements. Streets within or adjacent to a land division, development of new streets, and planned improvements to existing streets shall satisfy the requirements of Section 14.44.060, and public streets shall be dedicated to the applicable road authority.
- B. Substandard streets. Substandard streets adjacent to existing lots or parcels shall be brought into conformance with the standards of [Section 14.44.060](#) when new development or redevelopment of the lots or parcels will place additional demands on the streets and related city utilities.
- C. Neighborhood Traffic Management. Traffic calming measures such as speed tables, curb bulb outs, traffic circles, and other solutions may be identified as required on-site or off-site improvements for development along Neighborhood Collector or Local Streets.



- D. Guarantee. The city may accept a future improvement guarantee in the form of an improvement agreement as outlined in 14.48.060(B) through (G) ~~cash deposit, surety bond, letter of credit~~ or non-remonstrance agreement, in lieu of street improvements, if it determines that one or more of the following conditions exist:
1. A partial improvement may create a potential safety hazard to motorists or pedestrians;
  2. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;
  3. The improvement is being carried out prior to certificate of occupancy or it is funded and programmed for construction in an adopted capital improvement plan; or
  4. The improvement is associated with an approved land partition or minor replat and the proposed land partition does not create any new streets.

*Staff: There is a new form of financial assurance cities are required to accept per Section 15 of House Bill 3395. This impacts Chapters 14.44 and 14.48. The latter describes the substantive requirements for an improvement agreement and guarantee in greater detail, so the new financial assurance language is being added to NMC Chapter 14.48, and a cross-reference is being added to this section. The change to (D)(3) aligns with the City's practice, which is to allow improvements to be deferred via an improvement agreement between the time a building permit is issued and occupancy is sought. This is in addition to deferral of improvements because the City has them programmed in its capital improvement plan.*

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## CHAPTER 14.48 LAND DIVISIONS

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### 14.48.060 Final Plat Requirements

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- B. Provision of Improvements. It shall be the responsibility of the developer to install all required improvements and to repair any existing improvements damaged in the development of the property. The installation of improvements and repair of damage shall be completed prior to final plat approval. Except as provided in Subsection C., or where payment in lieu of constructing a required improvement is allowed by the city and has been paid by the developer per Chapter 14.44, the final plat will not be approved until improvements are installed to the specifications of the city and “as constructed” drawings are given to the city and approved by the city engineer. The developer shall warrant the materials and workmanship of all required public improvements for a period of one year from the date the city accepts the public improvements.
- C. Improvement Agreements. If all the required improvements have not been satisfactorily completed before the final plat is submitted for approval, the city may, at its discretion, allow final approval of the plat if the developer enters into a written agreement with the city to provide the required improvements secured by a cash deposit, bond, or letter of credit. The agreement must provide for completion within one year of the approval of the final plat. The agreement shall be acceptable to the city attorney and include provisions that:
1. Authorize the city to complete the required improvements and recover their full cost and expense from the developer if the developer fails to complete the improvements as required.
  2. Authorize the inspection of all improvements by the city engineer and provide for reimbursement to the city of all costs of inspection.
  3. Indemnify of the city, its officials, employees and agents, from and against all claims of any nature arising or resulting from the failure of the developer to comply with any requirement of such agreement.
  4. Ensure compliance with conditions required by the city in approving the final plat prior to completion of all required improvements.
- D. Financial Assurances. A developer that enters into an improvement agreement shall provide financial assurances in the form of one or more of the following:

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon and in a form satisfactory to the city attorney, or
2. An irrevocable letter in a form satisfactory to the city attorney, or
3. A cashier's check or money order from a bank or other reputable lending institution, or
4. Certification by a bank or other reputable lending institution that funds are being held, or a line of credit has been established, to cover the cost of required improvements.
5. One or more award letters from public funding sources made to a subdivider who is subdividing property to develop affordable housing, that is or will be subject to an affordability restriction as defined in ORS 456.250 or an affordable housing covenant as defined in ORS 456.270.

*Staff: This is an additional form of financial assurance cities are required to accept per Section 15 of House Bill 3395.*

- E. Amount of Security. The financial assurances shall be in an amount equal to 110% of the amount determined by the city engineer as sufficient to cover the cost of the improvements, engineering, inspection, and incidental expenses. The financial assurances may provide for reduction of the amount in increments as improvements are completed and approved by the city engineer. However, the number of reductions or disbursements and the amount of retainage required shall be at the discretion of the city engineer.
- F. Post Completion Financial Assurances. On acceptance of all improvements by the city, a financial assurance, as provided in Subsection (D), shall be provided in an amount equivalent to 10% of the construction cost. Such financial assurance shall remain in effect for a period of one year. All deficiencies in construction and maintenance discovered and brought to the attention of the developer within one year of acceptance must be corrected to the satisfaction of the city engineer.
- G. Acceptance of Improvements by City, Guarantee. The city will accept public improvements only if they have received final inspection approval by the city engineer and "as constructed" engineering plans have been received and accepted by the city engineer. The developer

shall warrant all public improvements and repairs for a period of one year after acceptance by the city.

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## CHAPTER 14.52 PROCEDURAL REQUIREMENTS

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### 14.52.060 Notice

The notification requirements in general for the various types of land use actions are identified below. The applicant shall provide city staff with the required names and addresses for notice. Notice of hearings to individual property owners is not required for Type IV legislative actions unless required by state law, such as ORS 227.186 (notice to owners whose property is rezoned). These notification requirements are in addition to any other notice requirements imposed by state law or city ordinance.

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- F. Published Notice. Notice of each Type III and Type IV hearing shall be published at least once in a print format or digital newspaper of general circulation in the city at least 5 days, and no more than 14 days, prior to the date set for public hearing. For the purpose of this subsection, a digital newspaper is an online newspaper delivered in an electronic form that is formatted similarly to a printed newspaper and produced in an archivable format.

*Staff: Implements HB 3167, which allows publication of legal notices in digital newspapers. It is the City's intent to continue to use the printed News-Times format as long as the paper continues to be published at least once a week.*

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### 14.52.110 Decision Time

Once a complete application is received by the City of Newport, the city shall take final action, including resolution of all local appeals, on applications subject to ORS 227.178 within 100 or 120 days, as applicable, unless otherwise waived by the applicant in accordance

with state requirements. In circumstances where a land use action involving the development of residential structures has been tentatively approved, the 100 or 120 day time limits shall be extended up to seven additional days to allow for the adoption of a final order affirming the tentative decision.

*Staff: Implements a land use procedural change listed in Section 4 of House Bill 3395.*

DRAFT

82nd OREGON LEGISLATIVE ASSEMBLY--2023 Regular Session

**Enrolled**  
**House Bill 2898**

Sponsored by Representative CATE, Senator SMITH DB; Representatives BOSHART DAVIS, EVANS, GOMBERG, GRAYBER, HIEB, KROPF, LEVY B, LEWIS, MARSH (Presession filed.)

CHAPTER .....

AN ACT

Relating to use of recreational vehicles while abating natural disaster damages; amending ORS 197.493 and section 2, chapter 217, Oregon Laws 2021.

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

**SECTION 1.** ORS 197.493 is amended to read:

197.493. (1) A state agency or local government may not prohibit the placement or occupancy of a recreational vehicle, or impose any limit on the length of occupancy of a recreational vehicle as a residential dwelling, solely on the grounds that the occupancy is in a recreational vehicle, if the recreational vehicle is:

- (a)(A) Located in a manufactured dwelling park, mobile home park or recreational vehicle park;
- (B) Occupied as a residential dwelling; and
- (C) Lawfully connected to water and electrical supply systems and a sewage disposal system;

or

(b) On a lot or parcel with a manufactured dwelling or single-family dwelling that is uninhabitable due to damages from a natural [*disasters*] **disaster**, including wildfires, earthquakes, flooding or storms, until no later than the date:

- (A) The dwelling has been repaired or replaced and an occupancy permit has been issued;
- (B) The local government makes a determination that the owner of the dwelling is unreasonably delaying in completing repairs or replacing the dwelling; or
- (C) [*Twenty-four months*] **Five years** after the date the dwelling first became uninhabitable.

(2) Subsection (1) of this section does not limit the authority of a state agency or local government to impose other special conditions on the placement or occupancy of a recreational vehicle.

**SECTION 2.** Section 2, chapter 217, Oregon Laws 2021, as amended by section 3, chapter 520, Oregon Laws 2021, is amended to read:

**Sec. 2.** (1) This section applies only to owners of properties on which structures or uses were destroyed or interrupted by a wildfire that was identified in an executive order issued by the Governor in accordance with the Emergency Conflagration Act under ORS 476.510 to 476.610 between August 1 and September 30, 2020. The local government may alter, restore or replace such a use as provided in this section in lieu of another process.

(2) Except as provided in subsection (4) of this section, a property owner may alter, restore or replace a nonresidential use without further application with the local government if:

- (a) The use was allowed outright as an accessory use, without regard to whether the primary use was destroyed or was or will be restored;
- (b)(A) The use was subject to a land use process; and

(B) A permit, including a conditional permit, was issued for the use notwithstanding any expiration of the permit or any subsequent changes to the law or process; or

(c)(A) The use was established before a requirement that the use be subject to a land use process; and

(B) The replacement use conforms as nearly as practicable to records of the use with the county assessor, building permit information or other reliable records.

(3) The local government shall approve an application to alter, restore or replace a dwelling if the local government determines that the evidence in the record establishes that:

(a) The former dwelling:

(A) Had intact exterior walls and roof structure;

(B) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Had interior wiring for interior lights;

(D) Had a heating system; and

(E)(i) Was authorized by building permits or other regulatory approval process by the appropriate authority; or

(ii) Was assessed as a residential dwelling for purposes of ad valorem taxation for the tax year beginning July 1, 2001, and is not subject to unresolved enforcement proceedings questioning the lawfulness of the dwelling; and

(b) The proposed dwelling will:

(A) Not exceed the floor area of the destroyed dwelling by more than 10 percent;

(B) Be adequately served by water, sanitation and roads;

(C) Be located wholly or partially within the footprint of the destroyed dwelling unless the applicant chooses a different location within the same lot or parcel to comply with local flood regulations or to avoid a natural hazard area; and

(D) Comply with applicable building codes that were in effect on the later of:

(i) January 1, 2008; or

(ii) The date of the former dwelling's construction.

(4) A local government may not add conditions to the approval or siting of a dwelling under subsection (3) of this section except as necessary to maintain participation in the National Flood Insurance Program under 42 U.S.C. 4001 et seq. A local government may require that the property owner submit an application for a permit for the approval or siting of a nonresidential use only for the purpose of establishing such conditions that are necessary to maintain participation in the National Flood Insurance Program.

(5) A local government may delegate the approval of an application under subsection (3) of this section to:

(a) A hearings officer, as defined in ORS 215.402 or 227.160;

(b) A planning commission, as described in ORS 215.020; or

(c) A building official, as defined in ORS 455.715.

(6) The findings of the local government or its designee in approving an application under subsection (3) of this section is not a land use decision. The local government may not require an applicant give notice to any nonparty. The findings and conclusions of the local government are entitled to deference if there is any evidence to support the findings and are subject to review only under ORS 34.010 to 34.100.

(7) If a local government determines based on the evidence in the record that the use legally existed, the local government may, through a land use decision, approve an application to alter, restore or replace a use for which a land use application, building permit or other regulatory approval was required but record of the approval is unavailable for:

(a) A dwelling built after January 1, 2001, that complies with subsection (3)(a)(A) to (D) and (b) of this section; or

(b) A nonresidential use or structure.

(8) An application under this section must be filed on or before September 30, 2025.

**(9) For applications described in subsection (3) of this section, the amount of time during which an applicant is permitted to occupy a recreational vehicle under ORS 197.493 (1)(b)(C) is extended to December 30, 2030.**

[9] **(10)** An approval of an application under this section expires only if the property owner has not commenced development of the structure or use on or before December 30, 2030.

**Passed by House March 7, 2023**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Dan Rayfield, Speaker of House

**Passed by Senate June 21, 2023**

.....  
Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

.....  
Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

.....  
Secretary of State



**Enrolled**  
**House Bill 3167**

Sponsored by Representatives MARSH, SMITH G, Senators KNOPP, PATTERSON

CHAPTER .....

AN ACT

Relating to publication of legal notices; amending ORS 193.010; and declaring an emergency.

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

**SECTION 1.** ORS 193.010 is amended to read:

193.010. As used in this section and [in] ORS 193.020:

(1) “Bona fide subscriber” means a person who has been a paid subscriber **to a print format or a digital newspaper format of a newspaper** for an uninterrupted period of 12 months, such subscription in no case to be over six months in arrears.

(2) “**Digital newspaper**” means an online newspaper delivered in an electronic form that is formatted similarly to a printed newspaper and produced in an archivable format.

[(2)] (3) “Newspaper” means a newspaper of general circulation[,] **that meets all of the following requirements:**

(a) **Is circulated in a print format or a digital newspaper format.**

(b) **Conducts consistent, regular coverage of local news and in which at least 25 percent of the total news content is locally and originally composed by the newspaper, regardless of whether the newspaper is produced or printed in the local area.**

(c) **Is published in the English language for the dissemination of local or transmitted news or for the dissemination of legal news[.].**

(d) **Is made up of at least four pages of at least five columns each, with type matter of a depth of at least 14 inches, or, if smaller pages, then comprising an equivalent amount of type matter[, which].**

(e)(A) **Except as provided in subparagraph (B) of this paragraph,** has bona fide subscribers representing more than half of the total distribution of [*copies circulated, or distribution verified by an independent circulation auditing firm, and which*] **printed newspapers and paid-for digital newspapers.**

(B) **Subparagraph (A) of this paragraph does not apply during a period, not to exceed 12 months, after a newspaper that has been generally recognized as best suited for publication of public notices in a jurisdiction ceases operation and no other suitable newspaper is published which affords a reasonable alternative for publication of public notices.**

(f)(A) **Except as provided in subparagraph (B) of this paragraph,** has been established and regularly and uninterruptedly published at least once a week during a period of at least 12 consecutive months immediately preceding the first publication of the public notice. Interrupted publication because of labor-management disputes, fire, flood or the elements for a period not to exceed 120 days, either before or after a newspaper is qualified for publication of public notices, shall not affect such qualification.

(B) Subparagraph (A) of this paragraph does not apply during a period, not to exceed 12 months, after a newspaper that has been generally recognized as best suited for publication of public notices in a jurisdiction ceases operation and no other suitable newspaper is published which affords a reasonable alternative for publication of public notices.

**SECTION 2.** This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by House April 3, 2023

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Dan Rayfield, Speaker of House

Passed by Senate June 22, 2023

.....  
Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

.....  
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

.....  
Secretary of State

**Enrolled**  
**House Bill 3395**

Sponsored by Representatives RAYFIELD, DEXTER, GOMBERG, Senator JAMA; Representatives ANDERSEN, NELSON, Senators ANDERSON, PATTERSON

CHAPTER .....

AN ACT

Relating to housing; creating new provisions; amending ORS 92.090, 94.550, 100.015, 100.022, 100.105, 100.110, 100.115, 197.303, 197.758, 197.830, 215.427, 227.178 and 458.650 and sections 3 and 4, chapter 639, Oregon Laws 2019, section 3, chapter 18, Oregon Laws 2021, sections 4 and 6, chapter 67, Oregon Laws 2021, and section 23, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001); repealing section 4, chapter 18, Oregon Laws 2021; and declaring an emergency.

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

**RESIDENTIAL USE OF COMMERCIAL LANDS**

**SECTION 1.** Section 2 of this 2023 Act is added to and made a part of ORS 197.286 to 197.314.

**SECTION 2.** (1) Notwithstanding an acknowledged comprehensive plan or land use regulations, within an urban growth boundary a local government shall allow, on lands zoned to allow only commercial uses and not industrial uses, the siting and development of:

(a) Residential structures subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making each unit affordable to a household with income less than or equal to 60 percent of the area median income as defined in ORS 456.270; or

(b) Mixed use structures with ground floor commercial units and residential units subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making the properties affordable to moderate income households, as defined in ORS 456.270.

