

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY MARCH 14, 2022 6:00 PM

6:00 PM - The Lincoln City Council meeting for March 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](http://www.lincolncity.org).

Public comments can be submitted to [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org), by attending the City Council meeting, or by attending through Zoom invitation.

Public comments submitted by email to [publiccomment@lincolncity.org](mailto: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](mailto: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](http://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 – February 28, 2022 6:00 PM
2. Arbor Day 2022 Proclamation

**E. COUNCIL DELIBERATIONS**

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

**G. PRESENTATIONS**

3. Update on Goals and 2022 Work Plan for the Planning & Community Development Department

**H. PUBLIC HEARING / ORDINANCE**

**I. PUBLIC HEARINGS / PUBLIC COMMENTS**

1. Public Hearing: Zoning Ordinance Amendment (ZOA 2022-04) Ordinance 2022-10 Duplex Fix HB 2001
2. Public Hearing: Zoning Ordinance Amendment (ZOA 2022-03) Ordinance 2022-11 Bluff Fix

**J. ORDINANCES**

3. ORDINANCE NO. 2022-09 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 10 (VEHICLES AND TRAFFIC), CHAPTER 10.20 (TAXICABS), TO ADD REGULATIONS TO ADDRESS OTHER VEHICLES FOR HIRE, SUCH AS TRANSPORTATION NETWORK COMPANIES.
4. ORDINANCE NO. 2022-10 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.16 (SINGLE FAMILY RESIDENTIAL (R-1) ZONE), CHAPTER 17.17 (SINGLE FAMILY RESIDENTIAL ROADS END (R-1-RE) ZONE), AND CHAPTER 17.40 (RECREATION RESIDENTIAL (R-R) ZONE, TO ADD DUPLEX USES CONSISTENT WITH HB 2001, AND CHAPTER 17.55 (OFF-STREET PARKING AND LOADING) TO MAKE DUPLEX OFF-STREET PARKING REQUIREMENTS CONSISTENT WITH HB 2001 REQUIREMENTS
5. ORDINANCE NO. 2022-11 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.47 (NATURAL HAZARDS BEACHES AND DUNES), SECTION 17.47.020 (DEVELOPMENT IN IDENTIFIED HAZARD AREAS), PARAGRAPH D, TO CLARIFY THE CALCULATION FOR THE BLUFF SETBACK
6. ORDINANCE NO. 2022-12 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 1 (GENERAL PROVISIONS), CHAPTER 1.16 (VIOLATIONS) AMENDING SECTION 1.16.070 (FINES AND ASSESSMENT AMOUNTS) AND SECTION 1.16.080 (RESPONSE BY DEFENDANT) TO CORRECT FINES FOR CLASS E VIOLATIONS

**K. RESOLUTIONS**

7. RESOLUTION NO. 2022-07 A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING FEES AND CHARGES FOR LINCOLN CITY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

8. RESOLUTION 2022-08 A RESOLUTION DECLARING THE PROPERTY DESCRIBED IN EXHIBIT A AS SURPLUS PROPERTY, PROVIDING AN EXEMPTION FROM PUBLIC CONTRACTING RULES [LCMC CHAPTER 2.05, SECTION 2.05.080(L)], AND APPROVING DISPOSAL BY AUCTION
9. RESOLUTION 2022-09 A RESOLUTION AUTHORIZING APPLICATION FOR AN OREGON PARKS AND RECREATION LOCAL GOVERNMENT GRANT FOR THE DEVELOPMENT OF A PARK ON SE 51ST STREET

**L. SPECIAL ORDER OF BUSINESS**

10. Boards and Committees Application Process
11. Planning Commission Vacancy- MacNeale Smith

**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

February 28, 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](http://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 6:02 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](mailto:publiccomment@lincolncity.org);
2. Comments can be made via Zoom if a request is emailed to [publiccomment@lincolncity.org](mailto: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; Lt. Broderick, Lincoln City Police Department; Abigail Edwards, Human Resources 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**

*Mayor Wahlke led The Pledge of Allegiance.*

**D. CONSENT AGENDA**

<b>MOTION:</b>	<b>Consent Agenda</b>
<b>MOVER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>AYES:</b>	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>RESULT:</b>	<b>Passed</b>

1. Regular Meeting – Minutes of Regular Meeting – February 14, 2022, 6:00 PM

2. Proposed Joint Annual Meeting Date

*Mayor Wahlke asked what time, who is hosting, and if it would be held virtually. Ms. Bradley said this is generally handled through the City Manager's office. Councilor Hoagland asked about emailing gift ideas to the City Manager.*

**E. COUNCIL DELIBERATIONS**

*NONE*

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

*No Comments via email.*

*Stacy Baird spoke regarding zoning in the Oceanlake Plan District main street sub-zone and residential use. Mr. Baird also spoke regarding bluff erosion criteria.*

**G. PRESENTATIONS**

3. Mid-Coast Water Planning Update

*Stephanie Reid, Public Works Director, presented the Mid-Coast Water Planning Update. Councilor Mark said they were approached by Billy Jo Smith and asked if these projects parallel or overlap. Ms. Bradley said it would be doubling up the effort. Councilor Mark asked if we should think about a North County solution. Ms. Reid said that storage is a large component and there would be an eye kept on the region. Ms. Bradley stated a lot of this information would be included in the water master plan. Councilor Hoagland asked if there would be a consumption aspect as well. Councilor Hoagland said that he would like to see rainwater collection used. Ms. Reid said yes, that consumption is key. Councilor Hoagland asked if Council could attend the water conservation meetings. Ms. Reid confirmed. Councilor Mark asked about the recirculation of wastewater and would like to see that on the table.*

**H. PUBLIC HEARING / ORDINANCE**

*NONE*

**I. PUBLIC HEARINGS / PUBLIC COMMENTS**

*NONE*

**J. ORDINANCES**

*NONE*

**K. RESOLUTIONS**

1.

<b>MOTION:</b>	<b>Motion to Approve Resolution 2022-05 NE Devils Lake Blvd and Voyage Ave-Parking and Traffic Control Measures</b>
<b>MOVER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>SECONDER:</b>	<b>Sydney Kasner, Councilor Ward 2</b>
<b>AYES:</b>	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

*Ms. Reid presented a video that showed the parking issues. Mayor Wahlke thanked Sgt. Weaver for his body cam footage. Mayor Wahlke asked about the parking on the Fernwood side. Councilor Mark asked about redoing the cul-de-sac to add more parking. Ms. Bradley said there has been a parking plan completed but it's very expensive and other options can be looked at.*

2. RESOLUTION NO. 2022-06 A RESOLUTION OF THE CITY OF LINCOLN CITY ORDERING THE TEMPORARY CLOSURE OF SW 9th STREET FOR A TWO WEEK PERIOD TO FACILITATE UTILITY WORK AND CONSTRUCTION OF THE SINGLE FAMILY HOME AT 1122 SW 9th STREET

<b>MOTION:</b>	<b>Motion to Approve Resolution 2022-06 SW 9th Street - Temporary Road Closure</b>
<b>MOVER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>SECONDER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>AYES:</b>	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

*Ms. Reid said this is a builder asking to close SW 9th Street to construct a home, without the closure it will not be possible.*

**L. SPECIAL ORDER OF BUSINESS**

3. High School Drive Improvement Project Construction Contract Award

<b>MOTION:</b>	<b>Motion to Approve High School Drive Improvement Project Construction Contract Award to Cascade Civil Corp in the Amount of \$360,117.00</b>
<b>MOVER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>SECONDER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>AYES:</b>	Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>ABSTAIN:</b>	Wahlke
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

*Mayor Wahlke recused herself from the discussion and decision due to a conflict of interest. Ms. Reid explained the project.*

**M. CITY MANAGER/CITY ATTORNEY REPORTS**

4.

**MOTION:** Motion to Approve the Letter of Support  
**MOVER:** Mitch Parsons, Councilor Ward 1  
**SECONDER:** Judy Casper, Councilor Ward 3  
**AYES:** Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons  
**RESULT:** Passed by Voice Vote

*The City Manager spoke regarding a letter of support for The Port of Portland On behalf of the Oregon Mass Timber Coalition. Ms. Skinner was having technical difficulties but put in the chat she was in favor, it's very good for climate change and sustainability.*

*City Attorney was absent.*

*Council Approved Councilor Hoagland to Attend the NLC and the HELO Board Meeting.*

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

5.

**MOTION:** Motion to Direct Staff to Initiate Applications to Remove City-Owned Property from the Villages at Cascade Head PUD and Associated Covenants and Restrictions. Inquire of Other Owners as to Their Desire to Remain in the PUD and Master Declaration  
**MOVER:** Judy Casper, Councilor Ward 3  
**SECONDER:** Sydney Kasner, Councilor Ward 2  
**AYES:** Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons  
**RESULT:** Passed by Roll Call Vote

6.

**MOTION:** Motion to Approve a Second Draft of the City Manager Contract Negotiations for Presentation to the Candidate as Discussed in Executive Session  
**MOVER:** Mitch Parsons, Councilor Ward 1  
**SECONDER:** Rick Mark, Councilor Ward 3  
**AYES:** Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons  
**RESULT:** Passed by Roll Call Vote

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

*NONE*

**P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL**

*Councilor Parsons said that on March 10th from 5 PM-7 PM, Serenity Boutique (across from O'Reilly's) is having a ribbon-cutting. Mayor Wahlke said that March 11th at 5 PM is the ribbon cutting for the Teen Center at the Community Center.*

*Councilor Mark spoke about the meeting he attended for Cascade West Area Commission on Transportation (CWACT). Councilor Mark spoke about the Safe Routes to School and asked Ms. Bradley if that applied to the High School Drive project. Ms. Bradley said that was for the 21st Street project. Councilor Mark said there is another 46 million available for air, marine, and land project and Pacific*

*Seafood in Newport received the support of CWACT for dock repair. Councilor Mark also said there was great work by Nora Sherwood on the trailhead signs as well as Jeanne Sprague and the Parks Department. Mayor Wahlke said that she loved the QR codes as well.*

*Councilor Casper spoke of the broadband movement. Councilor Casper also expressed her condolences to the family of Lenny Nelson.*

*Councilor Hoagland asked about equipment cooperative agreements. Ms. Bradley said we have a great working relationship with other communities.*

*Councilor Starmer thanked everyone for their patience with her using a phone for the meeting. Councilor Starmer spoke about spring forward. Councilor Starmer asked about the March work session. Ms. Bradley said it would be March 16th at 3 PM.*

*Mayor Wahlke said she and Councilor Parsons were a part of a plastics presentation at the Cultural Center. Mayor Wahlke said they are having fun with the school-age children. Mayor Wahlke said her husband is having eye surgery on the 14th.*

**Q. ADJOURNMENT**

*Mayor Wahlke adjourned the meeting at 7:38 PM.*

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SUSAN WAHLKE, MAYOR

ATTEST:

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JAMIE YOUNG, CITY RECORDER

# Council Communication

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## Arbor Day 2022 Proclamation

Meeting Date:	March 14, 2022	Primary Staff Contact:	Jeanne Sprague
Department:	Parks and Recreation	E-Mail:	JSprague@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 mins

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### Question:

Should the City Council proclaim April 29, 2022 as Arbor Day 2022 in the City of Lincoln City and invite all citizens to join in its celebration of the city's efforts to support healthy trees and forest ecology for the well-being of this and future generations?

### Staff Recommendation:

Staff recommends the Council proclaim April 29, 2022 as Arbor Day 2022 in the City of Lincoln City, so that we may continue with our 'TreeCity USA' designation for 2022, via the Arbor Day Foundation.

### Authority:

See attached document for the 4 criteria required for the TreeCity USA Program.

### Background:

The OR Dept of Forestry oversees the TreeCity USA program. One of their 4 mandatory standards for a City to be designated as a TreeCity USA is for the Mayor/City Council to proclaim a City 'Arbor Day'. Lincoln City has been a designated TreeCity USA for 14 years. Lincoln City Parks and Recreation will be hosting public Arbor Day events throughout the month of April at the Community Center.

### Council Options:

Approve the proclamation of 4/29/22 as Lincoln City Arbor Day. Reject the proclamation of 4/29/22 as Lincoln City Arbor Day.

**Financial Impact**

Very limited staff time. One to two hours of the Parks & Recreation Director compiling application data for the Arbor Day Foundation.

**Potential Motions:**

Move to approve the proclamation establishing 4/29/22 as Arbor Day 2022 for Lincoln City, to celebrate trees and continue with our TreeCity USA designation.

**Attachments:**

PROCLAMATION Arbor Day 2022 (DOCX)  
TreeCity USA Standards (PDF)

**Attachments:**

PROCLAMATION Arbor Day 2022 (DOCX)  
TreeCity USA Standards (PDF)

# TREE CITY USA

## 2022 ARBOR DAY PROCLAMATION

Whereas, Lincoln City celebrates Arbor Day every year to honor the important role trees play in our daily lives, and to maintain our TreeCity USA status, 14 years and counting; and

Whereas, Lincoln City residents have demonstrated their extraordinary support for trees in many ways, including a \$3 million bond issue passed in 1998 for the purpose of preserving forests and other sensitive land within the city limits, and efforts in the past 9 years to improve forest health in the city's open spaces; and

Whereas, on this Arbor Day, the city celebrates renewed efforts in our Parks and Open Spaces to educate the public on the importance of trees by offering naturalist-lead hikes and interpretive signage, along with new interpretive signage placed at 15 trailheads in 7 Open Spaces; and

Whereas, Lincoln City continues to improve the ecological health of the forests in the city's open spaces through removal of invasive species, restoration of native vegetation and tree-planting, with the successful partnerships of many local non-profits and volunteers. This raises public awareness and opportunities for passive recreation through trail creation and maintenance;

Now, therefore, I, Susan Wahlke, Lincoln City Mayor, do hereby proclaim the date of April 29, 2022 as Arbor Day 2022 in the City of Lincoln City and invite all citizens to join in its celebration and the city's efforts to support healthy trees and forest ecology for the well-being of this and future generations.

Dated this 14<sup>th</sup> day of March 2022.

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Susan Wahlke, Mayor

# Tree City USA Standards

To qualify as a Tree City USA community, you must meet four standards established by the Arbor Day Foundation and the National Association of State Foresters. These standards were established to ensure that every qualifying community\* would have a viable tree management program and that no community would be excluded because of size.

## Four Standards for Tree City USA Recognition

 Standard 1 |  Standard 2 |  Standard 3 |  Standard 4

### Standard 1

#### A Tree Board or Department

Someone must be legally responsible for the care of all trees on city- or town-owned property. By delegating tree care decisions to a professional forester, arborist, city department, citizen-led tree board or some combination, city leaders determine who will perform necessary tree work. The public will also know who is accountable for decisions that impact community trees. Often, both professional staff and an advisory tree board are established, which is a good goal for most communities.

The formation of a tree board often stems from a group of citizens. In some cases a mayor or city officials have started the process. Either way, the benefits are immense. Involving residents and business owners creates wide awareness of what trees do for the community and provides broad support for better tree care.

### Standard 2

#### A Tree Care Ordinance

A key section of a qualifying ordinance is one that establishes the tree board or forestry department—or both—and gives one of them the responsibility for public tree care (as reflected in Standard 1). It should also assign the task of crafting and implementing a plan of work or for documenting annual tree care activities.

Ideally, the ordinance will also provide clear guidance for planting, maintaining and removing trees from streets, parks and other public spaces as well as activities that are required or prohibited. Beyond that, the ordinance should be flexible enough to fit the needs and circumstances of the particular community.

For tips and a checklist of important items to consider in writing or improving a tree ordinance, [see Tree City USA Bulletin #9](#).

## Standard 3

### A Community Forestry Program With an Annual Budget of at Least \$2 Per Capita

City trees provide many benefits—clean air, clean water, shade and beauty to name a few—but they also require an investment to remain healthy and sustainable. By providing support at or above the \$2 per capita minimum, a community demonstrates its commitment to grow and tend these valuable public assets. Budgets and expenditures require planning and accountability, which are fundamental to the long-term health of the tree canopy and the Tree City USA program.

To meet this standard each year, the community must document at least \$2 per capita toward the planting, care and removal of city trees—and the planning efforts to make those things happen. At first this may seem like an impossible barrier to some communities. However, a little investigation usually reveals that more than this amount is already being spent on tree care. If not, this may signal serious neglect that will cost far more in the long run. In such a case, working toward Tree City USA recognition can be used to reexamine the community's budget priorities and redirect funds to properly care for its tree resources before it is too late.



## An Arbor Day Observance and Proclamation

An effective program for community trees would not be complete without an annual Arbor Day ceremony. Citizens join together to celebrate the benefits of community trees and the work accomplished to plant and maintain them. By passing and reciting an official Arbor Day proclamation, public officials demonstrate their support for the community tree program and complete the requirements for becoming a Tree City USA!

This is the least challenging—and probably most enjoyable—standard to meet. An Arbor Day celebration can be simple and brief or an all-day or all-week observation. It can include a tree planting event, tree care activities or an award ceremony that honors leading tree planters. For children, Arbor Day may be their only exposure to the green world or a springboard to discussions about the complex issue of environmental quality.

The benefits of Arbor Day go far beyond the shade and beauty of new trees for the next generation. Arbor Day is a golden opportunity for publicity and to educate homeowners about proper tree care. Utility companies can join in to promote planting small trees beneath power lines or being careful when digging. Fire prevention messaging can also be worked into the event, as can conservation education about soil erosion or the need to protect wildlife habitat.

[↑ back to top](#)

Tree City USA is an Arbor Day Foundation program in cooperation with:



# Planning Staff Report

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## Update - Planning & Community Development

Meeting Date:	March 14, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	City Council	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

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**The director of the Planning & Community Development Department will provide an update on the Department's 2022 work plan and goals, along with a brief overview of tasks already accomplished and those planned for the upcoming year.**

## Public Hearing - Ordinance 2022-10 Duplex fix HB2001

Meeting Date: March 14, 2022  
Department: City Attorney

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

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### Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2022-04 (Ordinance 2022-10 Duplex fix HB 2001)?

