

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY FEBRUARY 14, 2022, 6:00 PM

6:00 PM - The Lincoln City Council meeting for February 14, 2022, will be held via Zoom. The City Council Chambers will be open and the meeting will be broadcast live in the Council Chambers. It will also be live on Channel 4 and through streaming on the web at www.lincolncity.org.

Public comments can be submitted to publiccomment@lincolncity.org, by attending the City Council meeting, or by attending through Zoom invitation.

Public comments submitted by email to publiccomment@lincolncity.org will be entered into the official record, distributed to the governing body, and summarized; however, due to personal privacy issues they are not generally published in the online Agenda packet.

Citizens present in the Council Chambers will be given the opportunity to comment via Zoom. Citizens present in the Council Chambers will be required wear a face covering and must observe social distancing. A member of the Information Technology staff will be present during the meeting to assist with any technical issues.

Citizens requesting to give public comment via Zoom must email publiccomment@lincolncity.org no later than noon on the meeting day. The request must include the person's name, the subject the person wishes to address and the Zoom screen name the person intends to use for the meeting. A Zoom invitation will be sent to the person requesting prior to the meeting. Persons who will give public comment via Zoom will need to leave the video off and microphone muted until the public comment portion of 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, 541-996-1203.

The Lincoln City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

All information for this meeting is available at www.lincolncity.org under "Public Meeting Calendar". This meeting will be televised on Channel 4. For additional rebroadcast times, please consult the Channel 4 guide on the hour.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Regular Meeting – January 24, 2022 6:00 PM
2. Oregon Liquor Control Commission - Request for Full On-Premises Liquor License for Seadogs
3. Oregon Liquor Control Commission - Request for Full On-Premises, Commercial Brewery/Public House Liquor License for Pelican Brewing -Siletz Bay
4. ORDER NO. 2022-01 AN ORDER APPROVING A SIX MONTH GROUND LEASE EXTENSION FOR NEWPORT PACIFIC CORPORATION (MO's RESTAURANT).

E. COUNCIL DELIBERATIONS

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

G. PRESENTATIONS

5. Homeless Pilot Project Awarded to Lincoln County with our Local and Regional Partners Update

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Public Hearing - Zoning Ordinance Amendment (ZOA) 2022-01 (Ordinance 2022-05) Annexation
2. Public Hearing - Zoning Ordinance Amendment (ZOA) 2022-02 (Ordinance 2022-06) Urban Growth Boundary
3. Public Hearing - Zoning Ordinance Amendment (ZOA) 2021-06 (Ordinance 2022-07) Initiation Authority
4. Public Hearing - Zoning Ordinance Amendment (ZOA) 2021-07 (Ordinance 2022-08) EMC Signs

J. ORDINANCES

5. ORDINANCE NO. 2022-04 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 15 (BUILDINGS AND CONSTRUCTION), CHAPTER 15.04 (ADOPTION AND ENFORCEMENT OF CONSTRUCTION AND CONSTRUCTION-RELATED CODES) AMENDING SECTION 15.04.040 (DEFINITIONS) AND SECTION 15.04.140 (APPEALS) TO ADDRESS SB 866 CONCERNING USE OF CONTRACTED BUILDING OFFICIAL SERVICES; AMENDING CHAPTER 12.12 (BUILDING BOARD OF APPEALS)
6. ORDINANCE 2022-05 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), AMENDING CHAPTER 17.77 (APPLICATIONS) 17.77.020 (ANNEXATION)
7. ORDINANCE 2022-06 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN, ORDINANCE 84-01, AS AMENDED, TOGETHER WITH ORDINANCE 84-02, AS AMENDED, TO AMEND THE LINCOLN CITY COMPREHENSIVE PLAN MAP AND ZONING MAP TO CONFORM THE CITY'S URBAN GROWTH BOUNDARY LINE TO MATCH THE LINE ADOPTED BY LINCOLN COUNTY IN ORDINANCE 183 ON SEPTEMBER 22, 1982

8. ORDINANCE 2022-07 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), SECTION 17.76.080 (INITIATION OF APPLICATION) TO AUTHORIZE THE PLANNING DIRECTOR TO INITIATE TYPE 4 APPLICATIONS ON BEHALF OF THE CITY
9. ORDINANCE 2022-08 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), SECTION 17.72.090 (PERMANENT SIGNS IN THE R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, RR, VR, AND NP-NCR ZONES), PARAGRAPH C, TO CREATE AN EXCEPTION OF ELECTRONIC MESSAGE SIGNS.

K. RESOLUTIONS

10. RESOLUTION 2022-04 A RESOLUTION OF THE CITY OF LINCOLN CITY SPECIFYING THE PORTIONS OF THE CITY-OWNED VILLAGES AT CASCADE HEAD PROPERTY AVAILABLE FOR INTERIM RECREATION USE, REPEALING RESOLUTION 2013-20

L. SPECIAL ORDER OF BUSINESS

11. Community Center Gym Roof Project
12. Appointment to Sustainability Committee - Applicant Leonard Folino

M. CITY MANAGER/CITY ATTORNEY REPORTS

N. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION

O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Q. ADJOURNMENT

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

January 24, 2022, 6:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE:

A. CALL TO ORDER

Mayor Wahlke called the meeting to order at 6:00 PM. Mayor Wahlke advised the public that there are now three ways to provide public comment.

1. Comments can be made through email to publiccomment@lincolncity.org;
2. Comments can be made via Zoom if a request is emailed to publiccomment@lincolncity.org by noon on the meeting day;
3. Comments can be made in person at the Council Chambers (COVID-19 precautions are taken).

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Present	6:00 PM
Elaine Starmer	Councilor Ward 1	Present	6:00 PM
Sydney Kasner	Councilor Ward 2	Present	6:00 PM
Judy Casper	Councilor Ward 3	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM

Staff Present: Lila Bradley, Interim City Manager; Richard Appicello, City Attorney; Lt. Winn, Lincoln City Police Department; Abigail Edwards, Human Resources Director; Alison Robertson, Economic Development and Urban Renewal Director; Ed Dreistadt, ELC Director; Jeanne Sprague, Parks and Recreation Director; Stephanie Reid, City Engineer; Anne Marie Skinner, Planning and Community Development Director; Kirsten Brodbeck-Kenney, Library Director; Tony LaSoya, I.T. Director; Jamie Young, City Recorder.

C. PLEDGE OF ALLEGIANCE

Skipped due to the meeting being held remotely.

D. MOTION TO APPROVE CONSENT AGENDA ITEMS 1, 2, AND 3

RESULT:	PASSED [UNANIMOUS]
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Riley Hoagland, Councilor Ward 2
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons

1. Regular Meeting – Minutes of Special Meeting – January 5, 2022, 4:00 PM
2. Regular Meeting – Minutes of Work Session – January 10, 2022, 3:00 PM
3. Regular Meeting – Minutes of Regular Meeting – January 10, 2022, 6:00 PM

4. Request for Waiver Under Terms of Promissory Note

MOTION:	Motion to Approve Consent Agenda Item 4- Request for a Waiver Under the Terms of Promissory Note
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed

Councilor Parsons said in the previous year we had an issue we had to possibly remind them, is this the thing we had to remind them of. Mr. Appicello confirmed and said they submitted in a timely fashion.

5. Transfer and Sale of K9 Nix and Surplus Vehicle to Lincoln City

MOTION:	Motion to Approve Consent Item 5 - Transfer and Sale of K9 Nix and Vehicle to Lincoln City
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Elaine Starmer, Councilor Ward 1
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed

Councilor Hoagland asked for more information regarding the transfer and sale. Lieutenant Winn spoke regarding the K-9 program; he said the Sheriff's Department lost their K-9 officer and was not filling that position. Lt. Winn said the Sheriff's department offered their patrol K-9 Nix to the City of Lincoln City at no cost. Lt. Winn said Officer Snidow was selected as the K-9 Officer. Lt. Winn said the K-9 vehicle was sold to us already fully equipped.

E. COUNCIL DELIBERATIONS

None

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

Martin Desmond spoke regarding the straw vote to become carbon neutral by 2035.

Nancy Oksenholt spoke regarding the Ward II election.

Ms. Bradley said there were comments regarding the Taft Park from Michael Edwards and multiple comments regarding NE 36th Drive and NW Natural Gas' location.

G. PRESENTATIONS

6. LC Parks and Recreation Updates

Jeanne Sprague, Parks and Recreation Director; gave a presentation regarding 2022 Updates of the Parks and Recreation. Councilor Parsons asked what the update is on Nesika Park. Ms. Sprague said that she was given direction from the previous City Manager to redirect efforts to the Taft Park. Councilor Hoagland if there would be an opportunity for local people like contractors to donate time or materials. Ms. Sprague said that they would definitely look at items people wish to donate.

7. Explore Lincoln City Update

Ed Dreistadt, Explore Lincoln City Director; gave a 2022 update of Explore Lincoln City. Niki Price from the Lincoln City Cultural Center joined Mr. Dreistadt with the presentation. Councilor Hoagland asked for an update of the credits for Covid relief. Mr. Dreistadt said the vast majority of the credits have not been used but they have been hosting travel writers and influencers. Mr. Dreistadt said the ELC did a special month with Finders Keepers when you register your float and get a special prize. Councilor Casper asked if there would be surveillance on the art piece at the Cultural Center. Ms. Price said that exterior cameras are part of the renovation project of the plaza improvements. Councilor Casper asked if there would be insurance on the statue. Ms. Bradley said that she would check and get back to Council. Ms. Price said that maintenance is the best way to preserve the statue and she encourages Council to build in at least \$5000 a year to maintain the public art inventory. Ms. Price also reminded that the Public Arts Committee is not allowed to spend any of the budget or recommend spending of the budget on maintenance. Mayor Wahlke confirmed that it does have to be a part of the Parks and Recreation budget and not the Arts Committee.

Council gave unanimous consent to bring the statue forward for approval at the next meeting if needed.

H. PUBLIC HEARING / ORDINANCE

NONE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

NONE

J. ORDINANCES

1.

MOTION:	Motion to Approve First Reading of Ordinance 2022-03 - Water Service Outside of UGB
MOVER:	Sydney Kasner, Councilor Ward 2
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed by Roll Call Vote

2.

MOTION:	Motion to Approve Second Reading and Adopt Ordinance 2022-03 - Water Service Outside of UGB
MOVER:	Sydney Kasner, Councilor Ward 2
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed by Roll Call Vote

K. RESOLUTIONS

3. RESOLUTION NO. 2022-03 A RESOLUTION IMPLEMENTING PUBLIC CONTRACTING DELEGATION AUTHORIZED IN LINCOLN CITY MUNICIPAL CODE CHAPTER 2.05 FOR THE 2022 CALENDAR YEAR AND THEREAFTER; REPLACING RESOLUTION 2019-02

Mr. Appicello said there is supposed to be an activity report at the end of the fiscal year showing the contracts signed. Councilor Starmer said Council might want to consider the amount, as there will be another brand new City Manager. Councilor Parsons asked if the current amount was causing any delays or problems. Mr. Appicello said there are plenty of checks and balances and he would be comfortable with 100% approval. Councilor Hoagland said that he does not ever recall receiving a list of contracts signed. Councilor Casper said with the current inflation amount she would not be uncomfortable recommending 75% especially if given the report as stated in the resolution.

MOTION:	Motion to Approve Resolution 2022-03 - Public Contracting Delegation with the Limit of 75%
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed by Roll Call Vote

L. SPECIAL ORDER OF BUSINESS

4. Outside City Committee and City Committee Appointments

Mayor Wahlke appointed the following Councilors with unanimous consent:

1. Lincoln County State Transportation Improvement Fund Advisory Committee: City Rep, Councilor Sydney Kasner; Alternate, Councilor Rick Mark.
2. Regional Solid Waste Disposal Service District Advisory Committee (SWAC): City Rep, Councilor Judy Casper; Alternate, Councilor Elaine Starmer.
3. Lincoln County Solid Waste Consortium (Agate Beach Landfill Closure): City Rep, Debbie Bridges, Finance Director (Lila Bradley said she would fill in during budget season); Alternate Rep, Scott Morgan, Finance Manager.
4. Oregon Coastal Zone Management Association (OCZMA): City Rep, Councilor Rick Mark; Alternate, Councilor Riley Hoagland.
5. Cascade West Area Commission on Transportation (CWACT): City Rep, Councilor Rick Mark; Alternate, Councilor Mitch Parsons.

6. Cascade West Council of Governments (CWCOC)-Executive Board: City Rep, Councilor Riley Hoagland; Alternate, Councilor Sydney Kasner.

7. Villages at Cascade Head Homeowner's Association (VCHHOA): City Rep, Councilor (President) Mitch Parsons; Alternate, (Board Member) Councilor Elaine Starmer.

8. Mid-Willamette Valley Area Commission on Transportation (MWVACT): City Rep, Mayor Susan Wahlke; Alternate Councilor Sydney Kasner.

Councilor Starmer asked if the committees would be notified of the changes. Ms. Bradley said she would make sure Council is notified.

Mayor Wahlke appointed boards and committees Interviewers by unanimous consent.

Arts Committee: Councilor Hoagland and Councilor Kasner

Library Board: Councilor Casper & Councilor Mark

Parks Board: Councilor Starmer & Councilor Parsons

Sustainability Committee: Councilor Hoagland & Mayor Wahlke

5. Choosing New Name for Wildlife Art Sculpture (corner of NE West Devils Lake Rd and Hwy 101)

MOTION:	Motion to Approve "Friends of the Forest" as the Name for Wildlife Art Sculpture (corner of NE West Devils Lake Rd and Hwy 101)
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Elaine Starmer, Councilor Ward I
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed via Voice Vote

6. Request for Appointment to Driftwood Public Library Board - Student Position

MOTION:	Motion to Appoint Emilio Bahr-Garcia to Library Board Student Position term expiring 6/30/2023
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed via Voice Vote

M. CITY MANAGER/CITY ATTORNEY REPORTS

Ms. Bradley asked Council to appoint Mr. LaSoya for the dates of 2/7/2022-2/18/2022 as Interim City Manager while she is on vacation.

Ms. Bradley asked Council to make clearer motions. Ms. Bradley said that she sent out the application for non-profit outside agencies grant money for approval. Ms. Bradley said they will have about a month to apply and the \$50,000 is in the budget. Councilor Casper said that some of the places on the list are not in existence anymore. Ms. Bradley said they would take a look before sending them out. Mayor Wahlke asked if the information would be available on social media. Ms. Bradley said that it's place everywhere and the Executive Assistant has been doing a great job with the website and Tiktok. Ms. Bradley also gave a shout out to Ms. Sprague and Mr. Dreistadt.

Mr. Appicello said that at the last meeting Council approved the lease with the Pelican and has sent some language for a commencement date. Council gave unanimous consent for the changes.

7.

MOTION: Motion to Appoint Tony LaSoya as Interim City Manager
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed by Voice Vote

8.

MOTION: Motion to Accept the Changes as Referenced 1.7 in the Pelican Brewing Lease
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed by Roll Call Vote

N. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION

9.

