



AGENDA

Lincoln City Planning Commission
Tuesday, February 15, 2022, 6:00 PM
Zoom, Streamed LIVE on Zoom
801 SW Highway 101 - 3rd Floor, Streamed LIVE on Zoom, Lincoln City, OR 97367

1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL**
2. **AGENDA CHANGES OR REVISIONS**
3. **MINUTES**
 - 3.1. Planning Commission - Regular Meeting - Feb 1, 2022 6:00 PM
4. **FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**
 - 4.1. Final Recommendation for ZOA 2022-03 Bluff
5. **PUBLIC HEARINGS/DELIBERATIONS**
 - 5.1. ZOA 2022-04 Duplexes - compliance with 2019 HB 2001
6. **OLD BUSINESS**
7. **NEW BUSINESS**
8. **PLANNING COMMISSION TRAINING**
9. **REPORTS AND COMMENTS**
10. **FUTURE AGENDA ITEMS & NEXT MEETINGS**
11. **ADJOURN**

All information for this meeting is available on the City of Lincoln City website at www.lincolncity.org, and this meeting will be televised live on Charter Channel 4 Lincoln City and rebroadcast at various times. Planning Commission meetings are streamed live on the Internet through a link on the City of Lincoln City website, and can also be viewed following the meeting. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder, at 541-996-1203.

**LINCOLN CITY PLANNING COMMISSION
MINUTES
February 1, 2022**

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL

Attendee Name	Title	Status	Arrived
Glenn Johnson	Commissioner	Excused	
Melissa Sumner	Commissioner	Present	
Marci Baker	Commissioner	Excused	
Robert Vincent	Commissioner	Present	
Kim Blackerby	Chair	Present	
Lenny Nelson	Commissioner	Excused	
Miles Schlesinger	Commissioner	Present	

2. AGENDA CHANGES OR REVISIONS

None.

3. MINUTES

3.1. Planning Commission - Regular Meeting - Jan 18, 2022 6:00 PM

MOTION:	Approve as written
MOVER:	Robert Vincent
SECONDER:	Miles Schlesinger
AYES:	Melissa Sumner, Robert Vincent, Kim Blackerby, Miles Schlesinger
EXCUSED:	Glenn Johnson, Marci Baker, Lenny Nelson
RESULT:	Passed

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

None.

5. PUBLIC HEARINGS/DELIBERATIONS

5.1. ZOA 2022-03 Bluff Erosion ordinance amendment

Commissioner Blackerby opened the public hearing at 6:04 pm, noting no abstentions or disqualifications.

Anne Marie Skinner, Planning and Community Development Director, presented the staff report. The proposed Zoning Ordinance Amendment is a simple word change meant to improve the ability of staff to review bluff erosion setback requirements. Current code designates a setback of 60 x the **maximum** annual erosion rate as determined by geotechnical analysis. The proposed change is to replace the term maximum with the term **average**.

Commissioner Blackerby asked how long the code had read maximum. Director Skinner responded that it was changed in 2019 under previous leadership. Commissioner Blackerby also asked how often a geotechnical analysis is completed. Director Skinner replied that geotechnical analyses are only required when a property owner seeks to develop a property located within the designated bluff erosion zone. It is the responsibility of the private property owner.

Commissioner Vincent wished to know when was the last time a geotechnical analysis of bluff erosion was done, and if the City has data regarding the average rate of erosion. Director Skinner stated that average bluff erosion rates vary from site to site and are dependent on a number of factors, including the composition of soils on a particular property. Commissioner Blackerby asked to clarify whether or not there is an official Lincoln City geotechnical study that determines erosion rates, and how such studies are conducted. Director Skinner responded that geotechnical specialists utilize a data from a variety of sources, including use of LIDAR (a technology using laser imaging, detection, and ranging), aerial photos, information from National Oceanic and Atmospheric Administration (NOAA).

No members of the public were present at the meeting. Commissioner Vincent moved to close the public hearing, seconded by Commissioner Sumner, and approved unanimously by the Commission. There was no additional discussion.

Commissioner Vincent motioned to forward proposed Zoning Ordinance Amendment 2022-03 to the City Council for review and approval. Commissioner Sumner seconded the motion which was passed unanimously.

MOTION:	Recommend approval of ZOA 2022-03 Bluff Erosion as written to City Council
MOVER:	Robert Vincent
SECONDER:	Melissa Sumner
AYES:	Melissa Sumner, Robert Vincent, Kim Blackerby, Miles Schlesinger
EXCUSED:	Glenn Johnson, Marci Baker, Lenny Nelson
RESULT:	Passed

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. PLANNING COMMISSION TRAINING

8.1. Training

Director Skinner presented a training video made by the Oregon League of Cities entitled “Public Meetings in Oregon–Legal Requirements & Best Practices.” City Attorney Richard Appicello was on hand to answer any questions from the Commission.

Director Skinner discussed additional training opportunities. Commissioners were asked to respond via email if they would like to be registered for a recommended 6-hour on demand video training. Commissioner Sumner responded that she was interested in the training.