### 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:**

The amendment is intended to bring the city into compliance with the state's 2019 legislation HB 2001 to allow duplexes on any lot or parcel in a residential zone that allows detached single-family dwellings. The amendment will make the particular portions of Title 17 pertinent to duplexes compliant with state law.

The Planning Commission held a public hearing on February 15, 2022, and recommended approval of the amendment.

### **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 \_\_\_\_\_ City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on

\_\_\_\_\_.

## Public Hearing - Ordinance 2022-11 Bluff Fix

Meeting Date: March 14, 2022  
Department: City Attorney

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

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### Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2022-03 (Ordinance 2022-11 Bluff fix)?

### Staff Recommendation:

Staff recommends the Council conduct the public hearing.

### Authority:

Legal authority for text amendments is as follows:

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- 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.
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    - 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:**

The amendment is intended to correct a single word in the calculation of the bluff setback. The word maximum is wrong; the correct word is average.

**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 \_\_\_\_\_ City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on \_\_\_\_\_.

## Council Communication

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### Ordinance 2022-09 Taxi Cab Services

Meeting Date:	March 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	15 minutes

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#### Question(s):

Should the City Council conduct and approve First and Second Reading of Ordinance 2022-09 entitled:

#### ORDINANCE NO. 2022-09

#### **AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 10 (VEHICLES AND TRAFFIC), CHAPTER 10.20 (TAXICABS), TO ADD REGULATIONS TO ADDRESS OTHER VEHICLES FOR HIRE, SUCH AS TRANSPORTATION NETWORK COMPANIES.**

Staff recommends Council conduct First Reading of Ordinance 2022-09 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:

The City Council directed staff to update the Taxicab ordinance to address other Vehicles for Hire, including Transportation Network Companies like Uber and Lyft. A future Resolution to address fees will be on a Council agenda prior to the Ordinance effective date.

**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 March 28, 2022, [or]
3. Continue First Reading to March 28, 2022.

**Potential Motions:**

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

**ORDINANCE NO. 2022-09**

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 10 (VEHICLES AND TRAFFIC), CHAPTER 10.20 (TAXICABS), TO ADD REGULATIONS TO ADDRESS OTHER VEHICLES FOR HIRE, SUCH AS TRANSPORTATION NETWORK COMPANIES.**

*Council:*

Motion to approve First Reading of Ordinance 2022-09.

*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 2022-09.

**[or]**

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

**Attachments:**

Ordinance 2022-09 Taxi 3-7-22ra (DOCX)

VFHOL Application - Taxi - Fillable - LC edits(PD Edit) (RTF)

VFHOL Application - TNC - Fillable - LC edits (PD edits) (RTF)

ORDINANCE NO. 2022-09

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 10 (VEHICLES AND TRAFFIC), CHAPTER 10.20 (TAXICABS), TO ADD REGULATIONS TO ADDRESS OTHER VEHICLES FOR HIRE, SUCH AS TRANSPORTATION NETWORK COMPANIES.

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); *La Grande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, LCMC Chapter 10.20 (*Taxicabs*) requires updating to address regulation of other vehicles for hire, like Transportation Network Companies; and

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code Title 10 (*Vehicles and Traffic*), Chapter 10.20 (*Taxicabs*), is amended to read as follows:

**Chapter 10.20**  
**VEHICLES FOR HIRE**

**Sections:**

- 10.20.005 Purpose.**
- 10.20.010 Definitions.**
- 10.20.020 License Required, Application and Fees.**
- 10.20.030 Driver Requirements.**
- 10.20.040 Insurance Requirements.**
- 10.20.045 Annual Inspection - vehicles for hire.**
- 10.20.050 Operational Requirements.**
- 10.20.055 Taxicab Equipment.**
- 10.20.060 Audit.**
- 10.20.070 Revocation, Suspension and Penalties.**
- 10.20.075 Indemnification.**
- 10.20.080 Violation- Enforcement- Citation.**
- 10.20.090 Effective Date – Status of Existing Valid Certificates and Permits.**

**10.20.005 Purpose.**

**The purpose of this chapter is to provide for and promote the safety and welfare of the general public by regulating vehicles for hire within the City of Lincoln City, as authorized by ORS 221.485 and ORS 221.495. Nothing contained in this chapter is intended or shall be construed to create any liability on the part of the City or its employees for any injury or damage related to any provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City or its employees.**

**10.20.010 Definitions.**

**As used in this chapter:**

- A. City means the City of Lincoln City, Oregon.**
- B. License means the license issued by the City to a taxi company or TNC authorizing the company to engage in vehicle for hire services within the City.**

1 **C. Driver means any individual natural person who operates a vehicle for hire**  
2 **within the City.**

3  
4 **D. Nonemergency medical transport vehicle means a vehicle that carries a person**  
5 **for hire and such person requires nonemergency medical treatment or supervision**  
6 **by an emergency medical technician or first responder certified by the Oregon**  
7 **State Health Division while in the vehicle.**

8  
9 **E. Person means and includes any individual natural person, partnership,**  
10 **corporation, unincorporated association, or other entity.**

11  
12 **F. Vehicle for hire means any vehicle used for the ground transportation of**  
13 **passengers for compensation within the City, including taxis and transportation**  
14 **network company (TNC) vehicles, as well as animal-drawn vehicles and vehicles**  
15 **powered by humans, including but not limited to vehicles such as pedi-cabs. The**  
16 **following motor vehicles are excluded from the definition of vehicle for hire and**  
17 **are exempt from this chapter:**

- 18 **1. School buses operated to transport students;**
- 19 **2. Vehicles used by nonprofit transportation providers solely and exclusively**  
20 **for elderly or handicapped persons;**
- 21 **3. Vehicles used to provide courtesy transportation at no charge to and from**  
22 **parking lots, hotels, casinos, rental offices, retirement homes, and the like;**
- 23 **4. Vehicles used to provide licensed ambulance services, as well as licensed**  
24 **nonemergency medical transport vehicles.**
- 25 **5. Vehicles licensed for airport ground transportation by the Port of Portland**  
26 **or other ports that license passenger transportation.**
- 27 **6. Regular-route scheduled buses, State-approved buses engaged in charter**  
28 **service.**

29  
30 **G. Taxi company means any person or entity operating one or more vehicles for**  
31 **hire, other than as a driver, regardless of the legal form of the entity and**  
32 **regardless of whether the taxis so operated are owned by the company, or leased,**  
33 **or owned by individual members of an entity. Taxi companies do not include**  
34 **TNCs.**

35  
36 **H. Transportation network company or TNC means a company or other entity**  
37 **that exclusively uses an Internet-enabled platform or application to connect**  
38 **passengers with vehicles for hire and/or TNC drivers.**  
39

1 **10.20.020 License Required, Application and Fees.**

2  
3 **A. No person shall operate any vehicle for hire business in the city without**  
4 **possessing a valid License for that business and its vehicles issued pursuant to this**  
5 **Chapter 10.20, as well as any other license required by law including but not**  
6 **limited to a business occupation tax permit under Chapter 5.04 LCMC.**

7  
8 **B. The City may issue a license to a taxi company or TNC or other vehicle for hire,**  
9 **if the company certifies in a sworn statement under penalty of perjury and false**  
10 **swearing, on a form approved to the City that it is in compliance with all**  
11 **requirements of this chapter, including but not limited to driver and insurance**  
12 **requirements, operating standards, and any other requirements of the Municipal**  
13 **Code or State Law, and actually meets all applicable standards and requirements.**  
14 **The City may inspect company records, as well as equipment and vehicles, and**  
15 **request the production of other supporting materials to verify compliance.**  
16 **The City may include conditions, restrictions, or special provisions in the license**  
17 **related to routes, times of operation, or lighting if necessitated by the vehicles or**  
18 **operations of the taxi company, TNC or other vehicle for hire. The City Manager**  
19 **may waive or lessen the requirements of this chapter if the type of vehicles or**  
20 **operations of a taxi company, TNC or other vehicle for hire render the**  
21 **requirements unreasonable or unnecessary, in the sole discretion of the City**  
22 **Manager.**

23  
24 **C. The license issued under this chapter is valid for one year. Any renewal must be**  
25 **approved by the City prior to the expiration date in order for the taxi company,**  
26 **TNC or other vehicle for hire to continue providing vehicle for hire services within**  
27 **the City.**

28  
29 **D. The application fee for the License shall be established by Resolution of the**  
30 **Council and shall be intended to account for the City's costs in administering the**  
31 **requirements of this chapter. The fee amounts shall be set by City Council**  
32 **resolution as part of the City's fee schedule.**

33  
34 **E. The application fee shall be paid to the City at the time of submitting both**  
35 **initial and renewal license applications.**

36  
37 **F. All taxi companies, TNCs, and other vehicles for hire, must comply with the**  
38 **City's business registration requirements in Chapter 5.04.**

1  
2 **10.20.030 Driver Requirements.**  
3

4 **A. All drivers shall be at least 21 years of age and shall possess a valid driver's**  
5 **license, proof of motor vehicle registration, and proof of current automobile**  
6 **liability insurance that meets the requirements of this chapter and state law.**  
7

8 **B. Every taxi company or TNC shall maintain accurate, current records for all**  
9 **drivers employed by, contracting with, or affiliated with the company, including**  
10 **all drivers accessing a company's digital network to operate in the City. The**  
11 **records shall include the driver's name, date of birth, address, social security**  
12 **number, criminal background check results, driver's license information, motor**  
13 **vehicle registration, and automobile insurance. These records will be made**  
14 **available to the City promptly on request.**  
15

16 **C. Prior to permitting a person to operate as a driver, and annually thereafter, the**  
17 **taxi company or TNC shall conduct, or have a qualified third party conduct, a**  
18 **criminal background check. The criminal background check shall include a search**  
19 **of no less than seven years of database history, unless prohibited by law, in which**  
20 **case the duration of the search shall be the maximum number of years permitted**  
21 **by law. The criminal background check shall include local, state, and national**  
22 **criminal history databases and all accessible sex offender registries. Any person**  
23 **who is on a sex offender registry or has a record of a felony conviction within the**  
24 **previous seven years may not act as a driver. A record of a conviction of any of the**  
25 **following within the previous seven years will also disqualify a person from acting**  
26 **as a driver: crimes involving theft or fraud, crimes involving driving under the**  
27 **influence of alcohol or controlled substances, sexual offenses, or crimes involving**  
28 **physical harm or attempted physical harm to a person (including but not limited**  
29 **to any felony or misdemeanor involving a crime against persons as defined in ORS**  
30 **Chapter 163, such as homicide, manslaughter, assault, kidnapping, sexual offenses,**  
31 **harassment and stalking). The company or its agent shall maintain records of a**  
32 **criminal background checks for a period of at least two years. For purposes of this**  
33 **section, the term "conviction" includes convictions, bail forfeitures, and other final**  
34 **adverse findings.**  
35

36 **D. A taxi company or TNC must revoke a driver's authority to operate as a driver**  
37 **for their company and inform the City if it finds at any time that the standards set**  
38 **forth in this section are no longer being met by the driver. The company shall only**  
39 **reinstate a driver upon a finding by the company that all standards are again**  
40 **being met by the driver.**

1  
2 **E. Notwithstanding the standards of this section, upon application by a taxi**  
3 **company or TNC, the Lincoln City Chief of Police has authority to allow a person to**  
4 **act as a driver if the Chief determines public safety would not be compromised.**  
5

6 **10.20.040 Insurance Requirements.**  
7

8 **A. For all required insurance, Taxi companies, TNCs, and other vehicles for hire**  
9 **shall provide certificates of insurance naming the City, its officers, agents, and**  
10 **employees as additional insured parties and give at least 30 calendar days’ notice**  
11 **to the City before a policy is canceled, expires, or has any reduction in coverage.**  
12

13 **B. Insurance requirements of this section shall be satisfied by insurance issued by**  
14 **a licensed insurer or an eligible surplus lines insurer in the State of Oregon.**  
15

16 **C. The insurance limits for Taxi companies, TNCs, and other vehicles for are**  
17 **subject to statutory changes as to maximum limits of liability imposed on**  
18 **municipalities of the State of Oregon during the annual term of the license.**  
19

20 **D. The adequacy of insurance coverage is subject to the review and approval of**  
21 **the City Manager. The City Manager and Police Chief are expressly authorized to**  
22 **reduce required insurance coverage for other vehicles for hire (e.g. Pedi-Cab).**  
23

24 **E. Every Taxi company, TNC, and other vehicle for hire, shall maintain continuous,**  
25 **uninterrupted coverage for the duration of the license and any operations in the**  
26 **City. Any lapse in insurance coverage, even if it is later backdated by the insurance**  
27 **company, is a violation of this chapter.**  
28

29 **F. Taxi companies, TNCs, and other vehicles for hire shall secure and maintain**  
30 **commercial general liability insurance with limits of not less than \$1,000,000 per**  
31 **occurrence and \$2,000,000 aggregate for claims arising out of, but not limited to,**  
32 **bodily injury and property damage incurred in the course of operating in the City.**  
33

34 **G. Taxi companies operating any motor vehicles shall secure and maintain**  
35 **commercial automobile liability insurance covering those vehicles, with a**  
36 **combined single limit of not less than \$1,000,000 per occurrence for claims arising**  
37 **out of, but not limited to, bodily injury and property damage incurred in the**  
38 **course of operating in the City.**  
39

40 **H. TNC Service Periods Defined.**

1 1. Period 1: The TNC driver has logged into the app or is otherwise connected  
 2 to the TNC's digital network, but has not yet accepted a request for a ride from  
 3 a passenger. For example, the app is open and the driver is waiting for a  
 4 match.

5 2. Period 2: A passenger match has been accepted, but the passenger is not  
 6 yet picked up (for example, the driver is on the way to pick up the passenger).

7 3. Period 3: The passenger is in the vehicle.

8  
 9 I. Upon City request or as part of an application, TNCs shall provide proof of  
 10 current, valid insurance for City approval covering all affiliated TNC drivers and  
 11 vehicles for hire operating for such company and satisfying the minimum  
 12 requirements of Periods 1, 2, and 3.

13  
 14 J. All TNCs shall maintain and provide the City with proof of the following  
 15 automobile liability coverages:

16 1. Primary insurance coverage during Period 1 with minimum liability limits  
 17 of \$50,000 per person for death and injury, \$100,000 per incident for death  
 18 and injury, and \$25,000 for property damage, plus any other state compulsory  
 19 coverage.

20 2. Primary insurance coverage during Periods 2 and 3 with minimum liability  
 21 limits of \$1,000,000 in combined single limit coverage for death, personal  
 22 injury and property damage per incident; and \$1,000,000 in combined single  
 23 limit under/uninsured motorist coverage for death, personal injury and  
 24 property damage per incident.

25 3. The required automobile liability insurance shall specifically recognize the  
 26 driver's provision of TNC and vehicle for hire services and shall comply with  
 27 the laws of the State of Oregon and/or other applicable governing bodies.

28 K. TNC drivers shall be responsible for maintaining all personal automobile  
 29 liability insurance required by State law.

30  
 31 10.20.045 Annual Inspection of all vehicles for hire.

32  
 33 A. Prior to the operation of any vehicle under the provisions of this chapter and at  
 34 least annually thereafter, the vehicle shall be thoroughly examined and inspected  
 35 by either a certified mechanic or a governmental vehicle inspection entity located  
 36 within Lincoln County and shall be found to be in safe operating condition. An  
 37 inspection for safe operating conditions must include, but is not limited to,  
 38 inspection of brakes including parking brake; all lights, signals and reflectors;  
 39 exhaust system; steering system; wipers including washers; suspension  
 40 components; mirrors; horn and other warning devices; tires and restraint system.

1 Record of such inspections, clearly identifying by vehicle license number the  
2 vehicles inspected, must be made available to the city upon initial application and  
3 annual renewal. In this section the term “certified mechanic” means a person  
4 certified by the National Institute for Automotive Service Excellence.

5  
6 B. In addition to the initial and annual inspections required above, inspection or  
7 testing of all parts vital to the safe operation of the vehicle such as brakes,  
8 steering gear, tires, lights, and signaling devices shall be made at the beginning of  
9 each shift or each day by the driver, and as often as necessary during use. Any  
10 condition found then or at any other time that will prevent the safe operation of  
11 the vehicle shall be corrected before the vehicle is used.

12  
13 C. In the event a record of vehicle inspection is not produced within 24 hours of  
14 request, or if the record produced indicates the inspection occurred more than 12  
15 months to date, the city shall notify the holder of a vehicle for hire license to  
16 complete an inspection showing compliance with the standards of this chapter and  
17 deliver the record to the city within 24 hours of the written notice.

18  
19 D. Failure to timely produce a satisfactory record of inspection shall be grounds to  
20 suspend or revoke a certificate and also constitutes a violation of this chapter  
21 subject to enforcement by citation.

22  
23 **10.20.050 Operational Requirements.**

24  
25 A. TNCs shall maintain records of all trips made by all drivers for at least one year  
26 from the date of the trip. The data may be aggregated and/or anonymized, and  
27 shall include, at minimum, the locations by ZIP code of trip origination and  
28 destination, vehicle miles traveled, trip origination and completion times, trip  
29 duration, and passenger wait times from a driver’s acceptance of a request to  
30 passenger pick-up. The City may require a TNC to enter a data sharing agreement  
31 in order to receive a license.

32  
33 B. All vehicles operating for taxi companies shall be clearly marked as such and  
34 shall include the taxi company name, phone number, and a vehicle identification  
35 number in plain sight. Vehicles operated for TNC services shall be marked with a  
36 customary “trade dress” type of identification, such as a sticker or placard. The  
37 TNC’s software application or website shall display for the passenger the make,  
38 model, and license plate number of the TNC vehicle.