MOTION: Motion to Set an Executive Session to Discuss Acquisition of the Coast Lots
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Rick Mark, Councilor Ward 3
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed by Voice Vote

10.

MOTION: Motion to Proceed with Contract Negotiations with the Finalist
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Rick Mark, Councilor Ward 3
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed by Voice Vote

Unanimous Consent for Human Resources and City Attorney to work on negotiations.

O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

NONE

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Council Parsons reminded everyone Thursday at 11 AM is the Veterans Plaza Dedication.

Councilor Casper spoke about the daycare options; if the daycare is operated by a government agency they are not required to be licensed. Councilor Casper said mostly licensed are for non-profits and in-home providers.

Councilor Kasner reminded everyone to be diligent with COVID safety.

Councilor Hoagland said Pines Dine is fully stocked with food carts.

Councilor Starmer asked about a date for a goal setting session. Ms. Bradley said she would get that set-up.

Mayor Wahlke said the reason she was up early and in meetings all day was an emergency preparedness for the people of Lincoln County. Mayor Wahlke said Jenny Demaris of Lincoln County Emergency preparedness presented and she will be planning more training.

Q. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 8:33 PM.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

Oregon Liquor Control Commission - Request for Full On-Premises Liquor License

Meeting Date:	February 14, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	3 min

Questions:

Should the City Council provide a recommendation to the Oregon Liquor Control Commission (OLCC) for a new Full On-Premises for Seadogs?

Staff Recommendations:

A review was conducted by Lt. Broderick, who recommends that City Council provide a favorable recommendation to grant the license to the applicant.

Legal Background and Framework:

Oregon Revised Statute (ORS) 471.166 establishes the process for local governments to make recommendation to the OLCC.

Lincoln City Municipal Code Chapter 5.20 sets forth the local process for making recommendations to OLCC.

Council Options:

1. Approve a favorable recommendation for a new Full On-Premises for Seadogs.
2. To not approve the license application.
3. To approve the license application.

Attachments:

Seadogs Perm_Redacted.pdf (PDF)



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

PRINT FORM

RESET FORM

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
☐ Brewery 1 st Location	Date application received and/or date stamp: RECEIVED JAN 21 2022
Brewery Additional location (2 nd) ☐ (3 rd) ☐	Name of City or County: <u>City of Lincoln City</u>
☐ Brewery-Public House (BPH) 1 st location	Recommends this license be:
BPH Additional location (2 nd) ☐ (3 rd) ☐	☒ Granted ☐ Denied
☐ Distillery	By: <u>[Signature]</u>
☐ Full On-Premises, Commercial	Date: <u>1/24/2022</u>
☐ Full On-Premises, Caterer	
☐ Full On-Premises, Passenger Carrier	
☒ Full On-Premises, Other Public Location	
☐ Full On-Premises, For Profit Private Club	
☐ Full On-Premises, Nonprofit Private Club	
☐ Grower Sales Privilege (GSP) 1 st location	
GSP Additional location (2 nd) ☐ (3 rd) ☐	
☐ Limited On-Premises	OLCC USE ONLY
☐ Off-Premises	Date application received: <u>10-22-21</u>
☐ Warehouse	Date application accepted: <u>12-28-21</u>
☐ Wholesale Malt Beverage & Wine	
☐ Winery 1 st Location	License Action(s): <u>N/O</u>
Winery Additional location (2 nd) ☐ (3 rd) ☐	
(4 th) ☐ (5 th) ☐	

2. Identify the applicant(s) applying for the license(s). **ENTITY (example: corporation or LLC) or INDIVIDUAL(S)**¹ applying for the license(s):

Seadogs LLC SEADOGS @ THE EVENTUARY LLC

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See) Seadogs		
4. Business Address (Number and Street Address of the Location that will have the liquor license) 560 Fleet Ave		
City Lincoln City	County lincoln	Zip Code 97367

¹ Read the instructions on page 1 carefully. If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

5. Trade Name of the Business (Name Customers Will See) Seadogs			
6. Does the business address currently have an OLCC liquor license? ☐ YES ☒ NO			
7. Does the business address currently have an OLCC marijuana license? ☐ YES ☒ NO			
8. Mailing Address/PO Box, Number, Street, Rural Route (where the OLCC will send your license certificate, renewal application and other mailings as described in <u>OAR 845-004-0065[1].</u>) [REDACTED]			
City [REDACTED]	State OR	Zip Code [REDACTED]	
9. Phone Number of the Business Location [REDACTED]		10. Email Contact for this Application and for the Business [REDACTED]	
11. Contact Person for this Application Mindy Gannon		Phone Number [REDACTED]	
Contact Person's Mailing Address (if different) N/A	City	State	Zip Code

Please note that liquor license applications are public records. A copy of the application will be posted on the OLCC website for a period of several weeks.

ATTESTATION: **READ CAREFULLY AND MAKE SURE YOU UNDERSTAND BEFORE SIGNING THIS FORM**

I understand that marijuana is prohibited on the licensed premises. This includes marijuana use, consumption, ingestion, inhalation, samples, give-away, sale, etc. I attest that all answers on all forms and documents, and all information provided to the OLCC as a part of this application are true and complete.

I affirm that I have read OAR 845-005-0311 and all individuals (sole proprietors) or entities with an ownership interest (other than waivable ownership interest per OAR 845-005-0311[6]) are listed as license applicants in #2 above. I understand that failure to list an individual or entity who has an unwaivable ownership interest in the business may result in denial of my license or the OLCC taking action against my license in the event that an undisclosed ownership interest is discovered after license issuance.

Applicant(s) Signature

- Each individual (sole proprietor) listed as an applicant must sign the application below.
- If an applicant is an entity, such as a corporation or LLC, at least one **INDIVIDUAL who is authorized to sign for the entity** must sign the application.
- An individual with the authority to sign on behalf of the applicant (such as the applicant's attorney or an individual with power of attorney) may sign the application. If an individual other than an applicant signs the application, please provide written proof of signature authority. Attorneys signing on behalf of applicants may list the state of bar licensure and bar number in lieu of written proof of authority from an applicant. **Applicants are still responsible for all information on this form.**

Mindy Gannon

Sept. 7th 2021

App. #1: (PRINT NAME)

App. #1: (SIGNATURE)

App. #1: Signature Date

Atty. Bar Information (if applicable)

App. #2: (PRINT NAME)

App. #2: (SIGNATURE)

App. #2: Signature Date

Atty. Bar Information (if applicable)

App. #3: (PRINT NAME)

App. #3: (SIGNATURE)

App. #3: Signature Date

Atty. Bar Information (if applicable)

App. #4: (PRINT NAME)

App. #4: (SIGNATURE)

App. #4: Signature Date

Atty. Bar Information (if applicable)

OLCC Liquor License Application (Rev. 9.28.20)

PRINT FORM

RESET FORM



Oregon Liquor Control Commission

LIMITED LIABILITY COMPANY (LLC) QUESTIONNAIRE

 LLC Name seadogs @ the eventuary

 Trade Name of Business (Name Customers Will See) seadogs

 The LLC named in this document is a (see page 1 for definitions): ☒ Manager-Managed LLC ☐ Member-Managed LLC

This section is ONLY for a manager-managed LLC. (Directions on page 1. You may include information on a separate sheet.)

Name of Managing Member (please print)	Name of Managing Member (please print)
mindy gannon	mondy gannon

This section is for BOTH a manager-managed LLC and a member-managed LLC. (Directions on page 1. You may include information on a separate sheet.)

Name of Member (please print)	Percentage of issued membership held
mindy gannon	100

This section is ONLY for an LLC with the listed officers. (Directions on page 1. You may include information on a separate sheet.)

Title	Name (please print)
President	
Secretary	
Treasurer	
Vice president with responsibility over the operation of the business	

SERVER EDUCATION DESIGNEE (Directions on page 1)

Name (please print)	Date of Birth
mindy gannon	

SIGNATURE (Directions on page 1)

 NAME of Signing Person (please type or print) mindy gannon
 DATE 1 20 22
 SIGNATURE of signing person (may electronically sign)

This box for OLCC use ONLY

Only for an applicant of record: SOS Number _____ Current at time of issuing license (yes/no) _____

Does the entity hold, or has it ever held, an OLCC-issued liquor license? _____



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

PRINT FORM

RESET FORM

1. Name (Print):	Last Gannon		First Mindy	Middle R
2. Other names used (maiden, other):	[REDACTED]			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes ☒ No ☐ If yes, you must list your SSN: [REDACTED]				
SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below. Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).				
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: ☒ *				
5. Date of Birth (DOB):	(mm) [REDACTED]	(dd) [REDACTED]	(yyyy) [REDACTED]	
6. Driver License or State ID #:			7. State [REDACTED]	
8. Contact Phone: [REDACTED]				
9. E-mail Address: [REDACTED]				
10. Mailing Address:	(Number and Street) [REDACTED]	(City) [REDACTED]	or (State) [REDACTED]	(Zip Code) [REDACTED]
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No ☒ Yes ☐ (If yes, explain in the space provided, below) Unsure ☐ Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.				



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

12. Do you, or any entity that you are a part of, **currently hold** or **have you previously held** a recreational marijuana license in Oregon? (Note: marijuana worker permits are not marijuana licenses.)

No ☒ **no** Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

13. Do you, or any entity that you are a part of, hold an alcohol license in a U.S. state outside of Oregon?

No ☒ **no** Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

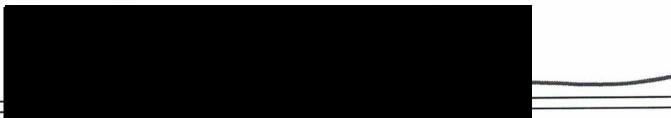
14. Do you or any entity that you are a part of, have any other liquor license applications pending with the OLCC?

No ☒ **no** Yes ☐ Please list applications below Unsure ☐ Please include an explanation:

You must sign your own form (electronic signature acceptable). Another individual, such as your attorney or an individual with power of attorney, **may not** sign your form.

Affirmation

Even if I receive assistance in completing this form, I affirm by my signature below, that my answers on this form are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to my criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Name (Print):	gannon Last	mindy First	r Middle
Signature:			Date: 01 20 22

This box for OLCC use ONLY

Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

SEADOGS @ THE EVENTUARY LLC

Applicant Name: Seadogs LLC

Phone: [REDACTED]

Trade Name (dba): SeadogsBusiness Location Address: 560 Fleet AveCity: Lincoln CityZIP Code: 97367

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 10 am to 5 pm
 Monday closed to _____
 Tuesday closed to _____
 Wednesday 11 am to 11 pm
 Thursday 11 am to 11 pm
 Friday 11 am to 1am pm
 Saturday 11 am to 1am pm

Outdoor Area Hours:

Sunday _____ to _____
 Monday _____ to _____
 Tuesday _____ to _____
 Wednesday _____ to _____
 Thursday _____ to _____
 Friday _____ to _____
 Saturday _____ to _____

The outdoor area is used for:

☐ Food service Hours: _____ to _____
☐ Alcohol service Hours: _____ to _____
☐ Enclosed, how _____

The exterior area is adequately viewed and/or
 supervised by Service Permittees.

(Investigator's Initials)

Seasonal Variations: ☒ Yes ☐ No If yes, explain: due to seasonal weather and covid hours of closing ma

ENTERTAINMENT

Check all that apply:

- ☒ Live Music ☐ Karaoke
☐ Recorded Music ☐ Coin-operated Games
☐ DJ Music ☐ Video Lottery Machines
☒ Dancing ☐ Social Gaming
☐ Nude Entertainers ☐ Pool Tables
☐ Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday _____ to _____
 Monday _____ to _____
 Tuesday _____ to _____
 Wednesday 7 pm to close
 Thursday 7 pm to close
 Friday 8 pm to close
 Saturday 8 pm to close

SEATING COUNT

Restaurant: 79

Outdoor: _____

Lounge: _____

Other (explain): _____

Banquet: _____

Total Seating: 79

OLCC USE ONLY

Investigator Verified Seating: _____ (Y) X (N)Investigator Initials: ECHDate: 1-21-22

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [REDACTED]

Date: 9/16/21

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 12/07)

Council Communication

Oregon Liquor Control Commission - Request for Full On-Premises, Commercial Brewery/Public House

Meeting Date:	February 14, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	3 min

Questions:

Should the City Council provide a recommendation to the Oregon Liquor Control Commission (OLCC) for a new Full On-Premises, Commercial Brewery/Public House for Pelican Brewing-Siletz Bay?

Staff Recommendations:

A review was conducted by Lt. Broderick, who recommends that City Council provide a favorable recommendation to grant the license to the applicant.

Legal Background and Framework:

Oregon Revised Statute (ORS) 471.166 establishes the process for local governments to make recommendation to the OLCC.

Lincoln City Municipal Code Chapter 5.20 sets forth the local process for making recommendations to OLCC.

Council Options:

1. Approve a favorable recommendation for a new Full On-Premises, Commercial Brewery/Public House for Pelican Brewing-Siletz Bay
2. To not approve the license application.
3. To approve the license application.

Attachments:

Pelican Brewing Company_Redacted.pdf (PDF)



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

FINANCE DEPARTMENT

#401116

RECEIVED

JAN 24 2022

RECEIVED

JAN 10 2022

OLCC - Eugene

CITY OF LINCOLN CITY
LINCOLN CITY, OR

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
☐ Brewery 1 st Location	Date application received and/or date stamp:
Brewery Additional location (2 nd) ☐ (3 rd) ☐	
☒ Brewery-Public House (BPH) 1 st location	Name of City or County:
BPH Additional location (2 nd) ☐ (3 rd) ☐	City of Lincoln City
☐ Distillery	Recommends this license be:
☒ Full On-Premises, Commercial	☒ Granted ☐ Denied
☐ Full On-Premises, Caterer	By:
☐ Full On-Premises, Passenger Carrier	Date: 1/25/2022
☐ Full On-Premises, Other Public Location	OLCC USE ONLY
☐ Full On-Premises, For Profit Private Club	Date application received: 12/23/21
☐ Full On-Premises, Nonprofit Private Club	Date application accepted: 12/23/21
☐ Grower Sales Privilege (GSP) 1 st location	License Action(s):
GSP Additional location (2 nd) ☐ (3 rd) ☐	N/O
☐ Limited On-Premises	
☐ Off-Premises	
☐ Warehouse	
☐ Wholesale Malt Beverage & Wine	
☐ Winery 1 st Location	
Winery Additional location (2 nd) ☐ (3 rd) ☐	
(4 th) ☐ (5 th) ☐	

2. Identify the applicant(s) applying for the license(s). **ENTITY** (example: corporation or LLC) or **INDIVIDUAL(S)**¹ applying for the license(s):

Pelican Brewing Company

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See)		
Pelican Brewing - Siletz Bay		
4. Business Address (Number and Street Address of the Location that will have the liquor license)		
5911 SW Highway 101		
City	County	Zip Code
Lincoln City	Lincoln	97367

¹ Read the instructions on page 1 carefully. If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

FINANCE DEPARTMENT

RECEIVED
 JAN 24 2022
CITY OF LINCOLN CITY
LINCOLN CITY, OR

5. Trade Name of the Business (Name Customers Will See) Pelican Brewing - Siletz Bay			
6. Does the business address currently have an OLCC liquor license? ☐ YES ☒ NO			
7. Does the business address currently have an OLCC marijuana license? ☐ YES ☒ NO			
8. Mailing Address/PO Box, Number, Street, Rural Route (where the OLCC will send your license certificate, renewal application and other mailings as described in <u>OAR 845-004-0065[1].</u>) PO Box 189			
City Pacific City	State OR	Zip Code 97135	
9. Phone Number of the Business Location		10. Email Contact for this Application and for the Business [REDACTED]	
11. Contact Person for this Application Mark Dunn		Phone Number [REDACTED]	
Contact Person's Mailing Address (if different)	City	State	Zip Code

Please note that liquor license applications are public records. A copy of the application will be posted on the OLCC website for a period of several weeks.