Commissioner Blackerby stated he very much appreciated the training on public meetings requirements in Oregon.

9. REPORTS AND COMMENTS

Commissioner Blackerby asked Director Skinner for an update regarding progress hiring additional Planning staff. In response Director Skinner introduced new Assistant Planner and future Planning Commission minutes taker Andrea Riner. Director Skinner also reported that another Assistant Planner, Austin Hull, started January 10. The team is fully staffed and training is up and running. Commissioner Blackerby also asked for an update on the City Manager hiring process. Director Skinner shared that the City Council had voted unanimously at their January 24th meeting to direct City staff to move forward with contract negotiations with the final candidate.

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

The next Planning Commission will include a Public Hearing to for a zoning ordinance amendment required to revise applicable Title 17 sections referring to duplexes. Oregon State Law (HB 2001) was passed in 2019 requiring that codes for municipalities larger than 10,000 population not differentiate between single family and duplex dwellings.

No training is planned for the next meeting as Commissioner Johnson and Commissioner Sumner are likely to be absent/excused.

Director Skinner advised the Commission that the Comprehensive Plan Update process will be underway soon. The current schedule will be to initiate public outreach at the Planning Commissions last meeting in March 2022, with approximately one meeting per month to follow until adequate public input data is received.

Based on input from each of the Planning Commissioners, the top five goals of the Comp Plan Update will address the following, in order of priority:

1. Housing;
2. Public Facilities and Services;
3. Transportation;
4. Coastal Shorelands; and
5. Ocean Resources tied with Open Spaces, Scenic and Historic Areas, and Natural Resources.

Director Skinner stated that she is excited to start working with the Commissioners on the plan update, and that the public notification process would begin shortly.

Commissioner Vincent asked to clarify how the duplex rule change relates to the Housing discussion. Director Skinner emphasized that the duplex revisions are required in order to comply with Oregon State Law, and would be addressed as a separate agenda item.

11. ADJOURN

The meeting was adjourned at 6:58 pm.

Respectfully submitted,

Anne Marie Skinner
Planning Director

Kim Blackerby
Chair

Planning Commission Communication

FR 2022-05 for ZOA 2022-03 Bluff

Meeting Date: February 15, 2022 Primary Staff Contact: AnneMarie Skinner
 Department: Planning Commission E-Mail: ASkinner@lincolncity.org
 Secondary Dept: Secondary Contacts:
 Approval: Estimated Time:

Question:

Should the Planning Commission approve the Final Recommendation?

Staff Recommendation:

Staff recommends the Planning Commission approve the Final Recommendation.

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to “legislative” matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.
- H. Recommendation Authority.
 1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes.
 2. Decision Authority. Upon receiving the Planning Commission’s Final Recommendation, the City Council shall hold a public hearing on the Type IV application.

Background:

At the Planning Commission meeting held on February 1, 2022, the Planning Commission held the public hearing for ZOA 2022-03, closed the public hearing and the record, deliberated, and voted unanimously to recommend approval to City Council of the proposed ordinance amendment.

Potential Motions:

I move that the Planning Commission approve and accept FR 2022-05 for ZOA 2022-03 and authorize the Chair to sign.

Attachments:

FR 2022-05 for ZOA 2022-03 (DOC)
ZOA 2022-03 Final Language (PDF)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Amendment to Title 17, Zoning, amending) Final Recommendation (FR)
17.47.020 Bluff Erosion) 2022-05
)

NATURE OF THE APPLICATION

ZOA 2022-03 amends Title 17 (Zoning), amending Chapter 17.47 (Natural Hazards Beaches and Dunes), Section 17.47.020 (Development in Identified Hazard Areas), to correct the erosion rate from the word “maximum” to the word “average.”

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on February 1, 2022, including the staff report, the Planning Commission recommends unanimously that the City Council approve the draft ordinance to replace the word “maximum” with the word “average” for average annual erosion rate.

APPROVED THIS 15th DAY OF FEBRUARY, 2022.

Planning Commission Chair

ATTEST:

Anne Marie Skinner, Director
Planning & Community Development

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ORDINANCE NO. 2022- __

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.47 (NATURAL HAZARDS BEACHES AND DUNES), SECTION 17.47.020 (DEVELOPMENT IN IDENTIFIED HAZARD AREAS), PARAGRAPH D, TO CLARIFY THE CALCULATION FOR THE BLUFF SETBACK

*Annotated to show deletions and additions to the code sections being modified. Deletions are **lined through** and additions are **bold underlined**.*

The City Council finds:

- A. The amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
- C. The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on December 27, 2021; City staff determined the the amendment does not remove uses from any zone and accordingly did not require a city-wide mailing under ORS 227.186(4); and
- D. The Planning Commission, on February 1, 2022, held a public hearing and considered the amendments contained within this ordinance. On February 1, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted, subject to certain changes; and
- E. The City Council conducted the public hearing on March 14, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments on March 14, 2022 and provided direction to staff to return with an Ordinance for adoption; and
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendments.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17.47 (*Natural Hazards, Beaches and Dunes*) Section 17.47.020 (*Development in Identified Hazard Areas*), Paragraph D, are hereby amended to read as follows:

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D. Bluff Setback. No bluff setback is required for public infrastructure, beach front protective structures, or natural means of beach protection. The footprint of any other new structure or any horizontal addition requiring at least one footing in ocean bluff areas must be set back from the bluff a distance of at least 60 times the **average maximum** annual erosion rate (determined by the geotechnical analysis) plus five feet. The bluff, for this purpose, shall be determined by the city through inspection of aerial photos, the most recent LIDAR data, and the dividing line between the active and the high-risk erosion zones identified in the 2004 Priest maps referenced above. If the city cannot determine the location of a bluff, the geotechnical analysis, provided at the applicant’s expense, shall determine an appropriate site for the structure, if one exists. The bluff setback must be measured from the unaltered bluff edge, as based upon a recent (conducted within the 12 months prior to the date of the geotechnical analysis) topographic survey performed by a land surveyor licensed in the state of Oregon. If damaged, an existing structure that does not conform to the setback may be rebuilt in conformance with Chapter 17.64 LCMC, Nonconforming Situations. Reconstruction shall comply with recommendations provided in a report from an engineering geologist licensed in the state of Oregon or a registered geotechnical engineer licensed in the state of Oregon, or both, as determined necessary by the building official.

SECTION 2. Findings Adopted. The findings contained in the Whereas Clauses of this ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 4. Savings. Notwithstanding the amendment to this Title, the existing Title remains valid and in full force and effect for purposes of all criminal, civil or administrative code enforcement cases or land use actions or applications filed or commenced during the time said ordinances were operative. Nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 5. Ordinance Effective Date. Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

SECTION 6 Codification. Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-6) need

1 not be codified and the City Recorder is authorized to correct any cross-references and any
2 typographical errors.

3
4 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
5 9.2 of the City of Lincoln City Charter on the 14th day of March, 2022 (First Reading) and on the
6 14th day of March, 2022 (Second Reading).

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8 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14th day of March,
9 2022.

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13 _____
14 SUSAN WAHLKE, MAYOR

15 ATTEST:

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17 _____
18 JAMIE YOUNG, CITY RECORDER

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20 APPROVED AS TO FORM:

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22 _____
23 RICHARD APPICELLO, CITY ATTORNEY

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Planning Commission Communication

ZOA 2022-04 Duplexes HB 2001

Meeting Date: February 15, 2022 Primary Staff Contact: AnneMarie Skinner
 Department: Planning Commission E-Mail: ASkinner@lincolncity.org
 Secondary Dept: Secondary Contacts:
 Approval: Estimated Time:

Question:

Should the Planning Commission conduct a public hearing on ZOA 2022-04 (duplexes – compliance with HB 2001) and make a recommendation to the City Council?

Staff Recommendation:

Staff recommends the Planning Commission conduct a public hearing on the proposed amendment to the zoning code.

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to “legislative” matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.*
- H. Recommendation Authority.*
 - 1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes.*
 - 2. Decision Authority. Upon receiving the Planning Commission’s Final Recommendation, the City Council shall hold a public hearing on the Type IV application.*

Background:

Notice was given to the Oregon Department of Land Conservation and Development on January 6, 2022. Notice of the public hearings was published in the local newspaper on February 1, 2022, and February 8, 2022.

The official population for Lincoln City, as of December 15, 2021, and certified by the Population Research Center of the College of Urban and Public Affairs of Portland State University, is 10,067. HB 2001 from Oregon's 2019 legislative session contains specific housing requirements pertaining to the allowances for duplexes for cities with populations over 10,000. Specifically, the bill states that each city with a population of more than 10,000 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. This ordinance amendment brings the Lincoln City's zoning code into compliance with the state's 2019 HB 2001 legislation for duplexes.

Planning Commission Options:

1. Hold the public hearing; close the public hearing; make a recommendation.

Potential Motions:

1. I move to close the public hearing and the record for ZOA 2022-04.

Then:

2. I move to recommend approval to City Council of ZOA 2022-04 Duplexes Compliance with HB 2001, as written.

Attachments:

ZOA 2022-04 EXHIBIT A Findings (DOCX)

HB2001 (PDF)

FINAL 2022-## Duplex Fix (DOCX)

EXHIBIT A – FINDINGS (DRAFT)

(DRAFT) Findings for Ordinance 2022-??

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance is primarily housekeeping to make the city compliant with Oregon’s 2019 HB 2001, so a city-wide notice was not required. Notice to DLCD was made on January 6, 2022.

Ordinance 2022-?? Allows the development of a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings, as required by state law HB2001 from the 2019 legislative session.

The public was exceedingly uninterested in the proposed amendment, with no comments or questions on the proposal.

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

“To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

All documents relating to the proposal (amendment) were made available for public review and/or purchase, and were posted on the city’s website. Staff was available to interpret and explain the technical information. The local newspaper published hearing notices in accordance with notice requirements. The planning commission and city council each held a public hearing at which citizens were invited to participate. Therefore, the amendment is consistent with Goal 1.