39

1 **C. TNCs may not accept street hails, and may only accept rides arranged through**  
2 **a TNC's digital network.**

3  
4 **D. Taxi companies, TNCs, and other vehicles for hire shall implement and**  
5 **maintain at all times a zero tolerance policy on the use of drugs or alcohol**  
6 **applicable to all drivers employed by or affiliated with the company while**  
7 **providing vehicle for hire services. Companies shall provide notice of the zero**  
8 **tolerance policy on their website and/or have it clearly displayed in each vehicle.**  
9 **The notice must include contact information to report a complaint about a driver**  
10 **for possible violation of policy. A company shall immediately suspend a driver**  
11 **upon receipt of a passenger complaint alleging a violation of the zero tolerance**  
12 **policy, for at least the duration of the investigation of the complaint.**

13  
14 **E. Taxi companies, TNCs, and other vehicles for hire shall provide reasonable**  
15 **accommodations to passengers with disabilities, including passengers**  
16 **accompanied by a service animal, passengers with hearing and visual impairments,**  
17 **and passengers with mobility devices, and must comply with all applicable**  
18 **requirements of the Americans with Disabilities Act.**

19  
20 **F. Unless otherwise directed by the passenger, any vehicle for hire driver hired to**  
21 **transport passengers to a definite point shall use the most direct route possible**  
22 **that will carry the passenger to that destination safely and expeditiously.**

23  
24 **G. Every driver, if requested, shall give a correct receipt upon payment of the**  
25 **correct fare.**

26  
27 **H. No person may refuse to pay a lawful vehicle for hire fare after hiring a vehicle**  
28 **for hire.**

29  
30 **I. Whenever a passenger occupies a vehicle for hire, the driver must not permit any**  
31 **other person to occupy the vehicle for hire except with consent of the original**  
32 **passenger.**

33  
34 **J. Taxi companies, TNCs, and other vehicles for hire shall ensure that every vehicle**  
35 **operating under this chapter is to be kept in a clean and sanitary condition.**

36  
37 **10.20.055 Reports to the police department.**

38 **A. Taxi companies, TNCs, and other vehicles for hire shall immediately report to**  
39 **the police department as soon as any of the following events occur:**

- 1 1. The arrest or conviction for any criminal offense of any officer or principal
- 2 managing employee of the Taxi company, TNC, or vehicles for hire company,
- 3 including specifically any offense involving the operation of the company;
- 4 2. Any accident required to be reported to the state involving a vehicle driven
- 5 for the company;
- 6 3. The filing of a lawsuit against or on behalf of the company related to the
- 7 operation of the company;
- 8 4. The initiation of bankruptcy proceedings or corporate or partnership
- 9 dissolution by the company; or
- 10 5. Any information required to be disclosed by subsection (B) of this section.

11

12 **B. Every driver shall report to the police department, and to the company for**

13 **which he or she drives, the occurrence of the following:**

- 14 1. Any arrest, charge, or conviction of the driver for any criminal offense, or
- 15 any traffic violation, that occurs during, or arises out of, the driver's
- 16 operation of a taxicab, TNC vehicle or other vehicle for hire;
- 17 2. Any arrest, charge, or conviction of the driver for any criminal offense
- 18 including but not limited to, theft, robbery, burglary, assault, sex crimes,
- 19 drugs, prostitution, or any related offense;
- 20 3. Any vehicle accident required to be reported to the state involving any
- 21 vehicle for hire operated by the driver;
- 22 4. Any restriction, suspension or revocation of the driver's motor vehicle
- 23 driver's license; or
- 24 5. Lapse, cancellation, or reduction of coverage of any insurance policy the
- 25 city or police department relied on in issuing a license or renewal thereof.

26

27 **10.20.055 Taxicab Equipment.**

28

29 **Every taxicab is to be equipped with the following:**

30

31 **A. Except for taxicabs charging flat rates, a taximeter in accurate operating**

32 **condition with a lighted face which can be read at all times by the customer. Rates**

33 **to be charged to passengers are to be based on the following: the mileage from**

34 **the point of origin to the point of destination by the most direct route, the time**

35 **involved, and the number of passengers. Taxicabs charging flat rates must be**

36 **equipped with a sign posting the rate schedule in a place where passengers may**

37 **readily see the schedule. No taxicab may charge more than the posted rate.**

38

39 **B. A top light identifying it as a taxicab.**

40

1  
2 **C. The company name and telephone number where service can be requested**  
3 **displayed on the exterior of the vehicle.**

4  
5 **D. A mobile communication device with a hands-free accessory or “state of the**  
6 **art” taxi radio on a clear coordinated taxicab radio frequency for customer**  
7 **comfort and rapid dispatching of calls for service.**

8 **E. The driver’s company identification and the Company’s license number**  
9 **conspicuously displayed in a permanent mounted position inside the vehicle, in a**  
10 **place where it can be easily viewed by a passenger.**

11  
12 **10.20.060 Audit.**

13  
14 **The City may audit any taxi company, TNC, or other vehicle for hire records up to**  
15 **twice per calendar year to review compliance with this chapter. An audit shall**  
16 **occur at a time and location designated by the City. In addition to an audit, the**  
17 **City may require a company to produce records related to an investigation of a**  
18 **specific allegation of a violation of this Code or other applicable law, or to**  
19 **evaluate a complaint. Production of records for an investigation or to evaluate a**  
20 **complaint does not count toward the twice-per-year auditing limit.**  
21 **Notwithstanding any other provision of this Chapter, failure to submit to an audit**  
22 **is a Class B violation.**

23  
24 **10.20.070 Revocation, Suspension and Penalties.**

25  
26 **A. In addition to any other enforcement options provided by the code, the City**  
27 **may suspend, revoke, or refuse to issue a license if the taxi company, TNC or other**  
28 **vehicle for hire has violated or not met any of the provisions of this Code. A**  
29 **violation includes any failure to meet or maintain any of the requirements or**  
30 **qualifications set forth in this Code, including the procedures and requirements**  
31 **for obtaining and maintaining a license, as well as the making of any materially**  
32 **false statement or representation. The decision to suspend, revoke or refuse to**  
33 **issue a license may be appealed to the City Council provided there is strict**  
34 **compliance with LCMC 1.26 (Uniform Administrative Appeals) within 10 days of**  
35 **service of the written decision. The company shall have the burden of proving it**  
36 **has complied with all requirements of this Code necessary to obtain or maintain**  
37 **the license. The decision of the City Council on the appeal shall be the final**  
38 **decision of the City.**

39  
40 **10.20.075 Indemnification.**

1  
2 **A. Any recipient of a license to operate as a vehicle for hire within the City shall**  
3 **agree to pay all damages and penalties that the city may legally be required to pay**  
4 **as a result of granting a license and shall agree to defend and indemnify the city**  
5 **against all claims resulting from the granting of such a license. These damages or**  
6 **penalties shall include, but not be limited to, damage arising out of the operation**  
7 **or maintenance of a vehicle for hire as authorized herein, whether or not any act**  
8 **or omission complained of is authorized, allowed or prohibited by this chapter.**  
9

10 **B. The license holder shall pay and, by its application and the granting of a license,**  
11 **specifically agrees that it will pay all necessary and reasonable expenses incurred**  
12 **by the city in defending itself against all damages and penalties mentioned in**  
13 **subsection (A) of this section, including, but not limited to, reasonable attorney**  
14 **fees.**  
15

16 **10.20.080 Violation- Enforcement- Citation.**  
17

18 **A. A violation of any provision of this chapter, including but not limited to**  
19 **operating a vehicle for hire without a license, or in violation of any license**  
20 **or driver requirement herein, shall be enforced as a Class A violation under**  
21 **Chapter 1.16 LCMC.**  
22

23 **B. Each day's violation of a provision of this chapter constitutes a separate**  
24 **offense.**  
25

26 **C. The City has the administrative authority to implement and enforce this**  
27 **chapter, including adoption of rules, regulations, or policies. This provision**  
28 **shall not be construed to abrogate or limit the jurisdiction or authority of**  
29 **the Lincoln City Police Department or any law enforcement agency.**  
30

31 **10.20.090 Effective Date – Status of Existing Valid Certificates and Permits.**  
32

33 **Anyone with a taxicab certificate or driver permit under previous Chapter 10.20,**  
34 **Taxicabs, valid as of the effective date of the ordinance is exempt from this**  
35 **chapter, (Vehicles for Hire), until January 1, 2023, unless the certificate or driver**  
36 **permit holder wishes to apply under the new chapter at an earlier date. All existing**  
37 **taxicab certificates and driver permits issued prior to the effective date of the**  
38 **ordinance will expire automatically on December 31, 2022. Each application**  
39 **received after January 1, 2023 will be treated as a new application, not a renewal.**  
40 **All applications thereafter will be treated as a renewal.**

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**Chapter 10.20  
TAXICABS**

**Sections:**

- ~~10.20.010 Definitions.~~
- ~~10.20.020 Certificate required.~~
- ~~10.20.030 Reissuance, transfer, cancellation, suspension or revocation of certificate or permit.~~
- ~~10.20.040 Surrender of certificate.~~
- ~~10.20.050 Certificate fees.~~
- ~~10.20.060 Inspection of vehicles.~~
- ~~10.20.070 Taxicab maintenance.~~
- ~~10.20.080 Operating regulations.~~
- ~~10.20.090 Equipment.~~
- ~~10.20.100 Approval of drivers – Permits required.~~
- ~~10.20.110 Insurance requirements.~~
- ~~10.20.120 Rates.~~
- ~~10.20.130 Complaints.~~
- ~~10.20.140 Certificate application requirements.~~
- ~~10.20.150 Issuance of certificate.~~
- ~~10.20.160 Indemnification.~~
- ~~10.20.170 Reports to the police department.~~
- ~~10.20.180 Violation – Enforcement.~~
- ~~10.20.190 Additional remedies.~~

**10.20.010 Definitions.**

**A. Except where the context clearly indicates otherwise, the following words shall mean:**

**“Certificate” means a numbered certificate issued under this chapter to operate a taxicab business.**

**“Driver” means every person who is, or acts under or at the direction of, the owner, agent, or employee, and is in charge of operating any taxicab.**

**“Flat rate” is a fare which remains constant regardless of the distance traveled or time involved.**

**“Limousine” is a chauffeur-driven motor vehicle that carries passengers for hire where the minimum fare charged is at least \$50.00.**

1 ~~“Operate” means to drive a vehicle, to use a vehicle in the conduct of~~  
 2 ~~business, to receive money from the use of a vehicle, or cause or allow~~  
 3 ~~another person to do the same.~~

4 ~~“Owner” means every person having use or control of any taxicab whether~~  
 5 ~~as owner, lessee, or otherwise.~~

6 ~~“Permit” means police department authorization of a driver to operate a~~  
 7 ~~taxicab listed in a certificate.~~

8 ~~“Street” means any street, alley, avenue, road, lane, highway or public place~~  
 9 ~~in the city used for the purpose of public travel.~~

10 ~~“Taxicab” means any vehicle which carries passengers for hire whose~~  
 11 ~~journey has originated in the city, where the destination and route may be~~  
 12 ~~controlled by a passenger, and the fare is calculated on the basis of any~~  
 13 ~~combination of an initial fee, distance traveled, and delay, or the fare is a~~  
 14 ~~flat rate.~~

15 ~~B. Any vehicle that has an appearance deceptively similar to a taxicab is a~~  
 16 ~~taxicab for the purposes of this chapter.~~

17 ~~C. As used in this chapter, “taxicab” does not include licensed ambulances,~~  
 18 ~~nonemergency medical transport vehicles, regular route scheduled buses,~~  
 19 ~~state-approved buses engaged in charter service, limousines, courtesy~~  
 20 ~~vehicles operated by hotels and motels as a convenience for registered~~  
 21 ~~guests where no charges are made, vehicles operated for the exclusive use~~  
 22 ~~of senior citizens or persons with disabilities, and airport shuttles licensed~~  
 23 ~~by the Port of Portland or other ports that license passenger transportation.~~

24 ~~D. A “nonemergency medical transport vehicle” means a vehicle that carries~~  
 25 ~~a person for hire and such person requires nonemergency medical~~  
 26 ~~treatment or supervision by an emergency medical technician or first~~  
 27 ~~responder certified by the Oregon State Health Division while in the vehicle.~~

28  
 29 **10.20.020 Certificate required**

30 ~~No person shall operate any taxicab business in the city without possessing~~  
 31 ~~a valid certificate for that business and its vehicles issued pursuant to this~~  
 32 ~~chapter, as well as any other license required by law including but not~~  
 33 ~~limited to a business occupation tax permit under Chapter 5.04 LCMC.~~

34  
 35 **10.20.030 Reissuance, transfer, cancellation, suspension or revocation of**  
 36 **certificate or permit.**

37 ~~A. No certificate or permit may be sold, assigned, mortgaged or otherwise~~  
 38 ~~transferred without the written consent of the city manager. The city~~  
 39 ~~manager may impose conditions with respect to the transfer of a certificate~~

1 as it may deem to be in the best interest of the public safety and the general  
2 welfare.

3 ~~B. An application for transfer or reissuance of any certificate or permit is  
4 subject to the same terms, conditions, and requirements as the application  
5 for original certificate.~~

6 ~~C. Any certificate or permit may be suspended or revoked by the city  
7 manager after a hearing under the procedure provided in  
8 LCMC 10.20.100(E) at which the certificate holder or permit holder is given  
9 an opportunity to appear if any one or more of the following conditions  
10 exist:~~

11 ~~1. The owner ceases to operate any taxicab for a period of 15  
12 consecutive days without obtaining permission to cease such operation  
13 from the city manager.~~

14 ~~2. The owner or permit holder fails to operate the taxicab in  
15 accordance with the provisions of this chapter.~~

16 ~~3. The owner or permit holder fails to pay any of the fees or payments  
17 required to be paid by the provisions of this chapter.~~

18 ~~4. The owner or permit holder no longer qualifies for a certificate or  
19 permit under LCMC 10.20.100 or 10.20.140.~~

20 ~~D. After the city has issued a certificate with a vehicle list, any change in the  
21 driver name or vehicle list (not including elimination of a vehicle from the  
22 list) requires the applicant to apply for a new or reissued certificate,  
23 including completing an application, paying the application fee, meeting  
24 vehicle inspection for additional or replacement vehicles, and meeting  
25 insurance requirements for all drivers and additional or replacement  
26 vehicles. When all requirements of this chapter are met, the city will issue a  
27 new certificate with a new expiration date.~~

28 ~~E. The city may use any means of enforcement authorized by law to enforce  
29 the provisions of this section.~~

30  
31 **~~10.20.040 Surrender of certificate.~~**

32 ~~Any certificate suspended or revoked by the city manager shall be  
33 surrendered to the police department and the operations of any taxicab  
34 covered by such certificate shall cease. Any owner who permanently retires  
35 any taxicab from taxicab service and does not replace it within 15 days shall  
36 immediately surrender any certificate granted for the operation of such  
37 taxicab to the police department and the owner may not secure an  
38 additional certificate for the operation of any taxicab without making  
39 application in the manner provided in this chapter. (Ord. 2012-03 § 2 (Exh.  
40 A); Ord. 2005-12 § 1)~~

**~~10.20.050 Certificate fees.~~**

~~No certificate may be issued, or a taxicab business continue in operation, until the applicant has paid to the city an annual license fee as established by resolution of the city council for each vehicle listed in the certificate or operated within the city. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

**~~10.20.060 Inspection of vehicles.~~**

~~A. Prior to the operation of any vehicle under the provisions of this chapter and at least annually thereafter, the vehicle shall be thoroughly examined and inspected by either a certified mechanic or a governmental vehicle inspection entity located within Lincoln County and shall be found to be in safe operating condition. An inspection for safe operating conditions must include, but is not limited to, inspection of brakes including parking brake; all lights, signals and reflectors; exhaust system; steering system; wipers including washers; suspension components; mirrors; horn and other warning devices; tires and restraint system. Record of such inspections, clearly identifying by vehicle license number the vehicles inspected, must be made available to the city upon initial application and annual renewal. In this section the term "certified mechanic" means a person certified by the National Institute for Automotive Service Excellence.~~

~~B. In addition to the initial and annual inspections required above, inspection or testing of all parts vital to the safe operation of the vehicle such as brakes, steering gear, tires, lights, and signaling devices shall be made at the beginning of each shift or each day by the driver, and as often as necessary during use. Any condition found then or at any other time that will prevent the safe operation of the vehicle shall be corrected before the vehicle is used.~~

~~C. In the event a record of vehicle inspection is not produced within 24 hours of request, or if the record produced indicates the inspection occurred more than 12 months to date, the city shall notify the holder of a certificate to complete an inspection showing compliance with the standards of this chapter and deliver the record to the city within 24 hours of the oral or written notice.~~

~~D. Failure to timely produce a satisfactory record of inspection shall be grounds to suspend or revoke a certificate and also constitutes a violation of this chapter subject to enforcement under LCMC 10.20.180. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

**~~10.20.070 Taxicab maintenance.~~**

1 ~~Every vehicle operating under this chapter is to be kept in a clean and~~  
 2 ~~sanitary condition. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

3  
 4 ~~10.20.080 Operating regulations.~~

5 ~~A. Unless otherwise directed by the passenger, any taxicab driver hired to~~  
 6 ~~transport passengers to a definite point shall use the most direct route~~  
 7 ~~possible that will carry the passenger to that destination safely and~~  
 8 ~~expeditiously.~~

9 ~~B. Every driver, if requested, shall give a correct receipt upon payment of~~  
 10 ~~the correct fare.~~

11 ~~C. No person may refuse to pay a lawful taxicab fare after hiring a taxicab.~~

12 ~~D. Whenever a passenger occupies a taxicab, the driver must not permit any~~  
 13 ~~other person to occupy the taxicab except with consent of the original~~  
 14 ~~passenger. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

15 ~~10.20.090 Equipment.~~

16 ~~Every taxicab is to be equipped with the following:~~

17 ~~A. Except for taxicabs charging flat rates, a taximeter in accurate operating~~  
 18 ~~condition with a lighted face which can be read at all times by the customer.~~  
 19 ~~Taxicabs charging flat rates must be equipped with a sign complying with~~  
 20 ~~LCMC 10.20.120 stating "Flat Rate" conspicuous to a passenger upon entry~~  
 21 ~~into the taxicab.~~

22 ~~B. A top light identifying it as a taxicab.~~

23 ~~C. The company name and telephone number where service can be~~  
 24 ~~requested displayed on the exterior of the vehicle.~~