ATTESTATION: **READ CAREFULLY AND MAKE SURE YOU UNDERSTAND BEFORE SIGNING THIS FORM**

I understand that marijuana is **prohibited** on the licensed premises. This includes marijuana use, consumption, ingestion, inhalation, samples, give-away, sale, etc. I attest that all answers on all forms and documents, and all information provided to the OLCC as a part of this application are true and complete.

I affirm that I have read OAR 845-005-0311 and all individuals (sole proprietors) or entities with an ownership interest (other than waivable ownership interest per OAR 845-005-0311[6]) are listed as license applicants in #2 above. I understand that failure to list an individual or entity who has an unwaivable ownership interest in the business may result in denial of my license or the OLCC taking action against my license in the event that an undisclosed ownership interest is discovered after license issuance.

Applicant(s) Signature

- Each individual (sole proprietor) listed as an applicant must sign the application below.
- If an applicant is an entity, such as a corporation or LLC, at least one **INDIVIDUAL who is authorized to sign for the entity** must sign the application.
- An individual with the authority to sign on behalf of the applicant (such as the applicant's attorney or an individual with power of attorney) may sign the application. If an individual other than an applicant signs the application, please provide written proof of signature authority. Attorneys signing on behalf of applicants may list the state of bar licensure and bar number in lieu of written proof of authority from an applicant. **Applicants are still responsible for all information on this form.**

Mary J Jones

App #1: (PRINT NAME)

App #1: (SIGNATURE)

App #1: Signature Date

Atty. Bar Information (if applicable)

App #2: (PRINT NAME)

App #2: (SIGNATURE)

App #2: Signature Date

Atty. Bar Information (if applicable)

App #3: (PRINT NAME)

App #3: (SIGNATURE)

App #3: Signature Date

Atty. Bar Information (if applicable)

App #4: (PRINT NAME)

App #4: (SIGNATURE)

App #4: Signature Date

Atty. Bar Information (if applicable)



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

FINANCE DEPARTMENT
RECEIVED
JAN 24 2022

CITY OF LINCOLN CITY
LINCOLN CITY, OR

1. Name (Print):	Jones Last	Mary First	Jane Middle
2. Other names used (maiden, other): [REDACTED]			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes ☒ No ☐ If yes, you must list your SSN: [REDACTED]			
SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below. Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: ☒			
5. Date of Birth (DOB):	[REDACTED] (mm)	[REDACTED] (dd)	[REDACTED] (yyyy)
6. Driver License or State ID #: [REDACTED]			7. State OR
8. Contact Phone: [REDACTED]			
9. E-mail Address: [REDACTED]			
10. Mailing Address:	PO Box 189 (Number and Street)	Pacific City (City)	OR 97135 (State) (Zip Code)
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No ☒ Yes ☐ (If yes, explain in the space provided, below) Unsure ☐ Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.			



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

FINANCE DEPARTMENT
RECEIVED
JAN 24 2022

CITY OF LINCOLN CITY
LINCOLN CITY, OR

12. Do you, or any entity that you are a part of, currently hold or have you previously held a recreational marijuana license in Oregon? (Note: marijuana worker permits are not marijuana licenses.)

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

13. Do you, or any entity that you are a part of, hold an alcohol license in a U.S. state outside of Oregon?

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

14. Do you or any entity that you are a part of, have any other liquor license applications pending with the OLCC?

No ☐ Yes ☒ Please list applications below Unsure ☐ Please include an explanation:

Hart's Camp, LLC dba Cape Kiwanda RV Resort & Marketplace

You must sign your own form (electronic signature acceptable). Another individual, such as your attorney or an individual with power of attorney, **may not** sign your form.

Affirmation

Even if I receive assistance in completing this form, I affirm by my signature below, that my answers on this form are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to my criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Name (Print):	Jones Last	Mary First	Jane Middle
Signature	[Redacted Signature]		Date: 12-22-2021

This box for OLCC use ONLY

yes Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

FINANCE DEPARTMENT
RECEIVED
JAN 24 2022

CITY OF LINCOLN CITY
LINCOLN CITY, OR

1. Name (Print):	Schons Last	Jeffrey First	Earle Middle
2. Other names used (maiden, other):			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes ☒ No ☐ If yes, you must list your SSN: [REDACTED]			
SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below. Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: ☒			
5. Date of Birth (DOB):	[REDACTED] (mm)	[REDACTED] (dd)	[REDACTED] (yyyy)
6. Driver License or State ID #: [REDACTED]			7. State OR
8. Contact Phone: [REDACTED]			
9. E-mail Address: [REDACTED]			
10. Mailing Address:	PO Box 189 (Number and Street)	Pacific City (City)	OR 97135 (State) (Zip Code)
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No ☒ Yes ☐ (If yes, explain in the space provided, below) Unsure ☐ Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.			



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

FINANCE DEPARTMENT
RECEIVED
JAN 24 2022

CITY OF LINCOLN CITY
LINCOLN CITY, OR

12. Do you, or any entity that you are a part of, currently hold or have you previously held a recreational marijuana license in Oregon? (Note: marijuana worker permits are not marijuana licenses.)

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

13. Do you, or any entity that you are a part of, hold an alcohol license in a U.S. state outside of Oregon?

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

14. Do you or any entity that you are a part of, have any other liquor license applications pending with the OLCC?

No ☐ Yes ☒ Please list applications below Unsure ☐ Please include an explanation:

Hart's Camp, LLC dba Cape Kiwanda RV Resort & Marketplace

You must sign your own form (electronic signature acceptable). Another individual, such as your attorney or an individual with power of attorney, **may not** sign your form.

Affirmation

Even if I receive assistance in completing this form, I affirm by my signature below, that my answers on this form are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to my criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Name (Print):	Schons Last	Jeffrey First	Earle Middle
Signature			Date: 12.22.2021

This box for OLCC use ONLY

yes Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM

FINANCE DEPARTMENT
RECEIVED
JAN 24 2022

CITY OF LINCOLN CITY
LINCOLN CITY, OR

1. Name (Print):	Welch Last	Darron First	Ray Middle
2. Other names used (maiden, other): [REDACTED]			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes ☒ No ☐ If yes, you must list your SSN: [REDACTED]			
SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below. Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: ☒			
5. Date of Birth (DOB):	[REDACTED] (mm)	[REDACTED] (dd)	[REDACTED] (yyyy)
6. Driver License or State ID #: [REDACTED]			7. State [REDACTED]
8. Contact Phone: [REDACTED]			
9. E-mail Address: [REDACTED]			
10. Mailing Address:	PO Box 1047 (Number and Street)	Pacific City (City)	OR 97135 (State) (Zip Code)
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No ☒ Yes ☐ (If yes, explain in the space provided, below) Unsure ☐ Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.			

FINANCE DEPARTMENT
RECEIVED
JAN 24 2022

CITY OF LINCOLN CITY
LINCOLN CITY, OR

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

No ☒ Yes ☐ Please list applications below Unsure ☐ Please include an explanation:

Even if I receive assistance in completing this form, I affirm by my signature below, that my answers on this form are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to my criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

22 Dec. 2021
Date:

yes Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

FINANCE DEPARTMENT

RECEIVED
JAN 24 2022

CITY OF LINCOLN CITY
LINCOLN CITY, OR

Please Print or Type

Applicant Name: Pelican Brewing Company Phone: 503-965-7779Trade Name (dba): Pelican Brewing - Siletz BayBusiness Location Address: 5911 SW Highway 101City: Lincoln City ZIP Code: 97367

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 11:00am to 10:00pm
Monday 11:00am to 10:00pm
Tuesday 11:00am to 10:00pm
Wednesday 11:00am to 10:00pm
Thursday 11:00am to 10:00pm
Friday 11:00am to 11:00pm
Saturday 11:00am to 11:00pm

Outdoor Area Hours:

Sunday 11:00am to 10:00pm
Monday 11:00am to 10:00pm
Tuesday 11:00am to 10:00pm
Wednesday 11:00am to 10:00pm
Thursday 11:00am to 10:00pm
Friday 11:00am to 11:00pm
Saturday 11:00am to 11:00pm

The outdoor area is used for:

☒ Food service Hours: 11:00am to 11:00pm☒ Alcohol service Hours: 11:00am to 11:00pm☐ Enclosed, how _____

The exterior area is adequately viewed and/or supervised by Service Permittees.

_____(Investigator's Initials)

Seasonal Variations: ☒ Yes ☐ No If yes, explain: Outdoor area weather dependent

ENTERTAINMENT

Check all that apply:

☐ Live Music☒ Recorded Music☐ DJ Music☐ Dancing☐ Nude Entertainers☐ Karaoke☐ Coin-operated Games☐ Video Lottery Machines☐ Social Gaming☐ Pool Tables☐ Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday _____ to _____
Monday _____ to _____
Tuesday _____ to _____
Wednesday _____ to _____
Thursday _____ to _____
Friday _____ to _____
Saturday _____ to _____

SEATING COUNT

Restaurant: 143Outdoor: 230

Lounge: _____

Other (explain): _____

Banquet: 72Total Seating: 445

OLCC USE ONLY

Investigator Verified Seating: ____ (Y) ____ (N)

Investigator Initials: _____

Date: _____

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: _____ Date: 12.22.2021

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 12/07)

Council Communication

Order 2022-01- Ground Lease Extension (Mo's)

Meeting Date:	February 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Administration	Secondary Contacts:	Alison Robertson
Approval:	Tony LaSoya	Estimated Time:	5 mins.

Question: Should the City Council approve Order 2022-01 granting a six (6) month ground lease extension for Newport Pacific Corporation (Mo's Restaurant) under the same terms and conditions?

Staff Recommendation:

Staff recommends Council approve Order 2022-01 to continue to facilitate negotiations between the parties on a new lease and rental rate.

Authority:

271.360 Lease requirements. Every lease entered into pursuant to ORS 271.310 shall be authorized by ordinance or order of the body executing the same and shall provide terms and conditions as may be fixed and determined by the governing body executing the lease. The lease may provide that the lessee shall pay ad valorem taxes assessable against the leased property, or that the political subdivision shall pay these taxes, in which latter event the anticipated amount of taxes shall be taken into consideration in fixing the rental charge.

271.310 Transfer or lease of real property owned or controlled by political subdivision; procedure in case of qualified title; notice; rules.

(1) Except as provided in subsection (2) of this section and subject to subsection (3) of this section, whenever any political subdivision possesses or controls real property not needed for public use, or whenever **the public interest may be furthered**, a political subdivision may sell, exchange, convey or lease for any period not exceeding 99 years all or any part of the political subdivision's interest in the property to a governmental body or private individual or corporation. The consideration for the transfer or lease may be cash or real property, or both.

(4) Unless the governing body of a political subdivision determines under subsection (1) of this section that the public interest may be furthered, real property

needed for public use by any political subdivision owning or controlling the property may not be sold, exchanged, conveyed or leased under the authority of ORS 271.300 to 271.360, except that it may be exchanged for property that is of equal or superior useful value for public use. Any such property not immediately needed for public use may be leased if, in the discretion of the governing body having control of the property, the property will not be needed for public use within the period of the lease.

(5) The authority to lease property granted by this section includes authority to lease property not owned or controlled by the political subdivision at the time of entering into the lease. A lease under this subsection shall be conditioned upon the subsequent acquisition of the interest covered by the lease.

Note: ORS 221.725 public hearing requirements do not apply to leases that do not contain options to purchase:

Background:

The current ground lease amendment expires in in June 2022. An extension to December 2022 allows time for the City to finalize a new Ground Lease Agreement currently being drafted by outside counsel. The process is slow going and in order to allow the 6 month review time of the new lease by Mo's, an additional 6 month extension is necessary.

Note: The last six month extension did not increase the rent in January 2022 but froze it at December 2021 levels. Normally, under the terms and conditions of the existing lease, there would have been a 2.2% increase in the rent. This 6 month extension imposes the 2.2% increase, but begins the increase on July 1, 2022.

Council Options:

1. Approve extension.
2. Do not approve extension.

Potential Motions:

Motion to approve Order 2022-01 granting a six month extension of the existing lease under the same terms and conditions.

Attachments:

Amendment to Ground Lease Agreement Amendment No 7_ 6mo Extension only
(DOCX)



AMENDMENT NO. 7 TO GROUND LEASE AGREEMENT

This Amendment No. 7 to the Ground Lease Agreement (Amendment No. 6), entered into as of the ____ day of _____, 2022, is an amendment to the Ground Lease Agreement dated June 8, 1982 (Original Lease) between Newport Pacific Corporation (lessee) and the City of Lincoln City (lessor), as amended by an Amendment to the Ground Lease Agreement dated December 9, 1985 (Amendment No. 1), Amendment to Ground Lease Agreement dated January 24, 1994 (Amendment No. 2), Amendment to Ground Lease Agreement dated February 1, 2002 (Amendment No. 3), and Amendment to Ground Lease Agreement dated September 13, 2011 (Amendment No. 4), and Amendment to Ground Lease Agreement dated April 18, 2018 (Amendment No. 5), and Amendment to Ground Lease Agreement dated June 11, 2021 (Amendment No. 6), collectively referred to as the Lease.

RECITALS

- A. The Lease provides six different and distinct five-year rental periods for the last thirty years of the Lease, i.e., years 1992-1996, years 1997-2001, years 2002-2006, years 2007-2011, years 2012-2016 and years 2017-2022.
- B. The Lease amount for 2022 is \$14,602.22 per quarter, \$58,408.88 for the year.
- C. The 1982 Lease is in need of replacement; in addition, owing to COVID and other factors, the parties have not yet negotiated a new fair market value rental rate for a new lease.
- D. In order to facilitate negotiations, update and replace the lease, and accommodate the Lessee's review process, the parties agree to a six-month extension of the lease from June 30, 2022 to December 31, 2022, under the same terms and conditions.

AGREEMENT

- 1. The lease term is hereby amended and extended by six (6) months from June 30, 2022 to December 31, 2022.
- 2. The lease amount for 2022 shall remain \$14,602.22 per quarter for the first two quarters of 2022; beginning July 1, 2022 the rent will be \$14,923.46 per quarter (per the existing 2.2% increase in the lease). Quarterly payment dates remain unchanged.
- 3. Except as amended and supplemented herein, and in the prior Amendments, all terms of the Lease shall remain in full force and effect.