(2) The local government may only apply those approval standards, conditions and procedures under ORS 197.307, that would be applicable to the residential zone of the local government that is most comparable in density to the allowed commercial uses.

(3) Development under this section does not:

(a) Trigger any requirement that a local government consider or update an analysis as required by a statewide planning goal relating to economic development.

(b) Apply on lands where the local government determines that:

(A) The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;

(B) The property contains a slope of 25 percent or greater;

(C) The property is within a 100-year floodplain; or

**(D) The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:**

**(i) Natural disasters and hazards; or**

**(ii) Natural resources, including air, water, land or natural areas, but not including open spaces.**

**(c) Apply on lands that are vacant or that were added to the urban growth boundary within the last 15 years.**

## **RESIDENTIAL APPROVAL PROCEDURES**

**SECTION 3.** 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 197.311 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 upon the standards and criteria that were applicable at the time the application was first submitted.

(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 197.311 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 197.311 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 197.311 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 197.311 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 4.** 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 197.311 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 be based upon the standards and criteria that were applicable at the time the application was first submitted.

(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 197.311 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 197.311 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 197.311 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 197.311 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.

**SECTION 5.** ORS 197.830 is amended to read:

197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Appeals.

(2) Except as provided in ORS 197.620, a person may petition the board for review of a land use decision or limited land use decision if the person:

(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section; and

(b) Appeared before the local government, special district or state agency orally or in writing.

(3) If a local government makes a land use decision without providing a hearing, except as provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision that is different from the proposal described in the notice of hearing to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416 (11) or 227.175 (10):

(a) A person who was not provided notice of the decision as required under ORS 215.416 (11)(c) or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of receiving actual notice of the decision.

(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who is adversely affected or aggrieved by the decision may appeal the decision to the board under this section within 21 days after the expiration of the period for filing a local appeal of the decision established by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

(c) A person who receives notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of receiving actual notice of the nature of the decision, if the notice of the decision did not reasonably describe the nature of the decision.

(d) Except as provided in paragraph (c) of this subsection, a person who receives notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may not appeal the decision to the board under this section.

(5) If a local government makes a limited land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(6) The appeal periods described in subsections (3), (4) and (5) of this section:

(a) May not exceed three years after the date of the decision, except as provided in paragraph (b) of this subsection.

(b) May not exceed 10 years after the date of the decision if notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.797 is required but has not been provided.

(7)(a) Within 21 days after a notice of intent to appeal has been filed with the board under subsection (1) of this section, any person described in paragraph (b) of this subsection may intervene in and be made a party to the review proceeding by filing a motion to intervene and by paying a filing fee of \$100.

(b) Persons who may intervene in and be made a party to the review proceedings, as set forth in subsection (1) of this section, are:

(A) The applicant who initiated the action before the local government, special district or state agency; or

(B) Persons who appeared before the local government, special district or state agency, orally or in writing.

(c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this subsection shall result in denial of a motion to intervene.

(8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on the same date the respondent's brief is due and shall be accompanied by a filing fee of \$100.

(9) A notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a statement identifying when, how and to whom notice was provided under ORS 197.615 does not render the notice defective. Copies of the notice of intent to appeal shall be served upon the local government, special district or state agency and the applicant of record, if any, in the local government, special district or state agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$300. If a petition for review is not filed with the board as required in subsections (10) and (11) of this section, the board shall award the filing fee to the local government, special district or state agency.

(10)(a) Within 21 days after service of the notice of intent to appeal, the local government, special district or state agency shall transmit to the board the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding the record may be shortened. The board may require or permit subsequent corrections to the record; however, the board shall issue an order on a motion objecting to the record within 60 days of receiving the motion. If the board denies a petitioner's objection to the record, the board may establish a new deadline for the petition for review to be filed that may not be less than 14 days from the later of the original deadline for the brief or the date of denial of the petitioner's record objection.

(b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860. Any person moving to intervene shall be provided such notice within seven days after a motion to intervene is filed. The notice required by this paragraph shall be accompanied by a statement that mediation information or assistance may be obtained from the Department of Land Conservation and Development.

(11) A petition for review of the land use decision or limited land use decision and supporting brief shall be filed with the board as required by the board under subsection (13) of this section.

(12) The petition shall include a copy of the decision sought to be reviewed and shall state:

(a) The facts that establish that the petitioner has standing.

(b) The date of the decision.

(c) The issues the petitioner seeks to have reviewed.

(13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for oral argument.

(b) **The local government or state agency may withdraw its decision for purposes of reconsideration** at any time:



(A) Subsequent to the filing of a notice of intent; and

(B) Prior to:

(i) The date set for filing the record[,]; or[,]

(ii) On appeal of a decision under ORS 197.610 to 197.625 **or relating to the development of a residential structure**, [prior to] the filing of the respondent's brief[, *the local government or state agency may withdraw its decision for purposes of reconsideration*].

(c) If a local government or state agency withdraws an order for purposes of reconsideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the petitioner is dissatisfied with the local government or agency action after withdrawal for purposes of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon the revised order. An amended notice of intent is not required if the local government or state agency, on reconsideration, affirms the order or modifies the order with only minor changes.

(14) The board shall issue a final order within 77 days after the date of transmittal of the record. If the order is not issued within 77 days the applicant may apply in Marion County or the circuit court of the county where the application was filed for a writ of mandamus to compel the board to issue a final order.

(15) Upon entry of its final order, the board:

(a) May, in its discretion, award costs to the prevailing party including the cost of preparation of the record if the prevailing party is the local government, special district or state agency whose decision is under review.

(b) Shall award reasonable attorney fees and expenses to the prevailing party against any other party who the board finds presented a position or filed any motion without probable cause to believe the position or motion was well-founded in law or on factually supported information.

(c) Shall award costs and attorney fees to a party as provided in ORS 197.843.

(16) Orders issued under this section may be enforced in appropriate judicial proceedings.

(17)(a) The board shall provide for the publication of its orders that are of general public interest in the form it deems best adapted for public convenience. The publications shall constitute the official reports of the board.

(b) Any moneys collected or received from sales by the board shall be paid into the Board Publications Account established by ORS 197.832.

(18) Except for any sums collected for publication of board opinions, all fees collected by the board under this section that are not awarded as costs shall be paid over to the State Treasurer to be credited to the General Fund.

(19) The board shall track and report on its website:

(a) The number of reviews commenced, as described in subsection (1) of this section, the number of reviews commenced for which a petition is filed under subsection (2) of this section and, in relation to each of those numbers, the rate at which the reviews result in a decision of the board to uphold, reverse or remand the land use decision or limited land use decision. The board shall track and report reviews under this paragraph in categories established by the board.

(b) A list of petitioners, the number of reviews commenced and the rate at which the petitioner's reviews have resulted in decisions of the board to uphold, reverse or remand the land use decision or limited land use decision.

(c) A list of respondents, the number of reviews involving each respondent and the rate at which reviews involving the respondent have resulted in decisions of the board to uphold, reverse or remand the land use decision or limited land use decision. Additionally, when a respondent is the local government that made the land use decision or limited land use decision, the board shall track whether the local government appears before the board.

(d) A list of reviews, and a brief summary of the circumstances in each review, under which the board exercises its discretion to require a losing party to pay the attorney fees of the prevailing party.

## EMERGENCY SHELTER SITING

**SECTION 6. Section 4, chapter 18, Oregon Laws 2021, as amended by section 3, chapter 47, Oregon Laws 2022, is repealed.**

**SECTION 7.** Section 3, chapter 18, Oregon Laws 2021, is amended to read:

**Sec. 3.** (1) A local government shall approve an application for the development or use of land for an emergency shelter, as defined in [section 2 of this 2021 Act] **ORS 197.782**, on any property, notwithstanding **this chapter or** ORS chapter 195, [197,] 197A, 215 or 227 or any statewide [plan] **land use planning goal**, rule of the Land Conservation and Development Commission or local land use regulation, zoning ordinance, regional framework plan, functional plan or comprehensive plan, if the emergency shelter:

(a) Includes sleeping and restroom facilities for clients;

(b) Will comply with applicable building codes;

(c) Is located inside an urban growth boundary or in an area zoned for rural residential use as defined in ORS 215.501;

(d) Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards, including flood plains or mapped environmental health hazards, unless the development complies with regulations directly related to the hazard;

(e) Has adequate transportation access to commercial and medical services; and

(f) Will not pose any unreasonable risk to public health or safety.

(2) An emergency shelter allowed under this section must be operated by:

(a) A local government as defined in ORS 174.116;

(b) An organization with at least two years' experience operating an emergency shelter using best practices that is:

(A) A local housing authority as defined in ORS 456.375;

(B) A religious corporation as defined in ORS 65.001; or

(C) A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code [on or before January 1, 2018] **for at least three years before the date of the application for a shelter**; or

(c) A nonprofit corporation partnering with any other entity described in this subsection.

(3) An emergency shelter approved under this section:

(a) May provide on-site for its clients and at no cost to the clients:

(A) Showering or bathing;

(B) Storage for personal property;

(C) Laundry facilities;

(D) Service of food prepared on-site or off-site;

(E) Recreation areas for children and pets;

(F) Case management services for housing, financial, vocational, educational or physical or behavioral health care services; or

(G) Any other services incidental to shelter.

(b) May include youth shelters, winter or warming shelters, day shelters and family violence shelter homes as defined in ORS 409.290.

(4) An emergency shelter approved under this section may also provide additional services not described in subsection (3) of this section to individuals who are transitioning from unsheltered homeless status. An organization providing services under this subsection may charge a fee of no more than \$300 per month per client and only to clients who are financially able to pay the fee and who request the services.

(5)(a) The approval **or denial** of an emergency shelter under this section **may be made without a hearing. Whether or not a hearing is held, the approval or denial** is not a land use decision and is subject to review only under ORS 34.010 to 34.100.

(b) **A reviewing court shall award attorney fees to:**

(A) A local government, and any intervening applicant, that prevails on the appeal of a local government's approval; and

(B) An applicant that prevails on an appeal of a local government's denial.

(6) An application for an emergency shelter is not subject to approval under this section if, at the time of filing, the most recently completed point-in-time count, as reported to the United States Department of Housing and Urban Development under 24 C.F.R. part 578, indicated that the total sheltered and unsheltered homeless population was less than 0.18 percent of the state population, based on the latest estimate from the Portland State University Population Research Center.

## SINGLE EXIT MULTIFAMILY DWELLINGS

**SECTION 8.** On or before October 1, 2025, the Department of Consumer and Business Services shall review and consider updates to the State of Oregon Structural Specialty Code through the Building Codes Structures Board established under ORS 455.132, to allow a residential occupancy to be served by a single exit, consistent with the following policies of this state:

(1) The reduction, to the extent practicable, of costs and barriers to the construction of midsize multifamily dwellings, including those offering family-size housing with sprinklers on smaller lots, while maintaining safety, public health and the general welfare with respect to construction and occupancy.

(2) Encouraging a variety of less expensive housing types that allow single-exit residential buildings under certain circumstances consistent with other adopted building codes.

(3) In adopting or considering updates to the building code under this section, the department shall consider regional variation in firefighting capacity and equipment and may make amendments to the code contingent upon a certification by a local fire official that the municipality has sufficient firefighting capacity and equipment.

## PLANNED COMMUNITY ACT EXEMPTIONS

**SECTION 9.** ORS 94.550 is amended to read:

94.550. As used in ORS 94.550 to 94.783:

(1) "Assessment" means any charge imposed or levied by a homeowners association on or against an owner or lot pursuant to the provisions of the declaration or the bylaws of the planned community or provisions of ORS 94.550 to 94.783.

(2) "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance, mechanic's lien or otherwise, securing or evidencing the payment of money and affecting more than one lot in a planned community, or an agreement affecting more than one lot by which the developer holds such planned community under an option, contract to sell or trust agreement.

(3) "Class I planned community" means a planned community that:

(a) Contains at least 13 lots or in which the declarant has reserved the right to increase the total number of lots beyond 12; and

(b) Has an estimated annual assessment, including an amount required for reserves under ORS 94.595, exceeding \$10,000 for all lots or \$100 per lot based on:

(A) For a planned community created on or after January 1, 2002, the initial estimated annual assessment, including a constructive assessment based on a subsidy of the association through a contribution of funds, goods or services by the declarant; or

(B) For a planned community created before January 1, 2002, a reasonable estimate of the cost of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as of January 1, 2002.

(4) "Class II planned community" means a planned community that:

(a) Is not a Class I planned community;

- (b) Contains at least five lots; and
- (c) Has an estimated annual assessment exceeding \$1,000 for all lots based on:
  - (A) For a planned community created on or after January 1, 2002, the initial estimated annual assessment, including a constructive assessment based on a subsidy of the association through a contribution of funds, goods or services by the declarant; or
  - (B) For a planned community created before January 1, 2002, a reasonable estimate of the cost of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as of January 1, 2002.
- (5) "Class III planned community" means a planned community that is not a Class I or II planned community.
- (6) "Common expenses" means expenditures made by or financial liabilities incurred by the homeowners association and includes any allocations to the reserve account under ORS 94.595.
- (7) "Common property" means any real property or interest in real property within a planned community which is owned, held or leased by the homeowners association or owned as tenants in common by the lot owners, or designated in the declaration or the plat for transfer to the association.
- (8) "Condominium" means property submitted to the provisions of ORS chapter 100.
- (9) "Declarant" means any person who creates a planned community under ORS 94.550 to 94.783.
- (10) "Declarant control" means any special declarant right relating to administrative control of a homeowners association, including but not limited to:
  - (a) The right of the declarant or person designated by the declarant to appoint or remove an officer or a member of the board of directors;
  - (b) Any weighted vote or special voting right granted to a declarant or to units owned by the declarant so that the declarant will hold a majority of the voting rights in the association by virtue of such weighted vote or special voting right; and
  - (c) The right of the declarant to exercise powers and responsibilities otherwise assigned by the declaration or bylaws or by the provisions of ORS 94.550 to 94.783 to the association, officers of the association or board of directors of the association.
- (11) "Declaration" means the instrument described in ORS 94.580 which establishes a planned community, and any amendments to the instrument.
- (12) "Electric vehicle charging station" or "charging station" means a facility designed to deliver electrical current for the purpose of charging one or more electric motor vehicles.
- (13) "Electronic meeting" means a meeting that is conducted through telephone, teleconference, video conference, web conference or any other live electronic means where at least one participant is not physically present.
- (14) "Governing document" means articles of incorporation, bylaws, a declaration or a rule, regulation or resolution that was properly adopted by the homeowners association or any other instrument or plat relating to common ownership or common maintenance of a portion of a planned community that is binding upon lots within the planned community.
- (15) "Governing entity" means an incorporated or unincorporated association, committee, person or any other entity that has authority under a governing document to maintain commonly maintained property, to impose assessments on lots or to act on matters of common concern on behalf of lot owners within the planned community.
- (16) "Homeowners association" or "association" means the organization of owners of lots in a planned community, created under ORS 94.625, required by a governing document or formed under ORS 94.574.
- (17) "Majority" or "majority of votes" or "majority of owners" means more than 50 percent of the votes in the planned community.
- (18) "Mortgagee" means any person who is:
  - (a) A mortgagee under a mortgage;
  - (b) A beneficiary under a trust deed; or
  - (c) The vendor under a land sale contract.

(19) "Owner" means the owner of any lot in a planned community, unless otherwise specified, but does not include a person holding only a security interest in a lot.

(20) "Percent of owners" or "percentage of owners" means the owners representing the specified voting rights as determined under ORS 94.658.

(21)(a) "Planned community" means any subdivision under ORS 92.010 to 92.192 that results in a pattern of ownership of real property and all the buildings, improvements and rights located on or belonging to the real property, in which the owners collectively are responsible for the maintenance, operation, insurance or other expenses relating to any property within the planned community, including common property, if any, or for the exterior maintenance of any property that is individually owned.