25 ~~D. A mobile communication device with a hands-free accessory or "state of~~  
 26 ~~the art" taxi radio on a clear coordinated taxicab radio frequency for~~  
 27 ~~customer comfort and rapid dispatching of calls for service.~~

28 ~~E. The driver's approved city taxicab driver's permit conspicuously displayed~~  
 29 ~~in a permanent mounted position inside the vehicle, in a place where it can~~  
 30 ~~be easily viewed by a passenger. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 §~~  
 31 ~~1)~~

32  
 33 ~~7.35.030 Driver Requirements.~~

34 ~~A. All drivers shall be at least 21 years of age and shall possess a valid~~  
 35 ~~driver's license, proof of motor vehicle registration, and proof of current~~  
 36 ~~automobile liability insurance that meets the requirements of this chapter~~  
 37 ~~and state law.~~

38 ~~B. Every taxi company or TNC shall maintain accurate, current records for all~~  
 39 ~~drivers employed by, contracting with, or affiliated with the company,~~  
 40 ~~including all drivers accessing a company's digital network to operate in the~~

1 ~~City. The records shall include the driver's name, date of birth, address,~~  
 2 ~~social security number, criminal background check results, driver's license~~  
 3 ~~information, motor vehicle registration, and automobile insurance. These~~  
 4 ~~records will be made available to the City promptly on request.~~

5 ~~C. Prior to permitting a person to operate as a driver, and annually~~  
 6 ~~thereafter, the taxi company or TNC shall conduct, or have a qualified third~~  
 7 ~~party conduct, a criminal background check. The criminal background check~~  
 8 ~~shall include a search of no less than seven years of database history, unless~~  
 9 ~~prohibited by law, in which case the duration of the search shall be the~~  
 10 ~~maximum number of years permitted by law. The criminal background~~  
 11 ~~check shall include local, state, and national criminal history databases and~~  
 12 ~~all accessible sex offender registries. Any person who is on a sex offender~~  
 13 ~~registry or has a record of a felony conviction within the previous seven~~  
 14 ~~years may not act as a driver. A record of a conviction of any of the~~  
 15 ~~following within the previous seven years will also disqualify a person from~~  
 16 ~~acting as a driver: crimes involving driving under the influence of alcohol or~~  
 17 ~~controlled substances, sexual offenses, or crimes involving physical harm or~~  
 18 ~~attempted physical harm to a person. The company or its agent shall~~  
 19 ~~maintain records of a criminal background checks for a period of at least~~  
 20 ~~two years. For purposes of this section, the term "conviction" includes~~  
 21 ~~convictions, bail forfeitures, and other final adverse findings.~~

22 ~~D. A taxi company or TNC must revoke a driver's authority to operate as a~~  
 23 ~~driver for their company and inform the City if it finds at any time that the~~  
 24 ~~standards set forth in this section are no longer being met by the driver. The~~  
 25 ~~company shall only reinstate a driver upon a finding by the company that all~~  
 26 ~~standards are again being met by the driver.~~

27 ~~E. Notwithstanding the standards of this section, upon application by~~  
 28 ~~a taxi company or TNC, the Lincoln City Chief of Police has authority~~  
 29 ~~to allow a person to act as a driver if the Chief determines public~~  
 30 ~~safety would not be compromised. [Ord. NS-2287, 2017]~~

31  
32  
33 **10.20.100 Approval of drivers – Permits required.**

34 ~~It is unlawful for any person to operate a taxicab in the city unless the~~  
 35 ~~person has been issued a taxicab driver's permit by the police department in~~  
 36 ~~accordance with the terms of this chapter.~~

37 ~~A. Application for a Taxicab Driver's Permit. A person may apply for a~~  
 38 ~~taxicab driver's permit by submitting a completed application to the police~~  
 39 ~~department accompanied by payment of a fee established by resolution of~~  
 40 ~~the city council. The application must include the name, address, age, and~~

~~Oregon driver's license number of the applicant and a photo of the applicant taken by the police department.~~

~~B. Upon receipt of such application, the police department shall be responsible for investigating the applicant's background as necessary to verify compliance with subsection (C) of this section, including initiating a criminal background check.~~

~~C. The police department shall not issue a taxi driver's permit unless the police department has verified the applicant:~~

~~1. Is 21 or more years of age;~~

~~2. Possesses a valid Oregon driver's license;~~

~~3. Has not had a driver's license revoked by any state within the last five years;~~

~~4. Did not make any false statements in the application;~~

~~5. Has been investigated by the police department, which has verified the applicant's background is satisfactory.~~

~~a. In conducting the investigation of the applicant, the police department shall verify that the applicant has not been convicted of any felony or misdemeanor involving a crime against persons as defined in ORS Chapter 163, including but not limited to homicide, manslaughter, assault, kidnapping, sexual offenses, harassment and stalking; or any violation of the Oregon Vehicle Code defined as a felony or misdemeanor, including driving under the influence of intoxicants as defined in ORS Chapter 813; or any misdemeanor involving theft or fraud.~~

~~b. Where an applicant's driver's license has been suspended or revoked during the last five years, the police department shall verify that the applicant has been satisfactorily reinstated.~~

~~c. Where the application or other information provided by the applicant indicates a conviction for violation of ORS Chapter 811 (Rules of the Road for Drivers), the police department shall investigate the violation and determine whether the nature of the violation, when viewed in light of the circumstances of the violation and the city's duty to protect the public, is such that a reasonable person would believe the driver so convicted is an unacceptable risk to public safety. If the person making the investigation believes such a risk exists, then the police department shall notify the city manager and the applicant that the applicant's background check is not satisfactory, and the police department shall not issue a permit to the applicant.~~

1 ~~D. If the police department determines that the applicant meets the~~  
 2 ~~requirements of this chapter, including paying any required fee, the police~~  
 3 ~~department shall issue the permit.~~

4 ~~E. If the application is denied, or a permit is revoked or suspended, the~~  
 5 ~~applicant may appeal the decision by submitting an appeal in writing to the~~  
 6 ~~city manager within seven days of notice of the decision by the police~~  
 7 ~~department. Within three days of a written appeal, the city manager will set~~  
 8 ~~a time no later than seven days from the date of the written request to hear~~  
 9 ~~the appeal. Within three days after the hearing, the city manager shall issue~~  
 10 ~~a decision either affirming the police department decision or taking other~~  
 11 ~~action including remanding the application to the police department to~~  
 12 ~~issue the permit based on the information presented.~~

13 ~~F. Any taxicab driver's permit expires one year from date of issue and may~~  
 14 ~~be renewed from year to year upon application to the police department.~~  
 15 ~~The fee for a renewal permit shall be set by resolution of the city council.~~

16 ~~G. As a condition of licensing, a taxicab driver shall agree in writing to~~  
 17 ~~notify the city manager within 10 days of conviction of any crime included~~  
 18 ~~in subsection (C)(5)(a) or (c) of this section. (Ord. 2012-03 § 2 (Exh. A); Ord.~~  
 19 ~~2005-12 § 1)~~

20  
 21 **10.20.110 Insurance requirements.**

22 ~~A. No person may drive or operate, or cause to be driven or operated, any~~  
 23 ~~taxicab in the city unless the certificate holder has on file with the police~~  
 24 ~~department a certificate of insurance written by a responsible and solvent~~  
 25 ~~insurance carrier authorized to write insurance policies in Oregon, that it has~~  
 26 ~~issued to or for the benefit of the certificate holder or taxicab driver a~~  
 27 ~~commercial auto liability policy which is in full force and effect, and~~  
 28 ~~designating in such policy the taxicabs which may be driven or operated and~~  
 29 ~~the drivers who may operate such taxicabs under this chapter. These~~  
 30 ~~requirements are intended to insure the vehicle and its operation by the~~  
 31 ~~driver.~~

32 ~~B. The taxicab liability insurance policy shall insure the certificate holder and~~  
 33 ~~any other person using or responsible for the use of any such taxicab~~  
 34 ~~against loss from the liability imposed upon such operation of such taxicab~~  
 35 ~~by law for injury to, or death of, any person, or damage to property growing~~  
 36 ~~out of the maintenance, operation or ownership of any taxicab, in the~~  
 37 ~~amount of \$1,000,000 combined single limit for bodily injury and property~~  
 38 ~~damage.~~

~~C. The policy required in this section shall include a statement that the policy is not cancelable nor the coverage reducible except on 30 days' prior written notice to the police department.~~

~~D. The insurance minimum limits required by subsection (B) of this section apply when the city issues a new license or permit, or reissues or renews a license or permit. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

#### ~~10.20.120 Rates.~~

~~A. Except for a taxicab charging a flat rate, the rates to be charged to passengers are to be based on the following: the mileage from the point of origin to the point of destination by the most direct route, the time involved, and the number of passengers. Each taxicab must be equipped with taximeter to compute the rate. In lieu of a computed rate, a flat rate may be charged.~~

~~B. The rate schedule must be posted in each taxicab in a place where passengers may readily see the schedule. No taxicab may charge more than the posted rate. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

#### ~~10.20.130 Complaints.~~

~~Certificate holders shall maintain a record of all complaints received in writing or by telephone and shall keep posted in a conspicuous place in the passenger compartment of each taxicab a statement setting forth the address and telephone number of the owners to which complaints should be directed, and a notice that a record of all complaints shall be open to inspection and review by the city at any time on its request. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

#### ~~10.20.140 Certificate application requirements.~~

~~A. An application for a certificate shall be filed with the police department. The application must be verified under penalty of perjury and contain or be accompanied by the following information and documentation:~~

- ~~1. The name, business address, and residence address of the owner or person applying.~~
- ~~2. The make, type, year of manufacture and seating capacity of the vehicle(s) for which application for certificate is made.~~
- ~~3. A description of the proposed color scheme, insignia, trade style or any other distinguishing characteristics of the proposed vehicle design.~~
- ~~4. A statement whether the applicant or any officers of the applicant have been convicted of any felony, misdemeanor or violation of any municipal ordinance or state law, including non-moving traffic~~

~~violations and parking offenses, the nature of the offense and the punishment or penalty assessed.~~

~~5. A policy of insurance in the manner and form required under LCMC 10.20.110.~~

~~6. Payment of a nonrefundable fee as provided in subsection (B) of this section.~~

~~B. The fee is to be set by resolution of the city council. The resolution shall include an exception to the fee requirement, during the first calendar year or portion thereof in which these regulations apply, in response to a request from a person who has demonstrated current payment of an occupation tax to the city. Such person shall be eligible to apply for a certificate prior to December 31st of that year without payment of the fee as required in subsection (A) of this section.~~

~~C. Before acting on any application for a certificate, the police chief shall be responsible for conducting an investigation of the owner or applicant within 60 days from the date the application is filed. Upon completion of such investigation the police chief shall report any findings and decision denying a certificate, in writing, to the city manager and the applicant.~~

#### ~~10.20.150 Issuance of certificate.~~

~~The police department will issue a certificate to operate a taxicab upon approval by the city manager or the city manager's designee that the applicant has met the requirements of this chapter. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

#### ~~10.20.160 Indemnification.~~

~~A. Any recipient of a certificate of public convenience and necessity shall agree to pay all damages and penalties that the city may legally be required to pay as a result of granting a certificate and shall agree to defend and indemnify the city against all claims resulting from the granting of such a certificate. These damages or penalties shall include, but not be limited to, damage arising out of the operation or maintenance of a taxicab as authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter.~~

~~B. The certificate holder shall pay and, by its application and the granting of a certificate of public convenience and necessity, specifically agrees that it will pay all necessary and reasonable expenses incurred by the city in defending itself against all damages and penalties mentioned in subsection (A) of this section, including, but not limited to, reasonable attorney fees. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

**~~10.20.170 Reports to the police department.~~**

**~~A. Every taxicab company shall immediately report to the police department as soon as any of the following events occur:~~**

- ~~1. The arrest or conviction for any criminal offense of any officer or principal managing employee of the taxicab company involving the operation of the taxicab company;~~**
- ~~2. Any taxicab accident required to be reported to the state involving a vehicle driven for the taxicab company;~~**
- ~~3. The filing of a lawsuit against or on behalf of the taxicab company related to the operation of the taxicab company;~~**
- ~~4. The initiation of bankruptcy proceedings or corporate or partnership dissolution by the taxicab company; or~~**
- ~~5. Any information required to be disclosed by subsection (B) of this section.~~**

**~~B. Every taxicab driver shall report to the police department, and to the company for which he or she drives, the occurrence of the following:~~**

- ~~1. Any arrest, charge, or conviction of the taxicab driver for any criminal offense, or any traffic violation, that occurs during, or arises out of, the taxicab driver's operation of a taxicab;~~**
- ~~2. Any arrest, charge, or conviction of the taxicab driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or any related offense;~~**
- ~~3. Any vehicle accident required to be reported to the state involving any taxicab operated by the taxicab driver;~~**
- ~~4. Any restriction, suspension or revocation of the taxicab driver's motor vehicle driver's license; or~~**
- ~~5. Lapse, cancellation, or reduction of coverage of any insurance policy the city or police department relied on in issuing a certificate or permit or renewal thereof. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~**

**~~10.20.180 Violation – Enforcement.~~**

**~~A. A violation of any provision of this chapter, including but not limited to operating a taxicab service from points originating within the city without holding a valid, approved certificate, or operating a vehicle without a valid, approved taxicab permit, shall be enforced as a Class B violation under Chapter 1.16 LCMC.~~**

**~~B. Each day's violation of a provision of this chapter constitutes a separate offense. (Ord. 2015-10 §§ 5, 6; Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~**

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~~10.20.190 Additional remedies.  
Operating a taxi in violation of this chapter is declared detrimental to public health and safety and a nuisance as authorized by LCMC 8.12.130(B). As an alternative to any remedy provided for enforcement, the city may use the abatement procedures of Chapter 8.12 LCMC or institute injunctive or other appropriate proceedings to temporarily or permanently enjoin the operation of a taxi. (Ord. 2012-03 § 2 (Exh. A); Ord. 2005-12 § 1)~~

**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.

**SECTION 4. Ordinance Effective Date.**

Pursuant to Chapter IX, Section 9.3, this ordinance takes on the thirtieth (30<sup>th</sup>) day after its adoption.

**SECTION 5. Codification.**

Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) 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 14<sup>th</sup> day of March, 2022 (First Reading). The Ordinance was again read by title only on the 14<sup>th</sup> day of March, 2022 (Second Reading) and Council approved Second Reading and adoption of the Ordinance.

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

\_\_\_\_\_  
SUSAN WAHLKE,  
MAYOR

ATTEST:

\_\_\_\_\_  
JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
RICHARD APPICELLO, CITY ATTORNEY



## VEHICLE FOR HIRE OPERATING LICENSE APPLICATION TAXI COMPANY

The City of Lincoln City, per Lincoln City Code Chapter \_\_\_ requires that vehicle for hire companies obtain a Vehicle for Hire (VFH) Operating License for their operations within the City. The City may include conditions, restrictions, or special provisions in the License related to routes, times of operation, or lighting if necessitated by the vehicles or operations of the companies. The City may also waive or lessen the requirements if the type of vehicles or operations of a company render the requirements unreasonable or unnecessary, in the sole discretion of the City.

“Vehicle for hire” means any vehicle used for the ground transportation of passengers for compensation within the City, including taxis and Transportation Network Companies (“TNC”) vehicles, as well as animal-drawn vehicles and vehicles powered by humans, including but not limited to vehicles such as pedi-cabs. The following motor vehicles are excluded from the definition of vehicle for hire and are exempt from Lincoln City Code Chapter \_\_\_\_:

1. School buses operated to transport students;
2. Vehicles used by nonprofit transportation providers solely for elderly or handicapped persons;
3. Vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, rental offices, retirement homes, and the like; and
4. Vehicles used to provide Ambulances Service.

“Taxi Company” means any person or entity operating one or more vehicles for hire, other than as a driver, regardless of the legal form of the entity and regardless of whether the taxis so operated are owned by the company, or leased, or owned by the individual members of an entity. Taxi companies do not include TNCs.

### **REQUIRED MATERIALS & SUBMITTAL INSTRUCTIONS**

- Certificates of Insurance - Commercial General Liability for all Taxi Companies (Pages 4-5)
- Commercial Automobile Liability for Taxi Companies operating vehicles, if applicable (Pages 4-5)
- Government Issued Photo Identification of Business Owner(s)
- Photo of Vehicle Identification (Page 2)
- Occupational Tax Permit
- Copy of Oregon State Business Registration
- Application Fee Payment of \$\_\_\_\_
  - Mail application, materials and check payment to the City of Lincoln City ATTN: Permits/Accounts Receivable at PO Box 50, Lincoln City, OR 97367.
  - Submit application, materials and payment in person to the Finance Department on the 3rd floor of City Hall, 801 SW HWY 101, Lincoln City, OR 97367. Hours are Monday – Friday, 8 a.m. – 5 p.m.
  - Email to [lincolncityAR@lincolncity.org](mailto:lincolncityAR@lincolncity.org) and make payment over the phone by calling the Finance Department at 541-996-1211.

**APPLICANT/LOCAL AGENT INFORMATION**

Name	
Mailing Address 1	
Mailing Address 2	
City, State, Zip Code	
Phone Number	
Email Address	

**BUSINESS INFORMATION**

Business Name	
Owner(s)	
Mailing Address 1	
Mailing Address 2	
City, State Zip Code	
Phone Number	
Website Address	
Current # of Drivers	

**GOVERNMENT-ISSUED PHOTO IDENTIFICATION**

Identification of applicant/business owner(s). If the applicant is an entity, the identification of all owners and managers of the entity. Additional space is available at the end of this application for multiple owners. A copy of the identification(s) will be made at the time of application submittal or a copy may be provided by the applicant(s).

Identification Type (passport, driver's license, etc.)	
Identification Number	
State of issuance, if applicable	

**BUSINESS REGISTRATION**

All vehicle for hire businesses are required to also obtain a City of Lincoln City OTP in order to operate. Please visit \_\_\_\_\_ to apply.