LESSOR:
CITY OF LINCOLN CITY

LESSEE:
NEWPORT PACIFIC CORPORATION

By: _____
Susan Wahlke, Mayor

By: _____
Jolee Bancroft, President

Date: _____

Date: _____

Authorized by Order of the
City Council on February 14, 2022

APPROVED AS TO FORM:

ATTEST:

Richard Appicello, City Attorney

Jamie Young, City Recorder

Council Communication

Homeless Pilot Project awarded to Lincoln County

Meeting Date:	February 14, 2022	Primary Staff Contact:	Lila Bradley
Department:	Administration	E-Mail:	LBradley@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	20

Public Hearing - Zoning Ordinance Amendment (ZOA) 2022-01 (Ordinance 2022-05) Annexation

Meeting Date: February 14, 2022
Department: City Attorney

Primary Staff Contact: Richard Appicello
E-Mail: RAppicello@lincolncity.org

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2022-01 (Ordinance 2022-05 Annexation)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

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.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
 - 1. Application forms. Legislative applications must be made on forms provided by the department.
 - 2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;

- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and
 - c. The required fee as adopted by City Council resolution, except when the City initiates request.
- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
 - 1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
 - 2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - 3. For each mailing of notice, the department shall prepare an affidavit of mailing.
- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.
- G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection 17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.
- 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. The Planning Commission's recommendation shall be issued as a Final Recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.

I. Notice of Decision.

1. Not more than seven days after the date the City Council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the Planning Commission or the City Council.
2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
3. The City Council's decision is final for purposes of appeal on the date the notice is mailed.

- J. Appeal. The final decision of the City Council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

Background:

See supporting materials under ordinances later in the agenda.

The proposed ordinance adds submittal requirements and adds City-initiated annexation to the Municipal Code. At the Planning Commission meeting held on January 4, 2022, the Planning Commission held the public hearing for ZOA 2022-01, closed the public hearing and the record, deliberated, and voted unanimously to recommend approval to City Council of the proposed ordinance amendment. A written final recommendation was subsequently approved.

Council Options

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed amendment. [Action is taken under "Ordinances" later on the Agenda].

- Continue the public hearing until the February 28th City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on February 28th, 2021.

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Amendment to Title 17, Zoning, amending	)	Final Recommendation (FR)
17.77.020 Annexations	)	2022-003
	)	

NATURE OF THE APPLICATION

ZOA 2022-01 amends Title 17 (Zoning), amending Chapter 17.77 (Applications), Section 17.77.020 (Annexations), to clarify submittal requirements.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on January 4, 2022, including the staff report, the Planning Commission recommends unanimously that the City Council approve the draft ordinance to add submittal requirements for property-owner initiated annexations and add the option for city-initiated annexations.

APPROVED THIS 18TH DAY OF JANUARY, 2022.

DocuSigned by:

Kim Blackerby

A051BF00F101462...

Planning Commission Chair

ATTEST:

DocuSigned by:

Anne Marie Skinner

EE146B6FFAE8476...

Anne Marie Skinner, Director
Planning & Community Development

Public Hearing - Zoning Ordinance Amendment (ZOA) 2022-02 (Ordinance 2022-06) Urban Growth Boundary

Meeting Date: February 14, 2022
Department: City Attorney

Primary Staff Contact: Richard Appicello
E-Mail: RAppicello@lincolncity.org

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2022-02 (Ordinance 2022-06 Urban Growth Boundary)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

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.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
 - 1. Application forms. Legislative applications must be made on forms provided by the department.
 - 2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;

- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and
 - c. The required fee as adopted by City Council resolution, except when the City initiates request.
- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
 - 1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
 - 2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - 3. For each mailing of notice, the department shall prepare an affidavit of mailing.
- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.
- G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection 17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.
- 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. The Planning Commission's recommendation shall be issued as a Final Recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.

I. Notice of Decision.

1. Not more than seven days after the date the City Council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the Planning Commission or the City Council.
2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
3. The City Council's decision is final for purposes of appeal on the date the notice is mailed.

- J. Appeal. The final decision of the City Council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

Background:

See supporting materials under ordinances later in the agenda.

The proposed ordinance corrects a mapping error and makes the City's UGB boundary consistent with the Lincoln County map and DLCD maps. At the Planning Commission meeting held on January 4, 2022, the Planning Commission held the public hearing for ZOA 2022-02 closed the public hearing and the record, deliberated, and voted unanimously to recommend approval to City Council of the Urban Growth Boundary map correction. A written final recommendation was subsequently approved.

Council Options

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed amendment. [Action is taken under "Ordinances" later on the Agenda].

- Continue the public hearing until the February 28th City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on February 28th, 2021.

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Urban Growth Boundary Correction	)	Final Recommendation (FR)
	)	2022-04
	)	

NATURE OF THE APPLICATION

ZOA 2022-02 amends the Lincoln City Comprehensive Plank, Ordinance 84-01, as amended, together with Ordinance 84-02, as amended, to amend the Lincoln City Comprehensive Plan Map and Zoning Map to conform Lincoln City's urban growth boundary line to match the line adopted by Lincoln County, Oregon in Ordinance 183, on September 22, 1982.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on January 4, 2022, including the staff report, the Planning Commission recommends unanimously that the City Council conform Lincoln City's urban growth boundary line to match the line adopted by Lincoln County, Oregon in Ordinance 183, on September 22, 1982.

APPROVED THIS 18TH DAY OF JANUARY, 2022.

DocuSigned by:

Kim Blackerby

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Planning Commission Chair

ATTEST:

DocuSigned by:

Anne Marie Skinner

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Anne Marie Skinner, Director
Planning & Community Development

Public Hearing - Zoning Ordinance Amendment (ZOA) 2022-06 (Ordinance 2022-07) Initiation Authority

Meeting Date: February 14, 2022
Department: City Attorney

Primary Staff Contact: Richard Appicello
E-Mail: RAppicello@lincolncity.org

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2021-06 (Ordinance 2022-07 Initiation Authority)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

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.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
 - 1. Application forms. Legislative applications must be made on forms provided by the department.
 - 2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;

- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and
 - c. The required fee as adopted by City Council resolution, except when the City initiates request.
- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
 - 1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
 - 2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - 3. For each mailing of notice, the department shall prepare an affidavit of mailing.
- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.
- G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection 17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.
- 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. The Planning Commission's recommendation shall be issued as a Final Recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.

I. Notice of Decision.

1. Not more than seven days after the date the City Council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the Planning Commission or the City Council.
2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
3. The City Council's decision is final for purposes of appeal on the date the notice is mailed.

- J. Appeal. The final decision of the City Council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

Background:

See supporting materials under ordinances later in the agenda.

The proposed ordinance restores the Planning Director's authority to initiate zoning and comprehensive plan text and plan changes.

At the Planning Commission meeting held on January 4, 2022, the Planning Commission held the public hearing for ZOA 2021-06, closed the public hearing and the record, deliberated, and voted unanimously to recommend approval to City Council of the proposed ordinance amendment to Section 17.76.080. A written final recommendation was subsequently approved.

Council Options

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate

on the proposed amendment. [Action is taken under "Ordinances" later on the Agenda].

- Continue the public hearing until the February 28th City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on February 28th, 2021.

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Amendment to Title 17, Zoning, amending	)	Final Recommendation (FR)
17.76.080 Initiation	)	2022-001
	)	

NATURE OF THE APPLICATION

ZOA 2021-06 amends Title 17 (Zoning), amending Chapter 17.76 (Procedures), Section 17.76.080 (Initiation of an Application), to authorize the planning and community development director to initiate Type IV text amendment applications.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on January 4, 2022, including the staff report, the Planning Commission recommends unanimously that the City Council approve the draft ordinance.

APPROVED THIS 18TH DAY OF JANUARY, 2022.

DocuSigned by:

Kim Blackerby

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Planning Commission Chair

ATTEST:

DocuSigned by:

Anne Marie Skinner

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Anne Marie Skinner, Director
Planning & Community Development

Public Hearing - Zoning Ordinance Amendment (ZOA) 2021-07 (Ordinance 2022-08) EMC Signs

Meeting Date: February 14, 2022
Department: City Attorney

Primary Staff Contact: Richard Appicello
E-Mail: RAppicello@lincolncity.org

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2021-07 (Ordinance 2022-08 EMC Signs)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

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.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
 - 1. Application forms. Legislative applications must be made on forms provided by the department.
 - 2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;

- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and
 - c. The required fee as adopted by City Council resolution, except when the City initiates request.
- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
 - 1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
 - 2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - 3. For each mailing of notice, the department shall prepare an affidavit of mailing.
- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.
- G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection 17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.
- 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. The Planning Commission's recommendation shall be issued as a Final Recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.

I. Notice of Decision.

1. Not more than seven days after the date the City Council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the Planning Commission or the City Council.
2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
3. The City Council's decision is final for purposes of appeal on the date the notice is mailed.

- J. Appeal. The final decision of the City Council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

Background:

See supporting materials under ordinances later in the agenda.

The proposed ordinance adds electronic message centers and other signage as accessory to approved conditional uses in residential zones.

At the Planning Commission meeting held on January 4, 2022, the Planning Commission held the public hearing for ZOA 2021-07, closed the public hearing and the record, deliberated, and voted unanimously to recommend approval to City Council of the proposed ordinance amendment to Chapter 17.72. A written final recommendation was subsequently approved.

Council Options

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed amendment. [Action is taken under "Ordinances" later on the Agenda].
- Continue the public hearing until the February 28th City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on February 28th, 2021.

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Amendment to Title 17, Zoning, amending	)	Final Recommendation (FR)
17.72.090 Permanent Signs in the R-1-5...	)	2022-002
	)	

NATURE OF THE APPLICATION

ZOA 2021-07 amends Title 17 (Zoning), amending Chapter 17.72 (Signs), Section 17.72.090 (Permanent signs in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R, VR and NP-NCR zones), to allow changeable copy signs, electronic message centers, and signs that are internally illuminated in residential zones.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on January 4, 2022, including the staff report and the testimony from Dr. Karen Gray, Sue Graves, and Nick Lupo, the Planning Commission recommends unanimously that the City Council approve the draft ordinance to allow changeable copy signs, electronic message centers, and signs that are internally illuminated in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R, VR, and NP-NCR zones, subject to conditional use approval, the provisions off LCMC 17.72.110, 17.72.120, and building and electrical code permitting, with the conditions that animation is prohibited; light colors such as white and cream are prohibited; lettering shall be on a black background and red lettering is recommended; and full-screen illumination is prohibited.

APPROVED THIS 18TH DAY OF JANUARY, 2022.

DocuSigned by:

Kim Blackerby

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Planning Commission Chair

ATTEST:

DocuSigned by:

Anne Marie Skinner

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Anne Marie Skinner, Director
Planning & Community Development

Council Communication

Ordinance 2022-04- Amend Building Code per SB 866

Meeting Date:	February 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading of Ordinance 2022-04 entitled:

ORDINANCE NO. 2022-04

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 15 (BUILDINGS AND CONSTRUCTION), CHAPTER 15.04 (ADOPTION AND ENFORCEMENT OF CONSTRUCTION AND CONSTRUCTION-RELATED CODES) AMENDING SECTION 15.04.040 (DEFINITIONS) AND SECTION 15.04.140 (APPEALS) TO ADDRESS SB 866 CONCERNING USE OF CONTRACTED BUILDING OFFICIAL SERVICES; AMENDING CHAPTER 12.12 (BUILDING BOARD OF APPEALS)

Staff recommends Council conduct First Reading of Ordinance 2022-04 and, *if unanimous*, conduct and approve Second Reading. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

SB 866 and implementing regulations require changes to the City's Building Code. Changes include the composition of the Board of Appeals and definitions.

Financial Impact:

None expected.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to February 28, 2022, [or]
3. Continue First Reading to February 28, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-04

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 15 (BUILDINGS AND CONSTRUCTION), CHAPTER 15.04 (ADOPTION AND ENFORCEMENT OF CONSTRUCTION AND CONSTRUCTION-RELATED CODES) AMENDING SECTION 15.04.040 (DEFINITIONS) AND SECTION 15.04.140 (APPEALS) TO ADDRESS SB 866 CONCERNING USE OF CONTRACTED BUILDING OFFICIAL SERVICES; AMENDING CHAPTER 12.12 (BUILDING BOARD OF APPEALS)

Council:

Motion to approve First Reading of Ordinance 2022-04.

If unanimous: City Attorney conducts Second Reading

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-04.

[or]

2. Motion to set Second Reading for February 28, 2022.

Attachments:

FINAL 2022-04 Amend Building Code to Implement SB866 (DOCX)

ORDINANCE NO. 2022-04

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 15 (BUILDINGS AND CONSTRUCTION), CHAPTER 15.04 (ADOPTION AND ENFORCEMENT OF CONSTRUCTION AND CONSTRUCTION-RELATED CODES) AMENDING SECTION 15.04.040 (DEFINITIONS) AND SECTION 15.04.140 (APPEALS) TO ADDRESS SB 866 CONCERNING USE OF CONTRACTED BUILDING OFFICIAL SERVICES; AMENDING CHAPTER 12.12 (BUILDING BOARD OF APPEALS)

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

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, SB 866 and associated Oregon Building Codes Division (BCD) rulemaking address requirements for use of contracted Building Official Services; and

WHEREAS, definitions and appeal procedures must be amended to conform to the rules, including use of a local Appeals Board that includes the Lincoln County Building Official or a building official from an adjacent county for appeals of discretionary decisions by the contract Building Official; and

Ordinance 2022-04 / 2-14-2022

[Amend LCMC Chapter 15.04]

1 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

2
3 **SECTION 1.** Chapter 15.04.040 (*Adoption and Enforcement of Construction and*
4 *Construction-Related Codes*), Section 15.04.040 (*Definitions*) is hereby amended as
5 follows:

6 15.04.040 Definitions.