(2) Goal 2: Land Use Planning

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revisions of the plan and implementing ordinances. The City Council considered the proposed amendments to the Lincoln City Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code. Therefore, the amendment is consistent with Goal 2.

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

The area affected by the proposed zoning ordinance amendment is located within the city’s urban growth boundary. The city is currently designated and zoned for urban development. There is no agricultural land in Lincoln City. The amendment does not affect agricultural lands. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of

soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed zoning ordinance amendment is within the city’s urban growth boundary. The affected area does not include any designated forest lands; therefore, Goal 4 is not applicable.

(5) Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

“To protect natural resources and conserve scenic and historic areas and open spaces.”

The amendment only affects areas intended for urban development. The amendment by itself does not permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendment is consistent with Goal 5.

(6) Goal 6: Air, Water and Land Resources Quality

“To maintain and improve the quality of the air, water and land resources of the state.”

The amendment will not adversely affect the quality of the air or water. The amendment by itself does not permit development that might affect water or air quality. The existing ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendment is consistent with Goal 6.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

“To protect people and property from natural hazards.”

The amendment by itself does not allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, the amendment is consistent with Goal 7.

(8) Goal 8: Recreational Needs

“To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The proposed ordinance amendment does not relate to recreation as that term is used in this goal and does not adversely affect the provision of or ability to site recreational areas in the city. The amendment is consistent with Goal 8.

(9) Goal 9: Economic Development

“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The amendment is intended to bring the city into compliance with the state’s 2019 legislation HB 2001 to allow duplexes on any lot or parcel in a residential zone that allows detached single-family dwellings. With this added provision, the city hopes the amendment will encourage development. The proposed amendment is consistent with Goal 9.

(10) Goal 10: Housing

“To provide for the housing needs of citizens of the state.”

The amendment is intended to bring the city into compliance with the state's 2019 legislation HB 2001 to allow duplexes on any lot or parcel in a residential zone that allows detached single-family dwellings. With this added provision, the city hopes the amendment will encourage the construction of more duplexes. The proposed amendment is consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

The amendment does not relate directly to public facilities and services. Goal 11 is not applicable.

(12) Goal 12: Transportation

"To provide and encourage a safe, convenient and economic transportation system."

The amendment does not relate directly to the development of the city's transportation system. Goal 12 is not applicable.

(13) Goal 13: Energy Conservation

"To conserve energy."

The amendment does not relate directly to energy conservation. Goal 13 is not applicable.

(14) Goal 14: Urbanization

"To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities."

The amendment does not directly relate or pertain to the urbanization of Lincoln City, except that the additional use of duplexes on lots or parcels in a residential zone may encourage new duplex construction. Accordingly, Goal 14 is met or is not applicable.

(15) Goal 15: Willamette River Greenway

"To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway."

The affected area is not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

"To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries."

The amendment on its own does not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). All development in such areas is already controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 17.

(18) Goal 18: Beaches and Dunes

“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The amendment does not, by itself, allow any development in or near beach and dune areas. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment is consistent with Goal 18.

(19) Goal 19: Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The amendment does not, on its own, affect an ocean resources. Therefore, the amendment is consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions. Accordingly, the amendment is in conformance with this goal.

(2) Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The City has developed a citizen involvement program. In addition, the public hearing process, with notice to the public through publication in the local newspaper and review of the amendment by the Planning Commission (a citizen board) and the City Council (elected citizen representatives) establishes conformance with this goal.

(3) Public Services and Utilities Goal

“To Plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which complement the area and serve as a framework for urban and rural development.”

The proposed amendment does not directly relate to public services and utilities. Accordingly, this goal is not applicable.

(4) Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The amendment does not relate directly to urbanization, so this goal is not applicable.

(5) Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The amendment on its own does not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendment is consistent with this goal.

(6) Housing Goal

“To provide for the housing needs of all citizens.”

The amendment is intended to bring the city into compliance with the state’s 2019 legislation HB 2001 to allow duplexes on any lot or parcel in a residential zone that allows detached single-family dwellings. With this added provision, the city hopes the amendment will encourage the construction of more duplexes. The proposed amendment is consistent with this goal.

(7) Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community, which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

The amendment is intended to bring the city into compliance with the state’s 2019 legislation HB 2001 to allow duplexes on any lot or parcel in a residential zone that allows detached single-family dwellings. With this added provision, the city hopes the amendment will encourage the construction of more duplex development. The proposed amendment is consistent with this goal.

(8) Aesthetic Goal

“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”

The amendment does not relate to aesthetics. This goal is not applicable.

(9) Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

The amendment does not directly relate to transportation. This goal is not applicable.

(10) Energy Goal

“To conserve energy.”

The amendment does not pertain to energy conservation, so this goal is not applicable.

(11) Overall Environmental Goal

“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”

By itself, the amendment does not allow development in sensitive natural resource areas. The existing ordinances and plan requirements relating to protection the natural environment will continue to apply to all properties with natural resource areas. This amendment will contribute to this goal.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

“To conserve, to protect, to enhance the coastal resources of the city.”