OTP Number	
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**SECRETARY OF STATE REGISTRATION**

Oregon Business Registry Number	
---------------------------------	--

**TERM & EFFECTIVE DATE**

- ❑ Licenses are valid for one-year calendar year, with the term beginning in January and ending in December. Any renewal must be approved by the City prior to the expiration date in order for the company to continue providing vehicle for hire services within the City.
- ❑ Anyone with a taxicab operator permit under previous Chapter \_\_\_\_ Taxicabs, valid as of the effective date of the ordinance repealing the previous chapter and creating the new chapter is exempt from Lincoln City Code Chapter\_\_\_\_, Vehicles for Hire until January 1, 2023, unless the permit holder wishes to apply at an earlier date. All existing taxicab operator permits issued prior to the effective date of the ordinance creating this section will expire automatically on December 31, 2022.

**LICENSE FEES**

- ❑ Upon submission of the original application, the applicant shall submit a non-refundable license fee as set by City Council resolution (currently \$\_\_\_\_) based on the cost of administering the program.

**STANDARDS OF OPERATION**

- ❑ All vehicles operating for Taxi Companies shall be clearly marked as such and shall include the Taxi Company name, phone number, and a vehicle identification number in plain sight.
- ❑ All companies shall implement and maintain at all times a zero tolerance policy on the use of drugs or alcohol applicable to all drivers employed by or affiliated with the company while providing vehicle for hire services. Companies shall provide notice of the zero tolerance policy on their website and/or have it clearly displayed in each vehicle. The notice must include contact information to report a complaint about a driver for possible violation of policy. A company shall immediately suspend a driver upon receipt of a passenger complaint alleging a violation of the zero tolerance policy, for at least the duration of the investigation of the complaint.
- ❑ Companies must provide reasonable accommodations to passengers with disabilities, including passengers accompanied by a service animal, passengers with hearing and visual impairments, and passengers with mobility devices, and must comply with all applicable requirements of the Americans with Disabilities Act.

### DRIVER REQUIREMENTS

- ❑ All drivers shall be at least 21 years of age and shall possess a valid driver's license, proof of motor vehicle registration, and proof of current automobile liability insurance that meets the requirements of Lincoln City Code Chapter \_\_\_\_ and state law.
- ❑ Every company shall maintain accurate, current records for all drivers employed by, contracting with, or affiliated with the company, including all drivers accessing a company's digital network to operate in the City. The records shall include the driver's name, date of birth, address, social security number, criminal background check results, driver's license information, motor vehicle registration, and automobile insurance. These records will be made available to the City promptly on request.
- ❑ Prior to permitting a person to operate as a driver, and annually thereafter, the company shall conduct, or have a qualified third party conduct, a criminal background check. The criminal background check shall include a search of no less than seven years of database history, unless prohibited by law, in which case the duration of the search shall be the maximum number of years permitted by law. The criminal background check shall include local, state, and national criminal history databases and all accessible sex offender registries. Any person who is on a sex offender registry or has a record of a felony conviction within the previous seven years may not act as a driver. A record of a conviction of any of the following within the previous seven years will also disqualify a person from acting as a driver: crimes involving driving under the influence of alcohol or controlled substances, sexual offenses, or crimes involving physical harm or attempted physical harm to a person. The company or its agent shall maintain records of a criminal background checks for a period of at least two years. For purposes of this section, the term "conviction" includes convictions, bail forfeitures, and other final adverse findings.
- ❑ A company must revoke a driver's authority to operate as a driver for their company and inform the City if it finds at any time that the standards set forth in Lincoln City Code \_\_\_\_ are no longer being met by the driver. The company shall only reinstate a driver upon a finding by the company that all standards are again being met by the driver.
- ❑ Notwithstanding the standards of this section, upon application by a company, the Lincoln City Chief of Police has authority to allow a person to act as a driver if the Chief determines public safety would not be compromised. Please contact the Chief of Police at [541-994-3636](tel:541-994-3636) if you seek to take this action.

### INSURANCE REQUIREMENTS

- ❑ For all required insurance, companies shall provide certificates of insurance naming the City, its officers, agents, and employees as additional insured parties and give at least 30 calendar days' notice to the City before a policy is canceled, expires, or has any reduction in coverage.
- ❑ A certificate of insurance **and** endorsement shall be provided to the City as part of this application. Failure to provide a valid certificate of insurance and endorsement will result in denial of your permit.
- ❑ Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the State of Oregon.

- ❑ The insurance limits for all companies are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the License's term, other statutory changes, or other changes deemed necessary by the City.
- ❑ The adequacy of insurance coverage is subject to the review and approval of the City.
- ❑ All companies shall maintain continuous, uninterrupted coverage for the duration of the License and any operations in the City. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is a violation of Lincoln City Code Chapter \_\_\_\_.
- ❑ All companies shall secure and maintain commercial general liability insurance with limits of not less than \$1 million per occurrence and \$2 million aggregate for claims arising out of, but not limited to, bodily injury and property damage incurred in the course of operating in the City.
- ❑ Taxi Companies operating any motor vehicles shall secure and maintain commercial automobile liability insurance covering those vehicles, with a combined single limit of not less than \$1 million per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred in the course of operating in the City.

### **AUDITS**

- ❑ The City may audit Taxi Company records up to twice per calendar year to review compliance with Lincoln City Code Chapter \_\_\_\_\_. An audit shall occur at a time and location designated by the City. In addition to an audit, the City may require a company to produce records related to an investigation of a specific allegation of a violation of this Code or other applicable law, or to evaluate a complaint. Production of records for an investigation or to evaluate a complaint does not count toward the twice-per-year auditing limit.

### **REVOCATION, SUSPENSION, PENALTIES AND ENFORCEMENT**

- ❑ In addition to any other enforcement options provided by the Lincoln City Code, the City may suspend, revoke, or refuse to issue a License if the vehicle for hire-company has violated or not met any of the provisions of Lincoln City Code \_\_\_\_\_. A violation includes any failure to meet or maintain any of the requirements or qualifications set forth, including the procedures and requirements for obtaining and maintaining a License, as well as the making of any materially false statement or representation. The decision to suspend, revoke or refuse to issue a License may be appealed to the City Council, which will conduct a hearing where the company and the City may present evidence and argument. The company shall have the burden of proving it has complied with all requirements of this Code necessary to obtain or maintain the License. The decision of the City Council on the appeal shall be the final decision of the City.
- ❑ A violation of Lincoln City Code Chapter \_\_\_\_ is a Class A civil infraction.
- ❑ The City has the administrative authority to implement and enforce Lincoln City Code Chapter\_\_\_\_, including adoption of rules, regulations, or policies. This provision shall not be construed to abrogate or limit the jurisdiction or authority of the Lincoln City Police Department or any law enforcement agency.
- ❑ To view the Lincoln City Code regarding this new program, please visit \_\_\_\_\_.

I acknowledge that I have read the information provided in this application and am fully aware and knowledgeable of the applicable rules and regulations established by Lincoln City Code Chapter\_\_\_\_.

**SIGNATURE**

By signing this application, the applicant and vehicle for hire company agrees to abide by the Vehicle for Hire Operating License requirements as stated in Lincoln City Code Chapter\_\_\_\_. I warrant that the information provided in this application is true.

**Disclosure: Information on this application is a public record subject to disclosure upon request under the Oregon Public Records Law unless an exemption applies.**

Name

Date

[Redacted signature area]

**ADDITIONAL OWNER INFORMATION & IDENTIFICATION**

Name	
Address 1	
Address 2	
City, State, Zip Code	
Phone Number	
Email Address	
Identification Type	
Identification Number	
State of Issuance, If Applicable	

Name	
Address 1	
Address 2	
City, State, Zip Code	
Phone Number	
Email Address	
Identification Type	
Identification Number	
State of Issuance, If Applicable	

Name	
Address 1	
Address 2	
City, State, Zip Code	

Phone Number	
Email Address	
Identification Type	
Identification Number	
State of Issuance, If Applicable	

Name	
Address 1	
Address 2	
City, State, Zip Code	
Phone Number	
Email Address	
Identification Type	
Identification Number	
State of Issuance, If Applicable	





### VEHICLE FOR HIRE OPERATING LICENSE APPLICATION TRANSPORTATION NETWORK COMPANY

The City of Lincoln City, per Lincoln City Code Chapter \_\_\_ requires that vehicle for hire companies obtain a Vehicle for Hire (VFH) Operating License for their operations within the City. The City may include conditions, restrictions, or special provisions in the License related to routes, times of operation, or lighting if necessitated by the vehicles or operations of the companies. The City may also waive or lessen the requirements if the type of vehicles or operations of a company render the requirements unreasonable or unnecessary, in the sole discretion of the City.

“Vehicle for hire” means any vehicle used for the ground transportation of passengers for compensation within the City, including taxis and Transportation Network Companies (“TNC”) vehicles.

“Transportation Network Company” or “TNC” means a company or other entity that exclusively uses an Internet-enabled platform or application to connect passengers with vehicles for hire and/or TNC drivers.

### REQUIRED MATERIALS & SUBMITTAL INSTRUCTIONS

- Occupational Tax Permit
- Certificates of Insurance - Commercial General Liability (Pages 4-5)
- Certificates of Insurance - Automobile Liability Coverage for Service Periods 1, 2 & 3 (Pages 4-5)
- Government Issued Photo Identification of Business Owner(s)
- Photo of Vehicle Trade Dress Identification (Page 3)
- Application Fee Payment of \$\_\_\_\_\_
  - Mail application, materials and check payment to the City of Lincoln City ATTN: Permits/Accounts Receivable at PO Box 50 Lincoln City, OR 97367.
  - Submit application, materials and payment in person to the Finance Department on the 3rd floor of City Hall, 801 SW HWY 101, Lincoln City, OR 97367. Hours are Monday – Friday, 8 a.m. – 5 p.m.
  - Email to [lincolncityAR@lincolncity.org](mailto:lincolncityAR@lincolncity.org) and make payment over the phone by calling the Finance Department at 541-996-1211.

**APPLICANT/LOCAL AGENT INFORMATION**

Name	
Mailing Address 1	
Mailing Address 2	
City, State, Zip Code	
Phone Number	
Email Address	

**BUSINESS INFORMATION**

Business Name	
Owner(s)	
Mailing Address 1	
Mailing Address 2	
City, State Zip Code	
Phone Number	
Website Address	
Current # of Drivers	

**GOVERNMENT-ISSUED PHOTO IDENTIFICATION**

Identification of applicant/business owner(s). If the applicant is an entity, the identification of all owners and managers of the entity. Additional space is available at the end of this application for multiple owners. A copy of the identification(s) will be made at the time of application submittal or a copy may be provided by the applicant(s).

Identification Type (passport, driver's license, etc.)	
Identification Number	
State of issuance, if applicable	

**BUSINESS REGISTRATION**

All vehicle for hire businesses are required to also obtain a City of Lincoln City OTP if in order to operate. Please visit to apply.

OTP Number	
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**SECRETARY OF STATE REGISTRATION**

Oregon Business Registry Number	
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**TERM & EFFECTIVE DATE**

- ☐ Licenses are valid for one-year calendar year, with the term beginning in January and ending in December. Any renewal must be approved by the City prior to the expiration date in order for the company to continue providing vehicle for hire services within the City.

**LICENSE FEES**

- ☐ Upon submission of the original application, the applicant shall submit a non-refundable license fee as set by City Council resolution (currently \$\_\_\_\_) based on the cost of administering the program.

**STANDARDS OF OPERATION**

- ☐ TNCs shall maintain records of all trips made by all drivers for at least one year from the date of the trip. The data may be aggregated and/or anonymized, and shall include, at minimum, the locations by ZIP code of trip origination and destination, vehicle miles traveled, trip origination and completion times, trip duration, and passenger wait times from a driver's acceptance of a request to passenger pick-up. The City may require a TNC to enter a data sharing agreement in order to receive or renew a License.
- ☐ Vehicles operated for TNC services shall be marked with a customary "trade dress" type of identification, such as a sticker or placard. The TNC's software application or website shall display for the passenger the make, model, and license plate number of the TNC vehicle.
- ☐ TNCs may not accept street hails, and may only accept rides arranged through a TNC's digital network.
- ☐ All companies shall implement and maintain at all times a zero tolerance policy on the use of drugs or alcohol applicable to all drivers employed by or affiliated with the company while providing vehicle for hire services. Companies shall provide notice of the zero tolerance policy on their website and/or have it clearly displayed in each vehicle. The notice must include contact information to report a complaint about a driver for possible violation of policy. A company shall immediately suspend a driver upon receipt of a passenger complaint alleging a violation of the zero tolerance policy, for at least the duration of the investigation of the complaint.
- ☐ Companies must provide reasonable accommodations to passengers with disabilities, including passengers accompanied by a service animal, passengers with hearing and visual impairments, and passengers with mobility devices, and must comply with all applicable requirements of the Americans with Disabilities Act.

### **DRIVER REQUIREMENTS**

- ❑ All drivers shall be at least 21 years of age and shall possess a valid driver's license, proof of motor vehicle registration, and proof of current automobile liability insurance that meets the requirements of Lincoln City Code Chapter \_\_\_\_ and state law.
- ❑ Every company shall maintain accurate, current records for all drivers employed by, contracting with, or affiliated with the company, including all drivers accessing a company's digital network to operate in the City. The records shall include the driver's name, date of birth, address, social security number, criminal background check results, driver's license information, motor vehicle registration, and automobile insurance. These records will be made available to the City promptly on request.
- ❑ Prior to permitting a person to operate as a driver, and annually thereafter, the company shall conduct, or have a qualified third party conduct, a criminal background check. The criminal background check shall include a search of no less than seven years of database history, unless prohibited by law, in which case the duration of the search shall be the maximum number of years permitted by law. The criminal background check shall include local, state, and national criminal history databases and all accessible sex offender registries. Any person who is on a sex offender registry or has a record of a felony conviction within the previous seven years may not act as a driver. A record of a conviction of any of the following within the previous seven years will also disqualify a person from acting as a driver: crimes involving driving under the influence of alcohol or controlled substances, sexual offenses, or crimes involving physical harm or attempted physical harm to a person. The company or its agent shall maintain records of a criminal background checks for a period of at least two years. For purposes of this section, the term "conviction" includes convictions, bail forfeitures, and other final adverse findings.
- ❑ A company must revoke a driver's authority to operate as a driver for their company and inform the City if it finds at any time that the standards set forth in Lincoln City Code \_\_\_\_\_ are no longer being met by the driver. The company shall only reinstate a driver upon a finding by the company that all standards are again being met by the driver.
- ❑ Notwithstanding the standards of this section, upon application by a company, the Lincoln City Chief of Police has authority to allow a person to act as a driver if the Chief determines public safety would not be compromised. Please contact Chief of Police, at [541-994-3636](tel:541-994-3636) if you seek to take this action.

### **INSURANCE REQUIREMENTS**

- ❑ For all required insurance, companies shall provide certificates of insurance naming the City, its officers, agents, and employees as additional insured parties and give at least 30 calendar days' notice to the City before a policy is canceled, expires, or has any reduction in coverage.
- ❑ Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the State of Oregon.
- ❑ The insurance limits for all companies are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the License's term, other statutory changes, or other changes deemed necessary by the City.
- ❑ The adequacy of insurance coverage is subject to the review and approval of the City.

- ❑ All companies shall maintain continuous, uninterrupted coverage for the duration of the License and any operations in the City. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is a violation of Lincoln City Code Chapter \_\_\_\_\_.
- ❑ All companies shall secure and maintain commercial general liability insurance with limits of not less than \$1 million per occurrence and \$2 million aggregate for claims arising out of, but not limited to, bodily injury and property damage incurred in the course of operating in the City.
- ❑ TNC Service Periods Defined:
  - Period 1: The TNC Driver has logged into the App or is otherwise connected to the TNC's digital network, but has not yet accepted a request for a ride from a passenger. For example, the App is open and the driver is waiting for a match.
  - Period 2: A passenger match has been accepted, but the passenger is not yet picked up (for example, the driver is on the way to pick up the passenger).
  - Period 3: The passenger is in the vehicle.
- ❑ TNCs shall provide proof of current, valid insurance for City approval covering all affiliated TNC Drivers and vehicles for hire operating for such company and satisfying the minimum requirements of Periods 1, 2, and 3.
- ❑ All TNCs shall maintain and provide the City with proof of the following automobile liability coverages:
  1. Primary insurance coverage during Period 1 with minimum liability limits of \$50,000 per person for death and injury, \$100,000 per incident for death and injury, and \$25,000 for property damage, plus any other state compulsory coverage.
  2. Primary insurance coverage during Periods 2 and 3 with minimum liability limits of \$1 million in combined single limit coverage for death, personal injury and property damage per incident; and \$1 million in combined single limit under/uninsured motorist coverage for death, personal injury and property damage per incident.
  3. The required automobile liability insurance shall specifically recognize the driver's provision of TNC and vehicle for hire services and shall comply with the laws of the State of Oregon and/or other applicable governing bodies.
- ❑ TNC drivers shall be responsible for maintaining all personal automobile liability insurance required by State law.

### **AUDITS**

- ❑ The City may audit TNC records up to twice per calendar year to review compliance with Lincoln City Code Chapter \_\_\_\_\_. An audit shall occur at a time and location designated by the City. In addition to an audit, the City may require a company to produce records related to an investigation of a specific allegation of a violation of this Code or other applicable law, or to evaluate a complaint. Production of records for an investigation or to evaluate a complaint does not count toward the twice-per-year auditing limit.

**REVOCATION, SUSPENSION, PENALTIES AND ENFORCEMENT**

- ❑ In addition to any other enforcement options provided by the Lincoln City Code, the City may suspend, revoke, or refuse to issue a License if the vehicle for hire-company has violated or not met any of the provisions of Lincoln City Code\_\_\_\_. A violation includes any failure to meet or maintain any of the requirements or qualifications set forth, including the procedures and requirements for obtaining and maintaining a License, as well as the making of any materially false statement or representation. The decision to suspend, revoke or refuse to issue a License may be appealed to the City Council, which will conduct a hearing where the company and the City may present evidence and argument. The company shall have the burden of proving it has complied with all requirements of this Code necessary to obtain or maintain the License. The decision of the City Council on the appeal shall be the final decision of the City.
- ❑ A violation of Lincoln City Code Chapter \_\_\_\_ is a Class A civil infraction.
- ❑ The City has the administrative authority to implement and enforce Lincoln City Code Chapter\_\_\_\_, including adoption of rules, regulations, or policies. This provision shall not be construed to abrogate or limit the jurisdiction or authority of the Lincoln City Police Department or any law enforcement agency.
- ❑ To view the Lincoln City Code regarding this new program, please visit\_\_\_\_\_.
- I acknowledge that I have read the information provided in this application and am fully aware and knowledgeable of the applicable rules and regulations established by the Lincoln City Code Chapter\_\_\_\_\_.

**SIGNATURE**

By signing this application, the applicant and vehicle for hire company agrees to abide by the Vehicle for Hire Operating License requirements as stated in Lincoln City Code Chapter\_\_\_\_. I warrant that the information provided in this application is true.

**Disclosure: Information on this application is a public record subject to disclosure upon request under the Oregon Public Records Law unless an exemption applies.**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

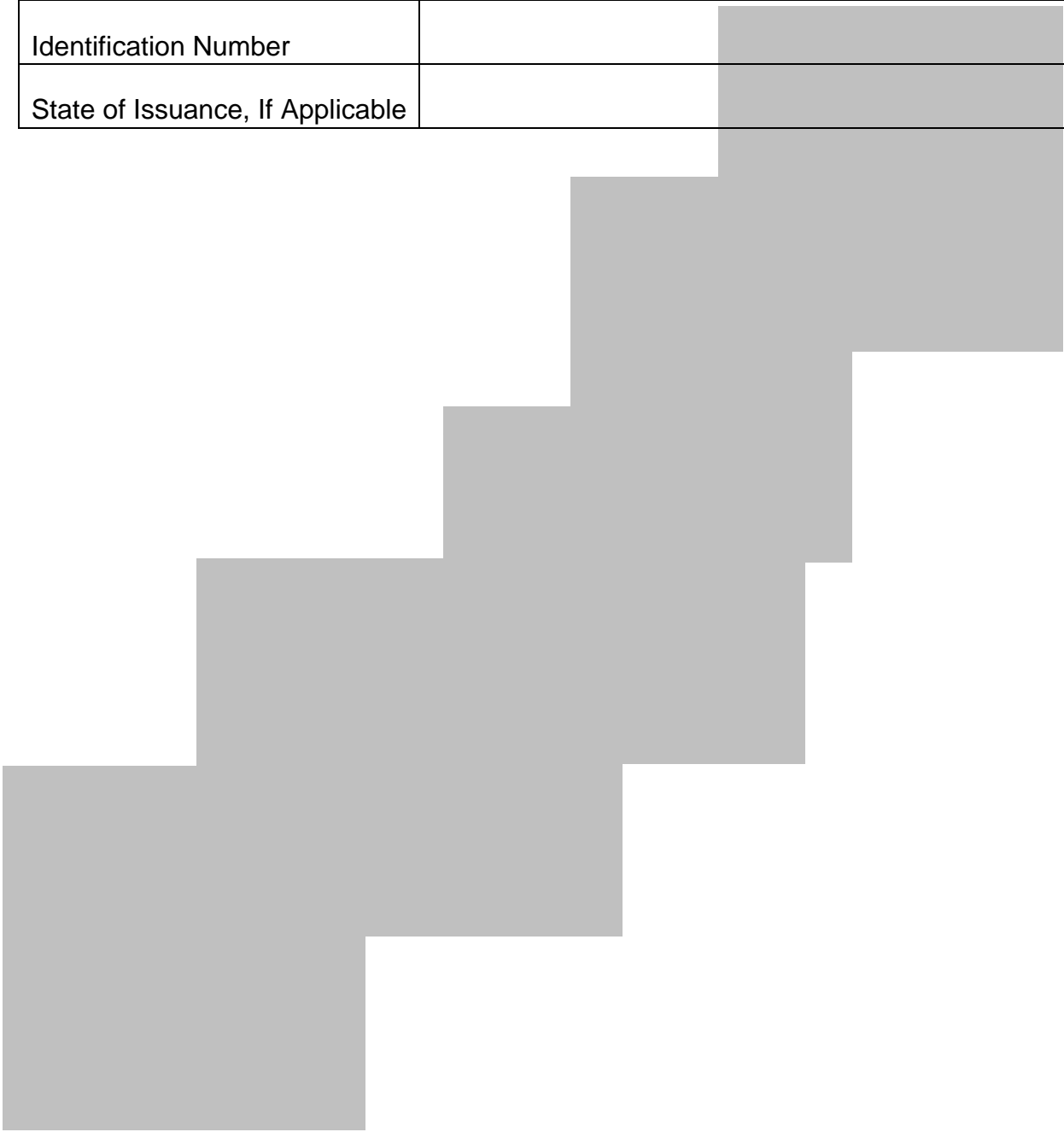
**ADDITIONAL OWNER INFORMATION & IDENTIFICATION**

Name	
Address 1	
Address 2	
City, State, Zip Code	
Phone Number	
Email Address	
Identification Type	
Identification Number	
State of Issuance, If Applicable	

Name	
Address 1	
Address 2	
City, State, Zip Code	
Phone Number	
Email Address	
Identification Type	
Identification Number	
State of Issuance, If Applicable	

Name	
Address 1	
Address 2	
City, State, Zip Code	

Phone Number	
Email Address	
Identification Type	
Identification Number	
State of Issuance, If Applicable	



## Council Communication

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### Ordinance 2022-10 (duplex fix)

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

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#### Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-10 entitled:

#### ORDINANCE NO. 2022-10

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

#### Staff Recommendation:

After the conclusion of the public hearing, staff recommends Council conduct First Reading of Ordinance 2022-10 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 amendment is intended to bring the city into compliance with the state's 2019 legislation HB 2001 to allow duplexes on any lot or parcel in a residential zone that allows detached single-family dwellings. With this added provision, the city hopes the amendment will encourage the construction of more duplexes.

**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 March 28, 2022 [or]
3. Continue First Reading to March 28, 2022.

**Potential Motions:**

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

**ORDINANCE NO. 2022-10**

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

*Council:* Motion to approve First Reading of Ordinance 2022-10.

*If unanimous:*

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

*Council:*

1. Motion to approve Second Reading and adopt Ordinance 2022-10.

**[or]**

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

**Attachments:**

Ordinance 2022-10 duplex fix 1-26-2022 (DOCX)

Exhibit A Ordinance 2022-10 duplex fix (DOCX)

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**ORDINANCE NO. 2022-10**

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

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

**The City Council finds:**

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

1 THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:  
2

3 SECTION 1. Chapter 17.16 (Single Family Residential (R-1) Zone), Section 17.16.020 (Permitted  
4 Uses), Paragraph A.3., is hereby amended to read as follows:  
5

6  
7 3. ~~Two-family and duplex dwellings when developed on a minimum 8,000-~~  
8 ~~square-foot lot;~~  
9

10 SECTION 2. Chapter 17.16 (Single Family Residential (R-1) Zone), Section 17.16.070 (Lot  
11 Requirements), is hereby amended to read as follows:  
12

13 17.16.070 Lot requirements.  
14

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

15  
16  
17 SECTION 3. Chapter 17.17 (Single Family Residential (R-1-RE) Zone), Section 17.17.020 (Permitted  
18 uses), Paragraph A.3., is hereby amended to read as follows:  
19  
20

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

3  
4 **SECTION 4.** Chapter 17.17 (*Single Family Residential (R-1-RE) Zone*), Section 17.17.070 (*Lot*  
5 *requirements*), Paragraph A., is hereby amended to read as follows:

6  
7 A. The minimum lot area shall be 5,000 square feet. ~~and 8,000 square feet for a duplex~~

8  
9 **SECTION 5.** Chapter 17.40 (*Recreation-Residential (R-R) Zone*), Section 17.40.020 (*Permitted*  
10 *uses*), is hereby amended to read as follows:

11  
12 **17.40.020 Permitted uses.**

13  
14 In an R-R zone, the following uses are permitted:

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

25  
26  
27 **SECTION 6.** Chapter 17.56 (*Off-street parking and loading*), Section 17.56.030 (*Number of off-*  
28 *street parking spaces required*), is hereby amended to read as follows:

29  
30 **17.56.030 Number of off-street parking spaces required.**

31  
32 Table 17.56.030-1 – Number of Spaces Required

Use	Requirement
A. Residential:	
1. Detached single-unit, attached single-unit, and duplex a. 1,000 square feet or less per unit b. Over 1,000 square feet per unit <b>c. Duplex</b>	<del>1 space per detached or attached single-unit dwelling 1 space per dwelling unit</del> <del>2 spaces per detached or attached single-unit dwelling 2 spaces per dwelling unit</del> <b>1 space per detached or attached single-unit dwelling 1 space per dwelling unit</b> <b>2 spaces per detached or attached single-unit dwelling 2 spaces per dwelling unit</b> <b>2 spaces per duplex</b>

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

5  
6 **SECTION 8. Severability.** The sections, subsections, paragraphs and clauses of this ordinance  
7 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the  
8 validity of the remaining sections, subsections, paragraphs and clauses.

9  
10 **SECTION 9. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance  
11 takes effect 30 days after the date of its adoption.

12  
13 **SECTION 10. Codification.** Provisions of this Ordinance shall be incorporated in the City of  
14 Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article",  
15 "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or  
16 re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 7-10)  
17 need not be codified and the City Recorder is authorized to correct any cross-references and  
18 any typographical errors.

19  
20 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section  
21 9.2 of the City of Lincoln City Charter on the 14<sup>th</sup> day of March, 2022 (First Reading) and on the  
22 14<sup>th</sup> day of March, 2022 (Second Reading).

23  
24 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14<sup>th</sup> day of March,  
25 2022.

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30 \_\_\_\_\_  
SUSAN WAHLKE, MAYOR

31 ATTEST:

32  
33 \_\_\_\_\_  
34 JAMIE YOUNG, CITY RECORDER

35  
36 APPROVED AS TO FORM:

37  
38 \_\_\_\_\_  
39 RICHARD APPICELLO, CITY ATTORNEY  
40  
41

**EXHIBIT A – FINDINGS (ZOA 2022-04)  
ORDINANCE 2022-10**

The Ordinance Title is as follows:

**ORDINANCE NO. 2022-10**

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

In substance, the Ordinance provides:

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

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

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

**17.16.070 Lot requirements.**

REQUIRED MINIMUMS								
Zone	Lot Area	Lot Width	Lot Depth	Front Yard <sup>(3)</sup>	Side Yard	Street Side Yard <sup>(3)</sup>	Rear Yard	Maximum Lot Coverage <sup>(5)</sup>
R-1-5	5,000 sq. ft.; <b>8,000 for</b>	50' detached; 35' attached	70'	5' <sup>(1)</sup> 7-1/2' <sup>(2)</sup>	5' <sup>(1)</sup> 7-1/2' <sup>(2)</sup> or 0' for common	5' <sup>(1)</sup> 7-1/2' <sup>(2)</sup>	5' <sup>(1)</sup> 7-1/2' <sup>(2)</sup>	35% <sup>(4)</sup>

REQUIRED MINIMUMS							
	<b>duplex or two- family</b>				wall of attached dwellings		
R-1- 7.5	7,500 sq. ft.; <b>8,000</b> <b>for</b> <b>duplex</b> <b>or</b> <b>two- family</b>	70' detached; 35' attached	80'	same as above			35% <sup>(4)</sup>

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

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

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

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

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

**17.40.020 Permitted uses.**

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

A. Single-family dwelling;

B. Manufactured home;

**C. Duplex;**

~~D.C.~~ Cottage housing developments, subject to the provisions of LCMC 17.80.120;

~~E.D.~~ Recreational vehicle;

~~F.E.~~ Essential emergency communications, early warning and associated emergency facilities;

~~G.F.~~ Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080;

~~H.G.~~ Transportation uses, defined in Chapter 17.08 LCMC.

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

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

Table 17.56.030-1 – Number of Spaces Required

Use	Requirement
A. Residential:	
1. Detached single-unit, attached single-unit, and duplex a. 1,000 square feet or less per unit b. Over 1,000 square feet per unit c. <b>Duplex</b>	<del>1 space per detached or attached single-unit dwelling</del> <del>1 space per dwelling unit</del> <del>2 spaces per detached or attached single-unit dwelling</del> <del>2 spaces per dwelling unit</del> <b>2 spaces per duplex</b>

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

Ordinance 2022-10 allows the development of a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings, as required by state law HB2001 from the 2019 legislative session.

No public comments or questions were submitted regarding the proposed ordinance.

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

(10) Goal 10: Housing

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

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

the city hopes the amendment will encourage the construction of more duplexes. The proposed amendment is consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

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

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

(12) Goal 12: Transportation

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

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

(13) Goal 13: Energy Conservation

*"To conserve energy."*

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

(14) Goal 14: Urbanization

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

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

## (15) Goal 15: Willamette River Greenway

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

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

## (16) Goal 16: Estuarine Resources

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

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

## (17) Goal 17: Coastal Shorelands

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

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

## (18) Goal 18: Beaches and Dunes

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

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

## (19) Goal 19: Ocean Resources

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

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

## B. Comprehensive Plan Goals

## (1) Planning Goal

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

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

zoning ordinance provisions. Accordingly, the amendment is in conformance with this goal.

(2) Citizen Involvement Goal

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

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

(3) Public Services and Utilities Goal

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

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

(4) Urbanization Goal

*"To promote an orderly and efficient transition of land uses from rural to urban."*

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

(5) Natural Hazard Goal

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

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

(6) Housing Goal

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

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

(7) Economy Goal

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

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

(8) Aesthetic Goal

*"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."*

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

(9) Transportation Goal

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

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

(10) Energy Goal

*"To conserve energy."*

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

(11) Overall Environmental Goal

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

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

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

*"To conserve, to protect, to enhance the coastal resources of the city."*

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

## Council Communication

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### Ordinance 2022-11 (bluff fix)

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

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#### Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-11 entitled:

#### ORDINANCE NO. 2022-11

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

#### Staff Recommendation:

After the conclusion of the public hearing, staff recommends Council conduct First Reading of Ordinance 2022-11 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 amendment is intended to correct a single word in the description of the bluff setback calculation.

**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 March 28, 2022 [or]
3. Continue First Reading to March 28, 2022.

**Potential Motions:**

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

**ORDINANCE NO. 2022-11**

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

*Council:* Motion to approve First Reading of Ordinance 2022-11.

*If unanimous:*

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

*Council:*

1. Motion to approve Second Reading and adopt Ordinance 2022-11.
- [or]**
2. Motion to set Second Reading for March 28, 2022.

**Attachments:**

Ordinance 2022-11 (bluff fix) for 3-14-22(DOCX)

Ordinance 2022-11 Exhibit A Bluff fix (DOCX)



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

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

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

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

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

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

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

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

7  
8 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14<sup>th</sup> day of March,  
9 2022.

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12  
13 \_\_\_\_\_  
14 SUSAN WAHLKE, MAYOR

15 ATTEST:

16  
17 \_\_\_\_\_  
18 JAMIE YOUNG, CITY RECORDER

19  
20 APPROVED AS TO FORM:

21  
22 \_\_\_\_\_  
23 RICHARD APPICELLO, CITY ATTORNEY

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**EXHIBIT A – FINDINGS (ZOA 2022-03)  
ORDINANCE NO. 2022-11**

**The Ordinance Title is as follows:**

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

**In substance, the Ordinance provides:**

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

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

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance is primarily housekeeping to modify the code to use the correct word for the annual erosion rate calculation. Notice to DLCD was made on December 27, 2021.

Ordinance 2022-11 changes one word "maximum" to "average" to correctly reflect the calculation of erosion rates.

No public comments or questions were submitted regarding the proposed ordinance.

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 correct the language concerning the calculation of average annual erosion rate. The use of the word "maximum" is not correct. The word average is more appropriate. 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 is intended to correct the language concerning the calculation of average annual erosion rate. The use of the word "maximum" is

not correct. The word average is more appropriate. The proposed amendment is consistent with Goal 10 or Goal 10 does not apply.

(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 is intended to correct the language concerning the calculation of average annual erosion rate. The use of the word "maximum" is not correct. The word average is more appropriate. 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 corrects language dealing with beach erosion calculations. The use of the word "maximum" is not correct. The word average is more appropriate does not, by itself, allow any development in or near beach and dune areas. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment is consistent with Goal 18.

## (19) Goal 19: Ocean Resources

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

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

## B. Comprehensive Plan Goals

## (1) Planning Goal

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

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during

preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions. Accordingly, the amendment is in conformance with this goal.

(2) Citizen Involvement Goal

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

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

(3) Public Services and Utilities Goal

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

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

(4) Urbanization Goal

*"To promote an orderly and efficient transition of land uses from rural to urban."*

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

(5) Natural Hazard Goal

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

The amendment on its own does not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and

zoning ordinance standards, as well as building code requirements. The amendment is consistent with this goal.

(6) Housing Goal

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

The amendment is intended to correct the language concerning the calculation of average annual erosion rate. The use of the word "maximum" is not correct. The word average is more appropriate. The proposed amendment is consistent with this goal.

(7) Economy Goal

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

The amendment is intended to correct the language concerning the calculation of average annual erosion rate. The use of the word "maximum" is not correct. The word average is more appropriate. The proposed amendment is consistent with this goal.

(8) Aesthetic Goal

*"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."*

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

(9) Transportation Goal

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

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

(10) Energy Goal

*"To conserve energy."*

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

(11) Overall Environmental Goal

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

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

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

*"To conserve, to protect, to enhance the coastal resources of the city."*

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

# Council Communication

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## Ordinance 2022-12 Correct Fines for Class E Violations

Meeting Date:	March 14, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	15 minutes

---

### Question(s):

Should the City Council conduct and approve First and Second Reading of Ordinance 2022-12 entitled:

### ORDINANCE NO. 2022-12

#### **AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 1 (GENERAL PROVISIONS), CHAPTER 1.16 (VIOLATIONS) AMENDING SECTION 1.16.070 (FINES AND ASSESSMENT AMOUNTS) AND SECTION 1.16.080 (RESPONSE BY DEFENDANT) TO CORRECT FINES FOR CLASS E VIOLATIONS**

Staff recommends Council conduct First Reading of Ordinance 2022-12 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:

State Law specifies Maximum and Presumptive fines and Violation categories and this ordinance corrects and updates Lincoln City's code.

### 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 March 28, 2022, [or]
3. Continue First Reading to March 28, 2022.

**Potential Motions:**

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

**ORDINANCE NO. 2022-12**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 1 (GENERAL PROVISIONS), CHAPTER 1.16 (VIOLATIONS) AMENDING SECTION 1.16.070 (FINES AND ASSESSMENT AMOUNTS) AND SECTION 1.16.080 (RESPONSE BY DEFENDANT) TO CORRECT FINES FOR CLASS E VIOLATIONS**

*Council:*

Motion to approve First Reading of Ordinance 2022-12.

*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 2022-12.

**[or]**

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

**Attachments:**

Ordinance 2022-12 Correct Fines Class E Violations (DOCX)

ORDINANCE NO. 2022-12

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 1 (GENERAL PROVISIONS), CHAPTER 1.16 (VIOLATIONS) AMENDING SECTION 1.16.070 (FINES AND ASSESSMENT AMOUNTS) AND SECTION 1.16.080 (RESPONSE BY DEFENDANT) TO CORRECT FINES FOR CLASS E VIOLATIONS

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, State Law specifies Maximum and Presumptive fines and Violation categories and this ordinance corrects and updates Lincoln City's code; and

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

2  
3 **SECTION 1.** Chapter 1.16 (*Violations*), Section 1.16.070 (*Fines and Assessment Amounts*)  
4 is hereby amended as follows:

5 1.16.070 Fines and Assessment Amounts.

6 A. Violations designated by ordinances of the city are classified and the maximum  
7 fines and presumptive fines for commission of a violation, consistent with ORS  
8 Chapter 153, are as follows:

9  
10 Maximum:

- 11 1. Class A violation, \$2,000;
- 12 2. Class B violation, \$1,000;
- 13 3. Class C violation, \$500.00;
- 14 4. Class D violation, \$250.00;
- 15 ~~5. Class E violation, \$125.00;~~
- 16 **5. Class E violation, \$100.00**
- 17 6. Class F violation, \$75.00.

18  
19 Presumptive fine to be included on citation/summons:

- 20 1. Class A violation, \$440.00;
- 21 2. Class B violation, \$265.00;
- 22 3. Class C violation \$165.00;
- 23 4. Class D violation, \$115.00
- 24 ~~5. Class E violation, \$70.00;~~
- 25 **5. Class E violation, \$100.00**
- 26 6. Class F violation, \$30.00.

27  
28 The presumptive fine for a specific fine violation is:

- 29 1. The amount specified by the ordinance or statute adopted by reference
- 30 as the presumptive fine for the violation; or
- 31 2. An amount equal to the greater of 20 percent of the maximum fine
- 32 prescribed for the violation, or the minimum fine prescribed by statute for
- 33 the violation.
- 34 3. The \$5.00 additional charge consistent with the 2017 legislative increase
- 35 shall be added to any specific fine amount presumptive fine.

36  
37 B. Notwithstanding the above, a person who commits a tree removal violation  
38 shall also be subject to a fine in an amount equal to the value of trees removed in  
39 violation of LCMC Title 17. The value of those trees shall be computed utilizing

1 the International Society of Arboriculture tree value formula or a similar method  
 2 in common use as determined by the city engineer. Such fines shall be deposited  
 3 in a special revenue fund known as the tree preservation and planting fund,  
 4 which fund is hereby established effective December 1, 1992, to be used for tree  
 5 preservation or planting efforts.

6  
 7 C. Whenever the city municipal court orders a fine as a penalty for committing a  
 8 violation, an assessment in addition to such fine shall be collected and forwarded  
 9 to the city finance director to be credited to a special revenue fund known as the  
 10 code enforcement fund, which fund is hereby established effective December 1,  
 11 1992, to be utilized by the city for the partial funding of its code enforcement  
 12 efforts. The amount of the assessment shall be as follows:

- 13
- 14 1. For Class A violations, \$100.00;
- 15 2. For Class B violations, \$60.00;
- 16 3. For Class C violations, \$25.00;
- 17 4. For Class D violations, \$10.00;
- 18 5. For Class E violations, \$5.00;
- 19 6. For Class F violations, \$0.00.

20  
 21 D. When a defendant is served with a violation citation for violation of a city  
 22 ordinance, the amount of the presumptive fine set forth in the citation and  
 23 complaint/summons shall not include the assessment imposed in subsection (C)  
 24 of this section. If the violator submits the presumptive fine with a guilty or no  
 25 contest plea prior to the date of appearance, the assessment in subsection (C) of  
 26 this section is deemed waived. The city municipal court shall impose the fee in all  
 27 other circumstances, and shall not waive or suspend any portion of the  
 28 mandatory assessment imposed in subsection (C) of this section.

29  
 30 **E. The municipal court is bound by the minimum fine provisions of ORS**  
 31 **153.021 as it relates to all City and State Class A through E violation**  
 32 **offenses.**

33  
 34 **These statutory minimum fine amounts are as follows:**

- 35 **1. For a Class A violation, \$225.00;**
- 36 **2. For a Class B violation, \$135.00;**
- 37 **3. For a Class C violation, \$85.00;**
- 38 **4. For a Class D violation, \$65.00.**
- 39 **5. For a Class E violation, \$45.00**

1 **Except as otherwise provided by law, a court may not defer, waive, suspend**  
2 **or otherwise reduce the fine for a specific fine violation to an amount that is**  
3 **less than 20 percent of the presumptive fine for the violation.**  
4

5 **SECTION 2.** Chapter 1.16 (*Violations*), Section 1.16.080 (*Response by Defendant*) is  
6 hereby amended as follows:

7 1.16.080 Response by Defendant.

8 A. When a defendant is served with a violation citation, the defendant shall either  
9 appear in court at the time indicated in the summons or make an appearance as  
10 provided in ORS 153.061. As authorized by ORS 153.061(4), a defendant  
11 requesting a trial under ORS 153.061(3) shall deposit an amount equal to the  
12 presumptive fine for the offense or such other amount as the court determines  
13 appropriate if the defendant has failed to appear in any court on one or more  
14 other charges in the past.

15  
16 B. Notwithstanding the appearance options generally available for violation  
17 offenses under state law, when the municipal code offense alleged involves a  
18 continuing violation, a personal appearance on the citation shall be required. The  
19 violation citation itself or this code may specify offenses or classes of offenses  
20 which require a personal appearance.

21  
22 C. In any case in which the defendant personally appears in court at the time  
23 indicated in the summons, if the defendant desires to admit the violation and the  
24 judge decides to accept the plea, the judge shall hear any statement in  
25 explanation or mitigation that the defendant desires to make.

26  
27 ~~**D. The municipal court is bound by the minimum fine provisions of ORS**~~  
28 ~~**153.021 as it relates to Class A through D violation offenses.**~~

29  
30 ~~**These statutory minimum fine amounts are as follows:**~~

- 31 ~~**1. For a Class A violation, \$225.00;**~~
- 32 ~~**2. For a Class B violation, \$135.00;**~~
- 33 ~~**3. For a Class C violation, \$85.00;**~~
- 34 ~~**4. For a Class D violation, \$65.00.**~~

35  
36 ~~**Except as otherwise provided by law, a court may not defer, waive, suspend**~~  
37 ~~**or otherwise reduce the fine for a specific fine violation to an amount that is**~~  
38 ~~**less than 20 percent of the presumptive fine for the violation.**~~

1 **SECTION 3. Findings adopted.** Findings contained in the Whereas Clauses of this  
2 ordinance, as well as the competent substantial evidence in the whole record of this  
3 legislative proceeding are incorporated into this section by reference as if fully set forth  
4 herein, and are adopted in support of this legislative action.

5  
6 **SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this  
7 ordinance are severable. The invalidity of one section, subsection, paragraph, or clause  
8 shall not affect the validity of the remaining sections, subsections, paragraphs and  
9 clauses.

10  
11 **SECTION 5. Savings.** Notwithstanding the amendment to this Title, the existing Title  
12 remains valid and in full force and effect for purposes of all criminal, civil or  
13 administrative code enforcement cases or applications filed or commenced during the  
14 time said ordinances were operative. Nothing in this Ordinance affects the validity of  
15 prosecutions commenced and continued under the laws in effect at the time the matters  
16 were originally filed.

17  
18 **SECTION 6. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this  
19 ordinance takes effect 30 days after the date of its adoption.

20  
21 **SECTION 7. Codification.** Provisions of this Ordinance shall be incorporated in the City  
22 of Lincoln City Municipal Code and the word "ordinance" may be changed to "code",  
23 "article", "section", "chapter" or another word, and the sections of this Ordinance may be  
24 renumbered, or re-lettered, provided that any Whereas clauses and boilerplate  
25 provisions (i.e. Sections 3-7) need not be codified and the City Recorder is authorized to  
26 correct any cross-references and any typographical errors.

27  
28 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,  
29 Section 9.2 of the City of Lincoln City Charter on the 28<sup>th</sup> day of February, 2022 (First  
30 Reading) and on the 28<sup>th</sup> day of February, 2022 (Second Reading).

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1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 28<sup>th</sup> day of  
2 February, 2022.

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SUSAN WAHLKE, MAYOR

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ATTEST:

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JAMIE YOUNG, CITY RECORDER

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APPROVED AS TO FORM:

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RICHARD APPICELLO, CITY ATTORNEY

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# Planning Staff Report

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## Resolution 2022-07 Planning and Community Development Fee Schedule Update

Meeting Date:	March 14, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	City Council	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

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### Question:

Following receipt of public comment, should the City Council approve Resolution 2022-07 making revisions to the Planning and Community Development fee schedule?

### Staff Recommendation:

Staff recommends the Council approve the fee schedule as submitted.

### Authority:

ORS 294.160 mandates that the City provide an opportunity for public comment when fees or charges are established or increased; and

### Background:

The fee schedule for Planning and Community Development does not currently reflect all required fees, and it lists fees that do not exist. The fee schedule also lists administrative fees that need to be shown under "Administrative Fees Business Related." The attached updated fee schedule has removed fees that do not exist, added fees for new applications that have been added to the code since the last fee schedule update, and increased some fees where necessary to capture the time and resources utilized in reviewing the application.

The attached spreadsheet indicates if a fee has increased, stayed the same, or is a new fee.

### Council Options:

1. Approve Resolution 2022-07 as submitted

2. Approve Resolution 2022-07 as amended
3. Do not approve Resolution 2022-07

**Potential Motions:**

Motion to approve Resolution 2022-07

**Attachments:**

5162 Resolution 2022-07 Fees (DOCX)

March 2022 Proposed Planning Fee Schedule Revisions (XLSX)



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**PASSED AND APPROVED** by the City Council of the City of Lincoln City,  
Oregon, this 14<sup>th</sup> day of March, 2022.

\_\_\_\_\_  
SUSAN WAHLKE  
MAYOR

ATTEST:

\_\_\_\_\_  
JAMIE YOUNG  
CITY RECORDER

APPROVED AS TO FORM

\_\_\_\_\_  
RICHARD APPICELLO  
CITY ATTORNEY

## Proposed Revisions to Planning Fee Schedule March 14, 2022

Administrative Adjustment	\$400
Annexation	\$1,000
Appeal (if appellant prevails, fee shall be refunded)	\$250
Comprehensive plan map amendment	\$2,500
Conditional Use	\$900
Development Review	\$1,000 plus \$150 per adjustment request
Director's interpretation	\$500
Floodplain Development Permit	\$250
Geologic hazard report/beach protective structure review	\$500
Land Use Compatibility Statement (LUCS)/Zoning Confirmation	\$50
Mobile food unit land use review	\$150
Modification of approved Type II application	\$250
Modification of approved Type III application	\$600
Natural Resources Development Review	\$500
Natural Resources Development Variance	\$900
Partition	\$350
Nonconforming Determination	\$350
Nonconforming Restoration Type II	\$350
Nonconforming Restoration Type III	\$800
Planned Development - preliminary master plan	\$2,000
Planned Development - final master plan	\$1,000
Planning's review fee for Building Permits (covers setback inspection and final Planning inspection)	\$300
Planning's re-inspection fee for Building Permits, per re-inspection	\$50
Pre-application conference	\$250
Property line adjustment	\$350
Statutory Development Agreement	\$1,500
Subdivision preliminary plat	\$1,000
Subdivision final plat	\$500
Text amendment	\$1,500
Urban Growth Boundary Amendment	\$2,500
Vacation Rental dwelling land use review (fee covers 2 inspections)	\$590
Vacation Rental dwelling accessory to unlimited	\$262.50
Vacation Rental dwelling reinspection fee (per inspection for every inspection needed after the 2 covered in the initial application fee)	\$100

Variance	\$900
Verbatim Written Transcript	\$500
Zone Change	\$2,500
Zoning Sign Permit	\$100

**The following items are being moved from the Planning Fee Schedule:**

Home Occupation Permit to Administrative Fees Business Related	fee remains the same at \$50
Seasonal Permit to Administrative Fees Business Related	fee remains the same at \$25
Street Vacation to Public Works	fee remains the same at \$850
Street Vendors to Administrative Fees Business Related	fee remains the same at \$25
Vacation Rental Dwelling License Fee to Administrative Fees Business Related	fee remains the same at \$100
Vacation Rental Dwelling License Renewal - Annual to Administrative Fees Business Related	fee remains the same at \$100
Vacation Rental Dwelling License Renewal Late Fee to Administrative Fees Business Related	fee remains the same at \$150
Mobile Food Unit License to Administrative Fees Business Related	fee remains the same at \$100
Temporary Display of Merchandise Outside Permit to Administrative Fees Business Related	fee remains the same at \$25

(New fee. \$100 mailing, 6 hours staff time @ \$50 per hour)  
(no change)

(Increase \$100. \$300 publish, \$100 mailing, 6 hours staff time @\$50 per hour)  
(no change)  
(\$300 publish, \$100 required mailing, 10 hours staff time @\$50 per hour)  
(no change in fee for the review itself, but adding the \$150 fee for adjustment requests.  
No current fee for adjustment requests.)  
(New fee. \$100 required mailing, 8 hours staff time @\$50 per hour)  
(no change)

(no change)

(no change)  
(no change)  
(New fee. \$100 mailing, 3 hours staff time @\$50 per hour)  
(New fee. \$300 publish, \$100 mailing, 4 hours staff time @\$50 per hour)  
(no change)  
(Increase \$150. \$300 publish, \$100 mailing, 10 hours staff time @\$50 per hour)  
(Decrease of \$150. \$100 required mailing, 4.5 hours staff time @\$50 per hour)  
(New fee. \$100 required mailing, 4.5 hours staff time @\$50 per hour)  
(New fee. \$100 required mailing, 4.5 hours staff time @\$50 per hour)  
(New fee. \$300 publish, \$100 mailing, 8 hours staff time @\$50 per hour))  
(no change)  
(no change)

(Increase \$200. 6 hours staff time @ \$50 per hour)

(no change)  
(no change)  
(Increase \$100. \$100 required mailing, 4.5 hours staff time @\$50 per hour)  
(no change)  
(no change)  
(no change)  
(no change)  
(no change)

(Increase by \$240. 10 hours staff time @ \$50 per hour, plus \$100 for mailing)  
(no change)

(no change)

(Increase by \$150. \$300 publish, \$100 mailing, 10 hours staff time @\$50 per hour)  
(new fee per ORS 227.175 - 16 hours staff time @ \$50 per hour - \$500 is max allowed)  
(no change)  
(no change)

# Council Communication

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## Resolution 2022-08 Declaring property as surplus

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

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### Question(s):

Should the City Council approve the attached Resolution declaring items on the attached list valued above \$5000 as surplus and authorize disposal by auction.

### Staff Recommendation:

Staff recommends Council approve the Resolution.

### Authority:

#### 2.05.100 Disposal of surplus personal property.

##### A. Determination of Surplus and Valuation.

1. The local contract review board shall determine whether any personal property is surplus and shall establish an estimate of value. Valuation shall be based on any method of valuation commonly used in municipal financial practices or as recommended by the city manager in the particular circumstances.
2. Where the estimated value of surplus property is \$5,000 or less, the city manager shall have authority to make a determination that any personal city property is surplus.

##### B. Procedure.

1. After property has been determined to be surplus and an estimate of value established, the city manager shall select a method of disposal that, in the discretion of the city manager, is likely to result in the greatest net benefit to the city, considering net financial benefit, cost of disposal, and the public welfare.
2. The city manager shall retain a written record of the disposal, including a statement containing the basis for the determination of surplus, the valuation method, if any, and the procedure used for disposal.
3. The city manager may dispose of surplus personal property as follows:

- a. By sale to the highest qualified buyer after advertisement at least one week prior to sale;
- b. By trade for the acquisition of other equipment or supplies;
- c. By sale at public auction, including Internet auction, after advertisement at least one week prior to sale in a newspaper of general circulation or notice on the city or other municipal organization website, with sale by cash to the highest bidder;
- d. By sale at a fixed price;
- e. By donation or by agreement for use by a private nonprofit or public entity; and
- f. By any other means of sale or exchange appropriate in the circumstances.

C. All proceeds of sale shall be paid to the city's general fund, subject to the terms and conditions of contract, if any, approved by the contracting agency between the city and a firm selected to conduct the sale or auction.

D. The city council may dispose of surplus property by donation or by agreement for use, operation, or maintenance by one or more private nonprofit or public entities, upon a determination that the disposal will promote the economic development or the public welfare of the city.

E. Personal property shall be disposed of "as is," without any warranty, express or implied. Sales and advertisement of disposal under this chapter may be conducted by electronic means.

**Background:**

Lincoln City Municipal Code contains a procedure for disposal of surplus property. Property with a value of less than \$5000.00 may be disposed of by the City Manager after finding that the property is surplus. Property individually valued at over \$5000.00 must be declared surplus by the City Council acting as the Local Contract Review Board.

**Financial Impact:** Some revenue from sale of surplus property.

**Council Options:**

1. Approve Resolution 2022-08 and declare items individually valued at over \$5000.00 to be surplus and authorize disposal by auction.
2. Do not declare the items as surplus, and authorize donation.

3. Continue to March 28, 2022.

**Potential Motions:**

Motion to declare the property in Exhibit A to be surplus and approve Resolution 2022-08.

**Attachments:**

Resolution 2022-08 ra (DOCX)

surplus exhibit a (DOCX)

**RESOLUTION 2022-08****A RESOLUTION DECLARING THE PROPERTY DESCRIBED IN EXHIBIT A  
AS SURPLUS PROPERTY, PROVIDING AN EXEMPTION FROM PUBLIC  
CONTRACTING RULES [LCMC CHAPTER 2.05, SECTION 2.05.080(L)], AND  
APPROVING DISPOSAL BY AUCTION****RECITALS:**

LCMC 2.05.100 provides procedures for disposal of surplus property.

The City Council is the Local Contract Review Board for Lincoln City.

The Local Contract Review Board has jurisdiction to declare property valued at over five thousand dollars to be surplus and dispose of such property by auction; and

The City owns several vehicles and equipment no longer needed for public use or which are no longer useful for City purposes; and

City staff has estimated the value of the individual vehicles and equipment as detailed in Exhibit "A" Memorandum from Willis Degenstein, Fleet Maintenance Mechanic.

The estimated value of several of the individual vehicles, as detailed by the Fleet Supervisor, exceeds the City Manager's delegated authority (\$5,000) under LCMC Chapter 2.05, and therefore must be declared surplus by the Local Contract Review Board; and

The value and nature of the property subject to sale or disposal as surplus property makes it probable that the cost of conducting a sale by competitive bid will be such that an alternative procedure such as disposal by auction will result in substantially greater net benefit to the City of Lincoln City.

NOW, THEREFORE THE CITY COUNCIL, ACTING AS LOCAL CONTRACT REVIEW BOARD, RESOLVES AS FOLLOWS:

**Section 1.** The property described as Exhibit "A" is no longer needed for a public purpose.

**Section 2.** The property described in Exhibit "A" with an estimated value of less than \$5000.00 each item, has been declared surplus and sale is authorized and delegated to the City Manager.

1  
2 **Section 3.** The property described in Exhibit "A" with an estimated value of more than  
3 \$5000.00 each item, is hereby declared surplus and sale authorized by public auction,  
4 which may include electronic auction.

5 **Section 4.** Based on the recitals of this resolution, incorporated herein by reference as  
6 finding, and the additional findings set forth in Exhibit A, attached, the disposal of  
7 property described in Exhibit A is determined exempt from competitive bidding under  
8 Lincoln City Municipal Code 2.05.080(L).

9 **Section 5.** City staff is authorized to sell the surplus property described in Exhibit A by  
10 auction or in such other manner, determined by the City Manager, in writing, to be most  
11 likely to result in the greatest net revenue to the City of Lincoln City.

12 **Section 6.** This resolution is effective as of the date of its adoption.

13 PASSED AND APPROVED by the City Council of the City of Lincoln City this 14<sup>th</sup> day of  
14 March 2022.

15 \_\_\_\_\_  
16 **SUSAN WAHLKE, Mayor**

17 **ATTEST:**

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20 **JAMIE YOUNG**  
21 **CITY RECORDER**

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23 **APPROVED AS TO FORM**

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26 **Richard Appicello**  
27 **City Attorney**

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March 14, 2022

MEMORANDUM "EXHIBIT A"

TO: Lila Bradley, Interim City Manager  
FROM: Willis Degenstein, Lead Mechanic  
RE: 2022 Surplus Recommendations

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The following vehicles and items are deemed no longer useful assets to the City of Lincoln City and are requested to be declared surplus. These assets will then be sold on a public online auction site to the highest bidder.

1. #139 A 1993 Utility Trailer ser# 1UN10AA10P1006580  
Estimated Value \$400.00
2. #212 A 1989 Brush Bandit Chipper ser# 003030  
Estimated Value \$8,000.00
3. A 2008 Chevrolet C1500 damaged pick up bed  
Estimated Value \$50.00
4. A 2007 Kubota T1770 riding mower ser# 21147  
Estimated value \$100.00
5. #108 A 1999 Chevrolet C2500 PU with Dumper Dog hoist bed ser#1GCGC29R7XF027058  
Estimated value \$2,000.00
6. #538 A 2013 Ford Explorer Ser# 1FM5K8AR5DGC41072 with bad trans  
Estimated value \$2,000.00
7. #535 A 2013 Ford Explorer Ser# 1FM5K8AR1DGA18463  
Estimated value \$6,000.00
8. #513 A 2008 Fabform Satellite Trailer Ser# 1F9SB061981370309  
Estimated Value \$500.00
9. #301 A 1993 Case 580K Backhoe Ser# JYG0173696  
Estimated value \$7,000.00

## **Resolution 2022-09 authorizing application for OPRD local government grant**

Meeting Date: March 14, 2022                      Primary Staff Contact: Jeanne Sprague  
 Department: Parks and Recreation            E-Mail: JSprague@lincolncity.org

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### **Question(s):**

Should the City Council approve the attached Resolution 2022-09 authorizing application for an Oregon Parks and Recreation Local Government Grant for development of a park on SE 51st Street?

### **Staff Recommendation:**

Staff recommends Council approve Resolution 2022-09.

### **Authority:**

Resolution required by grant application.

### **Background:**

The Oregon Parks and Recreation Department (OPRD) is accepting applications for the Local Government Grant Program. The City of Lincoln City desires to participate in this grant program to the greatest extent possible as a means of providing a park in the Taft Neighborhood. The 2016 Parks Master Plan specifically recommends a neighborhood park in Taft. The City of Lincoln City acquired the 6.71 acre site of the former Taft Elementary School site from the Lincoln County School District in Dec 2020 with the intent to build the 1<sup>st</sup> community park in Lincoln City (and the 1<sup>st</sup> in Taft District) in over 20 years. The City of Lincoln City has available local match for the grant, including city funds for the purchase of the land, a bequest for a covered shelter, a \$1 million grant from the State, and in-kind contribution of staff time. The City of Lincoln City commits to adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded. The Lincoln City Parks and Recreation Board, local organizations, and the general public recognize the need for a park and support its development.

**Financial Impact:** Some revenue from sale of surplus property.

### **Council Options:**

1. Approve Resolution 2022-09
2. Do not approve Resolution.

**Potential Motions:**

Motion to approve Resolution 2022-09.

## RESOLUTION 2022-09

### A RESOLUTION AUTHORIZING APPLICATION FOR AN OREGON PARKS AND RECREATION LOCAL GOVERNMENT GRANT FOR THE DEVELOPMENT OF A PARK ON SE 51<sup>ST</sup> STREET

**WHEREAS**, the Oregon Parks and Recreation Department (OPRD) is accepting applications for the Local Government Grant Program; and

**WHEREAS**, the City of Lincoln City desires to participate in this grant program to the greatest extent possible as a means of providing a park in the Taft Neighborhood; and

**WHEREAS**, the 2016 Parks Master Plan specifically recommends a neighborhood park in Taft; and

**WHEREAS**, the City of Lincoln City acquired the 6.71 acre site of the former Taft Elementary School site from the Lincoln County School District in Dec 2020 with the intent to build the 1<sup>st</sup> community park in Lincoln City (and the 1<sup>st</sup> in Taft District) in over 20 years; and

**WHEREAS**, the City of Lincoln City has available local match for the grant, including city funds for the purchase of the land, a bequest for a covered shelter, a \$1 million grant from the State, and in-kind contribution of staff time; and

**WHEREAS**, the City of Lincoln City commits to adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded; and

**WHEREAS**, the Lincoln City Parks and Recreation Board, local organizations, and the general public recognize the need for a park and support its development;

The value and nature of the property subject to sale or disposal as surplus property makes it probable that the cost of conducting a sale by competitive bid will be such that an alternative procedure such as disposal by auction will result in substantially greater net benefit to the City of Lincoln City.

### **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINCOLN CITY, AS FOLLOWS:**

1. The City Council supports the application to the Oregon Park and Recreation

Department for a local government grant to assist in the development of a park on the former Taft elementary school site on SE 51<sup>st</sup> Street (Assessor's Map 07-11-27-DD, Tax Lots 03500, 04500, 04600, and 04700); and

2. The City Council delegates authority to the city manager to sign the application; and
3. The City Council commits to maintaining parkland at the site for recreational use by Lincoln City residents and visitors.
4. This resolution is effective as of the date of its adoption.

PASSED AND APPROVED by the City Council of the City of Lincoln City this 14<sup>h</sup> day of March 2022.

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Susan Wahlke, MAYOR

ATTEST:

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Jamie Young, CITY RECORDER

Approved as to form:

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Richard Appicello  
CITY ATTORNEY

# Council Communication

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## Boards and Committees Application Process

Meeting Date:	March 14, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 minutes

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### Question:

Should the City Council set an application period for boards and committees vacancies?

### Staff Recommendation:

Make motion as desired.

### Background:

Currently there is no set timeframe for applications to the boards and committees.

### Council Options:

Review and discuss the possible timeframes for applications from the date of advertisement.

### Potential Motions:

- 1. I move to leave the application process open for (insert duration of time) and if no applications are received, extend for (insert duration of time).**

# Council Communication

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## Planning Commission Vacancy

Meeting Date:	March 14, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 minutes

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### Question:

Should the City Council approve the appointment of MacNeale Smith for a position on the Planning Commission?

### Staff Recommendation:

Make appointment as desired.

### Authority:

Ordinance 2021-20 made this change to the appointive bodies ordinance:

**SECTION 1.** Lincoln City Municipal Code Title 2 (*Administration and Personnel*), Chapter 2.06 (*City Appointive Bodies*), Section 2.06.015 (*Recruitment and Appointment Process*), Paragraph E. (*Interview and Evaluation Process*) is amended to read as follows:

#### E. Interview and Evaluation Process.

1. A councilor conducting individual interviews may schedule their own interviews with applicants.
2. Subcommittees conducting interviews shall have interviews noticed and scheduled by the city recorder, or designee. Councilors jointly conducting individual interviews may request interviews be scheduled by staff, but such interviews shall be noticed.
3. Only interview subcommittee members may discuss the applications and deliberate on recommendations to council.
4. Individual councilors or the interview subcommittee members shall advise the city recorder or designee of their recommendations.
5. The HR director shall place the results of the background investigation and reference check investigations in the file for review by all councilors.

6. The City Council shall interview Budget Committee and Planning Commission applicants at a regular or special council meeting. Interviews for the Planning Commission and Budget Committee shall be scheduled as soon as possible after the applicant has passed the City Recorder's threshold review and the background check.

**Background:**

The Lincoln City Code, 2.06.015 (C) (5) requires that Planning Commission applicants be interviewed at a City Council meeting.

The Planning Commission currently has one (1) vacant position.

The applicant has successfully completed the interview/background process. Mr. Smith was interviewed at the December 13, 2021, at the City Council meeting.

**Council Options:**

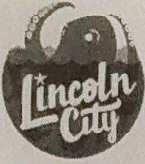
Review and discuss the possible appointment of Mr. MacNeale Smith to the City Resident position on the Planning Commission, with a term expiring 12/31/2026.

**Potential Motions:**

1. **I move to appoint MacNeale Smith to the Planning Commission for a term expiring 12/31/2026.**
2. **I move to leave the application process open for (insert duration of time).**

**Attachments:**

Smith, Mac\_ Planning Commission Application\_Redacted.pdf (PDF)  
 Committee applicant-MacNeale Smith ref 1 - Laura Joki completed.pdf (PDF)  
 Committee applicant-MacNeale Smith ref 2 completed.pdf (PDF)  
 MEMORANDUM TO CC--APPOINTED BODIES BG CHECK PASS\_FAIL DETERMINATION-MacNeale Smith-Planning.pdf (PDF)



**CITY OF LINCOLN CITY**  
**Committee / Board / Commission Application**

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

- |  |  |
|--|--|
| <input type="checkbox"/> Arts Committee<br><input type="checkbox"/> *Budget Committee<br><input type="checkbox"/> Community Sustainability Committee | <input type="checkbox"/> Parks and Recreation Board<br><input checked="" type="checkbox"/> Planning Commission<br><input type="checkbox"/> 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.*

<b>NAME:</b>	MacNeale Smith	<b>DATE:</b>	11/2/2021
<b>HOME ADDRESS:</b>	[REDACTED]		
<b>MAILING ADDRESS:</b>	Same as home address		
<b>CITY, STATE, ZIP:</b>			
<b>E-MAIL ADDRESS:</b>	[REDACTED]		
<b>HOME PHONE:</b>	[REDACTED]	<b>CELL PHONE:</b>	Same as home

**RESIDENCY AND SPECIFIC ELIGIBILITY CRITERIA**

Do you reside within the City limits:  Yes Length of Time 7 years

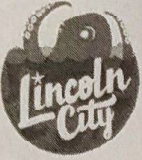
Do you reside within the Urban Growth Boundary?  Yes Length of Time 7 years

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? Rock Your World Gems, LLC



**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:

I am a current serving member of the Lincoln City Planning Commission and wish to continue serving the community in this capacity

List names of volunteer/work supervisors:

Anne Marie Skinner, Current planning director; Simon Kim and Richard Townsend, former plan

Please provide any previous experience with committees, boards or commissions and positions held:  
Currently serving a partial term on the Planning Commission due to expire December 2021

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

N/A

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

I would like to continue serving the community in the capacity of Planning Commissioner

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

Name: Laura Joki

Phone

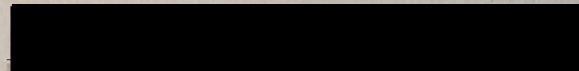


Name: Claire Hall

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**

11/2/2021

**DATE**



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

**COMMITTEE VOLUNTEER EMERGENCY CONTACT INFORMATION FORM**

<b>FULL NAME:</b>	MacNeale Smith
<b>START DATE:</b>	
<b>NAME OF COMMITTEE, BOARD, OR COMMISSION:</b>	Planning Commission
<b>CITY STAFF REPRESENTATIVE:</b>	
<b>HOME ADDRESS:</b>	
	[REDACTED]
	Lincoln City, OR 97367
<b>MAILING ADDRESS:</b>	
<b>HOME PHONE:</b>	
<b>CELL PHONE:</b>	
<b>PERSONAL E-MAIL ADDRESS:</b>	

<b>EMERGENCY CONTACT NAME/RELATIONSHIP:</b>	[REDACTED]
<b>HOME PHONE:</b>	
<b>CELL PHONE:</b>	[REDACTED]

<b>DATE:</b>	
<b>VOLUNTEER SIGNATURE:</b>	[REDACTED]

**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](http://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.

[Redacted Signature]

SIGNATURE

11/2/2021

DATE



## Human Resources

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### REFERENCE CHECK- COMMITTEES

**Reference regarding:** MacNeale Smith (**Planning Commission Committee Board**)

**Reference:** Laura Joki

**Reference taken by; date / time:** November 8, 2021

- What is your professional relationship with the applicant? Join Owner and CoManager of Rock Your World Gems. He is also my personal and professional bookkeeper and I hold other assets with him.
- How long have you known him/her?  
2013
- How long have you worked / served with him/her? 2015
- Did you hire or select him/her? If not, would you hire/select him/her given the opportunity to do so? I asked him to leave his job at the VA specifically to relocate and work with me
- Do you have personal knowledge of the applicant serving on any boards? If so, please describe. If not, would serving on our City Council be a good match based on your knowledge of the applicant? Would you recommend him/her for the Planning Commission? Yes, he has been an excellent, reasonable and timely member of the planning commission previously.
- Does the applicant possess good decision making / reasoning skills? Yes, critical with an eye for the big picture
- 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. Does he/she possess any special skills? Ability to research and reason. Keep and manipulate numbers. Get along with others.



## Human Resources

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- If applicable, what was his/her reason for leaving the position he/she held when you worked / volunteered together? Still here
- 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 Planning Commission? I think the most trouble on the planning commission has been its tumultuous leadership from the city, lack of meetings for too long and an inability to commit to the community vision we paid so much for with the Citywide Vision Development project which has yet to be implemented into the long term city plan. Your members are impotent without a functioning system of government. Get it together. Pass the comp plan already and tie it to the budget! Otherwise your planning commission just farts in tin cans every 2 weeks.
- Do you have any other feedback you could provide that would help us make a decision? Mac is excellent and has shown his excellence as a standing member of the commission. This is a simple decision.



## Human Resources

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### REFERENCE CHECK- COMMITTEES

**Reference regarding:** MacNeale Smith (**Planning Commission Committee Board**)

**Reference:** Claire Hall

**Reference taken by; date / time:** November 8, 2021

- What is your professional relationship with the applicant? Formerly my campaign treasurer
- How long have you known him/her? Approximately three years
- How long have you worked / served with him/her? Approximately two years
- Did you hire or select him/her? If not, would you hire/select him/her given the opportunity to do so? Yes, I hired him, and would hire him again
- Do you have personal knowledge of the applicant serving on any boards? If so, please describe. If not, would serving on our City Council be a good match based on your knowledge of the applicant? Would you recommend him/her for the Planning Commission?
  - 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. Does he/she possess any special skills? Systems thinker, able to assess a situation from multiple aspects
  - If applicable, what was his/her reason for leaving the position he/she held when you worked / volunteered together? Campaign ended
  - 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 Planning Commission? None to suggest
  - Do you have any other feedback you could provide that would help us make a decision? He's a personable, easy to get along with person.



## MEMORANDUM

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**To:** City of Lincoln City Mayor and Council  
**From:** Abigail Edwards, Human Resources Director  
**Date:** November 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: MacNeale Smith  
Position Applied For: Planning Committee Board

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

Respectfully,

Abigail Edwards  
HR Director