7 For the purpose of this chapter, the following definition shall apply:

- 8 • *Agency* shall mean the Lincoln City Building Department.
- 9 • **Building Code Hearings Officer shall mean a Qualified Employee**
10 **designated to hear appeals of decisions of the Contract Building**
11 **Official.**
- 12 • *Building Official* shall mean the Lincoln City Building Official.
- 13 • *Construction Documents* shall mean written, graphic and pictorial
14 documents prepared or assembled for describing the design, location
15 and physical characteristics of the elements of a project necessary for
16 obtaining a permit.
- 17 • **Contract building official means an owner, manager or employee of**
18 **a person that the Director of the State of Oregon Department of**
19 **Consumer and Business Services has licensed to perform specialty**
20 **code inspections and plan reviews under ORS 455.457 and that**
21 **engages in the business of providing the services described in ORS**
22 **455.148 (3) and 455.150 (3) to one or more municipalities to which**
23 **the Director of the State of Oregon Department of Consumer and**
24 **Business Services has delegated a building inspection program. [See**
25 **OAR 918-020-0015(2)]**
- 26 • **Discretionary Decision means a decision on whether to waive a plan**
27 **review, an inspection, or a provision of the state building code; or**
28 **to allow an alternative material, design, or method of**
29 **construction.”**
30 **[See Per OAR 918-020-0015(4)]**
- 31 • **Qualified Employee is an individual that the municipality employs**
32 **and has been designated to ratify or disapprove a contract building**
33 **official’s discretionary decisions [OAR 918-020-0015(7)].**
34
35

SECTION 2. Chapter 15.04.040 (*Adoption and Enforcement of Construction and Construction-Related Codes*), Section 15.04.140 (*Appeal procedures*) is hereby amended as follows:

15.04.140 Appeal procedures.

A. A person, firm, corporation or other entity, however organized, and aggrieved by an administrative action of the building official taken pursuant to any section of this Chapter that authorizes an appeal under this section, **including a discretionary decision of the Contract Building Official**, may, within 15 days (unless a shorter time is provided) after the date of notice of the action, appeal in writing to the **Building Board of Appeals (Appeal Authority)**. ~~building official.~~ **Notwithstanding the above, the appeal period shall be 30 days if the appeal is from a discretionary decision of the Contract Building Official [OAR 918-020-0260].** The written appeal shall be accompanied by a \$100.00 appeal fee payable to the city of Lincoln City and shall include:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives the objections, and the appeal shall be dismissed. All appeal requirements shall also be met; any defect is jurisdictional.

B. If a person, firm, corporation or other entity however organized appeals a civil penalty to the building board of appeals, or, if the building board of appeals lacks sufficient members to constitute a quorum, to the **Building Code Hearings Officer** ~~city manager or the city manager's designee~~ (hereinafter Appeal Authority), the penalty shall become final, if at all, upon issuance of a decision of the Appeal Authority affirming the imposition of the administrative civil penalty.

C. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this subsection, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.

- 1 D. Unless the appellant and the city agree to a longer period, an appeal shall be
 2 heard by the Appeal Authority within 30 days of the receipt of the notice of
 3 intent to appeal. At least 10 days prior to the hearing, the city shall mail
 4 notice of the time and location of the hearing to the appellant.
 5
- 6 E. The Appeal Authority shall hear and determine the appeal on the basis of the
 7 appellant's written statement and any additional evidence the Appeal
 8 Authority deems appropriate. At the hearing, the appellant may present
 9 testimony and oral argument personally or by counsel. The burden of proof
 10 shall be on the building official. The rules of evidence as used by courts of
 11 law do not apply. **Notwithstanding the above, in an appeal concerning a**
 12 **discretionary decision of the contract building official, the permit**
 13 **applicant has the burden to establish by a preponderance of the**
 14 **evidence that overturning the discretionary decision of the contract**
 15 **building official will not create a dangerous or unsafe condition or**
 16 **decrease the minimum fire and life safety standards set forth in the**
 17 **relevant code.**
 18
- 19 F. The Appeal Authority shall issue a written decision within 10 days of the
 20 hearing date. The written decision of the Appeal Authority is the final
 21 decision of the city.
 22
- 23 G. Other than as provided in this subsection, the appeal fee is not refundable.
 24 The Appeal Authority may make a determination on the motion of the
 25 appellant that the appeal fee shall be refunded to the appellant upon a
 26 finding by the Appeal Authority that the appeal was not frivolous.
 27
- 28 H. Failure to pay a penalty imposed under this chapter within 10 days after the
 29 penalty becomes final shall constitute a violation of this code. Each day the
 30 penalty is not paid shall constitute a separate violation. The city is authorized
 31 to collect the penalty by any administrative or judicial action or proceeding
 32 authorized by LCMC Chapter 15.04 or other provisions of this code, or state
 33 statutes.

34 **SECTION 3.** Chapter 12.12 (*Building Board of Appeals*), Section 12.12.020 (*Membership*
 35 *Qualifications*) is hereby amended as follows:

36 **2.12.20 Membership – Qualifications.**
 37

- 1 **A. The building board of appeals shall consist of three members to serve at the**
2 **pleasure of the mayor and council. When an appeal concerns a discretionary**
3 **decision of the Contract Building Official, as defined in LCMC 15.04, the**
4 **Building Board of Appeals shall include the Building Official for Lincoln**
5 **County or the Building Official of an adjacent County.**
6
7 **B. The Board may include an individual who engages in the business of**
8 **building design or construction, but may not hear an appeal of a contract**
9 **building official's discretionary decision concerning a project that involves a**
10 **business, or competitor of a business that;**
11
12 **i. The individual owns or manages or for which the individual provides**
13 **services as an employee, agent or contractor; or**
14
15 **ii. A family member or a member of the individual's household owns or**
16 **manages or for which the family member or member of the**
17 **household provides services as an employee, agent or contractor.**
18
19 **C. The Board shall not include;**
20
21 **i. Any contract building official**
22
23 **ii. An owner, manager, director, officer or employee of a person, other**
24 **than an employee of the municipality that performs building**
25 **inspections.**
26

27 **SECTION 4. Findings adopted.** Findings contained in the Whereas Clauses of this
28 ordinance, as well as the competent substantial evidence in the whole record of this
29 legislative proceeding are incorporated into this section by reference as if fully set forth
30 herein, and are adopted in support of this legislative action.

31
32 **SECTION 5. Severability.** The sections, subsections, paragraphs and clauses of this
33 ordinance are severable. The invalidity of one section, subsection, paragraph, or clause
34 shall not affect the validity of the remaining sections, subsections, paragraphs and
35 clauses.

36
37 **SECTION 6. Savings.**
38

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

SECTION 8. 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 4-8) 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 February, 2022 (First Reading) and on the 14th day of February, 2022 (Second Reading).

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

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Ordinance 2022-05 Annexation

Meeting Date:	February 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-05 entitled:

ORDINANCE NO. 2022-05

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), AMENDING CHAPTER 17.77 (APPLICATIONS) 17.77.020 (ANNEXATION)

Staff Recommendation:

After the conclusion of the public hearing, staff recommends Council conduct First Reading of Ordinance 2022-05 and, *if unanimous*, Conduct and approve Second Reading and adopt the Ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

The proposed ordinance adds annexation application requirements and also expressly allows for city initiated annexations.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to February 28, 2022 [or]
3. Continue First Reading to February 28, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-05

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), AMENDING CHAPTER 17.77 (APPLICATIONS) 17.77.020 (ANNEXATION)

Council: Motion to approve First Reading of Ordinance 2022-05.

If unanimous:

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-05.

[or]

2. Motion to set Second Reading for February 28, 2022.

Attachments:

Ordinance 2022-05 - Annexation (DOCX)

Ordinance 2022-05 - Annexation Findings (DOCX)

ORDINANCE NO. 2022-05

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY
MUNICIPAL CODE, TITLE 17 (ZONING), AMENDING CHAPTER 17.77 (APPLICATIONS)
17.77.020 (ANNEXATION)

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

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, 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

WHEREAS, the proposed amendments (ZOA 2022-01) are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and

WHEREAS, on November 5, 2021, the City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendments; and

WHEREAS, on December 15, 2021, the City duly notified the Lincoln County Planning Department of its consideration of the proposed amendment(s); and

WHEREAS, the Planning Commission, on January 4, 2022, held a public hearing and considered the amendments contained within this ordinance. On January 4, 2022, the Planning Commission voted to transmit the amendments to the City Council as written; and

WHEREAS, the City Council held a public hearing on February 14, 2022. Following the close of the public hearing on February 14, 2022, Council closed the record and deliberated on the proposed amendments. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance. After deliberation, Council proceeded with required readings.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code, Title 17 (*Zoning*), is hereby amended to amend Section 17.77.020 (*Annexation*) to read as follows:

A. Purpose. The annexation application process is intended to facilitate efficient urban and economic development opportunities by transferring jurisdiction over properties within the urban growth boundary from Lincoln County to the city of Lincoln City. The process is intended to comply with the requirements of ORS Chapters 222 and 268.

B. Procedure. An annexation application is subject to a Type IV procedure.

C. Submittal Requirements **for Property-Owner Initiated Annexation Applications.**

1. An annexation application on the application form prescribed by the department must be completed and submitted and must contain the signatures of every current property owner of record.

2. Metes and bounds legal boundary description and boundary map prepared in accordance with ORS 308.225. Such metes and bounds legal boundary description shall be prepared by a professional land surveyor licensed in the state of Oregon. The boundary shall be surveyed, with necessary monuments set, as required by statute subsequent to city council approval of the annexation.

3. Written narrative addressing the approval criteria in section 17.77.020.F.

D. Zone Change Process Concurrent with Annexation Application. A request for zone change from the county zone to ~~an~~ **the applicable** city zone **that is consistent with the city's comprehensive plan map designation for the subject site** must be submitted with the annexation application on the zone change form prescribed by the department.

E. Initiation by City Council

The City Council on its own motion may initiate a proposal for annexation. The approval criteria and standards in subsection 17.77.020.F shall apply. Provided, however, that in the case of annexation pursuant to a current or probable public health hazard or the subject site proposed for annexation is an island completely surrounded by lands within the city limits, then the approval criteria in subsection 17.77.020.F shall not apply.

E.F. Approval Criteria. The city may or may not approve an annexation application at its discretion based upon the following:

1. The subject site must be contiguous to city limits.
2. The subject site must be within the urban growth boundary.
3. The city must be willing and able to provide services to the newly annexed area.
4. The deficit of income against expense to the city must not be unreasonable.
5. The advantages of annexing the subject site, both to the city and the subject site, must outweigh the disadvantages of annexation.

F.G. Conditions of Approval. Approval of an annexation application cannot be conditioned by the city.

G.H. Appeal of a Decision. The final decision on an annexation application may be appealed to the Land Use Board of Appeals.

H.I. Expiration of a Decision. The final decision on an annexation application is not subject to expiration.

I.J. Extension of a Decision. The final decision on an annexation is not subject to extension.

SECTION 2. Findings Adopted.

The findings contained in the Whereas Clauses of this Ordinance, 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.

1 **SECTION 4. Savings.**

2
3 Notwithstanding the amendment to this Title, the existing Title remains valid and in full force and
4 effect for purposes of all criminal, civil or administrative code enforcement cases or land use
5 actions or applications filed or commenced during the time said ordinances were operative.
6 Nothing in this Ordinance affects the validity of prosecutions commenced and continued under
7 the laws in effect at the time the matters were originally filed.
8

9 **SECTION 5. Ordinance Effective Date.**

10
11 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its
12 adoption.
13

14 **SECTION 6. Codification.**

15
16 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and
17 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
18 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any
19 Whereas clauses and boilerplate provisions (i.e. Sections 2-6) need not be codified and the City
20 Recorder is authorized to correct any cross-references and any typographical errors.
21

22 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
23 9.2 of the City of Lincoln City Charter on the 14th day of February, 2022 (First Reading) and on the
24 14th day of February, 2022 (Second Reading).
25

26 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14th day of February,
27 2022.
28
29

30 _____
31 SUSAN WAHLKE, MAYOR
32

33 ATTEST:
34
35

36 _____
37 JAMIE YOUNG, CITY RECORDER
38

39 APPROVED AS TO FORM:
40
41

42 _____
43 RICHARD APPICELLO, CITY ATTORNEY

**EXHIBIT A – FINDINGS
(ZOA 2022-01 Annexation)**

Findings for Ordinance 2022-05

The Title of the proposed amendment is as follows:

ORDINANCE NO. 2022-05

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY
MUNICIPAL CODE, TITLE 17 (ZONING), AMENDING CHAPTER 17.77 (APPLICATIONS)
17.77.020 (ANNEXATION)**

In substance the amendment provides as follows:

SECTION 1. Lincoln City Municipal Code, Title 17 (*Zoning*), is hereby amended to amend Section 17.77.020 (*Annexation*) to read as follows:

A. Purpose. The annexation application process is intended to facilitate efficient urban and economic development opportunities by transferring jurisdiction over properties within the urban growth boundary from Lincoln County to the city of Lincoln City. The process is intended to comply with the requirements of ORS Chapters 222 and 268.

B. Procedure. An annexation application is subject to a Type IV procedure.

C. Submittal Requirements **for Property-Owner Initiated Annexation Applications.**

1. An annexation application on the application form prescribed by the department must be completed and submitted and must contain the signatures of every current property owner of record.

2. Metes and bounds legal boundary description and boundary map prepared in accordance with ORS 308.225. Such metes and bounds legal boundary description shall be prepared by a professional land surveyor licensed in the state of Oregon. The boundary shall be surveyed, with necessary monuments set, as required by statute subsequent to city council approval of the annexation.

3. Written narrative addressing the approval criteria in section 17.77.020.F.

D. Zone Change Process Concurrent with Annexation Application. A request for zone change from the county zone to **an the applicable** city zone **that is consistent with the**

city's comprehensive plan map designation for the subject site must be submitted with the annexation application on the zone change form prescribed by the department.

E. Initiation by City Council

The City Council on its own motion may initiate a proposal for annexation. The approval criteria and standards in subsection 17.77.020.F shall apply. Provided, however, that in the case of annexation pursuant to a current or probable public health hazard or the subject site proposed for annexation is an island completely surrounded by lands within the city limits, then the approval criteria in subsection 17.77.020.F shall not apply.

The above-referenced proposed ordinance was initiated by the City Council. The amendment was properly noticed pursuant to ORS 197.610, with notice to DLCD on November 5, 2021. City staff determined that the proposed amendment does not require individual notice to property owners under Measure 56. Accordingly, no ORS 227.186(4) notice was sent to property owners. The ordinance is primarily housekeeping. For intergovernmental cooperation and Goal 2 compliance, notice was made on December 15, 2021, to Lincoln County Planning Department.

The proposed amendment (ZOA 2022-01) clarifies the application requirements for property-owner initiated annexation applications and adds an option for city-initiated annexation applications.

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

Required Analysis of Goals and Plan:

- 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 provide clarification to the property-owner initiated application process by adding application requirements. The amendment is also intended to provide the option of city-initiated annexation requests. With the added clarification for the application process and the option of city-initiated annexation requests, 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 does not directly relate or pertain to the housing needs of Lincoln City, except that the clarification and additional city-initiation option noted above may encourage new development. Accordingly, Goal 10 is met or is not applicable.

(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 clarification and additional city-initiation option noted above may encourage new development. 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 does not directly relate or pertain to the housing needs of Lincoln City citizens. However, this amendment is intended to address and remedy code provisions for the annexation process that are in need of clarity and providing an option for city-initiated applications. By improving the clarity and providing the additional option for city-initiated applications, the city hopes to encourage new development for housing in the city. This amendment is, therefore, 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 address and remedy code provisions that are in need of clarity and providing an option for city-initiated applications. By improving the clarity and providing the additional option for city-initiated applications, the city hopes to encourage new development in the city. This amendment is, therefore, 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.