The amendment on its own does not allow development in areas adjacent to the city’s designated estuarine resource (i.e. Siletz Bay), in the city’s coastal shorelands, beach and dune areas, or in ocean resource areas. The existing ordinances and comprehensive plan standards apply to any areas impacted by this amendment, thereby protecting these resources. The amendment is consistent with this goal.

Enrolled
House Bill 2001

Sponsored by Representative KOTEK; Representatives FAHEY, HERNANDEZ, MARSH,
MITCHELL, POWER, STARK, WILLIAMS, ZIKA (Presession filed.)

CHAPTER

AN ACT

Relating to housing; creating new provisions; amending ORS 197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018; and declaring an emergency.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 197.

SECTION 2. (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 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.

SECTION 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 no later than:

(a) June 30, 2021, for each city subject to section 2 (3) of this 2019 Act; or

(b) June 30, 2022, for each local government subject to section 2 (2) of this 2019 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 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 an extension of the time allowed to adopt land use regulations or amend its comprehensive plan under section 3 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) of this 2019 Act or the model ordinance developed under section 3 (2) 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.**
- (b) **June 30, 2021, for a local government subject to section 2 (2) of this 2019 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.**
 - (b) **Within 120 days of receipt of a complete request from a local government subject to section 2 (2) of this 2019 Act.**
- (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 5. ORS 197.296 is amended to read:

197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, a local government shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review.

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of **existing and projected** housing need by type and density range, in accordance with **all factors under** ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity *[and need]* pursuant to subsection [(3)] **(3)(a)** of this section must be based on data relating to land within the urban growth boundary that has been collected since the last *[periodic]* review or *[five]* **six** years, whichever is greater. The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) **Market factors that may substantially impact future urban residential development;**
and

[(C) Demographic and population trends;]

[(D) Economic trends and cycles; and]

[(E)] **(D)** The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity *[and need]*. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period *[for economic cycles and trends]* longer than the time period described in paragraph (a) of this subsection 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 paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or *[more]* **both** of the following actions to accommodate the additional housing need:

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary[;].

(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall *[monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or]* **adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. For a local government located outside of a metropolitan service district, a quantifiable vali-**

ation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the metropolitan service district.

[(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.]

(c) As used in this subsection, “authorized density level” has the meaning given that term in ORS 227.175.

(7) Using the **housing need** analysis conducted under subsection (3)(b) of this section, the local government shall determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years. If that density is greater than the actual density of development determined under subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall adopt measures that demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.

(8)(a) A local government outside a metropolitan service district that takes any actions under subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to 197.314.

(b) *[The]* A local government shall determine the density and mix of housing types anticipated as a result of actions taken under subsections (6) and (7) of this section and monitor and record the actual density and mix of housing types achieved **following the adoption of these actions**. The local government shall compare actual and anticipated density and mix. The local government shall submit its comparison to the commission at the next periodic review or at the next legislative review of its urban growth boundary, whichever comes first.

(9) In establishing that actions and measures adopted under subsections (6) and (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section, *[and]* is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section **and is in areas where sufficient urban services are planned to enable the higher density development to occur over the 20-year period**. Actions or measures, or both, may include but are not limited to:

- (a) Increases in the permitted density on existing residential land;
- (b) Financial incentives for higher density housing;
- (c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
- (d) Removal or easing of approval standards or procedures;
- (e) Minimum density ranges;
- (f) Redevelopment and infill strategies;
- (g) Authorization of housing types not previously allowed by the plan or regulations;
- (h) Adoption of an average residential density standard; and
- (i) Rezoning or redesignation of nonresidential land.

(10)(a) The provisions of this subsection apply to local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of less than 25,000.

(b) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use, a city shall, according to rules of the commission:

- (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
- (B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and
- (C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

(c) For the purpose of the inventory described in this subsection, “buildable lands” includes those lands described in subsection (4)(a) of this section.

SECTION 6. ORS 197.303 is amended to read:

197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, “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 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) Housing for farmworkers.

(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall consider and adopt findings related to changes in each of the following factors since the last periodic or legislative review or six years, whichever is greater, and the projected future changes in these factors over a 20-year planning period:

- (a) Household sizes;**
- (b) Household demographics in terms of age, gender, race or other established demographic category;**
- (c) Household incomes;**
- (d) Vacancy rates; and**
- (e) Housing costs.**

(3) A local government shall make the estimate described in subsection (2) of this section using a shorter time period than since the last periodic or legislative review or six years, whichever is greater, if the local government 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) A local government 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. The local government must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.

[2] **(5) Subsection (1)(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] **(6) A local government 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 7. ORS 197.312, as amended by section 7, chapter 15, Oregon Laws 2018, is amended to read:

197.312. (1) A city or county may not by charter prohibit from all residential zones attached or detached single-family housing, multifamily housing for both owner and renter occupancy or manufactured homes. A city or county may not by charter prohibit government assisted housing or impose additional approval standards on government assisted housing that are not applied to similar but unassisted housing.

(2)(a) A single-family dwelling for a farmworker and the farmworker's immediate family is a permitted use in any residential or commercial zone that allows single-family dwellings as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of a single-family dwelling for a farmworker and the farmworker's immediate family in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other single-family dwellings in the same zone.