(b) "Planned community" does not mean:

(A) A condominium under ORS chapter 100;

(B) A subdivision that is exclusively commercial or industrial; [or]

(C) A timeshare plan under ORS 94.803 to 94.945[.]; or

**(D) A development established on or after January 1, 2024, in which each residential unit is either:**

**(i) Subject to an affordability restriction, including an affordable housing covenant, as defined in ORS 456.270; or**

**(ii) Owned by a public benefit or religious nonprofit corporation.**

(22) "Purchaser" means any person other than a declarant who, by means of a voluntary transfer, acquires a legal or equitable interest in a lot, other than as security for an obligation.

(23) "Purchaser for resale" means any person who purchases from the declarant more than two lots for the purpose of resale whether or not the purchaser for resale makes improvements to the lots before reselling them.

(24) "Recorded declaration" means an instrument recorded with the recording officer of the county in which the planned community is located that contains covenants, conditions and restrictions that are binding upon lots in the planned community or that impose servitudes on the real property.

(25) "Special declarant rights" means any rights, in addition to the rights of the declarant as a lot owner, reserved for the benefit of the declarant under the declaration or ORS 94.550 to 94.783, including but not limited to:

(a) Constructing or completing construction of improvements in the planned community which are described in the declaration;

(b) Expanding the planned community or withdrawing property from the planned community under ORS 94.580 (3) and (4);

(c) Converting lots into common property;

(d) Making the planned community subject to a master association under ORS 94.695; or

(e) Exercising any right of declarant control reserved under ORS 94.600.

(26) "Successor declarant" means the transferee of any special declarant right.

(27) "Turn over" means the act of turning over administrative responsibility pursuant to ORS 94.609 and 94.616.

(28) "Unit" means a building or portion of a building located upon a lot in a planned community and designated for separate occupancy or ownership, but does not include any building or portion of a building located on common property.

(29) "Votes" means the votes allocated to lots in the declaration under ORS 94.580 (2).

## REGULATION OF CONDOMINIUMS

**SECTION 10.** ORS 100.015 is amended to read:

100.015. The Real Estate Commissioner **has the exclusive right to regulate the submission of property to the provisions of this chapter and** may adopt such rules as are necessary for the administration of this chapter.

**SECTION 11.** ORS 100.022 is amended to read:

100.022. [(1)] **Except as provided under ORS 100.015 or explicitly required or allowed under this chapter,** a zoning, subdivision, building code or other [*real property law,*] **regulation by a public body, agency rule or local ordinance or regulation may not [*prohibit*]:**

(1) **Have the effect of prohibiting or restricting** the condominium form of ownership; or

(2) Impose any **restriction or requirement** upon a structure, **property** or development **that is submitted or proposed to be submitted to the condominium form of ownership under this chapter that it would not impose upon a structure or development under a different form of ownership[.], including:**

(a) **Any charge, tax or fee;**

(b) **A review or approval process by any person of a declaration, bylaw, plat, articles of incorporation, regulation, resolution or any other document relating to the condominium or the submission of the property or development to the condominium form of ownership;**

(c) **Any additional permitting requirements or conditions of approval of the property or development; or**

(d) **Any other requirements.**

[(2) *Except as set forth in this section, no provision of this chapter invalidates or modifies any provision of any zoning, subdivision, building code or other real property use law, ordinance or regulation.*]

[(3) *Subsection (1) of This section does not prohibit any governmental approval required under this chapter.*]

**SECTION 12.** ORS 100.110 is amended to read:

100.110. (1)(a) Before a declaration, supplemental declaration or an amendment thereto may be recorded, it must be approved as provided in this section by the county assessor of the county in which the property is located and the Real Estate Commissioner.

(b) Before a declaration, supplemental declaration or, if required under subsection (3) of this section, an amendment thereto may be recorded, it must be approved by the tax collector of the county in which the property is located.

(c) A declaration, supplemental declaration or amendment thereto may not be approved unless the requirements of subsections (2) to (7) of this section are met. Approval must be evidenced by execution of the declaration or amendment or by a written approval attached thereto.

(d) If the requirements of subsections (2) to (7) of this section are met, the commissioner, county assessor and tax collector, if applicable,[:]

[(A)] shall approve the declaration, supplemental declaration or amendment[:; and]

[(B) *May not impose additional requirements not specified in subsections (2) to (7) of this section*].

(2) The county assessor of the county in which the property is located shall approve a declaration, supplemental declaration or amendment thereto if:

(a) The name complies with ORS 100.105 (5) and (6); and

(b) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with ORS 100.116.

(3) The tax collector of the county in which the property is located shall approve the declaration or supplemental declaration, or an amendment that adds property to the condominium, changes the boundary of a unit or creates an additional unit from all or parts of other units or from all or parts of other units and common elements for which a plat amendment is required under ORS 100.116, if:

(a) All ad valorem taxes, special assessments, fees, or other charges required by law to be placed upon the tax roll for the affected units that have or will become a lien upon the property during the tax year have been paid;

(b) Advance payment of ad valorem taxes, special assessments, fees or other charges for the affected units that are not on the tax roll and for which payment is required under paragraph (a) of this subsection has been made to the tax collector utilizing the procedures contained in ORS 92.095 and 311.370; and

(c) The additional taxes, penalty, and any interest attributable thereto, required because of disqualification of the affected units from any special assessment have been paid.

(4) Subject to subsection (6) of this section, the commissioner shall approve the declaration or amendment thereto if:

(a) The declaration or the amendment thereto complies with the requirements of ORS 100.105 and 100.135 and other provisions of this chapter;

(b) The bylaws adopted under ORS 100.410 comply with the requirements of ORS 100.410 and 100.415 and other provisions of this chapter;

(c) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with ORS 100.116 and other provisions of this chapter;

(d) The declaration is for a conversion condominium and the declarant has submitted:

(A) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and that the notice period has expired;

(B) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and copies of the written consent of any tenants as provided in ORS 100.305 (6) or a signed statement that no tenants were entitled to notice under ORS 100.305; or

(C) Any applicable combination of the requirements of subparagraphs (A) and (B) of this paragraph;

(e) A copy of the plat executed by the declarant and prepared in conformance with ORS 100.115 or plat amendment prepared in conformance with ORS 100.116 is submitted;

(f) A certification of plat execution, on a form prescribed and furnished by the commissioner, is:

(A) Executed by the declarant, the professional land surveyor who signed the surveyor's certificate on the plat, the attorney for the declarant, a representative of the title insurance company that issued the information required under ORS 100.640 (1)(e) or 100.668 (2)(d) or another person authorized by the declarant in writing to execute the certification; and

(B) Submitted stating that the copy is a true copy of the plat signed by the declarant; and

(g) A copy of a reserve study has been submitted, if a disclosure statement was issued under ORS 100.655 and the reserve study was not included pursuant to ORS 100.640 (1)(g).

(5) The commissioner shall approve a supplemental declaration if:

(a) The supplemental declaration complies with the requirements of ORS 100.120 and other provisions of this chapter;

(b) The supplemental plat complies with the requirements of ORS 100.115;

(c) The supplemental declaration is for a conversion condominium and the declarant has complied with the requirements of subsection (4)(d) of this section; and

(d) A copy of the supplemental plat and a certification of plat execution described in subsection (4)(e) and (f) of this section have been submitted.

(6) Approval by the commissioner is not required for an amendment to a declaration transferring the right of use of a limited common element pursuant to ORS 100.515 (5).

(7) Before the commissioner approves the declaration, supplemental declaration or amendment thereto under this section:

(a) The declarant or other person requesting approval shall pay to the commissioner a fee determined by the commissioner under ORS 100.670; and

(b) For an amendment or supplemental declaration, the Condominium Information Report and the Annual Report described in ORS 100.260 must be designated current by the Real Estate Agency as provided in ORS 100.255 and the fee required under ORS 100.670 must be paid.

(8) If the declaration, supplemental declaration or amendment thereto approved by the commissioner under subsection (4) or (5) of this section is not recorded in accordance with ORS 100.115 within one year from the date of approval by the commissioner, the approval automatically expires and the declaration, supplemental declaration or amendment thereto must be resubmitted for approval in accordance with this section. The commissioner's approval must set forth the date on which the approval expires.

**SECTION 13.** ORS 100.115 is amended to read:

100.115. (1) A plat of the land described in the declaration or a supplemental plat described in a supplemental declaration, complying with ORS 92.050, 92.060 (1) and (2), 92.080 and 92.120, shall be recorded simultaneously with the declaration or supplemental declaration. The plat or supplemental plat shall be titled in accordance with subsection (3) of this section and shall:

(a) Show the location of:

(A) All buildings and public roads. The location shall be referenced to a point on the boundary of the property; and

(B) For a condominium containing units described in ORS 100.020 (3)(b)(C) or (D), the moorage space or floating structure. The location shall be referenced to a point on the boundary of the up-land property regardless of a change in the location resulting from a fluctuation in the water level or flow.

(b) Show the designation, location, dimensions and area in square feet of each unit including:

(A) For units in a building described in ORS 100.020 (3)(b)(A), the horizontal and vertical boundaries of each unit and the common elements to which each unit has access. The vertical boundaries shall be referenced to a known benchmark elevation or other reference point as approved by the city or county surveyor;

(B) For a space described in ORS 100.020 (3)(b)(B), the horizontal boundaries of each unit and the common elements to which each unit has access. If the space is located within a structure, the vertical boundaries also shall be shown and referenced to a known benchmark elevation or other reference point as approved by the city or county surveyor;

(C) For a moorage space described in ORS 100.020 (3)(b)(C), the horizontal boundaries of each unit and the common elements to which each unit has access; and

(D) For a floating structure described in ORS 100.020 (3)(b)(D), the horizontal and vertical boundaries of each unit and the common elements to which each unit has access. The vertical boundaries shall be referenced to an assumed elevation of an identified point on the floating structure even though the assumed elevation may change with the fluctuation of the water level where the floating structure is moored.

(c) Identify and show, to the extent feasible, the location and dimensions of all limited common elements described in the declaration. The plat may not include any statement indicating to which unit the use of any noncontiguous limited common element is reserved.

(d) Include a statement, including signature and official seal, of a registered architect, registered professional land surveyor or registered professional engineer certifying that the plat fully and accurately depicts the boundaries of the units of the building and that construction of the units and buildings as depicted on the plat has been completed, except that the professional land surveyor who prepared the plat need not affix a seal to the statement.

(e) Include a surveyor's certificate, complying with ORS 92.070, that includes information in the declaration in accordance with ORS 100.105 (1)(a) and a metes and bounds description or other description approved by the city or county surveyor.

(f) Include a statement by the declarant that the property and improvements described and depicted on the plat are subject to the provisions of ORS 100.005 to 100.627.

*[(g) Include such signatures of approval as may be required by local ordinance or regulation.]*

*[(h)] (g)* Include any other information or data not inconsistent with the declaration that the declarant desires to include.

*[(i)] (h)* If the condominium is a flexible condominium, show the location and dimensions of all variable property identified in the declaration and label the variable property as "WITHDRAWABLE VARIABLE PROPERTY" or "NONWITHDRAWABLE VARIABLE PROPERTY," with a letter different from those designating a unit, building or other tract of variable property. If there is more than one tract, each tract shall be labeled in the same manner.

(2) The supplemental plat required under ORS 100.150 (1) shall be recorded simultaneously with the supplemental declaration. The supplemental plat shall be titled in accordance with subsection (3) of this section and shall:



(a) Comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080, 92.120 and subsection (3) of this section.

(b) If any property is withdrawn:

(A) Show the resulting perimeter boundaries of the condominium after the withdrawal; and

(B) Show the information required under subsection [(1)(i)] (1)(h) of this section as it relates to any remaining variable property.

(c) If any property is reclassified, show the information required under subsection (1)(a) to (d) of this section.

(d) Include a “Declarant’s Statement” that the property described on the supplemental plat is reclassified or withdrawn from the condominium and that the condominium exists as described and depicted on the plat.

(e) Include a surveyor’s certificate complying with ORS 92.070.

(3) The title of each supplemental plat described in ORS 100.120 shall include the complete name of the condominium, followed by the additional language specified in this subsection and the appropriate reference to the stage being annexed or tract of variable property being reclassified. Each supplemental plat for a condominium recorded on or after January 1, 2002, shall be numbered sequentially and shall:

(a) If property is annexed under ORS 100.125, include the words “Supplemental Plat No. \_\_\_\_\_: Annexation of Stage \_\_\_\_\_”; or

(b) If property is reclassified under ORS 100.150, include the words “Supplemental Plat No. \_\_\_\_\_: Reclassification of Variable Property, Tract \_\_\_\_\_.”

(4) Upon request of the county surveyor or assessor, the person offering a plat or supplemental plat for recording shall also file an exact copy, certified by the surveyor who made the plat to be an exact copy of the plat, with the county assessor and the county surveyor. The exact copy shall be made on suitable drafting material having the characteristics of strength, stability and transparency required by the county surveyor.

(5) Before a plat or a supplemental plat may be recorded, it must be approved by the city or county surveyor as provided in ORS 92.100. Before approving the plat as required by this section, the city or county surveyor shall:

(a) Check the boundaries of the plat and units and take measurements and make computations necessary to determine that the plat complies with this section.

(b) Determine that the name complies with ORS 100.105 (5) and (6).

(c) Determine that the following are consistent:

(A) The designation and area in square feet of each unit shown on the plat and the unit designations and areas contained in the declaration in accordance with ORS 100.105 (1)(d);

(B) Limited common elements identified on the plat and the information contained in the declaration in accordance with ORS 100.105 (1)(h);

(C) The description of the property in the surveyor’s certificate included on the plat and the description contained in the declaration in accordance with ORS 100.105 (1)(a); and

(D) For a flexible condominium, the variable property depicted on the plat and the identification of the property contained in the declaration in accordance with ORS 100.105 (7)(c).

(6) The person offering the plat or supplemental plat for approval shall:

(a) Submit a copy of the proposed declaration and bylaws or applicable supplemental declaration at the time the plat is submitted; and

(b) Submit the original or a copy of the executed declaration and bylaws or the applicable supplemental declaration approved by the commissioner if required by law prior to approval.

(7) For performing the services described in subsection (5)(a) to (c) of this section, the city surveyor or county surveyor shall collect from the person offering the plat for approval a fee of \$150 plus \$25 per building. The governing body of a city or county may establish a higher fee by resolution or order.

**SECTION 14.** ORS 100.105 is amended to read:

100.105. (1) A declaration must contain:

(a) A description of the property, including property on which a unit or a limited common element is located, whether held in fee simple, leasehold, easement or other interest or combination thereof, that is being submitted to the condominium form of ownership and that conforms to the description in the surveyor's certificate provided under ORS 100.115 (1).

(b) Subject to subsection (11) of this section, a statement of the interest in the property being submitted to the condominium form of ownership, whether fee simple, leasehold, easement or other interest or combination thereof.

(c) Subject to subsections (5) and (6) of this section, the name by which the property is known and a general description of each unit and the building or buildings, including the number of stories and basements of each building, the total number of units and the principal materials of which they are constructed.

(d) The unit designation, a statement that the location of each unit is shown on the plat, a description of the boundaries and area in square feet of each unit and any other data necessary for proper identification. The area of a unit must be the same as shown for that unit on the plat described in ORS 100.115 (1).

(e) A notice in substantially the following form in at least 12-point type in all capitals or bold-face:

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NOTICE

THE SQUARE FOOTAGE AREAS STATED IN THIS DECLARATION AND THE PLAT ARE BASED ON THE BOUNDARIES OF THE UNITS AS DESCRIBED IN THIS DECLARATION AND MAY VARY FROM THE AREA OF UNITS CALCULATED FOR OTHER PURPOSES.

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(f) A description of the general common elements.

(g) An allocation to each unit of an undivided interest in the common elements in accordance with ORS 100.515 and the method used to establish the allocation.

(h) The designation of any limited common elements including:

(A) A general statement of the nature of the limited common element;

(B) A statement of the unit to which the use of each limited common element is reserved, provided the statement is not a reference to an assignment of use specified on the plat; and

(C) The allocation of use of any limited common element appertaining to more than one unit.

(i) The method of determining liability for common expenses and right to common profits in accordance with ORS 100.530.

(j) The voting rights allocated to each unit in accordance with ORS 100.525 or, in the case of condominium units committed as property in a timeshare plan defined in ORS 94.803, the voting rights allocated in the timeshare instrument.

(k) A statement of the general nature of use, residential or otherwise, for which the building or buildings and each of the units is intended.

(L) A statement that the designated agent to receive service of process in cases provided in ORS 100.550 (1) is named in the Condominium Information Report which will be filed with the Real Estate Agency in accordance with ORS 100.250 (1)(a).

(m) The method of amending the declaration and the percentage of voting rights required to approve an amendment of the declaration in accordance with ORS 100.135.

(n) A statement as to whether or not the association of unit owners pursuant to ORS 100.405 (5) and (8) has authority to grant leases, easements, rights of way, licenses and other similar interests affecting the general and limited common elements of the condominium and consent to vacation of roadways within and adjacent to the condominium.

(o) If the condominium contains a floating structure described in ORS 100.020 (3), a statement regarding the authority of the board of directors of the association, subject to ORS 100.410, to temporarily relocate the floating structure without a majority vote of affected unit owners.

(p) Any restrictions on alienation of units. Any such restrictions created by documents other than the declaration may be incorporated by reference in the declaration to the official records of the county in which the property is located.

(q) Any other details regarding the property that the person executing the declaration considers desirable. However, if a provision required to be in the bylaws under ORS 100.415 is included in the declaration, the voting requirements for amending the bylaws also govern the amendment of the provision in the declaration.

(2) In the event the declarant proposes to annex additional property to the condominium under ORS 100.125, the declaration also must contain a general description of the plan of development, including:

(a) The maximum number of units to be included in the condominium.

(b) The date after which any right to annex additional property will terminate.

(c) A general description of the nature and proposed use of any additional common elements which declarant proposes to annex to the condominium, if such common elements might substantially increase the proportionate amount of the common expenses payable by existing unit owners.

(d) A statement that the method used to establish the allocation of undivided interest in the common elements, the method used to determine liability for common expenses and right to common profits and the method used to allocate voting rights for each unit annexed is as stated in the declaration in accordance with subsection (1)(g), (i) and (j) of this section.

(e) Such other information as the Real Estate Commissioner requires in order to carry out the purposes of this chapter.

(3) Unless expressly prohibited by the declaration and subject to the requirements of ORS 100.135 (2) and subsections (9) and (10) of this section:

(a) Not later than two years following the termination date specified in subsection (2)(b) of this section, the termination date may be extended for a period not exceeding five years.

(b) Before the termination date specified in the declaration or supplemental declaration under subsection (7)(d) of this section, the termination date may be extended for a period not exceeding five years.

(c) The general description under subsection (2)(c) of this section and the information included in the declaration or supplemental declaration in accordance with subsection (7)(c), (g) and (h) of this section may be changed by an amendment to the declaration or supplemental declaration and plat or supplemental plat.

(4) The information included in the declaration or supplemental declaration in accordance with subsection (2)(a) and (d) of this section and subsection (7)(a), (b), (e), (f) and (k) of this section may not be changed unless all owners agree to the change and an amendment to the declaration or supplemental declaration and, if applicable, the plat or supplemental plat are recorded in accordance with this chapter.

(5) The name of the property shall include the word “condominium” or “condominiums” or the words “a condominium.”

(6) A condominium may not bear a name which is the same as or deceptively similar to the name of any other, **different** condominium located in the same county.

(7) If the condominium is a flexible condominium containing variable property, the declaration shall also contain a general description of the plan of development, including:

(a) A statement that the rights provided for under ORS 100.150 (1) are being reserved.

(b) A statement:

(A) Of any limitations on rights reserved under ORS 100.150 (1), including whether the consent of any unit owner is required, and if so, a statement of the method by which the consent is ascertained; or

(B) That there are no limitations on rights reserved under ORS 100.150 (1).

(c) A statement of the total number of tracts of variable property within the condominium, including:

(A) A designation of each tract as withdrawable variable property or nonwithdrawable variable property;

(B) Identification of each variable tract by a label in accordance with ORS 100.115 [(1)(i)] **(1)(h)**;

(C) A statement of the method of labeling each tract depicted on the plat in accordance with ORS 100.115 [(1)(i)] **(1)(h)**; and

(D) A statement of the total number of tracts of each type of variable property.

(d) The termination date, which is the date after which any right reserved under ORS 100.150 (1) will terminate, and a statement of the circumstances, if any, that will terminate any right on or before the date specified. Subject to ORS 100.120, the termination date from the date of recording of the conveyance of the first unit in the condominium to a person other than the declarant may not exceed:

(A) Twenty years, only if a condominium consists, or may consist if the condominium is a flexible condominium, exclusively of units to be used for nonresidential purposes; or

(B) Seven years.

(e) The maximum number of units that may be created.

(f) A statement that the method used to establish the allocations of undivided interest in the common elements, the method used to determine liability for common expenses and right to common profits and the method used to allocate voting rights as additional units are created is the same as stated in the declaration in accordance with subsection (1)(g), (i) and (j) of this section.

(g) A general description of all existing improvements and the nature and proposed use of any improvements that may be made on variable property if the improvements might substantially increase the proportionate amount of the common expenses payable by existing unit owners.

(h) A statement of whether or not the declarant reserves the right to create limited common elements within any variable property, and if so, a general description of the types that may be created.

(i) A statement that the plat shows the location and dimensions of all withdrawable variable property that is labeled "WITHDRAWABLE VARIABLE PROPERTY."

(j) A statement that if by the termination date all or a portion of the withdrawable variable property has not been withdrawn or reclassified, the withdrawable variable property is automatically withdrawn from the condominium as of the termination date.

(k) A statement of the rights of the association under ORS 100.155 (2).

(L) A statement of whether or not all or any portion of the variable property may not be withdrawn from the condominium and, if so, with respect to the nonwithdrawable variable property:

(A) A statement that the plat shows the location and dimensions of all nonwithdrawable variable property that is labeled "NONWITHDRAWABLE VARIABLE PROPERTY."

(B) A description of all improvements that may be made and a statement of the intended use of each improvement.

(C) A statement that, if by the termination date all or a portion of the variable property designated as "nonwithdrawable variable property" has not been reclassified, the property is automatically reclassified as of the termination date as a general common element of the condominium and any interest in the property held for security purposes is automatically extinguished by the classification.

(D) A statement of the rights of the association under ORS 100.155 (3).

(m) A statement by the local governing body or appropriate department thereof that the withdrawal of any variable property designated as "withdrawable variable property" in the declaration in accordance with paragraph (L) of this subsection, will not violate any applicable planning or zoning regulation or ordinance. The statement may be attached as an exhibit to the declaration.

(8) The plan of development for any variable property included in the declaration or any supplemental declaration of any stage in accordance with subsection (7) of this section is subject to any

plan of development included in the declaration in accordance with subsection (2) of this section, except that the time limitation specified in subsection (7)(d) of this section governs any right reserved under ORS 100.150 (1) with respect to any variable property.

(9) The information included in the declaration in accordance with subsection (7)(j), (k) and (m) of this section may not be deleted by amendment.

(10)(a) Approval by the unit owners is not required for a declarant to redesignate withdrawable variable property as “nonwithdrawable variable property” under ORS 100.150 (1) by supplemental declaration and supplemental plat, for any reason, including if the redesignation is required by the local governing body to comply with any planning or zoning regulation or ordinance.

(b) If as a result of a redesignation under paragraph (a) of this subsection, the information required to be included in the supplemental declaration under subsection (7)(L)(B) of this section is inconsistent with the information included in the declaration or supplemental declaration in accordance with subsection (7)(g) of this section, an amendment to the declaration or supplemental declaration and plat or supplemental plat approved by at least 75 percent of owners is required.

(11) The statement of an interest in property other than fee simple submitted to the condominium form of ownership and any easements, rights or appurtenances belonging to property submitted to the condominium form of ownership, whether leasehold or fee simple, must include:

(a) A reference to the recording index numbers and date of recording of the instrument creating the interest; or

(b) A reference to the law, administrative rule, ordinance or regulation that creates the interest if the interest is created under law, administrative rule, ordinance or regulation and not recorded in the office of the recording officer of the county in which the property is located.

## **SUBDIVIDING FOR DEVELOPMENT OF AFFORDABLE HOUSING**

### **SECTION 15.** ORS 92.090 is amended to read:

92.090. (1) Subdivision plat names shall be subject to the approval of the county surveyor or, in the case where there is no county surveyor, the county assessor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters.

(2) No tentative plan for a proposed subdivision and no tentative plan for a proposed partition shall be approved unless:

(a) The streets and roads are laid out so as to conform to the plats of subdivisions and partitions already approved for adjoining property as to width, general direction and in all other respects unless the city or county determines it is in the public interest to modify the street or road pattern.

(b) Streets and roads held for private use are clearly indicated on the tentative plan and all reservations or restrictions relating to such private roads and streets are set forth thereon.

(c) The tentative plan complies with the applicable zoning ordinances and regulations and the ordinances or regulations adopted under ORS 92.044 that are then in effect for the city or county within which the land described in the plan is situated.

(3) No plat of a proposed subdivision or partition shall be approved unless:

(a) Streets and roads for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public or private utilities.

(b) Streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the city or county.

(c) The subdivision or partition plat complies with any applicable zoning ordinances and regulations and any ordinance or regulation adopted under ORS 92.044 that are then in effect for the city or county within which the land described in the subdivision or partition plat is situated.

(d) The subdivision or partition plat is in substantial conformity with the provisions of the tentative plan for the subdivision or partition, as approved.

(e) The subdivision or partition plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems, the donation of which was made a condition of the approval of the tentative plan for the subdivision or partition.

(f) Explanations of all common improvements required as conditions of approval of the tentative plan of the subdivision or partition have been recorded and referenced on the subdivision or partition plat.

(4) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

(a) A certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat;

(b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; *and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be* **in an amount** determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county; or

(c) *[In lieu of paragraphs (a) and (b) of this subsection,]* A statement that no domestic water supply facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, even though a domestic water supply source may exist. A copy of any such statement, signed by the subdivider and indorsed by the city or county, shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in any public report made for the subdivision under ORS 92.385. If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

(5) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

(a) A certification by a city-owned sewage disposal system or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that a sewage disposal system will be available to the lot line of each and every lot depicted in the proposed subdivision plat;

(b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; *and the amount of such bond, irrevocable letter of credit, contract or other assurance shall be* **in an amount** determined by a registered professional engineer, subject to any change in such amount as the city or county considers necessary; or

(c) *[In lieu of paragraphs (a) and (b) of this subsection,]* A statement that no sewage disposal facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, where

the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755 (1)(b). A copy of any such statement, signed by the subdivider and indorsed by the city or county shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in the public report made for the subdivision under ORS 92.385. If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

**(6) A city or county shall accept as other assurance, as used in subsections (4)(b) and (5)(b) of this section, one or more award letters from public funding sources made to a subdivider who is subdividing the property to develop affordable housing, that is or will be subject to an affordability restriction as defined in ORS 456.250 or an affordable housing covenant as defined in ORS 456.270, if the awards total an amount greater than the project cost.**

[6] (7) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company shall be approved by a city or county unless the city or county has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.

## SINGLE ROOM OCCUPANCIES

**SECTION 16.** Section 17 of this 2023 Act and ORS 197.758 are added to and made a part of ORS 197.286 to 197.314.

**SECTION 17.** (1) As used in this section “single room occupancy” means a residential development with no fewer than four attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.

**(2) Within an urban growth boundary, each local government shall allow the development of a single room occupancy:**

**(a) With up to six units on each lot or parcel zoned to allow for the development of a detached single-family dwelling; and**

**(b) With the number of units consistent with the density standards of a lot or parcel zoned to allow for the development of residential dwellings with five or more units.**

**SECTION 18.** ORS 197.303, as amended by section 27, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), is amended to read:

197.303. (1) As used in ORS 197.296 and this section, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:

**(a) Attached and detached single-family housing, middle housing types as described in ORS 197.758 and multiple family housing for both owner and renter occupancy;**

- (b) Government assisted housing;
  - (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
  - (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions;
  - (e) Agriculture workforce housing;
  - (f) Housing for individuals with a variety of disabilities related to mobility or communications that require accessibility features;
  - (g) Housing for older persons, as defined in ORS 659A.421; *[and]*
  - (h) Housing for college or university students, if relevant to the region[.]; **and**
  - (i) Single room occupancies as defined in section 17 of this 2023 Act.**
- (2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), Metro shall adopt findings and perform an analysis that estimates each of the following factors:
- (a) Projected needed housing units over the next 20 years;
  - (b) Current housing underproduction;
  - (c) Housing units needed for people experiencing homelessness; and
  - (d) Housing units projected to be converted into vacation homes or second homes during the next 20 years.
- (3) At the time Metro performs the analysis under subsection (2) of this section, Metro shall allocate a housing need for each city within Metro.
- (4) In making an allocation under subsection (3) of this section, Metro shall consider:
- (a) The forecasted population growth under ORS 195.033 or 195.036;
  - (b) The forecasted regional job growth;
  - (c) An equitable statewide distribution of housing for income levels described in section 2 (4), **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)** *[of this 2023 Act]*.
  - (d) The estimates made under subsection (2) of this section; and
  - (e) The purpose of the Oregon Housing Needs Analysis under section 1 (1), **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)** *[of this 2023 Act]*.
- (5) Metro shall make the estimate described in subsection (2) of this section using a shorter time period than since the last review under ORS 197.296 (2)(a)(B) if Metro finds that the shorter time period will provide more accurate and reliable data related to housing need. The shorter time period may not be less than three years.
- (6) Metro shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. Metro must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.
- (7) Subsection (1)(a) and (d) of this section does not apply to a city with a population of less than 2,500.
- (8) Metro may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

**SECTION 18a. If House Bill 2889 becomes law, section 18 of this 2023 Act (amending ORS 197.303) is repealed and ORS 197.303, as amended by section 27, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), and section 14, chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 2889), is amended to read:**

197.303. (1) As used in ORS 197.296 and this section, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:



(a) Attached and detached single-family housing, middle housing types as described in ORS 197.758 and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; [and]

(e) Agriculture workforce housing[.]; **and**

**(f) Single room occupancies as defined in section 17 of this 2023 Act.**

(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), Metro shall adopt findings and perform an analysis that estimates each of the following factors:

(a) Projected needed housing units over the next 20 years;

(b) Current housing underproduction;

(c) Housing units needed for people experiencing homelessness; and

(d) Housing units projected to be converted into vacation homes or second homes during the next 20 years.

(3) Metro shall make the estimate described in subsection (2) of this section using a shorter time period than since the last review under ORS 197.296 (2)(a)(B) if Metro finds that the shorter time period will provide more accurate and reliable data related to housing need. The shorter time period may not be less than three years.

(4) Metro shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. Metro must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.

(5) Subsection (1)(a) and (d) of this section does not apply to a city with a population of less than 2,500.

(6) Metro may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

**SECTION 19.** Section 23, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), is amended to read:

**Sec. 23.** (1) As used in ORS 197.286 to 197.314, and except as provided in subsection (2) of this section:

(a) “Needed housing” means housing by affordability level, as described in section 2 (4), **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)** [of this 2023 Act], type, characteristics and location that is necessary to accommodate the city’s allocated housing need over the 20-year planning period in effect when the city’s housing capacity is determined.