Council Communication

Ordinance 2022-06 Urban Growth Boundary

Meeting Date:	February 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-06 entitled:

ORDINANCE NO. 2022-06

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN, ORDINANCE 84-01, AS AMENDED, TOGETHER WITH ORDINANCE 84-02, AS AMENDED, TO AMEND THE LINCOLN CITY COMPREHENSIVE PLAN MAP AND ZONING MAP TO CONFORM THE CITY'S URBAN GROWTH BOUNDARY LINE TO MATCH THE LINE ADOPTED BY LINCOLN COUNTY IN ORDINANCE 183 ON SEPTEMBER 22, 1982

Staff Recommendation:

After the conclusion of the public hearing, staff recommends Council conduct First Reading of Ordinance 2022-06 and, *if unanimous*, Conduct and approve Second Reading and adopt the Ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

The proposed amendment will bring the City's Urban Growth Boundary (UGB) map into conformity with the Lincoln County and State (DLCD) UGB maps. The amendment corrects a mapping error where properties near the wastewater treatment plant are erroneously shown in the UGB.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to February 28, 2022 [or]
3. Continue First Reading to February 28, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-06

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN, ORDINANCE 84-01, AS AMENDED, TOGETHER WITH ORDINANCE 84-02, AS AMENDED, TO AMEND THE LINCOLN CITY COMPREHENSIVE PLAN MAP AND ZONING MAP TO CONFORM THE CITY'S URBAN GROWTH BOUNDARY LINE TO MATCH THE LINE ADOPTED BY LINCOLN COUNTY IN ORDINANCE 183 ON SEPTEMBER 22, 1982

Council: Motion to approve First Reading of Ordinance 2022-06.

If unanimous:

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-06.

[or]

2. Motion to set Second Reading for February 28, 2022.

Attachments:

Ordinance 2022-06 - UGB (DOCX)

Ordinance 2022-06 - UGB Findings (DOCX)

ORDINANCE NO. 2022-06

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN, ORDINANCE 84-01, AS AMENDED, TOGETHER WITH ORDINANCE 84-02, AS AMENDED, TO AMEND THE LINCOLN CITY COMPREHENSIVE PLAN MAP AND ZONING MAP TO CONFORM THE CITY'S URBAN GROWTH BOUNDARY LINE TO MATCH THE LINE ADOPTED BY LINCOLN COUNTY IN ORDINANCE 183 ON SEPTEMBER 22, 1982

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

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, 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".

WHEREAS, the proposed amendments (ZOA 2022-02) are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and

WHEREAS, The City County and Department of Land Conservation and Development met to discuss discrepancies between the County and City Urban Growth Boundary Map; it was agreed that co-adoption of the 1982 County map would resolve all issues; and

WHEREAS, an area consisting of approximately 47 areas, generally surrounding the City's Wastewater Treatment Plant will be removed from the UGB with the adoption of this ordinance. The inclusion of the area is a mapping error. The text of the 1984 City's Comprehensive Plan and Zoning adoption (Ordinances 84-01 and 84-02) states that the UGB in the south area of the City is the then-existing city limit line. The 47 acres at issue is located at the south end of Lincoln City, but was not in 1984, nor is it now [in 2021] within the city limits; similarly, neither the Official Lincoln County maps, nor DLCD maps show the 47 acres in the Urban Growth boundary. Staff concludes the inclusion of the 47 acres is a City mapping error, as no land use action, nor City ordinance shows the required Goal 14 analysis or map amendment to add the property to the UGB. The State of Oregon and Lincoln County concur in the conclusion that the 47 acres at issue is not within the UGB; and

WHEREAS, an area consisting of approximately 150 acres generally south of SE 23rd Drive is shown by the City, County and State maps as being within the City's UGB. The adoption of this ordinance will re-affirm that the properties are within the UGB. Since the Nelscott Neighborhood Gap Planning effort, certain owners of property along 23rd have alleged they are not in the urban growth boundary. These assertions are erroneous; and

WHEREAS, City staff has determined the proposed amendment does not require individual notice to property owners under Measure 56, accordingly no ORS 227.186(4) notice was sent to property owners; and

WHEREAS, the Planning Commission, on January 4, 2022, held a public hearing and considered the amendments contained within this ordinance. On January 4, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and

WHEREAS, the City Council held a public hearing on February 14, 2022. On February 14, 2022 Council closed the record and deliberated on the proposed amendments. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance. After deliberation, Council provided direction that an ordinance be returned for required readings.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. The Lincoln City Comprehensive Plan, Ordinance 84-01, as amended, together with Ordinance 84-02, as amended, including specifically the Comprehensive Plan Map and Zoning Map is hereby amended to adopt the Urban Growth Boundary (UGB) line as depicted and shown in County Ordinance 183, adopted September 22, 1982. It is the City's intention to co-adopt the UGB line so that City and County UGB lines are consistent. The County UGB line as depicted in the attachment to Ordinance 183 is attached hereto as Exhibit B and made a part hereof by this reference.

1
2 **SECTION 2. Findings Adopted.**
3

4 The findings contained in the Whereas Clauses of this Ordinance, and Exhibit A, as well as the
5 competent substantial evidence in the whole record of this legislative proceeding are
6 incorporated into this section by reference as if fully set forth herein, and are adopted in support
7 of this legislative action.
8

9 **SECTION 3. Severability.**
10

11 The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity
12 of one section, subsection, paragraph, or clause shall not affect the validity of the remaining
13 sections, subsections, paragraphs and clauses.
14

15 **SECTION 4. Ordinance Effective Date.**
16

17 This ordinance shall be effective in thirty days as provided by Chapter IX, Section 9.3 of the City
18 Charter.
19

20 **SECTION 5. Codification.**
21

22 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and
23 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
24 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any
25 Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City
26 Recorder is authorized to correct any cross-references and any typographical errors. The City
27 Attorney is specifically authorized to work with Code Publishing to correct all cross-references to
28 the procedures chapters impacted by this amendment regardless of where they occur in the
29 municipal code.
30

31 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
32 9.2 of the City of Lincoln City Charter on the 14th day of February 2022 (First Reading) and on the
33 14th day of February, 2022 (Second Reading).
34

1
2
3 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14th day of February,
4 2022.
5
6
7

8 _____
9 SUSAN WAHLKE, MAYOR
10

11 ATTEST:
12
13

14 _____
15 JAMIE YOUNG CITY RECORDER
16

17 APPROVED AS TO FORM:
18
19

20 _____
21 RICHARD APPICELLO, CITY ATTORNEY
22

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-06 (ZOA 2022-02)

The Title of the proposed amendment is as follows:

ORDINANCE NO. 2022-06

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN, ORDINANCE 84-01, AS AMENDED, TOGETHER WITH ORDINANCE 84-02, AS AMENDED, TO AMEND THE LINCOLN CITY COMPREHENSIVE PLAN MAP AND ZONING MAP TO CONFORM THE CITY'S URBAN GROWTH BOUNDARY LINE TO MATCH THE LINE ADOPTED BY LINCOLN COUNTY IN ORDINANCE 183 ON SEPTEMBER 22, 1982

In substance, the amendment provides as follows:

SECTION 1. The Lincoln City Comprehensive Plan, Ordinance 84-01, as amended, together with Ordinance 84-02, as amended, including specifically the Comprehensive Plan Map and Zoning Map is hereby amended to adopt the Urban Growth Boundary (UGB) line as depicted and shown in County Ordinance 183, adopted September 22, 1982. It is the City's intention to co-adopt the UGB line so that City and County UGB lines are consistent. The County UGB line as depicted in the attachment to Ordinance 183 is attached hereto as Exhibit B and made a part hereof by this reference.

The above-referenced proposed ordinance was initiated by the City Council on June 28, 2021. The amendment was properly noticed pursuant to ORS 197.610, with notice to DLCD on November 5, 2021. City staff determined that the proposed amendment does not require individual notice to property owners under Measure 56. Accordingly, no ORS 227.186(4) notice was sent to property owners. Property owners with property which is clarified as not being in the UGB were individually notified. For intergovernmental cooperation and Goal 2 compliance, notice was provided to the Lincoln County Planning Department.

The proposed amendment (ZOA 2022-02) clarifies that certain properties surrounding the City's wastewater treatment plant are not in the UGB. The following background is included in the ordinance recitals:

WHEREAS, The City County and Department of Land Conservation and Development met to discuss discrepancies between the County and City Urban Growth Boundary Map; it was agreed that co-adoption of the 1982 County map would resolve all issues; and

WHEREAS, an area consisting of approximately 47 acres, generally surrounding the City's Wastewater Treatment Plant will be removed from the UGB with the adoption of this ordinance. The inclusion of the area is a mapping error. The text of the 1984 City's Comprehensive Plan and Zoning adoption (Ordinances 84-01 and 84-02) states that the UGB in the south area of the City is the then-existing city limit line. The 47 acres at issue is located at the south end of Lincoln City, but was not in 1984, nor is it now [in 2021] within the city limits. Similarly, neither the Official Lincoln County maps, nor DLCD maps show the 47 acres in the Urban Growth boundary. Staff concludes the inclusion of the 47 acres is a City mapping error, as no land use action, nor City ordinance shows the required Goal 14 analysis or map amendment to add the property to the UGB. The State of Oregon and Lincoln County concur in the conclusion that the 47 acres at issue is not within the UGB; and

WHEREAS, an area consisting of approximately 150 acres generally south of SE 23rd Drive is shown by the City, County and State maps as being within the City's UGB. The adoption of this ordinance will re-affirm that the properties are within the UGB. Since the Nelscott Neighborhood Gap Planning effort, certain owners of property along 23rd have alleged they are not in the urban growth boundary. These assertions are erroneous; and

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

Required Analysis of Goals and Plan:

- 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 amendment is not located within the city's urban growth boundary. The city is clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. 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 amendment is not within the city's urban growth boundary. The city is clarifying the UGB boundary to be consistent with Lincoln County and LDCD records. 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 mistakenly shown as within the UGB on City maps – but not on County or DLCD maps. 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 or Goal 5 does not apply.

(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 city is clarifying the UGB boundary to be consistent with County and LDCD records. 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. Areas clarified to be outside the UGB are subject to County regulations. Therefore, the amendment is consistent with Goal 6 or Goal 6 does not apply.

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

"To protect people and property from natural hazards."

The city is clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. The amendment by itself does not allow development within any natural hazard area. Areas clarified to be outside the UGB are subject to County regulations. The existing ordinances and plan requirements of the city 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 or Goal 7 does not apply.

(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 city is clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. 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 or Goal 8 does not apply.

(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 city is clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. With the correction, the city hopes the amendment will clarify and encourage development jurisdiction between the City and County. The proposed amendment is consistent with Goal 9 or Goal 9 does not apply.

(10) Goal 10: Housing

"To provide for the housing needs of citizens of the state."

The amendment does not directly relate or pertain to the housing needs of Lincoln City, except that the UGB boundary clarification to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error will accurately reflect development options and housing inventory. Accordingly, Goal 10 is met or is not applicable.

(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. The city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. Goal 11 is met or 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. The city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. Goal 12 is met or not applicable.

(13) Goal 13: Energy Conservation

"To conserve energy."

The amendment does not relate directly to energy conservation. The city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. Goal 13 is met or 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 city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. The amendment relates to urbanization, by correctly reflecting the inventory of lands in the UGB consistent with County and State records. 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). The city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. Goal 16 is met or not applicable.

(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 city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. Goal 17 is met or not applicable.

(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 city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. Goal 18 is met or not applicable.

(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. The city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. Goal 19 is met or not applicable.

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. Notice was provided to Lincoln County and the State of Oregon DLCD. 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 city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. This Goal is met.

(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 city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. The amendment is consistent with this goal or not applicable.

(6) Housing Goal

"To provide for the housing needs of all citizens."

The amendment does not directly relate or pertain to the housing needs of Lincoln City citizens. The city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. While lands are being removed, these lands were never shown to be included in the housing inventory for the City. By correcting the map to match the rest of the plan and state and county records, this 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 city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. This amendment, by correcting an error, is therefore consistent with this goal, or not applicable.

(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. The city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. This amendment meets the goal or this goal is not applicable.

(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 city is only clarifying the UGB boundary to be consistent with Lincoln County and LDCD records – essentially correcting a mapping error. The amendment is consistent with this goal or the goal is not applicable.

Council Communication

Ordinance 2022-07 Initiation Authority

Meeting Date:	February 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-07 entitled:

ORDINANCE NO. 2022-07

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), SECTION 17.76.080 (INITIATION OF APPLICATION) TO AUTHORIZE THE PLANNING DIRECTOR TO INITIATE TYPE 4 APPLICATIONS ON BEHALF OF THE CITY

Staff Recommendation:

After the conclusion of the public hearing, staff recommends Council conduct First Reading of Ordinance 2022-07 and, *if unanimous*, Conduct and approve Second Reading and adopt the Ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

The proposed ordinance (ZOA 2021-06) reinstates the authority of the Planning Director to initiate Type IV applications (e.g. Zoning Ordinance Amendments, Plan map and text amendments) without action by the City Council.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to February 28, 2022 [or]
3. Continue First Reading to February 28, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-07

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), SECTION 17.76.080 (INITIATION OF APPLICATION) TO AUTHORIZE THE PLANNING DIRECTOR TO INITIATE TYPE 4 APPLICATIONS ON BEHALF OF THE CITY

Council: Motion to approve First Reading of Ordinance 2022-07.

If unanimous:

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-07.

[or]

2. Motion to set Second Reading for February 28, 2022.

Attachments:

Ordinance 2022-07 - Initiation Authority (DOCX)

Ordinance 2022-07 - Initiation Authority Findings (DOCX)

ORDINANCE NO. 2022-07

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), SECTION 17.76.080 (INITIATION OF APPLICATION) TO AUTHORIZE THE PLANNING DIRECTOR TO INITIATE TYPE 4 APPLICATIONS ON BEHALF OF THE CITY

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

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, the amendments to the Lincoln City Municipal Code (ZOA 2021-06) are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A".

WHEREAS, the proposed amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and

WHEREAS, on September 27, 2021, the City Council initiated this text amendment. On November 3, 2021, 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); and

WHEREAS, City staff has determined the proposed amendment does not require individual notice to property owners under Measure 56, accordingly no ORS 227.186(4) notice was sent to property owners; and

WHEREAS, the Planning Commission, on January 4, 2022, held a public hearing and considered the amendments contained within this ordinance. On January 4, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and

WHEREAS, the City Council held a public hearing on February 14, 2022. On February 14, 2022 Council closed the record and deliberated on the proposed amendments. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance. After deliberation, Council provided direction that an ordinance be returned for required readings.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17.76 (*Administrative Provisions*), Section 17.76.080 (*Initiation of an Application*) is hereby amended, as follows:

17.76.080 Initiation of an Application.

- A. Applications may be initiated by either the property owner of record or the contract purchaser of the subject property, or any person authorized in writing to act as agent of the owner or contract purchaser. All applications shall be signed by all property owners of record as shown on the most-current recorded deed, as well as all contract purchasers if applicable, prior to submittal. Type IV applications may also be initiated by the city **council by motion or by the planning director**.

SECTION 2. Findings Adopted.

The findings contained in the Whereas Clauses of this Ordinance, and 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.

1 SECTION 4. Ordinance Effective Date.

3 This ordinance shall be effective in thirty days as provided by Chapter IX, Section 9.3 of the City
4 Charter.

6 SECTION 5. Codification.

8 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and
9 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
10 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any
11 Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City
12 Recorder is authorized to correct any cross-references and any typographical errors. The City
13 Attorney is specifically authorized to work with Code Publishing to correct all cross-references to
14 the procedures chapters impacted by this amendment regardless of where they occur in the
15 municipal code.

7 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
8 9.2 of the City of Lincoln City Charter on the 14th day of February 2022 (First Reading) and on the
9 14th day of February, 2022 (Second Reading).

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14th day of February,
2 2022.

SUSAN WAHLKE, MAYOR

9 ATTEST:

3 JAMIE YOUNG CITY RECORDER

55 APPROVED AS TO FORM:

9 RICHARD APPICELLO, CITY ATTORNEY

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-07 (ZOA 2021-06 Initiation Authority)

The Title of the proposed code amendment is as follows:

ORDINANCE NO. 2022-07

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), SECTION 17.76.080 (INITIATION OF APPLICATION) TO AUTHORIZE THE PLANNING DIRECTOR TO INITIATE TYPE 4 APPLICATIONS ON BEHALF OF THE CITY

The substance of the proposed amendment is as follows:

SECTION 1. Chapter 17.76 (*Administrative Provisions*), Section 17.76.080 (*Initiation of an Application*) is hereby amended, as follows:

17.76.080 Initiation of an Application.

- A. Applications may be initiated by either the property owner of record or the contract purchaser of the subject property, or any person authorized in writing to act as agent of the owner or contract purchaser. All applications shall be signed by all property owners of record as shown on the most-current recorded deed, as well as all contract purchasers if applicable, prior to submittal. Type IV applications may also be initiated by the city **council by motion or by the planning director**.

The above-referenced proposed ordinance was initiated by the City Council. The amendment was properly noticed pursuant to ORS 197.610, with notice to DLCD on November 4, 2021. City staff determined that the proposed amendment does not require individual notice to property owners under Measure 56. Accordingly, no ORS 227.186(4) notice was sent to property owners. The ordinance is primarily housekeeping, so a city-wide notice was not required.

The amendment clarifies who can initiate Type IV text and map amendment applications by changing the general reference to “city” to “city council by motion or by the director” with the director being the director of planning and community development. This amendment restores similar language in the code inadvertently deleted in a 2020 amendment to the code.

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

Required Analysis of Goals and Plan:

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 provide clarification to who can initiate Type IV text amendments by giving that authority to city council by motion or the planning and community development director. This amendment doesn’t specifically pertain to economic development, so the amendment is not applicable to Goal 9.

(10) Goal 10: Housing

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

The amendment is intended to provide clarification to who can initiate Type IV text amendments by giving that authority to city council by motion or the planning and community development director. This amendment doesn’t specifically pertain to housing, so the amendment is not applicable to 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. Accordingly, Goal 14 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 any 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 does not directly relate or pertain to the housing needs of Lincoln City citizens. This goal is not applicable.

(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 does not directly relate or pertain to the economy. This goal is not applicable.

(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.

Council Communication

Ordinance 2022-08 EMC Signs

Meeting Date:	February 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-08 entitled:

ORDINANCE NO. 2022-08

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), SECTION 17.72.090 (PERMANENT SIGNS IN THE R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, RR, VR, AND NP-NCR ZONES), PARAGRAPH C, TO CREATE AN EXCEPTION OF ELECTRONIC MESSAGE SIGNS.

Staff Recommendation:

After the conclusion of the public hearing, staff recommends Council conduct First Reading of Ordinance 2022-08 and, *if unanimous*, Conduct and approve Second Reading and adopt the Ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

The proposed Zoning Ordinance Amendment will permit electronic message centers and other signage in residential zones as accessory to approved conditional uses.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to February 28, 2022 [or]
3. Continue First Reading to February 28, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-08

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), SECTION 17.72.090 (PERMANENT SIGNS IN THE R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, RR, VR, AND NP-NCR ZONES), PARAGRAPH C, TO CREATE AN EXCEPTION OF ELECTRONIC MESSAGE SIGNS.

Council: Motion to approve First Reading of Ordinance 2022-08.

If unanimous:

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-08.

[or]

2. Motion to set Second Reading for February 28, 2022.

Attachments:

Ordinance 2022-08 - EMC Signs (DOCX)

Ordinance 2022-08 - EMC Signs Findings (DOCX)

ORDINANCE NO. 2022-08

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), SECTION 17.72.090 (PERMANENT SIGNS IN THE R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, RR, VR, AND NP-NCR ZONES), PARAGRAPH C, TO CREATE AN EXCEPTION OF ELECTRONIC MESSAGE SIGNS.

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

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, 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".

WHEREAS, the proposed amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and

WHEREAS, On November 29, 2021, 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) (ZOA-2021-07); and

WHEREAS, City staff has determined the proposed amendment does not require individual notice to property owners under Measure 56, accordingly no ORS 227.186(4) notice was sent to property owners; and

WHEREAS, the Planning Commission, on January 4, 2022, held a public hearing and considered the amendments contained within this ordinance. On January 4, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and

WHEREAS, the City Council held a public hearing on February 14, 2022. On February 14, 2022 Council closed the record and deliberated on the proposed amendments. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance. After deliberation, Council provided direction that an ordinance be returned for required readings.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17.72 (*Sign Regulations*), Section 17.72.090 (*Permanent signs in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, RR, VR, and NP-NCR zones*), Paragraph C. is hereby amended, as follows:

C. Changeable copy signs, electronic message centers, and signs that are internally illuminated are prohibited. except that changeable copy signs, electronic message centers, and signs that are internally illuminated may be approved with conditional use approval, and as accessory to a conditional use allowed in the zone, under LCMC 17.77.060, and subject to the following:

- 1. Compliance with provisions of LCMC 17.72.110;**
- 2. Compliance with provisions of LCMC 17.72.120;**
- 3. Compliance with all required building and electrical code permitting;**
- 4. Animation is prohibited;**
- 5. Light colors such as white and cream are prohibited. Lettering shall be on a black background. Red lettering is recommended.**
- 6. Full-screen illumination is prohibited.**

D.1. External illumination may be provided in accordance with the provisions of LCMC 17.72.110.

1 **SECTION 2. Findings Adopted.**

2
3 The findings contained in the Whereas Clauses of this Ordinance, and Exhibit A, as well as the
4 competent substantial evidence in the whole record of this legislative proceeding are
5 incorporated into this section by reference as if fully set forth herein, and are adopted in support
6 of this legislative action.
7

8 **SECTION 3. Severability.**

9
10 The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity
11 of one section, subsection, paragraph, or clause shall not affect the validity of the remaining
12 sections, subsections, paragraphs and clauses.
13

14 **SECTION 4. Ordinance Effective Date.**

15
16 This ordinance shall be effective in thirty days as provided by Chapter IX, Section 9.3 of the City
17 Charter.
18

19 **SECTION 5. Codification.**

20
21 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and
22 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
23 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any
24 Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City
25 Recorder is authorized to correct any cross-references and any typographical errors. The City
26 Attorney is specifically authorized to work with Code Publishing to correct all cross-references to
27 the procedures chapters impacted by this amendment regardless of where they occur in the
28 municipal code.
29

30 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
31 9.2 of the City of Lincoln City Charter on the 14th day of February 2022 (First Reading) and on the
32 14th day of February, 2022 (Second Reading).
33

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14th day of February,
2 2022.

3
4
5
6 _____
7 SUSAN WAHLKE, MAYOR
8

9 ATTEST:

10
11
12 _____
13 JAMIE YOUNG CITY RECORDER
14

15 APPROVED AS TO FORM:

16
17
18 _____
19 RICHARD APPICELLO, CITY ATTORNEY
20

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-08 (ZOA 2021-07)

The Title of the proposed amendment is as follows:

ORDINANCE NO. 2022-08

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), SECTION 17.72.090 (PERMANENT SIGNS IN THE R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, RR, VR, AND NP-NCR ZONES), PARAGRAPH C, TO CREATE AN EXCEPTION OF ELECTRONIC MESSAGE SIGNS.

In substance, the original proposed amendment provided for two amendment options:

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17.72 (*Sign Regulations*), Section 17.72.090 (*Permanent signs in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, RR, VR, and NP-NCR zones*), Paragraph C. is hereby amended, as follows:

C. Changeable copy signs, electronic message centers, and signs that are internally illuminated are prohibited-, except that changeable copy signs, electronic message centers, and signs that are internally illuminated are allowed at public or private schools (kindergarten through 12th grade and educational institutions), subject to the following:

1. Compliance with provisions of LCMC 17.72.110;
2. Compliance with provisions of LCMC 17.72.120;
3. Compliance with all required building and electrical code permitting;
4. Animation is prohibited;
5. Light colors such as white and cream are prohibited. Lettering shall be on a black background. Red lettering is recommended.
6. Full-screen illumination is prohibited.

D.4. External illumination may be provided in accordance with the provisions of LCMC 17.72.110.

[Second option]:

C. Changeable copy signs, electronic message centers, and signs that are internally illuminated are prohibited-, except that changeable copy signs, electronic message centers, and signs that are internally illuminated may be approved as a conditional use under LCMC 17.77.060, and subject to the following:

1. Compliance with provisions of LCMC 17.72.110;
2. Compliance with provisions of LCMC 17.72.120;
3. Compliance with all required building and electrical code permitting;
4. Animation is prohibited;
5. Light colors such as white and cream are prohibited. Lettering shall be on a black background. Red lettering is recommended.
6. Full-screen illumination is prohibited.

D.4. External illumination may be provided in accordance with the provisions of LCMC 17.72.110.

After discussion at the Planning Commission meeting On January 3, 2022, City staff and the Commission recommended revision to relate the proposed electronic message center signage to an approved conditional use.

[Recommended option]:

C. Changeable copy signs, electronic message centers, and signs that are internally illuminated are prohibited-, except that changeable copy signs, electronic message centers, and signs that are internally illuminated may be approved with conditional use approval, and as accessory to a conditional use allowed in the zone, under LCMC 17.77.060, and subject to the following:

1. Compliance with provisions of LCMC 17.72.110;
2. Compliance with provisions of LCMC 17.72.120;
3. Compliance with all required building and electrical code permitting;
4. Animation is prohibited;

5. Light colors such as white and cream are prohibited. Lettering shall be on a black background. Red lettering is recommended.

6. Full-screen illumination is prohibited.

D.4. External illumination may be provided in accordance with the provisions of LCMC 17.72.110.

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. Notice to DLCD was made on November 29, 2021. City staff determined that the proposed amendment does not require individual notice to property owners under Measure 56. Accordingly, no ORS 227.186(4) notice was sent to property owners.

The ordinance provides for allowance of electronic message centers, changeable copy signs, and signs that are internally illuminated, as accessory to an approved conditional use permit in residential zones. Such signage can be proposed concurrently with a conditional use or added via the conditional use process.

There was significant interest from the Lincoln County School District in the amendment (as a school is a conditional use in residential zones). Public testimony from the school superintendent, the school public information officer, and the principal of the high school, all of whom expressed support for the proposed amendment.

Required Analysis:

- 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 provide an avenue by which conditional uses in residential zones can obtain conditional approval for electronic message centers, changeable copy signs, or signs that are internally illuminated. By allowing such signage, this provides those conditional uses the opportunity to publicize their services and increase public awareness of the facilities on their site. Accordingly, this amendment is consistent with Goal 9.

(10) Goal 10: Housing

"To provide for the housing needs of citizens of the state."

The proposed amendment does not pertain to housing requirements. Goal 10 is not applicable.

(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. Accordingly, Goal 14 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 does not directly relate or pertain to the housing needs of Lincoln City citizens. This goal is not applicable.

(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 does not directly relate or pertain to the economy. However, by allowing an avenue for the conditional use of electronic message centers, changeable copy signs, and signs that are internally illuminated for conditional uses in residential zones, this will serve to increase the public's awareness of the existence of these facilities and uses, thereby increasing their use, visibility, and viability. The 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.

Council Communication

Resolution 2022-04 - Clarification of Villages Interim Park Use

Meeting Date:	February 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question:

Should the City Council approve Resolution 2022-04 entitled:

RESOLUTION 2022-04

A RESOLUTION OF THE CITY OF LINCOLN CITY SPECIFYING THE PORTIONS OF THE CITY-OWNED VILLAGES AT CASCADE HEAD PROPERTY AVAILABLE FOR INTERIM RECREATION USE, REPEALING RESOLUTION 2013-20

Staff Recommendation:

Staff recommends approval of Resolution 2022-04.

Authority:

LCMC Chapter 12.16

Background:

This Resolution clarifies that only specifically designated areas of the Villages property are available for interim park and recreation use by the public. This action is necessary owing to the two existing exclusive negotiating agreements on the Villages property and the desire of the City to transfer the D River FLWCA restriction to certain high elevation residentially zoned properties in the Villages.

Council Options:

Approve the Resolution.
Do Not approve the Resolution.
Approve the Resolution (with amendments).

Potential Motions:

Move to approve Resolution 2022-04.

Move to approve Resolution 2022-04, with the following amendments: _____
_____.

Move to continue the Resolution to February 28, 2022.

Attachments:

Resolution 2022-04 - Clarification of Villages Interim Park Use (DOC)

RESOLUTION 2022-04**A RESOLUTION OF THE CITY OF LINCOLN CITY SPECIFYING THE PORTIONS OF
THE CITY-OWNED VILLAGES AT CASCADE HEAD PROPERTY AVAILABLE FOR
INTERIM RECREATION USE, REPEALING RESOLUTION 2013-20****RECITALS:**

In 2013 the City of Lincoln City acquired most of the uncompleted portions of a Planned Development commonly known as the Villages at Cascade Head ("Villages"), hereinafter "city property", said property being generally depicted on the map attached as Exhibit A and made a part hereof by this reference; and

The City of Lincoln City acquired the property along with the development rights for most of the nearly 1800 residential units approved in the Villages of Cascade Head Planned Development (currently a valid development approval until December 2023); and

The City has subsequently changed underlying land use designations on city-owned portions of the Villages to facilitate development for both residential and commercial resort uses; in addition, the City has rezoning certain other portions (the Knoll) for open space (passive recreational use); and

The City Parks and Recreation Department has improved certain existing trails on the property which lead to the open space areas, said trails having been incorporated into the prior approved master plans; and

The City has entered into Exclusive Negotiating Agreements with two different developers concerning acquisition and development of two specific portions of the property for possible residential and resort/commercial development; and

The City is also proposing that the State of Oregon transfer Federal Land and Water Conservation Act (FLWCA) restrictions from the D River State Park to certain of the city-owned residentially zoned high-elevation portions of the Villages at Cascade Head property; the effect of the transfer would be to restrict said high elevation lands to parks and recreation uses; and

1 In order to qualify as a substitute or replacement property for the FLWCA
 2 restrictions, the property must be residentially zoned and not used for parks and
 3 recreation purposes; and

4 The City desires to clarify with this Resolution that most of the Villages of
 5 Cascade PUD property is not available for interim recreational use by the public.
 6 Much of the property, including high elevation lands adjacent to the Knoll has been
 7 officially designated on approved plans for residential development or "Future
 8 Development."

9 While the City Council has given explicit direction to staff to initiate changes to
 10 the residential development approvals and zoning to move high elevation lands to
 11 park and open space uses, that direction is on hold as it is, in part, contingent on the
 12 State of Oregon's willingness to transfer FLWCA restrictions which burden the D River
 13 State Park to such City-owned residential lands (before they are zoned for Parks and
 14 Recreation).

15 Accordingly, in order to fulfill the commitments in the executed ENAs, and in
 16 order to facilitate the possible exchange / movement of the FLWCA restrictions on the
 17 D River to residentially zoned city property, the City Council hereby specifically
 18 delineates those city-owned portions of the Villages properties which may be used
 19 for interim public recreation use; all other areas not designated for interim recreation
 20 use are **not open to the public**; and.

21 The interim recreation use designation herein is not a zoning designation and
 22 does not authorize any physical alteration or development that would be inconsistent
 23 with the existing valid residential preliminary development plan, zoning approval and
 24 approval conditions; and

25 **NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Lincoln
 26 City, that pursuant to Lincoln City Municipal Code Chapter 12.16, the City Council
 27 designates **only** the specifically delineated areas of city property shown on Exhibit B
 28 for Interim Park and Recreation Use. All other areas in the Villages are not open to
 29 the public.

- 30 1. The recitals set forth above are true and correct and are incorporated
- 31 herein by this reference; and
- 32

- 1 2. The subject city property is **not** open to the public, with the following
2 exceptions:
3
4 a. The public may use the Knoll and associated 60 acre Open Space to
5 the northeast, which is zoned for Open Space use and expressly
6 covered by Chapter 12.16; and
7 b. The public may use existing trails which are **officially signed** by the
8 City Parks and Recreation Department; however the public must stay
9 within five feet of the center line of the trail. Other areas outside the
10 trail exception are not open to the public, and are designated "No
11 Trespassing".
12 c. The public may use the existing platted **public** streets for passive
13 recreation.
14 d. Park Use Regulations contained in Chapter 12.16 of the Lincoln City
15 Municipal Code, as it may be amended, apply fully to the excepted
16 areas above.
17 e. Criminal Trespass and exclusion provisions of Chapter 12.18 apply to
18 the entire city-owned portion of the Villages at Cascade Head.
19
20 3. The excepted areas shall be open to public only during daylight hours, or
21 between the hours of 7:00 a.m. and 9:00 p.m., whichever is more restrictive.
22
23 4. All dogs on the excepted areas of the subject city property shall be on a
24 leash. All dog waste shall be removed from the property by the keeper of
25 the dog.
26
27 5. Access to the excepted areas of the subject city property is without charge;
28 all persons enter the property at their own risk.
29
30 6. Signage, Barricades, Gates, Locks or other temporary measures, as deemed
31 necessary or advisable by the City Parks and Recreation Director and
32 Economic Development Director, shall be erected to implement this
33 Resolution.
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3 _____
4 JAMIE YOUNG
5 CITY RECORDER

6
7

8
9
0 RICHARD APPICELLO
1 CITY ATTORNEY

Council Communication

Community Center Gym Roof Project

Meeting Date:	February 14, 2022	Primary Staff Contact:	Jeanne Sprague
Department:	Parks and Recreation	E-Mail:	JSprague@lincolncity.org
Secondary Dept:	Public Works	Secondary Contacts:	
Approval:	Tony LaSoya	Estimated Time:	10 mins

Question:

Should the City Council award the soffit proposal change order for the Contract for the Community Center Reroof to Roof Toppers, Inc.

Staff Recommendation:

Staff recommends the Council award the soffit proposal change order to Roof Toppers, Inc.

Authority:

LCMC 2.05.080. (Exemptions)

B. Change orders or contract amendments reasonably related to the scope of work, up to 25 percent of the contract price.

Background:

On Dec 13, 2021, Council awarded the Best Value Construction Contract for the Community Center Reroof to Roof Toppers at a cost of \$329,000 with a contingency amount of \$32,900 (10%) for a total amount of \$361,900.

After award, the City found that the soffits need to be replaced also, and it's optimal to complete this at the same time as the roof construction. This project was not included in the roof bid, yet Roof Toppers is able to replace soffits at a cost of \$63,218, of which \$30,318 is over currently approved contingency.

Lincoln City Parks and Recreation is able to cover the remaining \$30,318 from their Facilities Capital fund.

The change order / amendment exceeds the delegation authority of the city manager but is exempt from competitive bidding under LCMC 2.05.080.B.

Council Options:

Council can award the soffit proposal change order to Roof Toppers.

Financial Impact

The roof project is currently at a cost of \$329,000 with a contingency amount of \$32,900 (10%) for a total amount of \$361,900. Lincoln City Parks and Recreation is able to cover the remaining \$30,318 for the soffit replacements from their Facilities Capital fund.

Potential Motions:

Move to award the soffit proposal change order to Roof Toppers, Inc in the amount of \$63,218.

Council Communication

Appointment to Sustainability Committee - Applicant Leonard Folino

Meeting Date:	February 14, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Tony LaSoya	Estimated Time:	5 minutes

Question:

Should the City Council approve the appointment of Leonard Folino for a "City Resident" position on the Sustainability Committee?

Staff Recommendation:

Mr. Folino would serve on the Sustainability Committee. His term would expire on October 7, 2024. Mayor Wahlke and Councilor Hoagland interviewed Mr. Folino. Councilor Hoagland asked to move Mr. Folino's application forward for consideration of a position on the Sustainability Committee. Mayor Wahlke wishes to keep the position open for further applicants. Mr. Folino qualifies for a "City Resident" position.

Background:

The Sustainability Committee currently has one (1) vacant position- the position left vacant by Mr. Edwards resigning.

Authority:

LCMC 2.06.015 (F)

F. Appointment. At a regular or special meeting of the city council the question of appointment of one or more applicants for appointive bodies can be placed on the agenda for consideration. No applicant will be placed on the agenda until completion of the interview, background and reference check process. At the time the matter is considered the individual interviewers may give their recommendation, or, as applicable, an interview subcommittee member may give the recommendation of the subcommittee. The council may use the ballot nomination process to narrow the applicant field. Notwithstanding any other provision in the municipal code, all appointments shall be by motion, approved by majority vote of the governing body.

G. Reappointment. Requests for reappointment of appointive public officers (only for those who have previously completed the interview, reference and background check) may be processed using this abbreviated procedure. The council, by motion, may direct the city recorder to place appointive officers on the agenda for reappointment, subject only to an update of the background investigation (pursuant to a current release). Unless council by motion directs the use of the abbreviated procedure, all reappointments shall follow the procedure identified herein for original applicants.

Council Options:

Review and discuss the recommendation for appointment of Leonard Folino to the "City Resident" position on the Sustainability Committee for a term expiring October 7, 2024.

Potential Motions:

- 1. I move to appoint Leonard Folino to the Sustainability Committee for a "City Resident" position with a partial three-year term. The term expires 10/07/2024.**
- 2. I move to leave the position open for the Sustainability Committee for (amount of time).**

Attachments:

2021 - Leonard Folino ref 1.pdf (PDF)

Folino, Leonard_ Application Multi_Redacted.pdf (PDF)

MEMORANDUM TO CC--APPOINTED BODIES BG CHECK PASS_FAIL DETERMINATION- Leonard Folino.pdf (PDF)



Human Resources

REFERENCE CHECK- COMMITTEES

Reference regarding: Leonard Folino-- (Parks and Recreation, Planning, Library Committee Board)

Reference: Tony Anderson

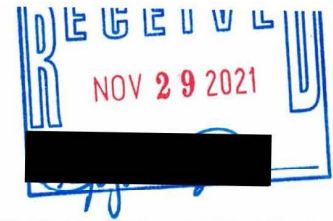
Reference taken by; date / time: November 29, 2021

- What is your professional relationship with the applicant?
I'm a national Vice-President for the Order Sons & Daughters of Italy in America, where I have had the opportunity to work with Lenny.
- How long have you worked / served with him/her?
I've known Lenny for nearly twenty years.
- Did you hire or select him/her? If not, would you hire/select him/her given the opportunity to do so? **YES**
- Do you have personal knowledge of the applicant serving on any boards? If so, please describe. If not, would serving on our **Parks and Recreation, Planning, Library** Committee be a good match based on your knowledge of the applicant? **YES**
- Would you recommend him/her for the **Parks and Recreation, Planning, Library** Committee?
Most definitely
- Does the applicant possess good decision making / reasoning skills?
YES
- Does the applicant have good communication / interpersonal skills?
YES
- Is he/she responsible and reliable?
YES
- What are his/her strongest skills? On time, thinks clearly and very organized. **YES**



Human Resources

- Does he/she possess any special skills?
- If applicable, what was his/her reason for leaving the position he/she held when you worked / volunteered together? **STILL WORKING TOGETHER**
- Are there any areas he/she could use help in developing (i.e. written communication, organization)? What do we need to provide to help him/her succeed on the **Parks and Recreation, Planning, Library** Committee? IF you provide Lenny with a Board Manual, he will read it, understand it & follow it. **He's a TEAM PLAYER!**
- Do you have any other feedback you could provide that would help us make a decision?
You will not be sorry in selecting Lenny Folino. He will do a GREAT JOB for Lincoln City.



CITY OF LINCOLN CITY

Committee / Board / Commission Application

Please indicate which committee/board/commission you are applying for:

- | | |
|---|--|
| ☐ Arts Committee
☐ *Budget Committee
☐ Community Sustainability Committee | ☒ Parks and Recreation Board
☒ Planning Commission
☒ Library Board |
|---|--|

** If applying for the Budget Committee, you may not serve on any other City board or committee at the same time. Other City committee volunteer positions allow dual representation if it does not present a conflict of interest.*

NAME:	Leonard Leo Folino	DATE:	11/25/2021
HOME ADDRESS:	[REDACTED]		
MAILING ADDRESS:	Same as above		
CITY, STATE, ZIP:	Lincoln City OR. 97367-3 [REDACTED]		
E-MAIL ADDRESS:	[REDACTED]		
HOME PHONE:	None	CELL PHONE:	[REDACTED]

RESIDENCY AND SPECIFIC ELIGIBILITY CRITERIA

- Do you reside within the City limits: ☒ Yes Length of Time 14 months
- Do you reside within the Urban Growth Boundary? ☒ Yes Length of Time 14 months
- Do you reside within the Lincoln County School District North: ☒ Yes ☐ No
- Are you a registered voter in Lincoln County? ☒ Yes ☐ No
- Are you a Lincoln City business owner or Manager? ☐ Yes ☒ No
- If yes, please indicate which business you own/manage? _____


QUALIFICATIONS/EXPERIENCE (Additional space is provided on back)

Describe relevant qualifications (i.e. work or volunteer experiences) to include any applicable education and/or training. For example, if you are a hotel owner or operator and applying for the Visitor and Convention Committee; and highlight any skills, interests or hobbies that you believe would bring value to your ability to serve this position:

Volunteer Firefighter / EMT King County Fire District 40

Washington State Fire Training Operations Support Instructor

Black Diamond Community Center / Food Bank and Historical Society Black Diamond WA

List names of volunteer/work supervisors:

Damina Harper

Patrica Bauccio

Keith Watson

Please provide any previous experience with committees, boards or commissions and positions held:

Washington State Governor's Committee on Disability Issues and Employment

Washington State Governor's Committee on Disability Issues Out Reach Subcommittee

National Membership Committee OSDIA

State the name, title and any relationship you have to a City Council member, Commissioner, board member or city employee:

None

Explain why you would like to serve on this board, commission, or committee:

I enjoy giving back to the community sometimes you can accomplish more and have a greater impact and positive outcome being appointed to a position than if you are an elected official.

I have a lot of available time so why not do something positive with it.

List the name, phone number, and e-mail address (if possible) of two personal or professional references:

Name: Cheryl Hanson

Phone:

Name: Tony Anderson

Phone:

My signature affirms that all information contained herein is true and correct to the best of my knowledge, and that I understand that any misstatement of fact, or any misrepresentation of credentials may result in this application being disqualified and is cause for removal from any appointed body. Shaded information will not be released due to personal privacy protection laws.

SIGNATURE

DATE



City Recorder
City of Lincoln City
PO Box 50
Lincoln City, OR 97367

COMMITTEE VOLUNTEER EMERGENCY CONTACT INFORMATION FORM

FULL NAME:	Leonard Leo Folino
START DATE:	
NAME OF COMMITTEE, BOARD, OR COMMISSION:	
CITY STAFF REPRESENTATIVE:	
HOME ADDRESS:	
MAILING ADDRESS:	
HOME PHONE:	
CELL PHONE:	
PERSONAL E-MAIL ADDRESS:	

EMERGENCY CONTACT NAME/RELATIONSHIP:	
HOME PHONE:	None
CELL PHONE:	

DATE:	11/25/2021
VOLUNTEER SIGNATURE:	

ALL PERSONAL INFORMATION WILL BE KEPT STRICTLY CONFIDENTIAL



**FAIR CREDIT REPORTING ACT (FCRA) ACKNOWLEDGEMENT AND AUTHORIZATION FOR
BACKGROUND CHECK FOR A VOLUNTEER POSITION WITH A LINCOLN CITY APPOINTED
BODY**

PLEASE READ CAREFULLY BEFORE SIGNING!

I acknowledge receipt of the separate document entitled "DISCLOSURE REGARDING BACKGROUND INVESTIGATION and a SUMMARY OF YOUR RIGHTS UNDER THE FAIR CREDIT REPORTING ACT", and certify that I have read and understand both of those documents. I hereby authorize the obtaining of "consumer reports" and/or "investigative consumer reports" by Lincoln City ("City") at any time after receipt of this authorization and throughout my employment, if applicable.

To this end, I hereby authorize, without reservation, any law enforcement agency, administrator, state or federal agency, institution, school or university (public or private), information service bureau, employer, or insurance company to furnish any and all background information requested by **Pinnacle Investigations, 920 North Argonne Road, Suite 200, Spokane Valley, WA, 99212; Telephone Number 1-800-955-5306; www.pinnacleprof.com** and or "City". I agree that a facsimile ("fax"), electronic or photographic copy of this Authorization shall be as valid as the original.



SIGNATURE

11/25/2021

DATE



MEMORANDUM

To: City of Lincoln City Mayor and City Council
From: Abigail Edwards, Human Resources Director
Date: December 10, 2021
Re: Council Volunteer Appointment—Background Report and References

To the Honorable Mayor and City Council:

Human Resources has conducted a background investigation and reference check for a volunteer application for City Appointed Bodies as set forth in the Lincoln City Municipal Code, Section 2.06.015(D).

No adverse information was found for the following applicant, and they have passed the background check.

Name: Leonard Folino

Position Applied For: Parks and Recreation, Planning, and Library Committee

Human Resources was unable to complete all reference checking due to the following:

- One reference has been unresponsive to the request for information;
- One reference provided a response.

Reference responses have been returned to the City Recorder for your review. Thank you.

Respectfully,

Abigail Edwards
HR Director