(3)(a) Multifamily housing for farmworkers and farmworkers' immediate families is a permitted use in any residential or commercial zone that allows multifamily housing generally as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of multifamily housing for farmworkers and farmworkers' immediate families in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other multifamily housing in the same zone.

(4) A city or county may not prohibit a property owner or developer from maintaining a real estate sales office in a subdivision or planned community containing more than 50 lots or dwelling units for the sale of lots or dwelling units that remain available for sale to the public.

(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.

(b) As used in this subsection[,]:

(A) "Accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(B) "**Reasonable local regulations relating to siting and design**" does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking.

(6) **Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.**

SECTION 8. Section 1, chapter 47, Oregon Laws 2018, is amended to read:

Sec. 1. (1) For purposes of this section:

(a) A household is severely rent burdened if the household spends more than 50 percent of the income of the household on gross rent for housing.

(b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs with the land and that requires affordability for an established income level for a defined period of time.

[(c) A single-family unit may be rented or owned by a household and includes single-family homes, duplexes, townhomes, row homes and mobile homes.]

(2)(a) The Housing and Community Services Department shall annually provide to the governing body of each city in this state with a population greater than 10,000 the most current data available from the United States Census Bureau, or any other source the department considers at least as reliable, showing the percentage of renter households in the city that are severely rent burdened.

(b) The Housing and Community Services Department, in collaboration with the Department of Land Conservation and Development, shall develop a survey form on which the governing body of

a city may provide specific information related to the affordability of housing within the city, including, but not limited to:

(A) The actions relating to land use and other related matters that the governing body has taken to increase the affordability of housing and reduce rent burdens for severely rent burdened households; and

(B) The additional actions the governing body intends to take to reduce rent burdens for severely rent burdened households.

(c) If the Housing and Community Services Department determines that at least 25 percent of the renter households in a city are severely rent burdened, the department shall provide the governing body of the city with the survey form developed pursuant to paragraph (b) of this subsection.

(d) The governing body of the city shall return the completed survey form to the Housing and Community Services Department and the Department of Land Conservation and Development within 60 days of receipt.

(3)(a) In any year in which the governing body of a city is informed under this section that at least 25 percent of the renter households in the city are severely rent burdened, the governing body shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens within the city, the barriers to reducing rent burdens and possible solutions.

(b) The Housing and Community Services Department may adopt rules governing the conduct of the public meeting required under this subsection.

(4) No later than February 1 of each year, the governing body of each city in this state with a population greater than 10,000 shall submit to the Department of Land Conservation and Development a report for the immediately preceding calendar year setting forth separately for each of the following categories the total number of units that were permitted and the total number that were produced:

- (a) Residential units.
- (b) Regulated affordable residential units.
- (c) Multifamily residential units.
- (d) Regulated affordable multifamily residential units.
- (e) Single-family [*units*] **homes**.
- (f) Regulated affordable single-family [*units*] **homes**.
- (g) **Accessory dwelling units.**
- (h) **Regulated affordable accessory dwelling units.**
- (i) **Units of middle housing, as defined in section 2 of this 2019 Act.**
- (j) **Regulated affordable units of middle housing.**

SECTION 9. ORS 455.610 is amended to read:

455.610. (1) The Director of the Department of Consumer and Business Services shall adopt, and amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including structural design provisions, related to the construction of residential dwellings three stories or less above grade. The code provisions for plumbing and electrical requirements must be compatible with other specialty codes adopted by the director. The Electrical and Elevator Board, the Mechanical Board and the State Plumbing Board shall review, respectively, amendments to the electrical, mechanical or plumbing provisions of the code.

(2) Changes or amendments to the code adopted under subsection (1) of this section may be made when:

- (a) Required by geographic or climatic conditions unique to Oregon;
- (b) Necessary to be compatible with other statutory provisions;
- (c) Changes to the national codes are adopted in Oregon; or
- (d) Necessary to authorize the use of building materials and techniques that are consistent with nationally recognized standards and building practices.

(3) Notwithstanding ORS 455.030, 455.035, 455.110 and 455.112, the director may, at any time following appropriate consultation with the Mechanical Board or Building Codes Structures Board,

amend the mechanical specialty code or structural specialty code to ensure compatibility with the Low-Rise Residential Dwelling Code.

(4) The water conservation provisions for toilets, urinals, shower heads and interior faucets adopted in the Low-Rise Residential Dwelling Code shall be the same as those adopted under ORS 447.020 to meet the requirements of ORS 447.145.

(5) The Low-Rise Residential Dwelling Code shall be adopted and amended as provided by ORS 455.030 and 455.110.

(6) The director, by rule, shall establish uniform standards for a municipality to allow an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code in areas where the local jurisdiction determines that the fire apparatus means of approach to a property or water supply serving a property does not meet applicable fire code or state building code requirements. The alternate method of construction, which may include but is not limited to the installation of automatic fire sprinkler systems, must be approved in conjunction with the approval of an application under ORS 197.522.