(b) “Needed housing” includes the following housing types:

(A) Detached single-family housing, middle housing types as described in ORS 197.758 and multifamily housing that is owned or rented;

(B) Government assisted housing;

(C) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(D) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions;

(E) Housing for agricultural workers;

(F) Housing for individuals with a variety of disabilities, related to mobility or communications that require accessibility features;

(G) Housing for older persons, as defined in ORS 659A.421; [and]

(H) Housing for college or university students, if relevant to the region[.]; **and**

**(I) Single room occupancies as defined in section 17 of this 2023 Act.**

(2) Subsection (1)(b)(A) and (D) of this section does not apply to:

(a) A city with a population of less than 2,500.

- (b) A county with a population of less than 15,000.
- (3) At the time that a city is required to inventory its buildable lands under ORS 197.297 (1) or section 21 or 22, **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)** [of this 2023 Act], the city shall determine its needed housing under this section.
- (4) In determining needed housing the city must demonstrate that the projected housing types, characteristics and locations are:
  - (a) Attainable for the allocated housing need by income, including consideration of publicly supported housing;
  - (b) Appropriately responsive to current and projected market trends; and
  - (c) Responsive to the factors in ORS 197.290 (2)(b) to (d).

## SITING DUPLEXES

**SECTION 20.** ORS 197.758 is amended to read:

197.758. (1) As used in this section:

- (a) “Cottage clusters” means groupings of no fewer than four detached housing units per acre with a footprint of less than 900 square feet each and that include a common courtyard.
- (b) “Middle housing” means:
  - (A) Duplexes;
  - (B) Triplexes;
  - (C) Quadplexes;
  - (D) Cottage clusters; and
  - (E) Townhouses.
- (c) “Townhouses” means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.
- (2) Except as provided in subsection (4) of this section, each city with a population of 25,000 or more and each county or city within a metropolitan service district shall allow the development of:
  - (a) All middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings; and
  - (b) A duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.
- (3) Except as provided in subsection (4) of this section, each city not within a metropolitan service district with a population of [more than 10,000] **2,500 or greater** and less than 25,000 shall allow the development of a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. Nothing in this subsection prohibits a local government from allowing middle housing types in addition to duplexes.
- (4) This section does not apply to:
  - (a) Cities with a population of 1,000 or fewer;
  - (b) Lands not within an urban growth boundary;
  - (c) Lands that are not incorporated and also lack sufficient urban services, as defined in ORS 195.065;
  - (d) Lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural or public uses; or
  - (e) Lands that are not incorporated and are zoned under an interim zoning designation that maintains the land’s potential for planned urban development.
- (5) Local governments may regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable costs or delay. Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.
- (6) This section does not prohibit local governments from permitting:

- (a) Single-family dwellings in areas zoned to allow for single-family dwellings; or
- (b) Middle housing in areas not required under this section.

**(7) A local government that amends its comprehensive plan or land use regulations relating to allowing additional middle housing is not required to consider whether the amendments significantly affect an existing or planned transportation facility.**

**SECTION 21.** Section 3, chapter 639, Oregon Laws 2019, is amended to read:

**Sec. 3.** (1) Notwithstanding ORS 197.646, a local government shall adopt land use regulations or amend its comprehensive plan to implement [section 2 of this 2019 Act] **ORS 197.758** no later than:

(a) June 30, 2021, for each city subject to [section 2 (3) of this 2019 Act; or] **ORS 197.758 (3) (2021 Edition);**

(b) June 30, 2022, for each local government subject to [section 2 (2) of this 2019 Act.] **ORS 197.758 (2); or**

**(c) June 30, 2025, for each city subject to ORS 197.758 (3), as amended by section 20 of this 2023 Act.**

(2) The Land Conservation and Development Commission, with the assistance of the Building Codes Division of the Department of Consumer and Business Services, shall develop a model middle housing ordinance no later than December 31, 2020.

(3) A local government that has not acted within the time provided under subsection (1) of this section shall directly apply the model ordinance developed by the commission under subsection (2) of this section under ORS 197.646 (3) until the local government acts as described in subsection (1) of this section.

(4) In adopting regulations or amending a comprehensive plan under this section, a local government shall consider ways to increase the affordability of middle housing by considering ordinances and policies that include but are not limited to:

(a) Waiving or deferring system development charges;

(b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523, 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and

(c) Assessing a construction tax under ORS 320.192 and 320.195.

[*(5) When a local government makes a legislative decision to amend its comprehensive plan or land use regulations to allow middle housing in areas zoned for residential use that allow for detached single-family dwellings, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility.*]

**SECTION 22.** Section 4, chapter 639, Oregon Laws 2019, is amended to read:

**Sec. 4.** (1) [Notwithstanding section 3 (1) or (3) of this 2019 Act,] The Department of Land Conservation and Development may grant to a local government that is subject to [section 2 of this 2019 Act] **ORS 197.758** an extension of the time allowed to adopt land use regulations or amend its comprehensive plan under section 3, **chapter 639, Oregon Laws 2019** [of this 2019 Act].

(2) An extension under this section may be applied only to specific areas where the local government has identified water, sewer, storm drainage or transportation services that are [either] significantly deficient [or are expected to be significantly deficient before December 31, 2023,] and for which the local government has established a plan of actions that will remedy the deficiency in those services that is approved by the department. The extension may not extend beyond the date that the local government intends to correct the deficiency under the plan.

(3) In areas where the extension under this section does not apply, the local government shall apply its own land use regulations consistent with section 3 (1), **chapter 639, Oregon Laws 2019**, [of this 2019 Act] or the model ordinance developed under section 3 (2), **chapter 639, Oregon Laws 2019** [of this 2019 Act].

(4) A request for an extension by a local government must be filed with the department no later than:

(a) December 31, 2020, for a city subject to [section 2 (3) of this 2019 Act.] **ORS 197.758 (3) (2021 Edition).**

(b) June 30, 2021, for a local government subject to [section 2 (2) of this 2019 Act.] **ORS 197.758 (2)**.

(c) **June 30, 2024, for each city subject to ORS 197.758 (3), as amended by section 20 of this 2023 Act.**

(5) The department shall grant or deny a request for an extension under this section:

(a) Within 90 days of receipt of a complete request from a city subject to [section 2 (3) of this 2019 Act.] **ORS 197.758 (3)**.

(b) Within 120 days of receipt of a complete request from a local government subject to [section 2 (2) of this 2019 Act.] **ORS 197.758 (2)**.

(6) The department shall adopt rules regarding the form and substance of a local government's application for an extension under this section. The department may include rules regarding:

(a) Defining the affected areas;

(b) Calculating deficiencies of water, sewer, storm drainage or transportation services;

(c) Service deficiency levels required to qualify for the extension;

(d) The components and timing of a remediation plan necessary to qualify for an extension;

(e) Standards for evaluating applications; and

(f) Establishing deadlines and components for the approval of a plan of action.

**SECTION 23. 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 beginning July 1, 2023, out of the General Fund, the amount of \$1,250,000, to provide grants to local governments to assist them in amending their comprehensive plans as required under section 3 (1)(c), chapter 639, Oregon Laws 2019.**

#### REMOVING RECORDED DISCRIMINATORY PROVISIONS

**SECTION 24. Section 25 of this 2023 Act is added to and made a part of ORS chapter 93.**

**SECTION 25. (1) Notwithstanding ORS 94.590, 94.625, 100.110, 100.135, 100.411 or 100.413 or any requirement of the declaration or bylaws, an amendment to the declaration or bylaws of a planned community or condominium is effective and may be made and recorded in the county clerk's office of a county in which any portion of the property is situated without the vote of the owners or the board members and without the prior approval of the Real Estate Commissioner, county assessor or any other person if:**

(a) The amendment is made to conform the declarations or bylaws to the requirements of ORS 93.270 (2); and

(b) The amendment is signed by the president and secretary of the homeowners association.

(2) The first page or cover sheet of an instrument amending the declaration or bylaws must comply with the recording requirements of ORS chapter 205 and must be in substantially the following form:

---

#### AMENDMENT OF [DECLARATION/BYLAWS] TO COMPLY WITH ORS 93.270 (2).

Pursuant to this section, the undersigned states:

1. The undersigned are the president and secretary for the [homeowners/condominium owners] association \_\_\_\_\_ (name) in \_\_\_\_\_ County.

2. This document amends the [declaration/bylaws] of the association.

3. The [declaration was/bylaws were] first recorded under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_.

4. The [declaration was/bylaws were] most recently amended or restated, if ever, under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_.

5. The undersigned have determined that the current [declarations/bylaws] of the [planned community/condominium], as last amended or revised, may fail to comply with ORS 93.270. The following amendments to the [declaration/bylaws] remove provisions that are not allowed and are unenforceable under ORS 93.270 (2). No other changes to the document are being made except as may be necessary to correct scriveners' errors or to conform format and style.

6. Under this section, a vote of the association is not required.

7. The description of the real property in \_\_\_\_\_ County affected by this document is:

\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Name: \_\_\_\_\_  
President, \_\_\_\_\_ (association name)  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Name: \_\_\_\_\_  
Secretary, \_\_\_\_\_ (association name)  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_

STATE OF OREGON     )  
  ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_ and \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

(3) If an instrument recorded under this section affects a condominium, the condominium association shall file a copy of the recorded instrument with the Real Estate Commissioner.

**SECTION 26.** Section 4, chapter 67, Oregon Laws 2021, as amended by section 5b, chapter 367, Oregon Laws 2021, is amended to read:

**Sec. 4.** (1) On or before December 31, [2022] **2024**, each homeowners association **of a planned community first established before September 1, 2021**, shall review [each governing document currently binding on the planned community, or the lots or the lot owners within] **the declaration and bylaws of the planned community** and shall:

(a) Amend [or restate] each document as necessary to remove all restrictions against the use of the community or the lots not allowed under ORS 93.270 (2) **as provided under section 25 of this 2023 Act**; or

(b) Execute and record a [declaration] **certification** that the homeowners association has reviewed the [governing documents binding on] **declaration and bylaws** of the planned community and that the documents do not contain any restriction, rule or regulation against the use of the community or the lots by a person or group of persons because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits.

(2) [Notwithstanding ORS 94.590 or 94.625 or any requirement of the declaration or bylaws, an amendment to or a restatement of the declaration or bylaws under subsection (1)(a) of this section is effective and] **A certification under subsection (1)(b) of this section:**

(a) May be recorded without the vote of the owners or the board members [if the amendment or restatement includes a certification signed by the president and secretary of the homeowners association that the amended or restated declaration or bylaws does not change that document except as required under this section and as may be necessary to correct scrivener's errors or to conform format and style.]; **and**

(b) **Must be in substantially the following form:**

---

**CERTIFICATION OF COMPLIANCE WITH ORS 93.270 (2).**

Pursuant to section 4, chapter 67, Oregon Laws 2021, the undersigned states:

1. The undersigned are the president and secretary for the homeowners association \_\_\_\_\_ (name) in \_\_\_\_\_ County.

2. The declaration was first recorded under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_. The declaration was most recently amended or restated, if ever, under instrument number \_\_\_\_\_ recorded on \_\_\_\_\_.

3. The bylaws were first recorded, if ever, under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_. The bylaws were most recently amended or restated, if ever, under instrument number \_\_\_\_\_ recorded on \_\_\_\_\_.

4. The undersigned have determined that the current declarations and bylaws of the planned community, as last amended or revised, conform with ORS 93.270 (2) and that there are no provisions that would restrict the use of the community or the lots or units of the community because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits. Any such provision that may inadvertently remain is void and unenforceable.

5. Under this section, a vote of the association is not required.

6. The description of the real property in \_\_\_\_\_ County affected by this document is:

\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Name: \_\_\_\_\_

President, \_\_\_\_\_ (association name)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Name: \_\_\_\_\_  
Secretary, \_\_\_\_\_ (association name)

STATE OF OREGON     )  
  ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_ by \_\_\_\_\_ and \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

**SECTION 27.** Section 6, chapter 67, Oregon Laws 2021, as amended by section 5c, chapter 367, Oregon Laws 2021, is amended to read:

**Sec. 6.** (1) On or before December 31, [2022] **2024**, each association of a condominium **first established before September 1, 2021**, that includes units used for residential purposes shall review [each governing document currently binding on the condominium or the units or unit owners within] **the declaration and bylaws of the condominium and shall:**

(a) Amend [or restate] each document as necessary to remove all restrictions against the use of the condominium or the units not allowed under ORS 93.270 (2) **as provided under section 25 of this 2023 Act;** or

(b) Execute and record a [declaration] **certification** that the association has reviewed the [governing documents binding on] **declaration and bylaws of the condominium** and that the documents do not contain any restriction, rule or regulation against the use of the condominium or the units by a person or group of persons because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits.

(2) [Notwithstanding ORS 100.110, 100.135, 100.413 or any requirement of the declaration or bylaws, an amendment to or a restatement of the declaration or bylaws under this section, upon submission and approval of the Real Estate Commissioner under ORS 100.123, 100.125, 100.668 and 100.675, is effective and] **A certification under subsection (1)(b) of this section:**

(a) May be recorded without the vote of the owners or the board members [if the amended or restated declaration or bylaws includes a certification signed by the president and secretary of the association that the amended or restated declaration or bylaws does not change that document except as required under this section and as may be necessary to correct scrivener's errors or to conform format and style.]; **and**

(b) **Must be in substantially the following form:**

**CERTIFICATION OF COMPLIANCE WITH ORS 93.270 (2).**

Pursuant to section 6, chapter 67, Oregon Laws 2021, the undersigned states:

1. The undersigned are the president and secretary for the condominium owners association \_\_\_\_\_ (name) in \_\_\_\_\_ County.

2. The declaration was first recorded under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_. The declaration was most recently amended or restated, if ever, under instrument number \_\_\_\_\_ recorded on \_\_\_\_\_.

3. The bylaws were first recorded, if ever, under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_. The bylaws were most recently amended or restated, if ever, under instrument number \_\_\_\_\_ recorded on \_\_\_\_\_.

4. The undersigned have determined that the current declarations and bylaws of the condominium, as last amended or revised, conform with ORS 93.270 (2) and that there are no provisions that would restrict the use of the community or the lots or units of the community because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits. Any such provision that may inadvertently remain is void and unenforceable.

5. Under this section, a vote of the association is not required.

6. The description of the real property in \_\_\_\_\_ County affected by this document is:

\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Name: \_\_\_\_\_  
President, \_\_\_\_\_ (association name)  
Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Name: \_\_\_\_\_  
Secretary, \_\_\_\_\_ (association name)

STATE OF OREGON     )  
  ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_ and \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

**SECTION 28.** (1) The amendments to sections 4 and 6, chapter 67, Oregon Laws 2021, by sections 26 and 27 of this 2023 Act are intended to extend the deadline for compliance with those sections and to clarify the process by which associations may comply with those sections.

(2) Sections 4 and 6, chapter 67, Oregon Laws 2021, as amended by sections 26 and 27 of this 2023 Act, do not apply to a planned community or condominium that:

- (a) Was established on or after September 1, 2021; or
- (b) Complied with the requirements of section 4 or 6, chapter 67, Oregon Laws 2021, that were in effect before the effective date of this 2023 Act, notwithstanding the former deadline for compliance of December 31, 2022.

**AFFORDABLE HOUSING ON PUBLIC UTILITY LANDS**

**SECTION 29.** (1) As used in this section, “affordable housing” means affordable housing as defined in ORS 197.308 or publicly supported housing as defined in ORS 456.250.



(2)(a) To facilitate the development of affordable housing in this state, the Public Utility Commission may allow a public utility to sell, or to convey at below market price or as a gift, the public utility's interest in real property for the purpose of the real property being used for the development of affordable housing.

(b) The instrument that conveys, or contracts to convey, the public utility's interest in the real property must include an affordable housing covenant as provided in ORS 456.270 to 456.295.

(3) A public utility may not recover costs from customers for selling, or conveying at below market price or as a gift, the public utility's interest in real property under this section.

#### HOUSING SUPPORT FOR LOW-INCOME COLLEGE STUDENTS

**SECTION 30.** The Department of Human Services shall provide financial support to nonprofit organizations providing affordable housing support to low-income college students across this state in accordance with the department's self-sufficiency programs.

**SECTION 31.** Section 30 of this 2023 Act is repealed on January 2, 2026.

**SECTION 32.** In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Human Services, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$4,000,000 to provide financial support to nonprofit organizations under section 30 of this 2023 Act.

**SECTION 32a.** Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (3), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, for self-sufficiency programs, is increased by \$244,963 to administer financial support to nonprofit organizations pursuant to the provisions of section 30 of this 2023 Act.

#### COMMUNITY HOUSING SUPPORTING AGRICULTURAL EMPLOYEES

**SECTION 33.** Section 34 of this 2023 Act is added to and made a part of ORS 456.548 to 456.725.

**SECTION 34.** (1) As used in this section, "community housing supporting agricultural employees" means a housing development that:

- (a) Is within an urban growth boundary;
- (b) Is within 20 miles of significant agricultural employment as identified by the Housing and Community Services Department;
- (c) Is promoted for residential use by agricultural employees and developed with amenities suitable for agricultural employees and their families;
- (d) Consists of a multifamily dwelling or a cluster of buildings, including manufactured, prefabricated or modular housing, housing produced through a three-dimensional printing process or other housing developed using innovative construction types; and
- (e)(A) Is subject to an affordable housing covenant requiring that the units are maintained for a period of no less than 60 years as affordable to rent for low income households, as described in ORS 456.270 to 456.295;

(B) Is operated as a consumer housing cooperative; or

(C) Is operated under a model approved by the department designed to preserve affordability or control of the property by its residents.

(2) The Housing and Community Services Department shall provide one or more grants to qualified housing sponsors for the purposes of developing community housing supporting agricultural employees.

(3) In awarding grants under this section, the department shall prioritize applications:

(a) From a developer that is a nonprofit housing corporation that serves agricultural workers;

(b) From a developer that is a nonprofit that promotes housing for agricultural employees or other needs of agricultural employees, or from a developer that has entered into a partnership with a nonprofit housing corporation that serves agricultural workers for the purposes of developing the community housing;

(c) Where other funding for the housing development has been dedicated or can be leveraged by the grant;

(d) Where the housing development will be located close to significant agricultural employment; or

(e) Where the housing development will include or will be near specific characteristics or amenities designed to support or attract agricultural employees and their families.

(4) Grants awarded under this section may be used for any project costs for the development or predevelopment of the community housing supporting agricultural employees.

(5) A qualified housing sponsor receiving grants under this section shall agree to provide information to the department to report to an appropriate interim committee of the Legislative Assembly, in the manner provided in ORS 192.245, on the use of the grant on or before September 15, 2027.

**SECTION 35.** Section 34 of this 2023 Act is repealed on January 2, 2028.

**SECTION 36.** In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$10,000,000, to award and administer grants under section 34 of this 2023 Act.

#### LOCAL GOVERNMENT HOUSING SUPPORT

**SECTION 37.** (1) The Oregon Department of Administrative Services, in consultation with the Department of Land Conservation and Development and the Housing and Community Services Department, shall provide grants to councils of governments, as defined in ORS 294.900, and economic development districts to support housing and community development capacity within cities and counties in this state and within the nine federally recognized Indian tribes in this state.

(2) Councils of governments and economic development districts receiving grants under this section shall partner and consult with local governments, developers, financiers, the Department of Land Conservation and Development, the Housing and Community Services Department, other relevant state agencies and other interested public and private partners to enable local governments throughout the region to encourage community development and the development of infrastructure and needed housing, as defined in section 23, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), by:

(a) Bridging any information gaps;

(b) Identifying and securing needed resources, including infrastructure and community facilities;

(c) Connecting producers of needed housing with consumers of needed housing; and

(d) Working with representatives of historically underrepresented groups to overcome community-specific barriers to obtaining housing.

**SECTION 38.** Section 37 of this 2023 Act is repealed on January 2, 2034.

**SECTION 39.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$5,000,000, to provide grants under section 37 of this 2023 Act.

#### AFFORDABLE HOMEOWNERSHIP REVOLVING LOAN FUND

**SECTION 40.** (1) The Housing and Community Services Department shall make a grant to the Network for Oregon Affordable Housing (NOAH) to establish a revolving loan fund that will allow a first-time home buyer who is purchasing a home, including a share of a cooperative or a condominium unit, in which the purchaser's equity will be limited, to establish equity at a faster rate while making monthly payments similar to those described in subsection (3)(a)(A) of this subsection. The department may not make a grant under this section until NOAH has demonstrated that it has dedicated to a loan fund described in this section no less than \$7,500,000 of additional private moneys.

(2) Loans made from the loan fund must be used for the purchase of a dwelling that is subject to an affordability restriction, such as a restriction as described in ORS 456.270 to 456.295, that:

(a) Has the effect of limiting the purchaser's ability to gain equity from the appreciation of the dwelling's value; and

(b) Requires that the purchaser be a low income household as defined in ORS 456.270.

(3) Loans made from the loan fund must:

(a) Be made only to applicants that have met with an approved or certified housing counseling agency, as described in 24 C.F.R. 214 subpart B, and have a first-time home buyer program offered by the agency;

(b) Have a term of 20 years or less; and

(c) Have a fixed interest rate that is not more than the greater of:

(A) The rate that would allow monthly amortized principal and interest payments under the term of the loan to be the amount that would result from a 30-year fixed-rate amortized mortgage at the national current average rate as published by a reputable financial source; or

(B) 0.5 percent.

**SECTION 41.** Section 40 of this 2023 Act is repealed on January 2, 2026.

**SECTION 42.** In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$7,500,000, to make a grant under section 40 of this 2023 Act.

**SECTION 43.** On or before September 15, 2025, and on or before September 15, 2027, the Housing and Community Services Department shall provide a report to an appropriate interim committee of the Legislative Assembly, in the manner provided in ORS 192.245, on the use of the loan funds described in section 40 of this 2023 Act, as reported to the department by the Network for Oregon Affordable Housing (NOAH).

#### AFFORDABLE HOUSING LOAN GUARANTEE FUND

**SECTION 44.** Section 45 of this 2023 Act is added to and made a part of ORS chapter 458.

**SECTION 45.** (1) The Housing and Community Services Department shall provide grants to one or more nonprofit corporations to develop a fund.

(2) The moneys in the fund may be used only to guarantee the repayment of loans to finance the construction of housing subject to an affordable housing covenant for low or moderate income households, as described in ORS 456.270 to 456.295 and as further defined by the Housing and Community Services Department by rule.

(3) The term of a loan guaranteed under this section may not exceed five years.

(4) The department and the state are not guarantors of any loan guaranteed by a nonprofit corporation under this section.

(5) To be eligible for a grant under this section, a nonprofit corporation must:

(a) Be exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code; and

(b) Demonstrate to the satisfaction of the department that the corporation is a community development financial institution that operates statewide to support investment in the construction of affordable housing.

**SECTION 46.** Section 45 of this 2023 Act is repealed on January 2, 2026.

**SECTION 47.** In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$20,000,000 to provide grants under section 45 of this 2023 Act.

#### HOUSING AND COMMUNITY SERVICES DEPARTMENT ADMINISTRATION

**SECTION 47a.** Notwithstanding any other provision of law, the General Fund appropriation made to the Housing and Community Services Department by section 1, chapter \_\_\_, Oregon Laws 2023 (Enrolled Senate Bill 5511), for the biennium beginning July 1, 2023, is increased by \$529,802, for purposes of administering sections 34, 37, 40, 43 and 45 of this 2023 Act.

#### EMERGENCY HOUSING ASSISTANCE FOR COMPANION ANIMALS

**SECTION 48.** ORS 458.650 is amended to read:

458.650. (1) The Housing and Community Services Department shall administer the Emergency Housing Account to assist homeless individuals and individuals who are at risk of becoming homeless, through means including the emergency housing assistance program and the state homeless assistance program. Notwithstanding subsection (3)(a) of this section, the state homeless assistance program shall serve individuals experiencing homelessness, especially unsheltered homelessness, without respect to income.

(2) The Oregon Housing Stability Council shall develop a policy for the use of program funds with the advice of:

- (a) Persons who have experienced housing instability;
- (b) Tribes;
- (c) The Community Action Partnership of Oregon;
- (d) Continuums of care, as defined in 24 C.F.R. part 578;
- (e) Local governments;
- (f) Nonprofit organizations;
- (g) Homeless services providers;
- (h) Culturally specific organizations;
- (i) Housing providers;
- (j) Veterans' services organizations; and
- (k) Other entities identified by the department by rule.

(3) The policy under subsection (2) of this section shall direct that program funds shall be used:

(a) To provide to low and very low income individuals, including but not limited to individuals more than 65 years of age, persons with disabilities, agricultural workers and Native Americans:

(A) Emergency shelters and attendant services;

(B) Transitional housing services designed to assist individuals to make the transition from homelessness to permanent housing and economic independence;

(C) Supportive housing services to enable individuals to continue living in their own homes or to provide in-home services for such individuals for whom suitable programs do not exist in their geographic area;

(D) Programs that provide emergency payment of home payments, rents or utilities; [or]

**(E) Support for individuals with companion animals, as defined in ORS 401.977, that includes:**

- (i) Food for both companion animals and their owners;**

- (ii) Crates or kennels on-site or off-site that are easily accessible to the companion animal owners;
  - (iii) Basic veterinary services, including behavioral services; and
  - (iv) Rules of conduct and responsibility regarding companion animals and their owners;
- or

[(E)] (F) Some or all of the needs described in subparagraphs (A) to [(D)] (E) of this paragraph.

(b) To align with federal strategies and resources that are available to prevent and end homelessness, including the requirement of providing culturally responsive services and using evidence-based and emerging practices effective in ending homelessness, including practices unique to rural communities.

(4)(a) The council shall require as a condition of awarding a grant that the organization demonstrate to the satisfaction of the council that the organization:

(A) Has the capacity to deliver any service proposed by the organization;

(B) Is a culturally responsive organization or is engaged in a process to become a culturally responsive organization;

(C) Engages with culturally specific organizations; and

(D) Supports local homelessness system planning efforts.

(b) Any funds granted under this section may not be used to replace existing funds. Funds granted under this section may be used to supplement existing funds. An organization may use funds to support existing programs or to establish new programs.

(5) The department may expend funds from the account for:

(a) The administration of the account as provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the department in support of directing a statewide policy on homelessness that ensures use of evidence-based and emerging practices, service equity in funding and local planning processes.

(b) The development of technical assistance and training resources for organizations developing and operating emergency shelters as defined in ORS 197.782 and transitional housing accommodations as described in ORS 197.746.

(6) The department shall utilize outcome-oriented contracting processes and evidence-based and emerging practices for account program funds, including evidence-based and emerging practices for serving rural communities.

(7) Twenty-five percent of moneys deposited in the account pursuant to ORS 294.187 are dedicated to the emergency housing assistance program for assistance to veterans who are homeless or at risk of becoming homeless.

## UNIT CAPTIONS

**SECTION 49.** The unit captions used in this 2023 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 2023 Act.

## OPERATIVE AND EFFECTIVE DATES

**SECTION 50.** Sections 2, 17, 29 and 30 of this 2023 Act and the amendments to ORS 92.090, 94.550, 100.015, 100.022, 100.105, 100.110, 100.115, 197.303, 197.830, 215.427 and 227.178 and section 23, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), by sections 3 to 5, 9 to 15, 18 and 19 of this 2023 Act become operative on January 1, 2024.

**SECTION 50a.** If House Bill 2889 becomes law, section 50 of this 2023 Act is amended to read:

**Sec. 50.** Sections 2, 17, 29 and 30 of this 2023 Act and the amendments to ORS 92.090, 94.550, 100.015, 100.022, 100.105, 100.110, 100.115, 197.303, 197.830, 215.427 and 227.178 and section 23, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), by sections 3 to 5, 9 to 15, [18] 18a and 19 of this 2023 Act become operative on January 1, 2024.

**SECTION 51.** This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by House June 14, 2023

Received by Governor:

Repassed by House June 25, 2023

.....M,....., 2023

Approved:

.....  
Timothy G. Sekerak, Chief Clerk of House

.....M,....., 2023

.....  
Dan Rayfield, Speaker of House

.....  
Tina Kotek, Governor

Passed by Senate June 24, 2023

Filed in Office of Secretary of State:

.....M,....., 2023

.....  
Rob Wagner, President of Senate

.....  
Secretary of State

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Council Chambers**  
**August 14, 2023**  
**6:00 p.m.**

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

**PC Citizens Advisory Committee Members Absent:** Dustin Capri, and Greg Sutton.

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

1. **Call to Order.** Chair Branigan called the Planning Commission work session to order at 6:00 p.m.
2. **New Business.**
  - A. **2023 State of Oregon Legislative Update.** Tokos reviewed the legislative updates which included: House Bill (HB) 2001/HB 5019: 60-day housing package; HB 2984: Commercial Conversions; HB 3395: End of Session Housing Package; HB 2095: Photo Radar Authority; HB 3167: Notice in Digital Newspapers; HB 2898: Post Disaster Temporary Housing; HB 3113: ODOT Great Streets; HB 3458: Limiting Appeals on LUBA Remand; HB 3409: Climate Package; and HB 3414: The bill that would have given developers the option of requesting up to 10 deviations or “adjustments” to design and development standards for new residential development.

Hanselman asked if the money for assisted housing would go toward better population centers. Tokos confirmed that it did. Much of the funds went to larger areas that had nonprofits with a little bit more capacity than Newport who had to establish services where they could get the funds out quickly. They were still working through HB 4123 where the counties would take the lead, but Newport had a seat at the table along with other cities. The prior legislation was about building rural capacity so that we had an organizational structure. There were nonprofits that could effectively take the state money and put it to use to build up their staffing and things of that nature. Berman asked if Tokos was participating in this. Tokos reported that he, the City Manager, and Counselors Jacobi and Kaplan would be participating at different levels.

Berman asked if HB 3395 would be a substantive change. Tokos explained this was an additional financial guarantee that the city would have to accept. Newport currently listed three or four different things that were sufficient for guaranteeing improvements. This would be one more. East asked if it was over and above any bonds that they were required to post. Tokos explained it was an alternative to a performance bond. A lot of the affordable housing folks didn't want to go to the expense of paying a surety company to do a performance bond on this. The city just wanted to provide a letter from the Oregon Housing Committee Service saying that they would make sure it was covered.

Tokos reported that one of the things the Commission would want to talk about was how they handle shelter siting. They needed to figure out if they wanted to pull it out of the land use and make it a public hearing where the Council had a chance to talk about it. Tokos also noted that they were stuck with single room occupancy rules that the city didn't have in their codes. The legislature provided a

definition for what a single room occupancy was. The city would be required to allow these at a density of six units on any lot where single family detached dwellings were allowed. Hanselman asked if the single room occupancy was in essence boarding houses. Tokos explained they were six rooms that were occupied by six different households or individuals, all of which shared a common kitchen. He noted they hadn't cleanly synced this up with the Building Code. The Building Code limited it to five rooms under the residential code. This change would push it into a different occupancy code, and they would have to sort out how to deal with it on the city's end. Branigan asked if this applied to accessory dwelling units (ADUs). Tokos said this was different. ADUs were already allowed with single family dwellings. Tokos reminded that this wasn't about authorizing short-term rentals. The SROs here would be a month to month rental agreement. East reported that Lincoln City was turning motels into transitional housing. Tokos confirmed that the Northwest Coastal Housing was doing a project where the units didn't really have kitchens but had microwaves for cooking. He expected that this SRO would have a functioning kitchen in them. Berman asked if developers would have the potential of using the various incentive programs if this was affordable. Tokos thought they potentially would. He noted these weren't required to be designated as affordable.

Tokos reported that for HB 2095, the police chief was looking into briefing the Council on if they should be doing photo radar. Branigan asked who the local speed limit designator was for Newport. Tokos explained the speed limit on the streets were set by ODOT through a methodology. He reported they finished a speed study on Oceanview Drive and it came out as 35 MPH. Branigan asked if this would allow Newport to drop the speed limit north of Newport from 55 to a lower speed. Tokos explained that there were provisions in the law that said that cities could by ordinance, establish a designated speed for a roadway that was up to 10 miles per hour lower than the statutory speed. He thought they would want to be careful here, because designated speed and statutory speed were different things, and defined differently in the state law. Tokos pointed out that US 101 and US 20 were ODOT owned, and the city would have to ask them to drop the speed limits. He noted they were working on an enhanced pedestrian crossing at 60th Street. Berman asked how they could get a marked crosswalk at Avery Street and US 101. Tokos noted if it was in the Transportation System Plan (TSP), they would have a chance to do this. If not, it would be harder to get it justified by ODOT. Berman asked if they included the areas that would be annexed into the city in the next couple of years in the TSP. Tokos reported they looked at everything in the Urban Growth Boundary.

Tokos reported that one of the provisions of HB 3409 was that the city would need to start getting ready for how to deal with performance standards for commercial buildings. The legislature created a Tier 1 in the provisions that would start in 2025 to say what the energy performance standard was going to be. Then larger buildings would need to start to begin the upgrading by 2028. Escobar asked if there was funding to help retrofit the larger buildings. Tokos explained there wasn't, but there could be once this was said and done. There had been a concern raised about where the money would come from to retrofit these buildings. Escobar asked what the distinction was between Tier 1 and Tier 2. Tokos explained it had to do with whether or not it was a hospital, school, university or dormitory. If it was just a general commercial building, it would be set from 20,000 to 35,000 square feet. Berman asked what kind of things they would be adding for these standards. Updike thought they might pick a national standard, such as a LEED accreditation level, which was in essence all of the building functions. Tokos thought it would make sense to go off of an existing performance metric that was already out there. This would need to be keyed to retrofitting, such as things like solar, swapping out windows, and improving insulation. Berman asked if they would be incorporating the same things into the Building Code for new buildings. Tokos reported there were new performance standards on the Building Code. He didn't know how well the two would sync, because the performance standards wouldn't be rolled out until July of 2025. For purposes of the municipal budget, it was something they needed to watch, because it would be a cost for the city. Escobar noted the last line of the synopsis



suggested there might be a grant program. Tokos reported that the Community Green Infrastructure Grant Program was keyed more to urban tree canopies. They had talked about implementing this in 2028, and there would most likely be some funding. The question would be if there was enough funding.

Tokos said he planned to work these changes into a single code update to implement the legislative package. He would then add the dates on the work program. Updike asked if the implementation of the changes to the local codes would involve public hearings with text revisions. He questioned if there would be an option for the city to say they didn't want to do the changes, or if it was a state law mandating the local authority to make the changes. Tokos explained that each legislative session was different in the scope of the flexibility that Newport had. Even when there wasn't flexibility, the city would still want to add it in our code because they could run the risk of having a code and a statute that were in conflict, and then having to deal with issues that came up at a local level. The city worked off of their codes, not the code and statutes at the same time. Updike thought it would be good to be able to depict in the statutes those areas where we didn't have much flexibility to change, so the public understood that these were a state mandated change. Tokos agreed that they needed to be clear on this.

**B. Outreach Plan for Bayfront Parking Management Strategy Rollout.** Tokos reviewed the frequently asked questions (FAQ) document that had been updated based on the Parking Advisory Committee feedback. He explained they would be looking to do the parking lot refurbishments on the Bayfront for the Abbey Street, the Bay Blvd, and the Hatfield lots. The work would start in mid to late September. The expectation was that they wouldn't work on more than one lot out at a time.

Tokos reported the implementation of the demand management for the metering and timed permits would go online in mid-October. They would be doing outreach in September. On September 6th they would be meeting with the commercial fishing group, and then with the Port Commission later in September. They were also coordinating meetings with the Bayfront business owners, and the fish processors. They anticipated that the permitting options would be up and working then, and they were working with the parking vendor to get the whole structure of the program in place. Tokos reported the City Council was looking at the bids for the sign installation, and for the foundations for the pay stations. The costs for these came in under the City Engineer's estimates. They chose to have contractors do half of the signage in the developed areas, and then the Public Works crew would install the other sign poles in the undeveloped areas. Tokos explained that they were close to the original budget amount of \$640,000. Of that, there was a \$225,000 interfund loan that they would be doing from either the Agate Beach closure fund, or the general fund.

Berman noted that he didn't understand what the graphic on the FAQ document for the "other dates" was. He thought this text was out of context, and felt it needed to be clarified. Berman thought that people would be looking at the pricing and wouldn't want to know the number of stalls. He felt the most important thing was to know how many e-permits were available for Zones A and B. Tokos explained the Project Advisory Committee thought the information was helpful because it gave people a sense of how many permits were available relative to how many spaces existed. Berman thought this made sense but noted that this would be saying that we were selling more permits than there were spaces. Tokos confirmed that in Zones C and D this would be true. They wanted to make sure that in metered areas, that all spaces weren't eaten up with permits. Tokos reminded that they would never have 100 percent of permitted folks parking at the same time.

Berman asked if employers could have floating permits, or if the permits would be specific to a vehicle. Tokos explained that the employers would obtain the permits, and the city was still working on how many license plates they can tie to a permit. The commercial fishing permits were specific to

their area in Zone B. These permits would be obtained through a invite only process. Tokos explained that the city would get a list of operators, and then invitations would be sent out to apply for these permits. The operators would also be able to get coupon codes for the deckhands who came in at the last minute. The commercial fishing permits would give them 72 hours to park. This only applied to public rights of way, not the Port of Newport or their lots. Tokos pointed out that the Port had their own parking permits for their lots.

Tokos reported the city hired a new parking enforcement officer. They were also working with T2 Systems on the license plate recognition. Berman asked if there was a backup plan for when the equipment didn't work, or cell service was lost. Tokos explained that if the equipment was down for an extended period of time they would defer to manual enforcement. He reported that they would add to the FAQ document that there would be a break-in period for the public to get used to the program. Tokos noted a lot of key figures on the Bayfront had participated in the Project Advisory Committee. This group wanted to emphasize that they were trying to do things the right way, and it would take some time.

- C. **Community Development Department Web Based GIS Map.** Tokos asked for the Commissioner's comments on the web map. Berman thought the map illustrated the problems with the city limits, but he liked the map. He thought that now that they could see the problems with the city limits, they should try to fix it. Tokos noted this would be a conversation with the state and ODOT. Berman thought they needed to write a letter to see if they could annex properties in. Escobar questioned what the city would gain from this.

### 3. **Unfinished Business.**

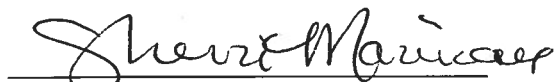
- A. **Second Review of Amendments to NMC Chapter 14.14, Parking and Loading Requirements.** Tokos reviewed the staff memorandum and the draft amendments to NMC Chapter 14.14, Parking and Loading Requirements. Hanselman pointed out that in Section 14.14.100(B), the additional demand spaces needed to be changed so there was no overlapping of numbers for each step. Tokos would update this. He explained that there weren't a lot of major changes, but they needed to get the process started so the amendments were adopted close to when the metering went into effect. He noted that if the Commission was in agreement with the amendments, they could initiate the legislative process in the regular session meeting.

Berman asked who this would apply to if it passed. He questioned if this would apply to someone who had already submitted their plans before the rules were changed. Tokos confirmed it wouldn't apply to them. He noted that there was language that said that if they were required by prior ordinance to provide a parking lot, they wouldn't be required to have the parking if they developed a lot.

- B. **Planning Commission Work Program Update.** No discussion was heard.

- 3. **Adjourn.** The meeting adjourned at 7:00 p.m.

Respectfully submitted,



Sherri Marineau,  
Executive Assistant

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session Meeting**  
**Newport City Hall Council Chambers**  
**October 23, 2023**  
**6:00 p.m.**

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

**PC Citizens Advisory Committee Members Present:** Dustin Capri.

**PC Citizens Advisory Committee Members Absent:** Greg Sutton.

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

1. **Call to Order.** Chair Branigan called the Planning Commission work session to order at 6:00 p.m.
2. **Unfinished Business.**
- A. **Amendments to NMC Chapter 14 to Comply with 2023 Legislative Mandates.** Tokos reviewed the code changes that came out of the last legislative session.

Commissioner Hanselman entered the meeting at 6:03 p.m.

Tokos covered the amendments that added single room occupancy and emergency shelters in residential zones. Escobar asked if there was a time limit on how long a tenant could stay in an emergency shelter. Tokos reported the definition didn't specify a time basis, only that the stay was on a temporary basis. He explained the mandate stated that emergency shelters had to have adequate access to commercial and medical services. This would be discretionary and the Commission would make the judgement call on them. A discussion ensued regarding how statutes worked and how jurisdictions dealt with them. Tokos recommended that Newport match the statutory definition.

Hanselman questioned if a tent was considered an emergency shelter. A discussion ensued regarding the definition of emergency shelters. Tokos reported Section 7 of HB 3395 set out the parameters for them. He explained that it stated that sleeping and restroom facilities were required, and would most likely exclude tents because of it. Tokos thought placing an emergency shelter in a R-1, R-2 or R-3 zone should require a public hearing with the City Council, but it wouldn't be a land use decision. He thought it was reasonable for these zones because most of the residential zones were further away from emergency services. Berman asked why they would eliminate any of the residential zones from this. He thought all of the residential zones should be subject to a Council hearing. Tokos explained the Council couldn't deny these decision, unless all of the limited circumstances weren't met. Berman asked why a public hearing would be needed if they couldn't turn anything down. He felt there was no point to it. Escobar pointed out there would be a basis to turn it down if the site didn't have reasonable access to emergency services. He thought they needed to be careful that they would be denying most of the applications for emergency shelters. Escobar was in favor of getting public input on this and allowing the Council to make the decision. Tokos reminded this was one area the Commission had discretion on, and they could make it so these went to the Council for review. Berman

thought the more public visibility and public input, the better even if most people are not going to testify to the criteria. Tokos would change Footnote 5 to say that it was subject to a public hearing before the Council. They would also add the R-4 zone to it as well. Berman noted there were asterisk included in the list that didn't have references below it. Tokos said the text had been pulled and he would update it.

Branigan pointed out the Council could say they didn't want to hold public hearings on this as well. Hanselman asked if the Council held public hearings on the decisions, how many days would there be to get them completed. Tokos explained these wouldn't be land use decisions that had prescribed timelines. They would be open ended with the Council who would decide how they wanted to advertise it.

Commissioner East entered the meeting at 6:21 p.m.

Udike asked what the public notice requirements were for a public hearing that wasn't prescribed. Tokos reported he didn't try to prescribe in these amendments. They could add parameters in terms of distance and time in advance. A typical public hearing with the Council didn't do this, and there was nothing in the code that they had to notice or publish in advance. Tokos noted they wanted to proceed cautiously on this and think about if they wanted to subject this to some special public hearing standards that other public hearings that the Council handled weren't subject to. Tokos noted that there wasn't a formal notification for processes that weren't land use related. Berman thought adding the noticing requirements could mess things up since it wasn't the normal procedure for Council hearings.

Hanselman pointed out there was nothing included about the permanence for emergency shelters. He questioned if they would be permanent or temporary. Tokos explained that once they were established they could continue. Hanselman suggested they should say temporary shelters instead of emergency. Tokos noted the definition was straight out of statute, and generally when there was an actual statutory definition that's relevant to that chapter, they would want to stick to it.

Tokos reiterated that what he had hear was to add R-4 zones for a hearing before the Council, and if the Council wanted to elaborate on it they could.

Tokos reviewed the amendments to community services. Berman requested that the footnotes be consistent throughout the chapter. Tokos would look at updating this. He continued the review of the amendments which said that an emergency shelter within a C-2 or 1-2 zone would be subject to a public hearing before the Council.

Tokos reviewed the amendments to temporary uses. He explained the legislature had previously set the limit to stay in an RV when rebuilding in the event of a disaster to 24 months. The latest legislature extended it out to 60 months. Tokos noted this doesn't apply to someone who was just building a house.

Tokos reviewed the amendments to affordable housing that would take out properties owned by a public body or non-profit corporations. This meant that the city needed to allow this outright instead of exempting these areas. Tokos reviewed the transportation standards for the guarantee for public improvements to land division improvement agreements. He removed the cash deposit surety bond letter of credit because it was cross referenced in Chapter 14.04.08 where the surety language was listed.

Tokos covered the changes to improvement agreements. He reported that changes were made for tenant remodels to say the improvement agreements would be carried out prior to the certificate of occupancy, or it is funded and programmed for construction in an adopted capital improvement plan. East noted he observed many tiny homes being built in Florence and Otis, and asked if they used affordable housing standards to get these types of subdivisions approved because they weren't necessarily RV park models. Tokos reported there was no current law to create small lots for affordable housing. There were reasons why they didn't see many tiny homes being added. This included the lack of access to sewer and water infrastructure in rural areas, the need for small lots, and the costs of building not being feasible. East noted how there were park model homes with small areas to park in front of them. Tokos said these fell under the RV park rules. A discussion ensued regarding changes to the municipal code related to affordable housing, including a new section on financing and a provision for retaining affordable housing for a certain period of time.

Urdike questions the definition of affordable housing and how it is restricted against properties. He asked if the developers would be required to retain the property as affordable housing for a certain period of time. Tokos explained that under the property tax exemption program they addressed affordability. The local tax exemption was up to 10 years for the structural improvements, and they had to have either 60% or 80% median area income. There was also a reporting requirement. Tokos explained that Newport only had one of these projects, the Surf View Village apartments. They were under obligation to maintaining their units at 60% median area income for 30 years. This had been done at the state level. Newport didn't require an annual reporting for this development since they had the documentation for the state funding from the Oregon Housing Community Services. If they didn't use the state or federal funding, they would have to report locally.

Tokos noted the Commission could do a motion at their regular session meeting to initiate the legislative process.

### 3. New Business.

- A. Review Draft Affordable Housing CET Code Amendments. Tokos reviewed a comparison of fees paid by the Surf View Village and Wyndhaven Ridge apartment developments. He noted there had been a discussion on how the city should use the funds collected from the affordable housing CETs. Tokos reported that the statute limited how Newport approached development incentives. He thought they needed to be tailored to help market rate developments. They would then leave with the voluntary incentives that increased the number of affordable housing units in a development, decreased the sale and rental price of affordable housing units in a development, or built affordable housing units that were affordable to households with incomes equal to or lower than 80% median area income. Tokos proposed using a portion of the \$260,000 annual fund for larger projects that would result in more units in aggregate. Blom thought the language made sense.

East suggested developing a condominium project with a mix of market-rate and affordable units, with the developer carving out a percentage of the units for affordable housing. Tokos raised concerns about the cost-effectiveness of implementing an elaborate process for developers to demonstrate that certain units were held at certain price points, and whether it was worthwhile to do so given the potential funding amount of \$260,000 over five years.

Tokos reviewed the number of dwelling units that had been produced over the last 10 years. The forecast based on the historical population growth said Newport needed 626 units over the next 20 years, which equated to about 32 units a year. Newport was averaging 52 the last dozen years, and



they could expect that multi-family units would spike in the next couple of years. A discussion ensued regarding where the locations of housing would be added in Newport over the next few years.

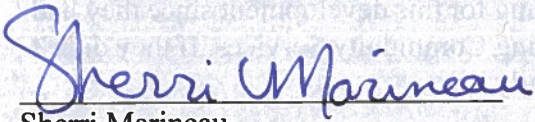
Hanselman asked what "workforce housing" meant, and how it applied in terms of housing needs. Tokos noted that the market rate in Newport would be about 80% median area income, and they had to dole out funds to multifamily projects above 80% median area income.

**B. Upcoming Changes to Format and Content of Planning Commission Minutes.** Tokos reviewed the changes to the format of the minutes prepared for the City. The Commission asked Marineau for her thoughts on the changes and if she thought this would be an improvement. Marineau was in favor of the change and thought it would be a logical change. She stated that the city would be mirroring the style of minutes the City of Stayton used. The change would happen for meetings starting in November.

**C. Planning Commission Work Program Update.** Tokos reported he would bring a more up to date work program to the Commission at their next meeting.

4. **Adjourn.** The meeting adjourned at 7:18 p.m.

Respectfully submitted,



Sherri Marineau,  
Executive Assistant



**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session Meeting**  
**Newport City Hall Council Chambers**  
**October 23, 2023**

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

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

1. **Call to Order & Roll Call.** Chair Branigan called the meeting to order in the City Hall Council Chambers at 7:20 p.m. On roll call, Commissioners Branigan, Berman, Escobar, Hanselman, East, Updike, and Blom were present.

2. **Approval of Minutes.**

Branigan reported minor corrections to the September 25, 2023 regular session meeting minutes.

A. **Approval of the Planning Commission Regular Session Meeting Minutes of September 25, 2023.**

**MOTION** was made by Commissioner Branigan, seconded by Commissioner Hanselman to approve the Planning Commission Regular Session meeting minutes of September 25, 2023, with minor corrections. The motion was carried unanimously in a voice vote.

B. **Approval of the Planning Commission Work Session Meeting Minutes of October 9, 2023.**

**MOTION** was made by Commissioner Branigan, seconded by Commissioner Hanselman to approve the Planning Commission Work Session meeting minutes of October 9, 2023, as written. The motion was carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.**

A. **Initiate Municipal Code Amendments to Implement 2023 State of Oregon Legislative Mandates.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner Hanselman to initiate the Municipal Code amendments to implement the 2023 State of Oregon legislative mandates. The motion was carried unanimously in a voice vote.

5. **Public Hearings.** None were heard.

6. **New Business.** None were heard.

7. **Unfinished Business.**

**A. DLCD Decision Approving the City's Housing Production Strategy.** Tokos reported that the DLCD approved the Newport Housing Production Strategy. Newport was the first midsize community in the state to get approval.

Hanselman thanked Tokos for bringing Mr. Estes with the DLCD to the last Commission meeting. He felt that Estes answered a lot of his questions.

**8. Director Comments.** None were heard.

**9. Adjournment.** Having no further business, the meeting adjourned at 7:29 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant



## Derrick Tokos

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**From:** DLCDC Plan Amendments <plan.amendments@dlcd.oregon.gov>  
**Sent:** Thursday, November 2, 2023 4:26 PM  
**To:** Derrick Tokos  
**Subject:** Confirmation of PAPA Online submittal to DLCDC

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

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### Newport

Your notice of a revised proposal for a change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: 1-Z-23

DLCD File #: [004-23](#)

Original Proposal Received: 11/2/2023

Date of Revision: 11/2/2023

First Evidentiary Hearing: 12/11/2023

Final Hearing Date: 1/2/2024

Submitted by: dtokos

If you have any questions about this notice, please reply or send an email to [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov).

**CITY OF NEWPORT  
NOTICE OF A PUBLIC HEARING**

The Newport Planning Commission will hold a public hearing on Monday, December 11, 2023 at 7:00 p.m. in the City Hall Council Chambers to consider File No. 1-Z-23, amending Newport Municipal Code (NMC) Chapter 14.01, Purpose, Applicability, and Definitions; Chapter 14.03, Zoning Districts; Chapter 14.09, Temporary Uses; Chapter 14.15, Residential Uses in Nonresidential Zoning Districts; Chapter 14.44, Transportation Standards; 14.48, Land Divisions; and 14.52, Procedural Requirements, related to the implementation of 2022-2023 State of Oregon land use related statutory amendments. Pursuant to Newport Municipal Code (NMC) Section 14.36.010, the Commission must find that the change is required by public necessity and the general welfare of the community in order for it to make a recommendation to the City Council that the amendments be adopted. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626, [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) (address above).

***(FOR PUBLICATION ONCE ON FRIDAY, December 1, 2023)***



including Northern Pintail, Green-winged Teal, American Wigeon, and the possibility of a Eurasian Wigeon. Bald Eagles often put on a show, and Great Blue Herons and Great Egrets are al-

Lincoln City. This event is sponsored by Explore Lincoln City and Lincoln City Parks and Recreation

All ASLC bird walks are free, family-friendly, easy to moderately easy, and open

muddy trails. Be sure to carry water. Look for the ASLC sign at the meeting site. For details and any cancellations, check the ASLC website (lincolncityaudubon.org) or Facebook (@audubonlincolncity).

well-draining potting soil with perlite or peat moss in the mix. If the plant comes wrapped in foil or cellophane, cut holes in the bottom so water drains through. Most plants will rot if left sitting in water, Ed-

Keep plants aw drafts, in bright and in temperat 70 degrees or above the day and above at night. "It's a nice i write down instr

12/1/2023

# PUBLIC NOTICES

## PUBLIC NOTICE

The Housing Authority of Lincoln County has developed its FY 2024 Annual plan in compliance with the Quality Housing and Work Responsibility Act of 1998. The draft plan will be available for review starting December 1st, 2023. The Housing Authority office is 1039 NW Nye St, Newport, OR 97365. A copy is available for review by contacting the office at 541-265-5326 Monday-Thursday 8:30a.m. - 4:00 p.m. The plan may also be viewed by visiting our web page at [www.housinglincolncountyor.gov](http://www.housinglincolncountyor.gov). A public hearing will be held December 15th, 2023 at 12:00 p.m. at the Housing Authority office. Written comments regarding the plan will be accepted for consideration until 12:00 p.m. January 16th, 2024 and may be mailed or emailed to the attention of Karen Rockwell Executive Director, [krockwell@housinglincolncountyor.gov](mailto:krockwell@housinglincolncountyor.gov) or mailed to The Housing Authority of Lincoln County, PO Box 1470, Newport, OR 97365. D1 D8 02-08

## INVITATION TO BID

Sealed bids for the Sewer Pump Station Electrical Improvements will be received on behalf of the City of Yachats ("Owner") by Christopher J. Brugato, P.E., Project Manager, of Westech Engineering, Inc. at 3841 Fairview Industrial Drive SE, Suite 100, Salem, Oregon 97302-1192, until the bid closing time of 2:00 p.m. local time on December 20, 2023. Bids will be publicly opened and the applicable information read aloud immediately after the bid closing time, and while bid totals and apparent low bidders will be available, formal written bid tabulations will not be finalized until after 4:00 p.m. Bids shall be clearly marked "Bid for the Sewer Pump Station Electrical Improvements" showing the date and time of the public bid closing, as well as the Bidders name, and shall be delivered to the location specified above, by or before the above bid closing time. By no later than 4:00 p.m. on the bid closing date above, each bidder shall deliver to Christopher J. Brugato, P.E., of Westech Engineering, Inc., at the same address as the bids were delivered to, the "First Tier Subcontractor Disclosure Form" contained in the bidding

documents. This form shall be submitted regardless of the bid total. Bidders who fail to submit the required disclosure form will be considered non-responsive, and their bid will not be considered for award. The disclosure form shall either be submitted in the same envelope as the bid, or shall be submitted in a separate sealed envelope clearly marked "Disclosure Form for Sewer Pump Station Electrical Improvements", showing the date and time of the disclosure submittal deadline, as well as the Bidders name. The work includes installation of electrical disconnect panels and cable trays for four sewer pump stations, and associated minor civil and electrical work. Copies of the Bid Documents (Contract Terms, Conditions, Specifications and Drawings) may be examined at Westech Engineering's address above. Paper sets of the bid documents will not be available for purchase from Westech Engineering for bidding purposes. PDFs of Bid Documents are available at <http://www.westech-eng.com> (under the Currently Bidding tab). The digital Bid Documents may be downloaded for a non-refundable payment of \$25 by inputting QuestCDN eBidDoc Number listed on the project information sheet available through the website link above. Assistance with free QuestCDN registration, document downloading or working with the project information may be obtained at QuestCDN.com, at 952-233-1632, or via email at [info@questcdn.com](mailto:info@questcdn.com). This contract is for a public works project subject to ORS 279C.800 to 279C.870 (state prevailing wages as applicable). D1 03-01

## CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The Newport Planning Commission will hold a public hearing on Monday, December 11, 2023 at 7:00 p.m. in the City Hall Council Chambers to consider File No. 1-2-23, amending Newport Municipal Code (NMC) Chapter 14.01, Purpose, Applicability, and Definitions; Chapter 14.03, Zoning Districts; Chapter 14.09, Temporary Uses; Chapter 14.15, Residential Uses in Nonresidential Zoning Districts; Chapter 14.44, Transportation Standards; 14.48, Land

Divisions; and 14.52, Procedural Requirements, related to the implementation of 2022-2023 State of Oregon land use related statutory amendments. Pursuant to Newport Municipal Code (NMC) Section 14.36.010, the Commission must find that the change is required by public necessity and the general welfare of the community in order for it to make a recommendation to the City Council that the amendments be adopted. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626, [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) (address above). D1 82-01

## SUMMONS

In the Circuit Court of the State of Oregon, County Lincoln Debra R. Heinz, Plaintiff vs. Chad Haynes, Brianna Storer, State of Oregon Department of Human Resources and To all Other persons or parties unknown claiming an right, title, lien or interest in the property described in the complaint herein.

Case No. 23CV257544. You are hereby required to appear and defend the Complaint filed against you in the above entitled action within thirty days (30) from the date of service of this summons upon you, and in the case of your failure to do so, for want thereof, Plaintiff(s) will apply for the relief demanded in the Petition. NOTICE TO DEFENDANTS: READ THESE PAPERS CAREFULLY! You must "appear" in this case or the other side will win automatically. To "appear": you must file with the Court a legal paper called a "Motion" or "Answer." The "Motion" or "Answer" must be given to the Court Clerk or Administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the Plaintiff Attorney or if the Plaintiff does not have an attorney, proof upon the Plaintiff. If you have any questions, you should see an attorney immediately. If you need help finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at: (800) 452-7636. Gari Lynn Lovejoy, OSB# 023718 Of Attorney for Plaintiff(s) STATE OF OREGON ) ss. County of Lincoln ) I, the undersigned, attorney of record for the Plaintiff certify that the forgoing is an exact and complete copy of the Summons in the above-entitled Case. Gari Lynn Lovejoy, OSB # 023718 Attorney for Plaintiff(s). N10, N17, N24, D1 85-01

## NOTICE TO INTERESTED PERSONS

CIRCUIT COURT OF OREGON LINCOLN COUNTY Probate Department in the Matter of the Estate of JANET ELAINE MCKINNEY, Deceased. CASE NO. 23PB09427 NOTICE TO INTERESTED PERSONS Notice is hereby given that Susan E. Snell has been appointed and has qualified as the personal representative of the estate. All persons having claims against the estate are hereby required to present their claims, with proper vouchers, within four months after the date of first publication of this notice, as stated below, to the personal representative at: Martin, Elliott & Snell, P.O. Box 575, Tualatin, Oregon 97062, or the claims may be barred. All persons whose rights may be affected by the proceed-

ings in this estate may obtain additional information from the records of the court, the personal representative, or the attorney for the personal representative. Dated and first published this 17th day of November, 2023. Personal Representative/ Attorney: Susan E. Snell, OSB #853356, Martin, Elliott & Snell, P.C., P.O. Box 575, Tualatin, Oregon 97062. N17, N24, D1 90-01

## NOTICE OF A PUBLIC HEARING FOR A COMPREHENSIVE LAND USE PLAN AMENDMENT

The following request will be reviewed at a public hearing by the Toledo City Council on December 6, 2023, at 6:00 pm, at Toledo City Hall, 206 N Main Street, Toledo, Oregon. Any comments you wish to make will be appreciated. Please contact Planner Justin Peterson at (541) 336-2247 ext. 2130 for further information. In-Person and Virtual Meeting: The meeting will be held at Toledo City Hall with an option for attendance through the Zoom video meeting platform. Call (541) 336-2247 ext. 2060 or e-mail [lisa.figueroa@cityoftoledo.org](mailto:lisa.figueroa@cityoftoledo.org) to receive the Council meeting login information. City File No. PA-1-23 is a proposed ordinance to adopt the updated 2023 Comprehensive Land Use Plan document. The draft Comprehensive Land Use Plan can be viewed online at [www.cityoftoledo.org/citycouncil/page/comprehensive-plan-update](http://www.cityoftoledo.org/citycouncil/page/comprehensive-plan-update) Criteria for the request: Toledo Municipal Code Chapter 19.20, the 2000 Toledo Comprehensive Land Use Plan, and Oregon Statewide Planning Goals. If City File #PA-1-23 is approved, the Toledo City Council will consider the proposed ordinance: "An Ordinance Amending Toledo Municipal Code Chapter 1.08 to Adopt the 2023 Toledo Comprehensive Land Use Plan". The proposed ordinance will also be considered at the Toledo City Council regular meeting on December 6, 2023, beginning at 6:00 pm. The proposed ordinance is available for review at the City Recorder's Office, Toledo City Hall, 206 N. Main St. Toledo OR. The ordinance can also be viewed at <https://www.cityoftoledo.org/citycouncil/page/2022-comprehensive-plan-update> Oregon law requires that testi-

mony and evidence presented be directed toward the relevant criteria in the Toledo Zoning Ordinance, Comprehensive Plan, or other City plans or policies which a person believes pertains to the request, and which will be used in making the decision. The application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and copies can be provided at reasonable cost. The staff report and recommendation to the City Council will be available for review at no cost seven days before the scheduled hearings and copies can be provided on request at a reasonable cost. You may present your testimony at the public hearing or provide written comments to the Planning Department prior to the public hearing date. Failure to raise an issue in person or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals. N24, D1 93-01

## NOTICE TO INTERESTED PERSONS

Notice is hereby given that Julee A. Grady has been appointed and has qualified as the personal representative of the Estate of Roger Donovan Grady, deceased, in Lincoln County Circuit Court Case No. 23PB09751. All persons having claims against the estate are hereby required to present their claims, with proper vouchers, within four months after the date of first publication of this notice, as stated below to the personal representative c/o Sarah C. Subias, P.O. Box 10567, Eugene, OR 97440, or the claims may be barred. All persons whose rights may be affected by the proceedings in this estate may obtain additional information from the records of the court, the personal representative, or the attorney for the personal representative. Date of first publication: December 1, 2023. Julee A. Grady, Personal Representative, c/o Sarah C. Subias, Attorney at Law, P.O. Box 10567, Eugene, OR 97440. D1 D8 D13 95-13

## SELF-STORAGE PUBLIC SALE

On Tuesday 12/12/23,

ending auction at Sto by Sa age, 8 Newpo units C and E1 D8 96-(

## NOT

Oregon Council A publi Finance Oregon Council (OCWC) on Thu 7, 2023 in pers videoco pose of convene of the Fi of the O ther info attend t about C visit our ocwcog.

## NOTIC

Oregon Council A public Board of Oregon Council (OCWC) on Thur: 7, 2023 rson ar econfer pose of t convene i of the Bc of the OC ther inform attend t about OC visit our v ocwcog.o

## SELF PUE

Safe-Lock SE Ash S Oregon 9 12/16/202 C06 Rich Andra Bar Crisp, K2: quez, Rive Garcia V Jazlin Kee ject to Car Lock Store Right to re bids. D1 D

## NO

INTEREST I IN THE CI OF THE S GON FOR OF LINCOL ter of the Estate of LING-O) Deceased. 23PB09026 INTERESTI NOTICE GIVEN the signed has ed person: tive. All pr