(7) For lots of record existing before July 2, 2001, or property that receives any approval for partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality allowing an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code may apply the uniform standards established by the director pursuant to subsection (6) of this section. For property that receives all approvals for partition, subdivision or construction under ORS 197.522 on or after July 2, 2001, a municipality allowing an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code must apply the uniform standards established by the director pursuant to subsection (6) of this section.

(8) The director, by rule, shall establish uniform standards for a municipality to allow alternate approval of construction related to conversions of single-family dwellings into no more than four residential dwelling units built to the Low-Rise Residential Dwelling Code that received occupancy approval prior to January 1, 2020. The standards established under this subsection must include standards describing the information that must be submitted before an application for alternate approval will be deemed complete.

(9)(a) A building official described in ORS 455.148 or 455.150 must approve or deny an application for alternate approval under subsection (8) of this section no later than 15 business days after receiving a complete application.

(b) A building official who denies an application for alternate approval under this subsection shall provide to the applicant:

(A) A written explanation of the basis for the denial; and

(B) A statement that describes the applicant's appeal rights under subsection (10) of this section.

(10)(a) An appeal from a denial under subsection (9) of this section must be made through a municipal administrative process. A municipality shall provide an administrative process that:

(A) Is other than a judicial proceeding in a court of law; and

(B) Affords the party an opportunity to appeal the denial before an individual, department or body that is other than a plan reviewer, inspector or building official for the municipality.

(b) A decision in an administrative process under this subsection must be completed no later than 30 business days after the building official receives notice of the appeal.

(c) Notwithstanding ORS 455.690, a municipal administrative process required under this subsection is the exclusive means for appealing a denial under subsection (9) of this section.

(11) The costs incurred by a municipality under subsections (9) and (10) of this section are building inspection program administration and enforcement costs for the purpose of fee adoption under ORS 455.210.

SECTION 10. (1) It is the policy of the State of Oregon to reduce to the extent practicable administrative and permitting costs and barriers to the construction of middle housing, as defined in section 2 of this 2019 Act, while maintaining safety, public health and the general welfare with respect to construction and occupancy.

(2) The Department of Consumer and Business Services shall submit a report describing rules and standards relating to low-rise residential dwellings proposed under ORS 455.610, as amended by section 9 of this 2019 Act, in the manner provided in ORS 192.245, to an interim committee of the Legislative Assembly related to housing no later than January 1, 2020.

SECTION 11. Section 12 of this 2019 Act is added to and made a part of ORS 94.550 to 94.783.

SECTION 12. A provision in a governing document that is adopted or amended on or after the effective date of this 2019 Act, is void and unenforceable to the extent that the provision would prohibit or have the effect of unreasonably restricting the development of housing that is otherwise allowable under the maximum density of the zoning for the land.

SECTION 13. A provision in a recorded instrument affecting real property is not enforceable if:

(1) The provision would allow the development of a single-family dwelling on the real property but would prohibit the development of:

- (a) Middle housing, as defined in section 2 of this 2019 Act; or
- (b) An accessory dwelling unit allowed under ORS 197.312 (5); and

(2) The instrument was executed on or after the effective date of this 2019 Act.

SECTION 14. (1) Sections 2, 12 and 13 of this 2019 Act and the amendments to ORS 197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018, by sections 5 to 9 of this 2019 Act become operative on January 1, 2020.

(2) The Land Conservation and Development Commission, the Department of Consumer and Business Services and the Residential and Manufactured Structures Board may take any actions before the operative date specified in subsection (1) of this section necessary to enable the commission, department or board to exercise, on or after the operative date specified in subsection (1) of this section, the duties required under sections 2, 3 and 10 of this 2019 Act and the amendments to ORS 455.610 by section 9 of this 2019 Act.

SECTION 15. 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, 2019, out of the General Fund, the amount of \$3,500,000 for the purpose of providing technical assistance to local governments in implementing section 3 (1) of this 2019 Act and to develop plans to improve water, sewer, storm drainage and transportation services as described in section 4 (2) of this 2019 Act. The department shall prioritize technical assistance to cities or counties with limited planning staff or that commit to implementation earlier than the date required under section 3 (1) of this 2019 Act.

SECTION 16. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by House June 20, 2019

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

.....
Tina Kotek, Speaker of House

Passed by Senate June 30, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

.....
Bev Clarno, Secretary of State

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ORDINANCE NO. 2022- __

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.16 (SINGLE FAMILY RESIDENTIAL (R-1) ZONE), CHAPTER 17.17 (SINGLE FAMILY RESIDENTIAL ROADS END (R-1-RE) ZONE), AND CHAPTER 17.40 (RECREATION RESIDENTIAL (R-R) ZONE, TO ADD DUPLEX USES CONSISTENT WITH HB 2001, AND CHAPTER 17.55 (OFF-STREET PARKING AND LOADING) TO MAKE DUPLEX OFF-STREET PARKING REQUIREMENTS CONSISTENT WITH HB 2001 REQUIREMENTS

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

The City Council finds:

- A. The amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
- C. The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on January 6, 2022; City staff determined the the amendment does not remove uses from any zone and accordingly did not require a city-wide mailing under ORS 227.186(4); and
- D. The Planning Commission, on February 15, 2022, held a public hearing and considered the amendments contained within this ordinance. On February 15, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted, subject to certain changes; and
- E. The City Council conducted the public hearing on March 14, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments on March 14, 2022 and provided direction to staff to return with an Ordinance for adoption; and
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendments.

1 THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

2

3 SECTION 1. Chapter 17.16 (Single Family Residential (R-1) Zone), Section 17.16.020 (Permitted
4 Uses), Paragraph A.3., is hereby amended to read as follows:

5

6 17.16.020 Permitted uses.

7

8 A. Residential.

9

10 3. ~~Two-family and duplex; dwellings when developed on a minimum 8,000-~~
11 ~~square-foot lot;~~

12

13 SECTION 2. Chapter 17.16 (Single Family Residential (R-1) Zone), Section 17.16.070 (Lot
14 Requirements), is hereby amended to read as follows:

15

16 17.16.070 Lot requirements.

17

REQUIRED MINIMUMS								
Zone	Lot Area	Lot Width	Lot Depth	Front Yard ⁽³⁾	Side Yard	Street Side Yard ⁽³⁾	Rear Yard	Maximum Lot Coverage ⁽⁵⁾
R-1-5	5,000 sq. ft.; 8,000 for duplex or two-family	50' detached; 35' attached	70'	5 ^{'(1)} 7-1/2 ^{'(2)}	5 ^{'(1)} 7-1/2 ^{'(2)} or 0' for common wall of attached dwellings	5 ^{'(1)} 7-1/2 ^{'(2)}	5 ^{'(1)} 7-1/2 ^{'(2)}	35% ⁽⁴⁾
R-1-7.5	7,500 sq. ft.; 8,000 for duplex or two-family	70' detached; 35' attached	80'	same as above				35% ⁽⁴⁾

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19

20 SECTION 3. Chapter 17.17 (Single Family Residential (R-1-RE) Zone), Section 17.17.020 (Permitted
21 uses), Paragraph A.3., is hereby amended to read as follows:

1 **17.17.020 Permitted uses.**

2
3 A. Residential.

4
5 3. Duplexes. ~~on corner lots when each unit fronts on a separate street; duplex~~
6 ~~lots must be a minimum 8,000 square feet and~~ VRDs are prohibited in duplexes;

7
8 **SECTION 4.** Chapter 17.17 (*Single Family Residential (R-1-RE) Zone*), Section 17.17.070 (*Lot*
9 *requirements*), Paragraph A., is hereby amended to read as follows:

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11 **17.17.070 Lot requirements.**

12
13 A. The minimum lot area shall be 5,000 square feet. ~~and 8,000 square feet for a duplex~~

14
15 **SECTION 5.** Chapter 17.40 (*Recreation-Residential (R-R) Zone*), Section 17.40.020 (*Permitted*
16 *uses*), is hereby amended to read as follows:

17
18 **17.40.020 Permitted uses.**

19
20 In an R-R zone, the following uses are permitted:

- 21 A. Single-family dwelling;
- 22 B. Manufactured home;
- 23 **C. Duplex;**
- 24 ~~D.C.~~ Cottage housing developments, subject to the provisions of LCMC 17.80.120;
- 25 ~~E.D.~~ Recreational vehicle;
- 26 ~~F.E.~~ Essential emergency communications, early warning and associated emergency
- 27 facilities;
- 28 ~~G.F.~~ Community gardens and market gardens not larger than 12,500 square feet, in
- 29 accordance with the standards of LCMC 17.80.080;
- 30 ~~H.G.~~ Transportation uses, defined in Chapter 17.08 LCMC.

31
32
33 **SECTION 6.** Chapter 17.56 (*Off-street parking and loading*), Section 17.56.030 (*Number of off-*
34 *street parking spaces required*), is hereby amended to read as follows:

35
36 **17.56.030 Number of off-street parking spaces required.**

37
38 Table 17.56.030-1 – Number of Spaces Required

Use	Requirement
A. Residential:	
1. Detached single-unit, attached single-unit, and duplex	

a. 1,000 square feet or less per unit	<u>1 space per detached or attached single-unit dwelling 1 space per dwelling unit</u>
b. Over 1,000 square feet per unit	<u>2 spaces per detached or attached single-unit dwelling 2 spaces per dwelling unit</u>
<u>c. Duplex</u>	<u>2 spaces per duplex</u>

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SECTION 7. Findings Adopted. The findings contained in the Whereas Clauses of this ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 8. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 9. Savings. Notwithstanding the amendment to this Title, the existing Title remains valid and in full force and effect for purposes of all criminal, civil or administrative code enforcement cases or land use actions or applications filed or commenced during the time said ordinances were operative. Nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 10. Ordinance Effective Date. Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

SECTION 11. Codification. Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 6-10) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 14th day of March, 2022 (First Reading) and on the 14th day of March, 2022 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14th day of March, 2022.

SUSAN WAHLKE, MAYOR

ATTEST:

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JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY