

CITY OF LINCOLN CITY
LINCOLN CITY COUNCIL AGENDA
MONDAY APRIL 11, 2022, 6:00 PM

6:00 PM - The Lincoln City Council meeting for April 11, 2022, will be held via Zoom. The City Council Chambers will be open and the meeting will be broadcast live in the Council Chambers. It will also be live on Channel 4 and through streaming on the web at www.lincolncity.org.

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

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

Citizens present in the Council Chambers will be given the opportunity to comment via Zoom. A member of the Information Technology staff will be present during the meeting to assist with any technical issues.

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

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing-impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder, 541-996-1203.

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

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

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Regular Meeting – March 28, 2022, 6:00 PM
2. Oregon Liquor Control Commission - Request for Limited On-Premises & Off Premises Sales License- Surfland Hotel
3. Oregon Liquor Control Commission - Request for Limited On-Premises Sales License- Tastebuds Bistro
4. Intergovernmental Agreement for the Improvement and Operation of D River Park Between the State of Oregon, Oregon Parks and Recreation Department and the City of Lincoln City, Oregon

E. COUNCIL DELIBERATIONS

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

G. PRESENTATIONS

5. Presentation: Lincoln County Library District Formula Revision
6. EDALC (Economic Development Alliance of Lincoln County): Update on Activities

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. PUBLIC COMMENT ON FEE RESOLUTION NO. 2022-13

J. ORDINANCES

2. ORDINANCE NO. 2022-16 AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM HIGH DENSITY RESIDENTIAL TO MEDIUM-DENSITY RESIDENTIAL AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-M (MULTIPLE-UNIT RESIDENTIAL) TO R-1-7.5 (SINGLE FAMILY RESIDENTIAL) FOR THE TAX LOT 07-11-02-AC-00800-00 [CPA 2022-01/ ZC 2022-01]
3. ORDINANCE NO. 2022-17 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.08 (GRADING AND EROSION CONTROL) TO CONFORM THE CHAPTER 12 REQUIREMENTS TO THE REQUIREMENTS OF CHAPTER 15 (BUILDINGS AND CONSTRUCTION)
4. ORDINANCE 2022-18 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING TITLE 5 (BUSINESS LICENSES TAXES AND REGULATIONS), CHAPTER 5.14 (VACATION RENTAL DWELLING LICENSE), AMENDING SECTIONS 5.14.060 (CRITERIA FOR APPROVAL OF A LICENSE AND LICENSE RENEWAL), PARAGRAPH B.4. (HEALTH AND SAFETY STANDARDS) TO REMOVE REFERENCE TO BUILDING CODE DEFINITION OF LODGING HOUSE.

K. RESOLUTIONS

5. RESOLUTION NO. 2022-13 A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING CITY ADMINISTRATION LICENSE AND APPLICATION FEES AND CHARGES FOR VEHICLES FOR HIRE AND APPROVAL OF STANDARD FORMS

6. RESOLUTION NO. 2022-14 A RESOLUTION OF THE CITY OF LINCOLN CITY AMENDING RESOLUTION 2021-45 PROVIDING FOR EXTENSION OF THE STREET CLOSURE OF A PORTION OF NW 34TH COURT

L. SPECIAL ORDER OF BUSINESS

7. Planning Commission Interview - Kroen

M. CITY MANAGER/CITY ATTORNEY REPORTS

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

8. Discussion of Fireworks Ban

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

March 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 under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE:

A. CALL TO ORDER

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

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

B. ROLL CALL

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

Staff Present: Lila Bradley, City Manager; Richard Appicello, City Attorney; Lt. Broderick, Lincoln City Police Department; Abigail Edwards, Human Resources Director; Alison Robertson, Economic Development and Urban Renewal Director; Stephanie Reid, City Engineer; Anne Marie Skinner, Planning and Community Development Director; Tony LaSoya, I.T. Director; Jamie Young, City Recorder.

C. PLEDGE OF ALLEGIANCE

Mayor Wahlke led The Pledge of Allegiance.

D. CONSENT AGENDA

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

1. Regular Meeting – Minutes of Regular Meeting – March 14, 2022, 6:00 PM
2. Regular Meeting – Minutes of Work Session – March 16, 2022, 3:00 PM
3. Intergovernmental Agreement for Use of County Building Official on City Building Board of Appeals

E. COUNCIL DELIBERATIONS

None

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

Ms. Bradley summarized a comment from Brenda Scotton in favor of NW 35th beach access closure.

Kim Jones, a Lincoln City resident, spoke about a new home being built next to his home and asked the permit be revoked.

Susan Palmer, a Lincoln City resident, spoke regarding the taxicab ordinances.

G. PRESENTATIONS**4. Housing Update**

Alison Robertson, Economic Development and Urban Renewal Director, and Anne Marie Skinner, Planning and Community Development Director gave an update on housing and new construction. Mayor Wahlke asked if there were provisions for the deferral of sidewalks. Ms. Skinner confirmed that is possible. Councilor Kasner asked what some of the red tape is for building tiny homes. Ms. Skinner said that she is looking at changing the size requirements for the lot and tiny home.

H. PUBLIC HEARING / ORDINANCE

None

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. CPA & ZC 2022-01 Purvine - map amendment and zone change from R-M to R-1-7.5

MOTION: Motion to Close the Record and Public Hearing for CPA & ZC 2022-01 Purvine
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Sydney Kasner, Councilor Ward 2
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

Mayor Wahlke opened the hearing at 6:48 PM. Council has no conflict of interest. Ms. Skinner presented the staff report and stated the Planning Commission was in favor. Councilor Hoagland asked if there is an HOA. Ms. Skinner was not sure if there was an HOA. The applicant was not present for the hearing. The staff had no comments. Mayor Wahlke thanked Ms. Skinner for the ZOA explanation.

2.

MOTION: Motion to Direct Staff Prepare an Ordinance Approving the Requested Map and Zone Change in CPA 2022-01 and ZC 2022-01 for Adoption at a Future Meeting.
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Elaine Starmer, Councilor Ward I
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

J. ORDINANCES

3. 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

MOTION: Motion to Approve Second Reading of Ordinance 2022-10 (Duplex Fix)
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Judy Casper, Councilor Ward 3
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

4. 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.

MOTION: Motion to Approve Second Reading of Ordinance 2022-09 Taxi Cab Services with Changes as Read
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Sydney Kasner, Councilor Ward 2
AYES: Wahlke, Starmer, Kasner, Hoagland, Parsons
NAYS: Casper
ABSENT: Mark
RESULT: Passed by Roll Call Vote

5. ORDINANCE NO. 2022-13 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2. (ADMINISTRATION AND PERSONNEL), CHAPTER 2.05 (PUBLIC CONTRACTS), SECTION 2.05.090 (PERSONAL SERVICES CONTRACTS), PARAGRAPH I, TO INCREASE THE DURATION OF THE PRE-QUALIFIED SERVICE PROVIDERS FROM ONE TO THREE YEARS.

MOTION: Motion to Approve First Reading of Ordinance 2022-13 Public Contracting
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

6.

MOTION: Motion to Approve Second Reading of Ordinance 2022-13 Public Contracting
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

7. ORDINANCE NO. 2022-14 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.06 (CITY APPOINTIVE BODIES), AMENDING SECTION 2.06.015 (RECRUITMENT AND APPOINTMENT PROCESS), PARAGRAPH A. (RECRUITMENT), TO CLARIFY THE OPEN PERIOD FOR RECEIPT OF APPLICATIONS TO FILL VACANCIES ON BOARDS AND COMMISSIONS.

MOTION: Motion to Approve First Reading of Ordinance 2022-14 Appointive Bodies Recruitment with Changes as Read
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Judy Casper, Councilor Ward 3
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

Mayor Wahlke asked about the difference between committee and commission. Mr. Appicello said that the chapter covers boards, committees, and commissions. Mr. Appicello said they would change it to read city-appointed bodies.

8.

MOTION: Motion to Approve Second Reading of Ordinance 2022-14 Appointive Bodies Recruitment with Changes as Read
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Judy Casper, Councilor Ward 3
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

K. RESOLUTIONS

9. RESOLUTION 2022-10 A RESOLUTION OF THE CITY OF LINCOLN CITY ADOPTING REVISIONS TO CITY ADMINISTRATION (ADMINISTRATIVE FEES – BUSINESS-RELATED) FEE SCHEDULE

MOTION: Motion to Approve Resolution 2022-10: Revisions to City Administration Fee Schedule
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Sydney Kasner, Councilor Ward 2
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

Mr. Appicello explained the resolution and said this is a part of the omnibus resolution that would be brought back before the end of the fiscal year. Mayor Wahlke would like to make sure this comes back before the end of the fiscal year.

10. RESOLUTION 2022-12 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LINCOLN CITY ESTABLISHING A PROCESS FOR COMPLAINTS AGAINST DIRECT REPORTS

MOTION: Motion to Approve Resolution 2022-12 Process for Complaints Against Direct Reports
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

L. SPECIAL ORDER OF BUSINESS

11. Logan Culvert Replacement Design Contract Award

MOTION: Motion to Direct Staff to Enter into a Contract with PBS Engineering for the Logan Culvert Replacement Design Contract in the Amount of \$97,220
MOVER: Elaine Starmer, Councilor Ward 1
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT: Mark
RESULT: Passed by Roll Call Vote

Ms. Reid explained the process of the design and the reason for the cost. Councilor Parsons gave a reminder to the public that the County gave \$415,000 to do the work.

M. CITY MANAGER/CITY ATTORNEY REPORTS

Ms. Bradley said that she is setting up the work sessions and will include previous work sessions notes and comments.

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

12.

MOTION:	Motion to Inform the Property Owner the City is not Interested in Property Acquisition at this Time for the Coast Ave Lots
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Elaine Starmer, Councilor Ward 1
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT:	Mark
RESULT:	Passed by Roll Call Vote

13. Contract for Lila Bradley to Act as City Manager Until April 24, 2022, With Provision For Consulting Thereafter.

MOTION:	Motion to Approve City Manager Lila Bradley's Contract as Requested
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Sydney Kasner, Councilor Ward 2
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT:	Mark
RESULT:	Passed by Roll Call Vote

14.

MOTION:	Motion to Direct Individual Evaluation be Completed by the End of April and Authorize Review by Outside Legal Counsel
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Parsons
ABSENT:	Mark
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 Starmer asked about the time for the work sessions and Council meetings. Mayor Wahlke said that when she was on Council and employed, she took time away from work. Councilor Starmer said she could go along with the group but needs to plan.

Councilor Hoagland said that the National League of Cities Conference was a wonderful experience. Councilor Hoagland asked why the areas South of Cutler City are still considered Lincoln City. Ms. Skinner explained that is determined by the United States Postal Service. Councilor Hoagland said he is a part of the Lincoln Public Safety Commission and was informed regarding the deaths of Fentanyl in our County. Councilor Hoagland said that Lincoln City and Toledo were the only Agencies to request drug warrants. Councilor Hoagland said that since the beginning of this year there have been 62

unattended deaths, which is either overdose or suicide. Mayor Wahlke said that Samaritan is working on a STARS Facility here in Lincoln County and there is one located in maybe Lebanon. Councilor Hoagland said he also attended the Cascade West Council of Government meeting where they created an Internal Diversity Inclusion and Equity Committee, they are working with smaller agencies to increase their IT infrastructure and they are working with RAIN to increase entrepreneurship, delivered 243,000 meals in 2021, loaned 1.4 million dollars in new business loans and 2.5 million dollars in loans out right now. Councilor Hoagland attended the League of Oregon Cities meeting and participated on Renewable Energy & Environment Committee.

Councilor Kasner said she shares the concern with Councilor Starmer regarding the work sessions and Council Meetings. Councilor Kasner said blood drives are happening at the hospital through the Red Cross and listed the dates. Councilor Kasner listed items needed by Family Promise. Councilor Kasner said that she has worked with Dev NW before and they are wonderful. Councilor Kasner listed a website of devnw.org.

Councilor Casper gave kudos to the Planning Department for the new vacation rental card. Councilor Casper received a question regarding the animal shelter in Newport at the airport and if there is Council has any opinion and anything that can be done about the location. Councilor Casper said she is officially out of single-use bags.

Councilor Parsons said Lincoln City Playhouse is putting on the play "Honk Junior" at the Cultural Center, Friday at 7 PM and Saturday at 4 PM and 7 PM. Councilor Parsons said they started practicing before Covid.

Mayor Wahlke said her only comment on the Animal Shelter is she does not feel it should be within City Limits therefore would be up to the Lincoln County Commissioners. Meals on Wheels is looking for a driver. Mayor Wahlke said there were many good ideas at the goal-setting meeting and a new City Manager was not mentioned but was found. Mayor Wahlke thanked Ms. Bradley for all of her work. Ms. Bradley thanked Council for their work and dedication to the City.

Q. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 8:00 PM

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

OLCC - Request for Limited On-Premises & Off-Premises Sales License_ Surfland Hotel

Meeting Date:	April 11, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	1

Questions:

Should the City Council provide a recommendation to the Oregon Liquor Control Commission (OLCC) for a new outlet, Limited On-Premises & Off-Premises sales liquor license for Surfland Hotel?

Staff Recommendations:

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

Legal Background and Framework:

Oregon Revised Statute (ORS) 471.166 establishes the process for local governments to make recommendation to the OLCC. LCMC Chapter 5.20 outlines the City process for recommendation to OLCC.

Council Options:

1. Approve a favorable recommendation to new outlet, Limited On-Premises & Off-Premises sales liquor license for Surfland Hotel.
2. To not approve the license application.
3. To approve the license application.

Potential Motions:

Motion to approve the Oregon Liquor Control Commission (OLCC) new outlet Limited On-Premises & Off-Premises sales liquor license for Surfland Hotel.

Attachments

Oregon Liquor Control Commission (OLCC) application for new outlet Limited On-Premises & Off-Premises sales liquor license for Surfland Hotel.

Attachments:

Surfland Hotel_Redacted.pdf (PDF)

Normandy



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

PRINT FORM

RESET FORM

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

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

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

Lee & Chung, LLC

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

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

3. Trade Name of the Business (Name Customers Will See) Surfland Hotel		
4. Business Address (Number and Street Address of the Location that will have the liquor license) 2133 NW Inlet Ave		
City Lincoln City	County Lincoln	Zip Code 97367

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



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

5. Trade Name of the Business (Name Customers Will See) Surfland Hotel			
6. Does the business address currently have an OLCC liquor license? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
7. Does the business address currently have an OLCC marijuana license? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
8. Mailing Address/PO Box, Number, Street, Rural Route (where the OLCC will send your license certificate, renewal application and other mailings as described in <u>OAR 845-004-0065[1]</u> .) 13635 NW Cornell Rd, Suite 100			
City Portland	State OR	Zip Code 97229	
9. Phone Number of the Business Location 541-994-8145		10. Email Contact for this Application and for the Business [REDACTED]	
11. Contact Person for this Application Stephen Davis		Phone Number [REDACTED]	
Contact Person's Mailing Address (if different)	City	State	Zip Code

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

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

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

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

Applicant(s) Signature

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

John Lee

App. #1: (PRINT NAME)	App #1: (SIGNATURE)	App #1: Signature Date	Atty. Bar Information (if applicable)
App. #2: (PRINT NAME)	App #2: (SIGNATURE)	App #2: Signature Date	Atty. Bar Information (if applicable)
App. #3: (PRINT NAME)	App #3: (SIGNATURE)	App #3: Signature Date	Atty. Bar Information (if applicable)
App. #4: (PRINT NAME)	App #4: (SIGNATURE)	App #4: Signature Date	Atty. Bar Information (if applicable)

OLCC Liquor License Application (Rev. 9.28.20)



OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM

PRINT FORM

RESET FORM

1. Name (Print):	Lee Last	John First	Won Middle
2. Other names used (maiden, other):			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, you must list your SSN: [REDACTED]			
<p>SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below.</p> <p>Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).</p>			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: <input checked="" type="checkbox"/>			
5. Date of Birth (DOB):	[REDACTED] (mm)	[REDACTED] (dd)	[REDACTED] (yyyy)
6. Driver License or State ID #: [REDACTED]			7. State OR
8. Contact Phone: [REDACTED]			
9. E-mail Address: [REDACTED]			
10. Mailing Address:	[REDACTED] (Number and Street)	Portland (City)	OR 97229 (State) (Zip Code)
<p>11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon?</p> <p>No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (If yes, explain in the space provided, below) Unsure <input type="checkbox"/> Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.</p>			



**OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM**

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

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

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

No Yes Please list licenses (and year(s) licensed) below Unsure Please include an explanation:
Majestic Inn and Spa, Anacortes Washington - 10 years

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

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

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

Affirmation

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

Name (Print):	Lee Last	John First	Won Middle
Signature:			Date: 2/7/22

This box for OLCC use ONLY

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



OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM

PRINT FORM

RESET FORM

1. Name (Print):	CHUNG Last	JAE HOON First	Middle	
2. Other names used (maiden, other):				
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, you must list your SSN: [REDACTED]				
<p>SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below.</p> <p>Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a).</p>				
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: <input checked="" type="checkbox"/>				
5. Date of Birth (DOB):	[REDACTED] (mm)	[REDACTED] (dd)	[REDACTED] (yyyy)	
6. Driver License or State ID #:	[REDACTED]			7. State WA
8. Contact Phone:	[REDACTED]			
9. E-mail Address:	[REDACTED]			
10. Mailing Address:	[REDACTED] (Number and Street)	Vancouver (City)	WA (State)	98683 (Zip Code)
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (If yes, explain in the space provided, below) Unsure <input type="checkbox"/> Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.				



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

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

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

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

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

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

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

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

Affirmation

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

Name (Print):	CHUNG Last	JAEHOON First	Middle
Signature:			Date: July 23, 21

This box for OLCC use ONLY

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



OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM

PRINT FORM
RESET FORM

1. Name (Print):	CHUNG <small>Last</small>	AMY <small>First</small>	HYUNGMI <small>Middle</small>
2. Other names used (maiden, other):			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, you must list your SSN: [REDACTED]			
<p>SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below.</p> <p>Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC§ 552(a).</p>			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: <input checked="" type="checkbox"/>			
5. Date of Birth (DOB):	[REDACTED] <small>(mm)</small>	[REDACTED] <small>(dd)</small>	[REDACTED] <small>(yyyy)</small>
6. Driver License or State ID #:	[REDACTED]		7. State Washington
8. Contact Phone:	[REDACTED]		
9. E-mail Address:	[REDACTED]		
10. Mailing Address:	[REDACTED] <small>(Number and Street)</small>	VANCOUVER <small>(City)</small>	WA 98683 <small>(State) (Zip Code)</small>
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (If yes, explain in the space provided, below) Unsure <input type="checkbox"/> Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.			



**OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM**

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

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

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

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

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

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

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Name (Print):	CHUNG Last	AMY First	HYUNGM Middle
Signature:			Date: 7/23/21

This box for OLCC use ONLY

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



**OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM**

PRINT FORM

RESET FORM

1. Name (Print):	Lee <div style="text-align: center;">Last</div>	Rob <div style="text-align: center;">First</div>	W <div style="text-align: center;">Middle</div>	
2. Other names used (maiden, other):				
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, you must list your SSN: ██████████				
<p>SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below.</p> <p>Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).</p>				
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: <input checked="" type="checkbox"/>				
5. Date of Birth (DOB): ████████ (mm) ████████ (dd) ████████ (yyyy)				
6. Driver License or State ID #: ██████████			7. State OR	
8. Contact Phone: ██████████				
9. E-mail Address: ██████████				
10. Mailing Address:				
██████████ <div style="text-align: center;">(Number and Street)</div>		Wilsonville <div style="text-align: center;">(City)</div>	OR <div style="text-align: center;">(State)</div>	97070 <div style="text-align: center;">(Zip Code)</div>
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (If yes, explain in the space provided, below) Unsure <input type="checkbox"/> Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.				



**OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM**

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Majestic Inn and Spa, Anacortes Washington - 10 years

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

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Affirmation

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

Name (Print):	Lee	Last	Rob	First	W	Middle
Signature:					Date:	7/26/21

This box for OLCC use ONLY

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



OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: Lee & Chung, LLC Phone: 541-994-8145

Trade Name (dba): Surfland Hotel

Business Location Address: 2133 NW Inlet Ave

City: Lincoln City ZIP Code: 97367

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 24hrs to _____
 Monday 24hrs to _____
 Tuesday 24hrs to _____
 Wednesday 24hrs to _____
 Thursday 24hrs to _____
 Friday 24hrs to _____
 Saturday 24hrs to _____

Outdoor Area Hours:

Sunday 8:00am to 10:00pm
 Monday 8:00am to 10:00pm
 Tuesday 8:00am to 10:00pm
 Wednesday 8:00am to 10:00pm
 Thursday 8:00am to 10:00pm
 Friday 8:00am to 10:00pm
 Saturday 8:00am to 10:00pm

The outdoor area is used for:

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

The exterior area is adequately viewed and/or supervised by Service Permittees.
 _____ (Investigator's Initials)

Seasonal Variations: Yes No If yes, explain: _____

ENTERTAINMENT

Check all that apply:

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

DAYS & HOURS OF LIVE OR DJ MUSIC

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

SEATING COUNT

Restaurant: _____ Outdoor: 25
 Lounge: _____ Other (explain): Lobby: 4
 Banquet: _____ Total Seating: 29

OLCC USE ONLY

Investigator Verified Seating: ____ (Y) ____ (N)
 Investigator Initials: _____
 Date: _____

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

Applicant Signature: _____ Date: 3/21/22

1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 12/07)

Council Communication

OLCC - Request for Limited On-Premises Sales License_ Tastebuds Bistro

Meeting Date:	April 11, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	1

Questions:

Should the City Council provide a recommendation to the Oregon Liquor Control Commission (OLCC) for a new outlet, limited on-premises sales liquor license for Tastebuds Bistro?

Staff Recommendations:

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

Legal Background and Framework:

Oregon Revised Statute (ORS) 471.166 establishes the process for local governments to make recommendation to the OLCC. LCMC Chapter 5.20 outlines the City process for recommendation to OLCC.

Council Options:

1. Approve a favorable recommendation to new outlet, limited on-premises sales liquor license.
2. To not approve the license application.
3. To approve the license application.

Potential Motions:

Motion to approve the Oregon Liquor Control Commission (OLCC) new outlet limited on-premises sales liquor license for Tastebuds Bistro.

Attachments

Oregon Liquor Control Commission (OLCC) application for new outlet limited on-premises sales liquor license application for Tastebuds Bistro.

Attachments:

tastebuds_OLCC_app_Redacted.pdf (PDF)



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

5. Trade Name of the Business (Name Customers Will See) TASTEBUDS BISTRO,			
6. Does the business address currently have an OLCC liquor license? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
7. Does the business address currently have an OLCC marijuana license? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
8. Mailing Address/PO Box, Number, Street, Rural Route (where the OLCC will send your license certificate, renewal application and other mailings as described in <u>OAR 845-004-0065(1)</u>) 6042 SE HIGHWAY 101			
City LINCOLN CITY	State OR	Zip Code 97387	
9. Phone Number of the Business Location 541-614-1467		10. Email Contact for this Application and for the Business 	
11. Contact Person for this Application EUGENE TOUGAS		Phone Number 541-614-1467	
Contact Person's Mailing Address (if different)	City	State	Zip Code

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

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

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

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

Applicant(s) Signature

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

EUGENE TOUGAS		09-06-2021	
App. #1: (PRINT NAME)	App #1: (SIGNATURE)	App #1: Signature Date	Atty. Bar Information (if applicable)
JENNIFER TOUGAS		09-06-2021	
App. #2: (PRINT NAME)	App #2: (SIGNATURE)	App #2: Signature Date	Atty. Bar Information (if applicable)
App. #3: (PRINT NAME)	App #3: (SIGNATURE)	App #3: Signature Date	Atty. Bar Information (if applicable)
App. #4: (PRINT NAME)	App #4: (SIGNATURE)	App #4: Signature Date	Atty. Bar Information (if applicable)

OLCC Liquor License Application (Rev. 6.28.20)



OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM

PRINT FORM

RESET FORM

1. Name (Print):	TOUGAS <small>Last</small>	EUGENE <small>First</small>	ERWIN <small>Middle</small>
2. Other names used (maiden, other):			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, you must list your SSN: [REDACTED]			
<p>SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below.</p> <p>Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).</p>			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: <input checked="" type="checkbox"/>			
5. Date of Birth (DOB):	[REDACTED] <small>(mm)</small>	[REDACTED] <small>(dd)</small>	[REDACTED] <small>(yyyy)</small>
6. Driver License or State ID #:	[REDACTED]	7. State OR	
8. Contact Phone	[REDACTED]		
9. E-mail Address	[REDACTED]		
10. Mailing Address:	6042 SE HIGHWAY 101 <small>(Number and Street)</small>	LINCOLN CITY <small>(City)</small>	OR 97367 <small>(State) (Zip Code)</small>
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (If yes, explain in the space provided, below) Unsure <input type="checkbox"/> Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.			



OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM

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

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

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

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

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

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Affirmation

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Name (Print):	TOUGAS Last	EUGENE First	ERWIN Middle
---------------	----------------	-----------------	-----------------

Signature:		Date: 09-16-2021
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This box for OLCC use ONLY

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



**OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY FORM**

PRINT FORM

RESET FORM

1. Name (Print):	TOUGAS <small>Last</small>	JENNIFER <small>First</small>	LYNN <small>Middle</small>
2. Other names used (maiden, other)	[REDACTED]		
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, you must list your SSN: [REDACTED]		
<p>SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below.</p> <p>Based on our authority under ORS 471.511 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).</p>			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box:	<input checked="" type="checkbox"/>		
5. Date of Birth (DOB):	[REDACTED] <small>(mm)</small>	[REDACTED] <small>(dd)</small>	[REDACTED] <small>(yyyy)</small>
6. Driver License or State ID #:	[REDACTED]	7. State:	OR
8. Contact Phone:	[REDACTED]		
9. E-mail Address:	[REDACTED]		
10. Mailing Address:	6042 SE HIGHWAY 101 <small>(Number and Street)</small>	LINCOLN CITY <small>(City)</small>	OR 97367 <small>(State) (Zip Code)</small>
<p>11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon?</p> <p>No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (If yes, explain in the space provided, below) Unsure <input type="checkbox"/> Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.</p>			



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

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

13. Do you, or any entity that you are a part of, hold an alcohol license in a U.S. state outside of Oregon?
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14. Do you or any entity that you are a part of, have any other liquor license applications pending with the OLCC?
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Affirmation
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Name (Print):	TOUGAS Last	JENNIFER First	LYNN Middle
Signature:	[Redacted Signature]		Date: 09-16-2021

This box for OLCC use ONLY
 _____ Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION

Please Print or Type

Applicant Name: EUGENE & JENNIFER TOUGAS Phone: 541-614-1467

Trade Name (dba): TASTEBUDS BISTRO, LLC

Business Location Address: 6042 SE HIGHWAY 101

City: LINCOLN CITY ZIP Code: 97367

DAYS AND HOURS OF OPERATION

Business Hours: Summer Hours Outdoor Area Hours: N/A

Sunday	<u>8am</u>	to	<u>8pm</u>	Sunday	_____	to	_____
Monday	<u>8am</u>	to	<u>8pm</u>	Monday	_____	to	_____
Tuesday	<u>8am</u>	to	<u>8pm</u>	Tuesday	_____	to	_____
Wednesday	<u>8am</u>	to	<u>2pm</u>	Wednesday	_____	to	_____
Thursday	<u>8am</u>	to	<u>8pm</u>	Thursday	_____	to	_____
Friday	<u>8am</u>	to	<u>8pm</u>	Friday	_____	to	_____
Saturday	<u>8am</u>	to	<u>8pm</u>	Saturday	_____	to	_____

The outdoor area is used for:

Food service Hours: _____ to _____

Alcohol service Hours: _____ to _____

Enclosed, how _____

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

_____ (Investigator's Initials)

Seasonal Variations: Yes No If yes, explain: Winter hours - shorter hours
Closed Mondays - Tuesday thru Sunday 9am - 2pm

ENTERTAINMENT

Check all that apply:

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

DAYS & HOURS OF LIVE OR DJ MUSIC

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

SEATING COUNT

Restaurant: 64 Outdoor: 0

Lounge: 0 Other (explain): _____

Banquet: 0 Total Seating: 64

OLCC USE ONLY

Investigator Verified Seating: (Y) (N)

Investigator Initials: _____

Date: _____

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

Applicant Signature: _____ Date: 09-16-2021

1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 12/07)

Council Communication

IGA D-River

Meeting Date:	April 11, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	Jeanne Sprague, Edward Dreistadt
Approval:	Lila Bradley	Estimated Time:	5 mins.

Question:

Should the City Council approve the attached Intergovernmental Agreement concerning the improvement and operation of the D River Park?

Staff Recommendation:

Staff recommends Council approve the Intergovernmental Agreement. Staff recommends Council authorize the City Attorney and City Manager to make minor changes if requested by OPRD, without further action by Council.

Authority:

ORS 190.110 permits units of state and local government to enter into intergovernmental agreements to cooperate, for any lawful purpose.

ORS 390.121(3) and ORS 390.117(5) authorizes the State of Oregon Parks and Recreation Director to sell, lease, exchange or otherwise dispose of, or permit use of, real property.

Background:

The State of Oregon, by and through its Parks and Recreation Department, presently owns and operates the D River State Recreational Site, a +/- 4-acre state park located in the center of Lincoln City; the state park is composed of property that lies partially within the Ocean Shore State Recreation Area (as defined in ORS 390.605 to ORS 390.770) as well as upland property.

The City is prepared to make a substantial investment to improve the D River Park facility as well as increase outdoor recreation activities at the Park location; said commitment is contingent on the State of Oregon entering into a long-term agreement

with the City. The OPRD retains ownership of the real property, and except as specified herein, all buildings and physical improvements found thereon.

Pursuant to ORS 390.121(3), and subject to compliance with this Agreement, OPRD grants to City of Lincoln City for an initial term of fifty (50) years, the exclusive right to develop, improve, use, manage and operate the D River Park in the same manner as the City would develop, improve, use, manage and operate and maintain a City park.

The 2021 Legislature approved funding for construction of a welcome center, upgrading restrooms, landscaping, and improving beach access at D River State Wayside in Lincoln City, through SB 5534, section 41. This funding will be provided as a grant to the City of Lincoln City in the amount of \$2,500,000, to be financed by the issuance of State of Oregon Lottery Revenue Bonds which are expected to be issued in spring 2023.

Council Options:

1. Approve the IGA
2. Postpone discussion
3. Do not approve the IGA.

Potential Motions:

Council:

1. **Motion to approve the proposed INTERGOVERNMENTAL AGREEMENT FOR THE IMPROVEMENT AND OPERATION OF D RIVER PARK BETWEEN THE STATE OF OREGON, OREGON PARKS AND RECREATION DEPARTMENT AND THE CITY OF LINCOLN CITY, OREGON AND AUTHORIZE THE CITY ATTORNEY AND CITY MANAGER TO MAKE MINOR CHANGES IF REQUESTED BY OPRD, WITHOUT FURTHER ACTION BY COUNCIL.**

Attachments:

DRAFT IGA D River FLWCA changes made 3-31-22 CLEAN (PDF)

**INTERGOVERNMENTAL AGREEMENT FOR THE IMPROVEMENT AND OPERATION OF D RIVER
PARK BETWEEN THE STATE OF OREGON, OREGON PARKS AND RECREATION DEPARTMENT
AND THE CITY OF LINCOLN CITY, OREGON**

This Agreement is entered into this _____ day of _____, **2022** by and between **THE STATE OF OREGON, PARKS AND RECREATION DEPARTMENT** (hereinafter "**OPRD**") and **THE CITY OF LINCOLN CITY, OREGON**, (hereinafter "**City**"), (collectively "Parties") and

RECITALS:

- A. ORS 190.110 permits units of state and local government to enter into intergovernmental agreements to cooperate, for any lawful purpose; and
- B. ORS 390.121(3) and ORS 390.117(5) authorizes the State Parks and Recreation Director to sell, lease, exchange or otherwise dispose of, or permit use of, real property, if in the opinion of the department it is no longer needed, required or useful for department purposes; and
- C. The State of Oregon, by and through its Parks and Recreation Department, presently owns and operates the D River State Recreational Site, a +/- 4-acre state park located in the center of Lincoln City; the state park is composed of property that lies partially within the Ocean Shore State Recreation Area (as defined in ORS 390.605 to ORS 390.770) as well as upland property; the area subject to this agreement is described and shown in "**Exhibit A**", attached hereto and made a part hereof by this reference; agreement area as defined by Exhibit A shall hereinafter be referred to as "D River Park"; and
- D. D River Park is a significant recreational resource to the citizens of Oregon; however, the parties stipulate and agree that D River Park is in need of substantial improvement to better facilitate public outdoor recreation and tourism; and
- E. The City of Lincoln City, imposes and collects Transient Room Taxes (TRT) pursuant to Oregon Revised Statutes, the Lincoln City City Charter, and Lincoln City Municipal Code, Chapter 3.04; and
- F. Expenditures of TRT funds are restricted, but authorized expenditures include, among other things, construction and funding of Tourism-related facilities which is defined under Oregon law to expressly include a visitor information center as well as other real property with a useful life of 10 or more years and with a substantial purpose of supporting tourism or accommodating tourist activities [ORS 320.300]; and
- G. The City of Lincoln City currently has approximately 2.1 million dollars in available transient room tax (TRT) funds to spend on Tourism-Related Facilities, which may include a visitor information center and other associated improvements and program activities; and

- H. The City is prepared to make a substantial investment to improve the D River Park facility as well as increase outdoor recreation activities at the Park location; said commitment is contingent on the State of Oregon entering into a long-term agreement with the City; and
- I. The Parties acknowledge that the 2021 Legislature approved funding for constructing a welcome center, upgrading restrooms, landscaping, and improving beach access at D River State Wayside in Lincoln City, through SB 5534, section 41. This funding will be provided as a grant to the City of Lincoln City in the amount of \$2,500,000, to be financed by the issuance of State of Oregon Lottery Revenue Bonds which are expected to be issued in spring 2023; and
- J. The Parties acknowledge that the D River Park was acquired and improved with federal funds awarded by the National Parks Service from the Federal Land and Water Conservation Fund (LWCF); LWCF is currently locally administered by Oregon Parks and Recreation Department's Grant Unit on behalf of the National Parks Service; unless NPS approves substitution property, the D River Park may only be used for outdoor recreation purposes, in compliance with LWCF Act Section 6(f)(3) and 36 CFR 59.3; it is the intention of both parties to jointly develop, use and operate the D River Park for outdoor recreation and tourism, and to work together to approve the Visitor Information Center (welcome center) building and associated uses pursuant to the LWCF compliance review process and, if necessary, to relocate the LWCF restrictions currently burdening the D River Park to a suitable substitute property in the City; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. RECITALS:

The recitals set forth above are true and correct and are incorporated herein by this reference.

2. AUTHORITY.

This Agreement is authorized by ORS 190.110 which permits units of state and local government to enter into intergovernmental agreements to cooperate, for any lawful purpose; and by ORS 390.121(3) and ORS 390.117(5) which authorizes the State of Oregon Parks and Recreation Director to sell, lease, exchange or otherwise dispose of, or permit use of, real property; and

3. PARTIES.

This Agreement is between the State of Oregon, acting by and through its Oregon Parks and Recreation Department, hereinafter called OPRD, and, the City of Lincoln City, acting by and through its governing body, the City Council, hereinafter called City; hereinafter individually referred to as the Party and collectively referred to as the Parties.

3.1 OPRD AUTHORIZED REPRESENTATIVES:

Janie Lascano, Park Manager (or successor)
OPRD Devil's Lake Management Unit
1452 NE 6th Drive, Lincoln City, Oregon 97367
541-994-7341 ext 222
Janie.Lascano@oregon.gov

3.2 CITY AUTHORIZED REPRESENTATIVES:

Jeanne Sprague, City Parks and Recreation Director (or successor)
City of Lincoln City
801 SW Hwy 101, Lincoln City, OR 97367
541-996-1222
jsprague@lincolncity.org

3.3 A Party may designate a newly Authorized Representative by written notice to the other Party.

4. EFFECTIVE DATE AND DURATION [ORS 190.020(1)(e)].

This Agreement is effective upon execution by both parties and terminates on June 30, 2073, unless extended or terminated earlier in accordance with Section 9. The City of Lincoln City Parks and Recreation Director may administratively extend this Agreement twice, by ten (10) years each extension, by indicating in writing to the Director of the Oregon Parks and Recreation Department that an extension of the Agreement is sought under the same terms and conditions of this Agreement. The extension shall be effective only upon City receipt of a document from the OPRD Director, consenting to the extension under the same terms and conditions. If the same terms are not agreed to, the matter shall be referred to the respective governing bodies for formal Amendment to the Agreement.

5. REAL OR PERSONAL PROPERTY. [ORS 190.020(1)(d)].

5.1 Grant of Permit to develop and use D River Park for fifty (50) years. The OPRD real property (D River Park) is described and shown in **Exhibit A**. The OPRD retains ownership of the real property, and except as specified herein, all buildings and physical improvements found thereon. Pursuant to ORS 390.121(3), and subject to compliance with this Agreement, OPRD grants to City of Lincoln City for an initial term of fifty (50) years, the exclusive right to develop, improve, use, manage and operate the D River Park in the same manner as the City would develop, improve, use, manage and operate and maintain a City park. This grant of a Permit under this section commences on July 01, 2023 and terminates on June 30, 2073, unless extended or terminated as provided in this Agreement.

5.2 Scope of Grant. Pursuant to this Agreement, the City is expressly authorized to perform any and all actions necessary to develop, improve, use, manage and operate D River Park. OPRD expressly agrees to cooperate with the City in this endeavor. As an example, and not by way of limitation, City is expressly authorized to make application for any permits or approvals required to improve the D River Park property. OPRD expressly agrees to cooperate with the City in obtaining any and all required development permits. Similarly, City is expressly authorized to process and approve public construction contracts related to the subject property. OPRD consents to City, processing and approving such public contracts for construction of improvements in the Park. OPRD consents to demolition of buildings, structures and improvements on the D River Park site at such time as replacement buildings, structures or improvements are ready for construction.

5.3 Application for compliance review for Visitor Information Center (Welcome Center building), associated uses, upgraded restrooms, landscaping, and improving beach access at D River State Wayside. The Parties agree to work together expeditiously to prepare and process LWCF compliance review applications to obtain approval of the proposed Visitor Information Center building and associated uses, upgraded restrooms, landscaping, and improved beach access at the D River State Park. OPRD shall inform City of the application requirements and supporting documents needed for NPS compliance review. City with work with OPRD to provide materials supportive of said compliance review application. OPRD shall prepare and submit such application as soon as possible in order to timely obtain a determination that the building, uses, and associated improvements do not operate as a conversion. The goal will be to obtain approval, if at all possible, prior to SB5534 funds becoming available in 2023.

5.4 City proposed improvements and uses:

To facilitate the compliance review application, City proposes the following:

- The City Visitor and Convention Bureau (Explore Lincoln City) will hire a qualified land use professional to assist in preparation of the rezoning application to rezone the D River Park from Recreation Commercial (RC) to the Park District (P) (the current zoning for the property is not consistent with the current park use);
- OPRD (or other state of Oregon representative) will sign the rezoning application as owner and authorize submittal of the application to the City.
- City will process the rezoning to completion.
- With the property zoned in the City Park District, the proposed uses/building Visitor Information Center, public restrooms beach access and accessory parking lot, will be consistent with zoning. (Compliance with site design standards is not required in the Park zone – as opposed to commercial zones).
- The City Visitor and Convention Bureau (Explore Lincoln City) will hire a qualified land use professional to assist in preparation of the Development Review (Site Plan) application for the D River Park. The Development Review application will include narrative of the proposed uses of the building and grounds, as well as all proposed buildings and site improvements consistent with zoning and LWCA restrictions, and will include preliminary construction plans.

- OPRD (or other state of Oregon representative) will sign the Development Review application as owner and authorize submittal of the application to the City.
- City will process the Development Review application to completion.
- OPRD will prepare, submit, and process to completion, the LWCF compliance review application(s) and any required amendment(s), as needed, to the Project Agreement for the building, uses and associated improvements, OPRD shall diligently pursue the applications until a decision of approval is obtained. OPRD will commence preparation of such applications within 30 days of approval of this agreement.

5.5 Parks and Open Space uses needing LWCA review:

In order to avoid an accidental conversion, and subject to refinement in the Compliance Review submittal, City and OPRD agree to propose selected City Parks Zone (LCMC 17.42) and City Open Space Zone (LCMC 17.43) permitted uses for compliance review: Zoning categories and representative uses are detailed below, shading indicates possible areas of proposed uses:

Zoning:

Parks Permitted uses:

- A. Public parks, playgrounds, recreational buildings and facilities;
- B. Public athletic fields and facilities including but not limited to baseball/softball/soccer fields, basketball courts, volleyball courts, swimming pools, and gymnasiums;
- C. Public community centers and auditoriums;
- D. Commercial activity when authorized with an exclusive use permit and parks concession agreement;
- E. Special events as approved by permit under Chapter 5.16 LCMC, including authorized commercial activity with a parks concession agreement;
- F. Temporary emergency operations uses pursuant to Chapter 2.72 LCMC;
- G. Uses permitted in the open space zone;
- H. Public parking for park use;
- I. Such other uses as the planning and community development director determines to be in accordance with the primary purpose of the park zone;
- J. Essential emergency communications, early warning and associated emergency facilities;
- K. Community gardens;
- L. Transportation uses, defined in Chapter 17.08 LCMC;
- M. Mobile food units, subject to the provisions of LCMC 17.80.170 and with an approved parks concession and exclusive use permit.
- N. Visitor Information Center.

Open Space Permitted Uses:

- A. Passive recreational activities such as hiking, biking on designated trails, birdwatching, picnicking, nature walks and other similar uses.
- B. Development and maintenance of trails, including pedestrian footbridges, in accordance with standards set forth in the parks master plan with a maximum width of eight feet.

- C. Educational activities and ecological research projects only if the planning and community director finds the use to be in accordance with the primary purposes of the open space zone.
- D. Natural resource restoration and enhancement projects.
- E. Interpretive displays.
- F. Removal of timber, rocks or other materials in established public use areas for purposes of public safety.
- G. Such other uses as the parks director determines to be in accordance with the primary purpose of the open space zone.

For purposes of the compliance review, the principal proposed building and uses for the D River Park is the permitted use of Visitor Information Center (Paragraph N) as well as public parking for Park use (Paragraph H). Aspects of the proposed D River Park site plan include commercial activity via a parks concession (Paragraphs D and M); Educational and Interpretive displays, (Paragraph G); and Special Events (Paragraph E) generally supportive of permitted events on the beach.

Visitor Information Center is defined broadly as an establishment primarily engaged in marketing and distributing information on community resources and facilities to business and leisure travelers through a range of activities, including but not limited to assisting organizations in locating meeting and convention sites; providing maps and travel information on area attractions, events, indoor and outdoor recreational opportunities, lodging accommodations, restaurants, and available group tours of local historical, recreational, and cultural attractions.

For purposes of the D River Park, the proposed building will principally house the restroom facilities (replacing the existing antiquated facilities) and provide an uncluttered, open indoor area for viewing the ocean through large windows with provision for informational displays of Lincoln City area points of interest, including maps, brochures, digital displays and print materials concerning indoor and outdoor public and private recreational opportunities, tours and charters, contests and promotions, (e.g. City's Finders Keepers float program - <https://www.oregoncoast.org/glass-floats/>) as well as lodging, retail and restaurant options for the traveling public. Electronic Kiosks and digitally downloadable information will be favored. The facility might include other amenities to facilitate outdoor recreation, such as webcam video (e.g. surf conditions at Canyon Park for surfers or webcam video of "the Knoll" views for hikers), informational displays and announcements (D River water quality for boaters), wayfinding to City open space and park trailheads, and other indoor and outdoor park amenities (e.g. Community Center pool).

Other decorative, educational and informational displays and amenities will be located in the center including both permanent and temporary displays of City rules and regulations, interpretative panels on the coastal environment, Heritage and Artifact displays, and public art. In addition to providing a space to find refuge in inclement weather to gather information, the Center will provide other amenities for visitors to the D River Park; in addition to the traditional visitor center displays and restrooms the Park will include available Wi-Fi, foot washing, water bottle filling stations, and indoor commercial activity via a Parks concession agreement, (focusing on beach supportive items for visitors not prepared for Oregon Coast conditions). The City may also propose food cart or food truck concession areas in the park to support outdoor recreation.

Exterior areas of the Building will feature tables and benches, possible covered shelters as well as cabinets to store beach wheelchairs, and mobimats to facilitate access.

Special events are permitted use in the Park Zone, subject to compliance with LCMC permit requirements and conditions. In the past the City has conducted special events on the beach with the permission of the State e.g. Kite Festivals see:

<https://www.oregoncoast.org/events/annual/summer-kite-festival/> and
<https://www.oregoncoast.org/events/annual/fall-kite-festival/>)

Such special events use the parking lot at the D river for parking. It is expected that such use would continue and that permits from the state would still be required to use the beach for the Kite Festival. The parking lot itself is not suitable for an event center, so it is not the intention of the city to make it available either thru the City Parks Department exclusive use permit process or the special event permit process. Rather, the park would be available to the City for City sponsored events like the Kite festival for use consistent with the support of existing outdoor recreation. Other examples include parking for races (running) sponsored by the city and Exploriences free learning events (<https://www.oregoncoast.org/events/exploriences/>)

6. REPRESENTATIONS, ACTIVITIES AND RESPONSIBILITIES OF THE PARTIES.

[ORS 190.020(1)]

The Parties make the following representations to each other:

- 6.1** City is an Oregon municipal corporation, duly organized and validly existing. City has the power and authority to enter into and perform this Agreement;
- 6.2** OPRD is a Department of the Oregon State Government, duly organized and validly existing. OPRD has the power and authority to enter into and perform this Agreement.
- 6.3** The making and performance of this Agreement:
 - Has been duly authorized by the respective City governing body and OPRD Department Director;
 - Does not and will not violate any provision of any applicable state or local law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of City's charter or other organizational document;
 - Does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which City or OPRD is party or by which City or OPRD may be bound or affected; and
 - No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution by City and OPRD of this Agreement, other than those that have already been obtained.

- 6.4** This Agreement has been duly executed and delivered by City and OPRD and constitutes a legal, valid and binding obligation of City and OPRD, enforceable in accordance with its terms.
- 6.5** City has, or will obtain through public contracts, the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing:
- Park design;
 - Park development
 - Park operation and maintenance.

City will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession.

- 6.6** City shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.
- 6.7** City and OPRD agree to work individually and cooperatively toward: (a) improving and increasing public access to outdoor recreation at D River Park; (b) improving the D River Park design, facilities, operation and maintenance; (c) promoting and increasing outdoor recreation programs and opportunities available at the D River Park, including qualified recreation concessions.
- 6.8** City and OPRD agree that one of the principal purposes of this agreement is to authorize the expenditure of available City TRT dollars on a Visitor Center Building on the subject property which will have the effect of increasing outdoor recreation opportunities. City Parks and Recreation Department will take over operation and maintenance of the D River Park and make available outdoor recreation program opportunities at this location. The result of these improvements and operational changes will be to preserve and protect existing recreation opportunities and increase the quantity and quality of public outdoor recreation facilities and resources which are available to the people of the State of Oregon.
- 6.9** The Parties acknowledge that, consistent with the intent of this Agreement, the 2021 Legislature approved funding for constructing a welcome center, upgrading restrooms, landscaping, and improving beach access at D River State Wayside in Lincoln City, through SB 5534, section 41. This state funding will be provided as a grant to the City of Lincoln City in the amount of \$2,500,000, subject to a grant agreement, to be financed by the issuance of State of Oregon Lottery Revenue Bonds which are expected to be issued in spring 2023.

6.10 The Parties acknowledge that use of D River Park is subject to certain restrictions including but not limited to its management for perpetual public outdoor recreation in accordance with Section 6(f)(3) of the LWCF Act and 36 CFR 59.3. City and OPRD agree that one of the principal objectives of the Parties is to avoid an inadvertent conversion by misuse of LWCF secured lands. To this end, the parties further agree to timely process compliance review for Parks permitted uses and proposed improvements, and if deemed necessary, to relocate the restrictions to mutually agreeable substitute property.

- For the Agreement term the Parties will become joint Project sponsors of D River Park and will be bound by the terms of Project Agreements and Amendments related to LWCF Grant #41-00060 and those portions of Grant #41-01331 relevant to D River Park;
- City will submit all demolition, construction, site enhancement and significant event proposals, including specifically the Visitor Information Center Building and uses, to OPRD for future submittal to National Park Service (NPS) for compliance review. OPRD will prepare the NPS application using required NPS forms and with a recommendation for federal concurrence that a conversion is not triggered by the Visitor Information Center facility or use. Approval of proposed Visitor Information Center facilities and uses shall be obtained from NPS prior to construction by City; The City will not construct the Visitor Information Center without prior approval of the facility and use. OPRD expressly agrees to proceed with the processing of the proposed building and uses as soon as possible after approval of this agreement. City will promptly provide supporting materials requested by OPRD; if compliance review determinations or restrictions impacts City's proposed use of D River Park, OPRD will work with NPS and City to resolve the issue to the best of OPRD's ability;

6.11 City and OPRD agree that if conversion or misuse is alleged during the Agreement term, OPRD and City will first consult with NPS to determine what action is necessary to avoid a conversion (For example, will cessation of a particular use or modification of an improvement avoid a conversion). City and OPRD will use all reasonable efforts to avoid a conversion. If such actions do not avoid conversion, City and OPRD will prepare and process an application for a substitute property to be provided by the City of Lincoln City, together with any amendments necessary to the LWCF Project Agreements. City and OPRD will work expeditiously toward approval of the exchange including preparation of all necessary conversion applications under 36 CFR 59.3 and LWCF Project Agreement and Amendments to facilitate completion. To this end, the parties further agree as follows:

- The objective of the Parties is to avoid an inadvertent conversion by misuse of LWCF secured lands;
- In the event of a conversion, the D River property will be exchanged to the City

- for substitution property to be deeded to the State;
- Any substitution property will be of equal or greater recreational utility than the D River Park Property.
 - City will prepare a legal description of the substitution property, and process any needed partition, land division or property line adjustment to legally create the substitution parcel.
 - OPRD will provide a fair market value appraisal of the substitution property and the D river property to assist in the application process.
 - City will provide a narrative description of the substitution property in terms of value for equivalent outdoor recreation uses. Please note - wetlands will likely be included in the proposed exchange (wetlands are deemed to have equivalent outdoor recreational use).
 - OPRD will at its own cost and expense, diligently prepare, submit, and process to completion, the conversion application(s) and concurrent amendment(s), as needed, to the Project Agreement and diligently pursue the applications until a decision of approval is obtained.
 - City and OPRD will equally share the cost of the exchange, including title insurance and closing costs.

6.12 City and OPRD agree that in order to ensure the proper management, operation and maintenance of the D River Park, the City will perform the tasks and comply with the requirements of **Exhibit B** (Minimum Requirements for D River Park Operations).

6.13 City and OPRD shall comply with all applicable federal, state and local laws, regulations, executive orders and ordinances applicable to D River Park property, including without limitation, OAR chapter 736, Division 8 (the Land and Water Conservation Fund administrative rules), the LWCF Requirements, the applicable General Provisions of the Land and Water Conservation Fund Project Agreement (Federal Project Agreement) between State and National Park Service dated January 12, 1978, as amended. Notwithstanding the above, LWCF regulations will not apply to the D River Park if a substitute property is approved. In addition, the Parties shall comply with all laws prohibiting discrimination on the basis of race, religion, sex, color, national origin, family status, marital status, sexual orientation, age, and source of income or mental or physical disability in the performance of this Agreement.

6.14 City Police officers are already authorized to enforce General Park Area Rules as provided by Chapter 736, Division 10 of the Oregon Administrative Rules and General Ocean Shores State Recreation Area Rules as provided by Chapter 736, Divisions 21 and 26 of the Oregon Administrative Rules. City Police and Park personnel may also enforce City parks regulations, and other City ordinances, (e.g. Special Events Chapter) pursuant to this Agreement. City and OPRD agree that OPRD shall not engage in any permitting concerning the D River Park during the effective period of this Agreement when the City is in exclusive control of the property.

6.15 The benefit to be derived from full compliance by the Parties with the terms of this Agreement is the preservation, protection, and the net increase in the quantity and quality of public outdoor recreation facilities and resources which are available to the people of the State of Oregon and of the United States, and because such benefit is difficult to measure, Parties agrees that money damages are inadequate remedy for Parties respective breach of this Agreement and, accordingly, that the appropriate remedy in the event of a breach shall be the specific performance of the Agreement.

7. PAYMENT / COMPENSATION / REVENUE. [ORS 190.020(1)(a)(b)].

Except as provided in Section 9.2. (Unilateral Termination), there are no fees or charge payable to or by either of the parties for this agreement. Payment of all operating costs, federal, state, county or city taxes/assessments and any other charges imposed by law shall be the responsibility of City. The parties do not anticipate any change in revenues derived pursuant to this agreement. That is, all revenues received by the Parties shall remain the property of the respective Parties.

8. PERSONNEL. [ORS 190.020(1)(c)].

No employees will be transferred pursuant to this agreement. OPRD and City are subject employers under ORS Chapter 656, and shall procure and maintain current valid workers compensation insurance coverage for all subject workers throughout the period of this agreement. This agreement does not change the status of any employee, contractor, or officer of the respective City and OPRD.

9. TERMINATION. [ORS 190.020(1)(f)].

- 9.1.** Mutual Termination. The City and OPRD may terminate this Agreement at any time by mutual written agreement.
- 9.2.** Unilateral Termination - No Cause. A party seeking termination under this subsection will give the other party notice of termination at least ten (10) years prior to the desired termination date. Notwithstanding any other provision of this Agreement, unilateral termination by OPRD prior to the end of the original term shall require OPRD to reimburse the City of Lincoln City for the depreciated value of all improvements made by the City to the D River Park property during the agreement term. This depreciated value shall be effective as of the termination date and in keeping with the City's depreciation practices for like assets.
- 9.3** Breach / Termination. The City and the OPRD each will have the right to terminate this Agreement prior to expiration of the Agreement term in the event of a breach of the Agreement by the other party. [Notwithstanding any other provision of this agreement, alleged conversion is not a breach, but triggers other obligations in this Agreement.] A material breach shall include, but is not limited to actions such as: failure to provide conversion application materials (survey, appraisal); failure to prepare and diligently process the conversion application, or failing to correct an alleged material breach as provided in subsection 9.3.2. below. The termination

process under this subsection shall be as follows:

- 9.3.1.** The party asserting a breach of this Agreement shall give written notice to the other party identifying the specific material action or material omission that constitutes a material breach and also identifying the section or subsection of this Agreement requiring such payment or services. The written notice shall state that the asserting party intends to terminate this Agreement unless the party receiving the notice corrects the breach as required by subsection 9.3.2. below.
- 9.3.2.** The party receiving the notice shall correct the breach within 90 days from receipt of the written notice or, if it is not reasonably practicable to correct the breach within 90 days, shall commence the actions necessary to and thereafter shall diligently and continuously pursue correction of the breach until correction is completed.
- 9.3.3.** If the party receiving a notice of breach has not corrected the default or has not begun to correct the default as required by subsection 9.3.2., of this section, then at any time after the time of non-compliance with subsection 9.3.2., provided that the breach has not yet been corrected, the party giving notice of the breach may terminate this Agreement by giving written notice of termination to the other party in default.
- 9.3.4.** The right of termination under this section will be the exclusive remedy available to the parties in the event of default.

10. INSURANCE.

City shall maintain insurance as set forth in **Exhibit C**, attached hereto and incorporated herein by this reference.

11. INDEMNITY / HOLD HARMLESS.

11.1 To the extent permitted the Oregon Constitution and the Oregon Tort Claims Act, the Parties shall hold harmless, defend and indemnify the Other Party from any and all claims, demands, damages or injuries, liability of damage, including injury resulting in death or damage to property, that anyone may have or assert by reason of any error, act or omission of Parties for claims arising out of the respective properties before the term commencement or pre-exchange, including the performance of maintenance duties prior to transfers under the terms of this agreement, or in any way associated with respective property before the term commencement or pre-exchange. Provided, however, the Parties shall not be held responsible for any claims, actions, costs, judgments or other damages, directly and proximately caused by the criminal or wanton acts of the other party's employees or the negligence of such employees. Such indemnification shall also cover claims brought against either party under state or federal employees' compensation laws. If any aspect of this indemnity shall be

found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

11.2 Neither the City nor any attorney engaged by City may defend the claim in the name of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Similarly, the Attorney General shall not act in such capacity (representing the City) without consent of the City Attorney. Nor may the parties settle any claim on behalf of the other without the approval of the other party. The Parties may, at their election and expense, assume their own defense and settlement in the event the party determines the other is not adequately defending the other's interests, or that an important governmental principle is at issue and the respective Party desires to assume its own defense.

12. CONTRIBUTION.

12.1 If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section with respect to the Third Party Claim.

12.2 With respect to a Third Party Claim for which OPRD is jointly liable with City (or would be if joined in the Third Party Claim), OPRD shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by City in such proportion as is appropriate to reflect the relative fault of OPRD on the one hand, and of City on the other hand, in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of OPRD on the one hand, and of City on the other hand, shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. OPRD's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

12.3 With respect to a Third Party Claim for which City is jointly liable with OPRD (or would be if joined in the Third Party Claim), City shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by OPRD in such proportion as is appropriate to reflect the relative fault of City on the one hand, and of OPRD on the other hand, in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of City on the one hand, and of OPRD on the other hand, shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

13. RECORDS.

The Parties shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, the parties shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document performance by the parties. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." The Parties acknowledge and agree that the other Party's duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. The Parties shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, the Parties shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

14. NONAPPROPRIATION.

The obligation of the Parties to perform its duties under this Agreement is conditioned upon OPRD and City Parks and Recreation receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OPRD and City Parks and Recreation, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as limiting the activities, liabilities or monetary obligations of OPRD and the CITY.

15. SUCCESSORS; ASSIGNMENT.

The Parties may not assign or transfer any interest in this Agreement without the prior written consent of the other and any attempt by a Party to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Consent to assignment or transfer of its interest in this Agreement will not relieve the Party of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the OPRD - Lincoln City IGA "D River"

Parties hereto, and their respective successors and permitted assigns.

16. AMENDMENTS.

The City and the OPRD may amend this Agreement only by written amendment approved by the City Council and the OPRD Director and signed by the City and the OPRD.

17. ATTORNEY FEES.

If suit or action is instituted in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonably as attorney fees at trial and on appeal.

18. NON-WAIVER.

No waiver of or neglect to enforce a party's rights on breach of any provision of this Agreement shall be deemed a waiver of the party's rights on any subsequent breach of the same or of any other provision of this Agreement.

19. MERGER, WAIVER.

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

20. GOVERNING LAW, CONSENT TO JURISDICTION.

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between OPRD or any other agency or department of the State of Oregon, or both, and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. CITY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

21. NOTICE.

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to subsection 3.3. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

22. INDEPENDENT CONTRACTORS.

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that City is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

23. INTENDED BENEFICIARIES.

OPRD and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

24. FORCE MAJEURE.

Neither Party is responsible for any failure to perform nor any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. OPRD may terminate this Agreement upon written notice to City after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

25. COUNTERPARTS.

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

26. COMPLIANCE WITH LAW.

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

27. SEVERABILITY.

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

28. MERGER.

This writing is intended both as the final expression of the agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the agreement. No modification of this agreement shall be effective unless it is made in writing and signed by those parties agreeing to said modification. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this agreement.

WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

City of Lincoln City, Oregon

**State of Oregon acting by and through its
Oregon Parks and Recreation Department**

By: _____
Susan Wahlke, Mayor

By: _____
Lisa Sumption, Director

Approved as to Form:

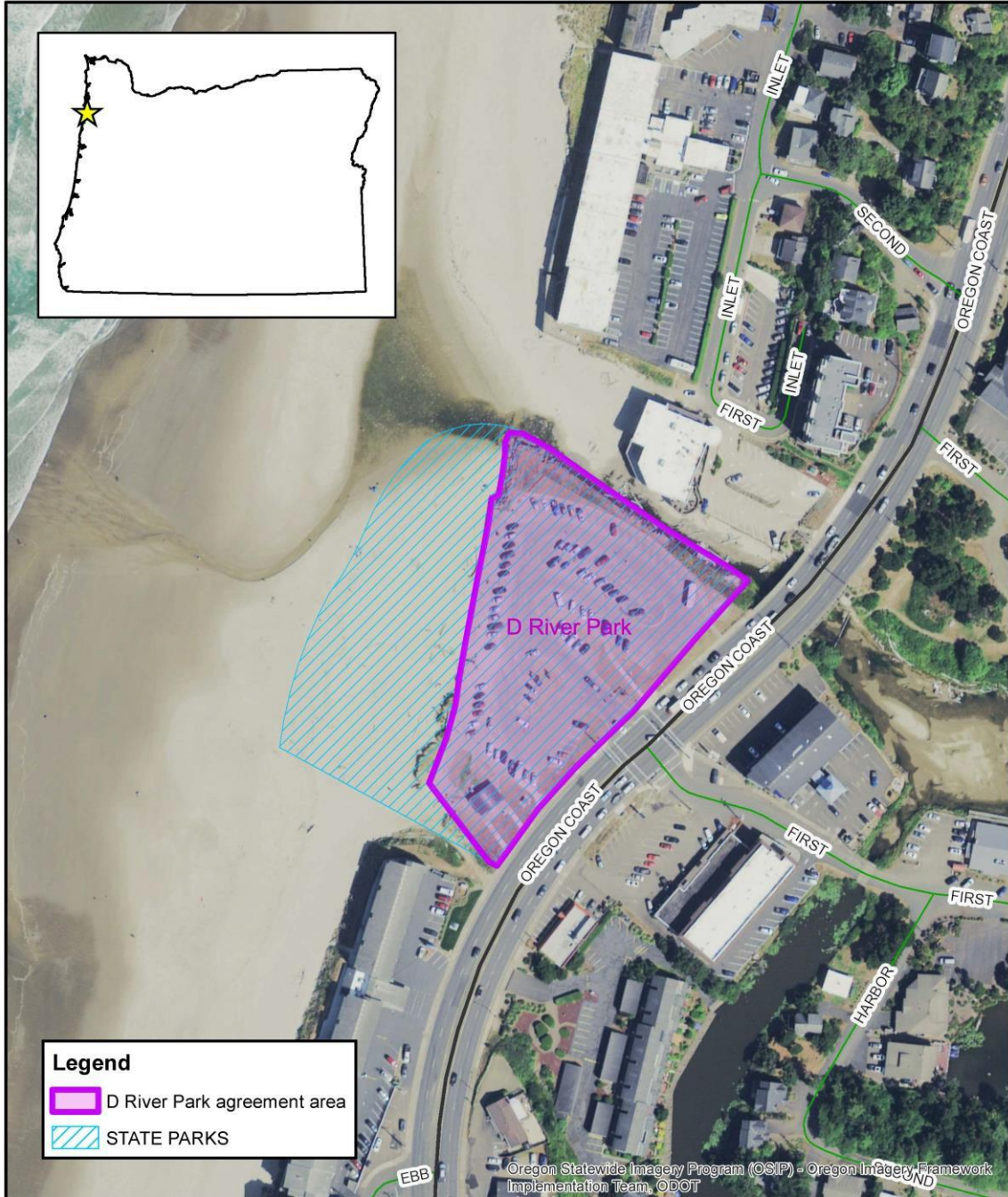
Richard Appicello, City Attorney`

Approved as to Form:

EXHIBIT A

D River Park State Recreation Site

Oregon Parks and Recreation Dept.
725 Summer St. NE, Suite C
Salem OR, 97301



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

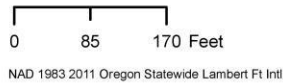


EXHIBIT B
MINIMUM REQUIREMENTS FOR D RIVER PARK OPERATIONS

1. City shall manage and maintain the D River Park property and improvements attached thereto for the term of this Agreement. Minimum maintenance tasks will include restroom maintenance; litter and garbage control; maintaining and cleaning paved parking lot, lawn maintenance and providing safe access to the beach fronting these uplands. OPRD will not have any responsibility for the maintenance, repair, or replacement of improvements at the D River Park property.
2. City's use and occupancy of the D River Park property is for the preservation, protection, and the net increase in the quantity and quality of public outdoor recreation facilities and resources which are available to the people of the State of Oregon.
3. Both parties agree to work individually and cooperatively towards: (a) improving public access to the beach; (b) improving facility design and maintenance; and (c) promoting additional partnerships and citizen involvement.
4. In the event of any loss and/or damage to the improvements due to vandalism, fire, weather damage, catastrophic event, or act of god, the City shall have the option to repair the improvements. In the event the City decides not to make the necessary repairs due to non-appropriation, OPRD, in their sole discretion, may donate funds to the City for the exclusive purpose of making the needed repair or replacement.
5. In order to ensure that the services provided under this Agreement are adequate, cost effective, and meet the needs of the parties and users, parties will meet annually to discuss any problems or concerns.
6. OPRD may conduct periodic inspections of the D River Park property. If an OPRD inspection indicates deficiencies in repair or maintenance, the City agrees to address the alleged deficiencies within 30 days of notice.
7. On the expiration of this Agreement or its termination by OPRD, the City shall vacate the premises, and restore the premises to a condition satisfactory to the Park Manager. If the City shall fail or neglect to restore the D River Park property, then, at the option of OPRD, any improvements developed by the City shall become the property of OPRD without compensation and the City shall make no claim for damages against OPRD, its officers, or agents shall be created on account of such termination.

EXHIBIT C

INSURANCE

1. REQUIRED INSURANCE

1.1 WORKERS COMPENSATION; EMPLOYERS' LIABILITY

All employers, including City, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). City shall require and ensure that each of its subcontractors complies with these requirements. If City is a subject employer, as defined in ORS 656.023, City shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If City is an employer subject to any other state's workers' compensation law, Contactor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 each accident and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

1.2 COMMERCIAL GENERAL LIABILITY

Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverage that is satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations contractual liability coverage for the indemnity provided under this Contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than **\$2,000,000** per occurrence. Annual aggregate limit shall not be less than **\$4,000,000**.

1.3 AUTOMOBILE LIABILITY INSURANCE

Automobile Liability Insurance covering City's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than **\$2,000,000** for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

2. EXCESS/UMBRELLA INSURANCE

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

3. ADDITIONAL INSURED

The Commercial General Liability insurance and Automobile Liability insurance required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to City's activities to be performed under this Contract. Coverage shall be primary and

Non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of City's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

4. TAIL COVERAGE

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, City shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) City's completion and OPRD's acceptance of all Services required under this Contract, or, (ii) OPRD or City termination of Contract, or, (iii) The expiration of all warranty periods provided under this Contract.

5. CERTIFICATE(S) OF INSURANCE

City shall provide to OPRD, at the following address, Certificate(s) of Insurance for all required insurance before delivering any goods and performing any services required under this Contract.

**Oregon Parks and Recreation Department
ATTN: Property Unit
725 Summer Street NE Suite C, Salem, OR 97301
OR FAX (503) 986-0648**

The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance OPRD has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

6. NOTICE OF CHANGE OR CANCELLATION

City or its insurer must provide at least 30 days' written Notice to OPRD before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

7. INSURANCE REQUIREMENT REVIEW

City agrees to periodic review of insurance requirements by OPRD under this Agreement and to provide updated requirements as mutually agreed upon by City and OPRD.

Lincoln County Library District Formula Revision

Meeting Date: April 11, 2022

Primary Staff Contact: Kirsten Brodbeck-Kenney

Department: Library

E-Mail: kbrodbeck-kenney@lincolncity.org

Presentation by MaryKay Dahlgreen, Lincoln County Library District Director

Council Communication

EDALC Update on Activities

Meeting Date: April 11, 2022 Primary Staff Contact: Alison Robertson
Department: Economic Development E-Mail: alisonr@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Lila Bradley Estimated Time: 15 Min

Presentation:

Paul Schuytema, Executive Director for EDALC (Economic Development Alliance of Lincoln County) will provide a brief background (for new Council Members) and update on activities that further leverage Lincoln City Economic Development efforts.

Council Action:

None. This presentation is for information only.

Attachments:

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EDALC

PRIORITY AND FUNDING OVERVIEW 2022-23

Economic Development Alliance of Lincoln County

2022-23 - From Challenge to Opportunity

With the support of our dedicated Board of Directors, I am excited to drive forward a re-energized and re-imagined **Economic Development Alliance of Lincoln County**. EDALC has served Lincoln County for over twenty-seven years, and we again stand at the ready to lead and collaborate on the vital economic recovery work needed in the years to come.

We work, every day, to support the economic vitality of our region. Our priorities are **Business Support**, **Entrepreneurial Ecosystem** development, helping to catalyze our local and regional **Blue Economy** and working to promote a more **diverse and equitable local economy**. We hope you can join us on our journey.



Paul Schuytema, Executive Director

Our Mission

To deliver economic development services that facilitate the creation, growth and retention of Lincoln County businesses.



Who is EDALC?

We are the **Economic Development Alliance of Lincoln County**, a 501 (c)(6) non-profit economic development organization. We work every day to attract, support and grow businesses in Lincoln County to ensure community-wide economic well-being and an improved quality of life.

Day-to-day, we work to problem solve and connect businesses with the information and the resources they need to succeed. We research data and work within our extensive network to identify opportunities and mitigate challenges for our local business community. We collaborate with other organizations on projects that enhance our local and regional economic vitality and diversity.

Our organization has served Lincoln County for over 27 years, and is governed by a local Board of Directors. We receive our funding from local governmental units, our local business community and grant dollars.

Moving the Needle - Recent Progress



- Completed re-designation (and management) of our local **Lincoln County Enterprise Zone**
- Worked with the Cascades West Economic Development District to draft a new five-year **Comprehensive Economic Development Strategy** (CEDs) for the region
- Created a new **economic development website** for local business information and attraction
- Inaugural partner in the **Oregon Ocean Innovation Hub** (O2IH), authored four project briefs, and assisted with numerous funding efforts to grow the local and regional Blue Economy
- Collaborated on **impactful local projects**, including business attraction work with Lincoln City and the ART Toledo project
- Continuous **business and remote worker recruitment**, via digital marketing channels like our Facebook page: www.facebook.com/EconDevLincolnCounty/
- Completed research and developed report of top **25 Lincoln County employers** for OED (the first update since 2017)
- Helped facilitate county-wide economic development **listening sessions** in November, 2020
- Annual review and evaluation of **Community and Economic Development Grant** applications

EDALC's new Executive Director's professional experience and outside perspective have created a stronger connection between City and County Economic Development efforts. EDALC is a vital partner in my work to brainstorm, leverage capacity and further shared objectives for our community as a whole.

- Alison Roberson, Director, Economic Development, Lincoln City

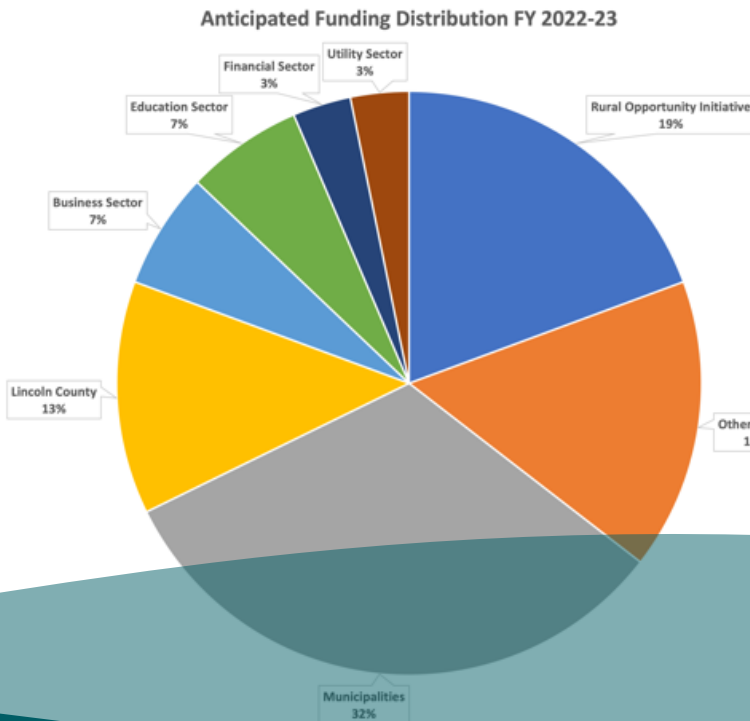


On the Horizon in 2022-23

- Keep our focus on **long-term economic recovery**
- Implement a strong **Business Retention and Expansion (BRE)** program
- Grow a vibrant and resilient **Entrepreneurial Ecosystem**
- Support local and coastal **Blue Economy** efforts
- Maintain and promote commercial property inventory via **OregonProspector**
- Gather and share **meaningful economic data** and develop an **economic vitality report card**
- Continue to collaborate with other organizations on **impactful projects**

Organizational Funding

EDALC has always been supported by **local dollars**. Going forward, we are diversifying our funding sources to include both the private and public sectors, as well as bringing in grant dollars. We welcome investors at all levels to help support our efforts and our local economy.



Annual Operations Budget:
\$150,000.00

Help us continue to deliver key economic development services in Lincoln County:

BusinessLincolnCounty.com/Invest

EDALC has created stronger relationships between business and local government and plays an important role in marketing Lincoln County to potential business recruitments. With the addition of Paul as Director, Lincoln County is taking an active role in regional economic development and collaborating with other partners in surrounding counties.



- Melissa Murphy, Regional Development Officer, Business Oregon

EDALC BOARD OF DIRECTORS

Tracy Bailey, *President*, Senior Planner, Confederated Tribes of Siletz Indians

Lesley Ogden, M.D., *Secretary*, CEO, Samaritan Lincoln County Hospitals

Michael Smith, *Treasurer*, Vice President and District Manager, US Bank

Curt Abbott, *At Large*, Founder and Owner, Oregon Coast Technology

Robert Cowen, Ph.D., *At Large*, Director, Hatfield Marine Science Center

Zack Dahl, Co-Owner, Dahl Disposal

Bryan Fitzsimmons, Owner, Fitzsimmons CPA

Dr. Karen Gray, Superintendent, Lincoln County School District

Doug Holbrook, Owning Partner, Holbrook & Associates

Carrie Lewis, CEO, Oregon Coast Aquarium

Paula Miranda, Manager, Port of Newport

Linda Roy, Owner and Broker, Lincoln City Realty

Birgitte Ryslinge, Ph.D., *At Large*, President, Oregon Coast Community College

Doug Hunt, *Ex Officio*, Lincoln County Commissioner

EDALC STAFF

Executive Director

Paul Schuytema

O: 541.265.4544

C: 541.961.8800

E: paul@businesslincolncounty.com



Project Associate

Sarah Buddingh

O: 541.265.4544

E: sarah@businesslincolncounty.com



Economic Development Alliance of Lincoln County

324 N. Coast Highway, #5

P.O. Box 716

Newport, OR 97365

t. 541 265 4544

"We are working with EDALC on our Downtown Revitalization and Executive Director Paul has been a joy and an invaluable asset in developing our ARTS Toledo endeavor!"

- Rod Cross, Mayor, City of Toledo

www.BusinessLincolnCounty.com

NEXT-GEN

ECONOMIC DEVELOPMENT

From EDALC | Serving All Lincoln County
Focus on: Lincoln City



E•CON•OM•IC DE•VEL•OP•MENT

Economic development can be defined as efforts that seek to improve the economic well-being and quality of life for a community by creating and/or retaining jobs and supporting or growing incomes and the tax base.

(source: International Economic Development Council)



EDALC — WHO ARE WE?

We are the **Economic Development Alliance of Lincoln County**, a 501 (c)(6) non-profit economic development organization. We work every day to attract, support and grow businesses in Lincoln County to ensure community-wide economic well-being and an improved quality of life.

Our organization has served Lincoln County for over 27 years and is governed by a local Board of Directors. We receive our funding from local governmental units, our local business community and grant dollars.



Paul Schuytema
Executive Director



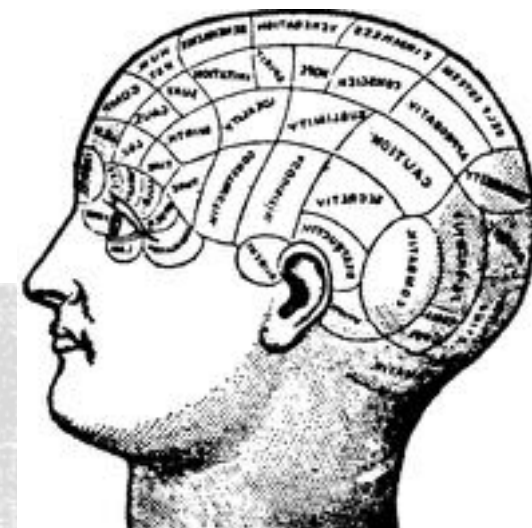
Sarah Buddingh
Project Associate





WHAT DOES NEXT-GEN ECONOMIC DEVELOPMENT LOOK LIKE?

What is our mindset?





OUR MINDSET



Entrepreneurial

Creative

Open to Challenges

Flexible

Collaborative

Realistic

Regional

Resilient

Equitable



WHAT DOES NEXT-GEN ECONOMIC DEVELOPMENT LOOK LIKE?

What are our local priorities?

LOCAL BUSINESS DEVELOPMENT



RETENTION



EXPANSION



RELENTLESS
SUPPORT



ENTREPRENEURIAL SUPPORT



ENTREPRENEURSHIP



ECOSYSTEM
DEVELOPMENT



RELENTLESS
SUPPORT



Rural Opportunity Initiative Community



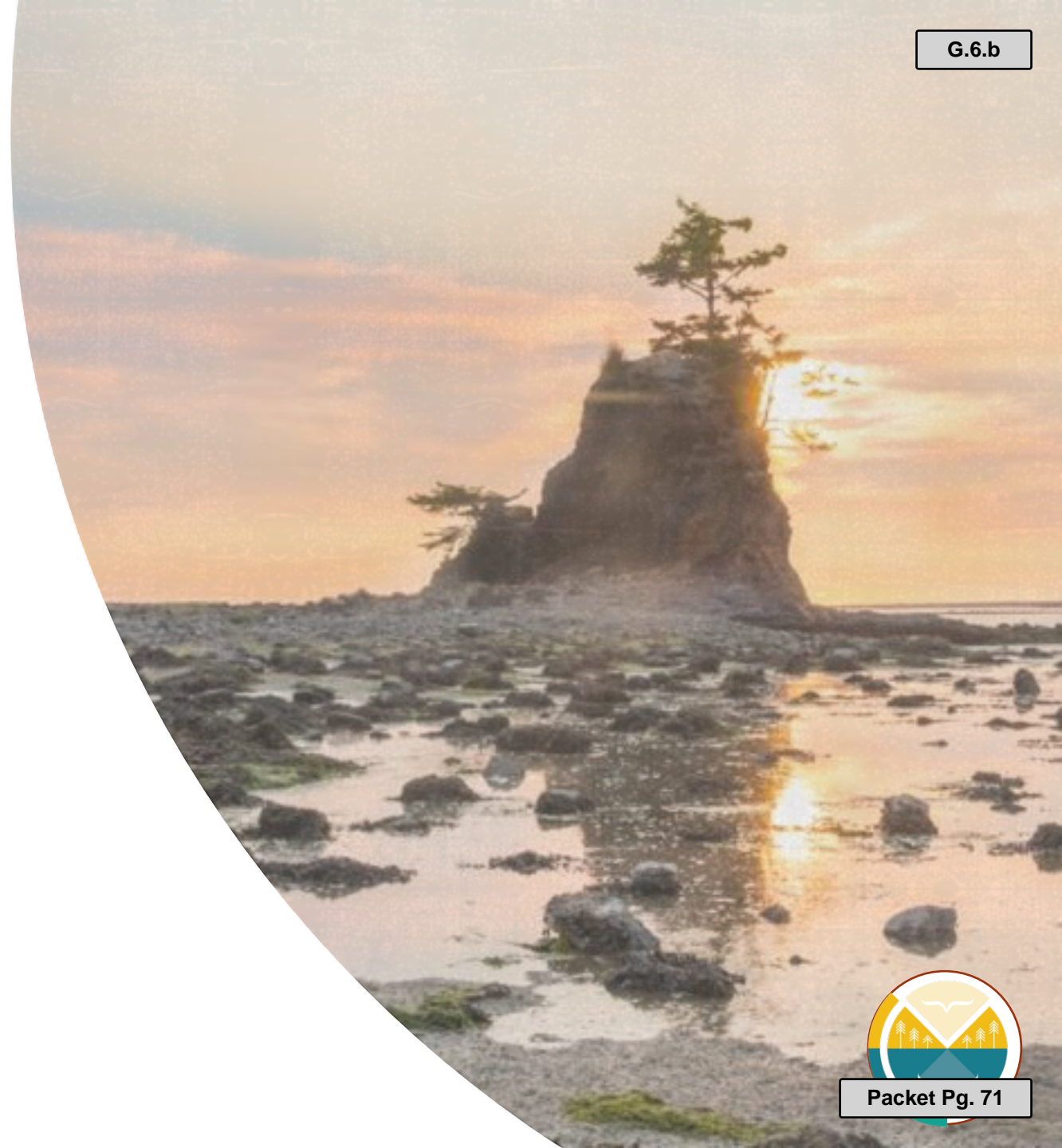


OREGON OIH
OCEAN INNOVATION HUB

Growing the Blue Economy Locally and Regionally

LOCAL PROJECT SUPPORT

- Lincoln City Business Attraction
- ART Toledo
- Newport City Center Redevelopment
- CO.STARTERS Core classes
- OCCC Strategic Planning
- Oregon Prospector Property Marketing
- Blue Economy Workforce Sector Study
- Lincoln County Economic Report Update
- Strategic Plan of Work Web Tool



LOCAL & REGIONAL COLLABORATION



- Lincoln County Enterprise Zone management
- Helped draft the 2021-2025 CEDS
- CW Economic Development District Executive Committee
- COGs Loan Review Subcommittee
- Serve on regional Broadband Action Team
- Mid-Coast Water Planning Partnership
- Lincoln County SBDC Advisory Committee
- OCCC Business Program Advisory Committee
- Yaquina Bay Economic Foundation
- LC Community and Economic Development Grant Program
- Regional Solutions; Regional ED Practitioners



LINCOLN CITY SUPPORT

- Boots on the ground support after a business lead has been generated
- Support of Lincoln City entrepreneurs, solopreneurs, and creative economy folks
- Targeted business support events and programs (many in partnership with the SBDC): childcare event, business plan training/competition, entrepreneurial summit, entrepreneurial support events, etc.
- Enterprise Zone marketing
- Educate city council on basics of economic development (ED 101)
- Work with council and manager to create an economic development plan of work
- OregonProspector properties in Lincoln City (in progress)
- Engagement in regional Blue Economy work
- In general, add capacity and support in the realm of economic development





BusinessLincolnCounty.com

THANK YOU!

Paul Schuytema, Executive Director
541.961.8800
paul@businesslincolncounty.com



Council Communication

Public Comment Fee Resolution 2022-13

Meeting Date:	April 11, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 Minutes

Question:

Shall the Council take public comment on proposed fees in Resolution 2022-13?

Staff Recommendation:

Staff recommends the Council take public comment.

Authority:

See Resolution 2022-13 also on this Agenda

LCMC ORS 294.160 (Public comment required).

294.160 Opportunity for public comment on new fee or fee increase.

(1) The governing body of a city, county or other unit of local government shall provide an opportunity for interested persons to comment on the enactment of any ordinance or resolution prescribing a new fee or a fee increase or an increase in the rate or other manner in which the amount of a fee is determined or calculated.

(2) Where a local government exercises authority to assume the responsibility for a program delivered by the state, the local government shall provide an opportunity to comment on the difference between the fee amount charged by the state for such service and the proposed local fee for the service.

Background:

LCMC Chapter 10.20 (*Taxicabs*) was recently updated to address regulation of other vehicles for hire, like Transportation Network Companies. Ordinance 2022-09 will be effective April 27, 2022. Resolution 2022-13 adopts license and application fees for all Vehicles for Hire. An opportunity for public comment is required. These fees and charges will be incorporated into the omnibus fee resolution to be adopted later this

year.

Council Options:

Receive public comment. [and]
Take action on the Resolution later on this Agenda.

Council Communication

Ordinance 2022-16 Map and Zone Change

Meeting Date:	April 11, 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

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-16 entitled:

ORDINANCE NO. 2022-16

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM HIGH DENSITY RESIDENTIAL TO MEDIUM-DENSITY RESIDENTIAL AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-M (MULTIPLE-UNIT RESIDENTIAL) TO R-1-7.5 (SINGLE FAMILY RESIDENTIAL) FOR THE TAX LOT 07-11-02-AC-00800-00 [CPA 2022-01/ ZC 2022-01]

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2022-16 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:

See March 28, 2022 Public Hearing Staff Report for CPA 2022-01/ ZC 2022-01.

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 April 25, 2022, [or]
3. Continue First Reading to April 25, 2022.

Potential Motions:

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

ORDINANCE NO. 2022-16

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM HIGH DENSITY RESIDENTIAL TO MEDIUM-DENSITY RESIDENTIAL AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-M (MULTIPLE-UNIT RESIDENTIAL) TO R-1-7.5 (SINGLE FAMILY RESIDENTIAL) FOR THE TAX LOT 07-11-02-AC-00800-00 [CPA 2022-01/ ZC 2022-01]

Council:

Motion to approve First Reading of Ordinance 2022-16.

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 2022-16.

[or]

2. Motion to set Second Reading for April 25, 2022.

Attachments:

Ordinance 2022-16 (DOCX)

CPA ZC 2022-01 EXHIBIT A Findings (DOCX)

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ORDINANCE NO. 2022-16

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AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM HIGH DENSITY RESIDENTIAL TO MEDIUM-DENSITY RESIDENTIAL AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-M (MULTIPLE-UNIT RESIDENTIAL) TO R-1-7.5 (SINGLE FAMILY RESIDENTIAL) FOR THE TAX LOT 07-11-02-AC-00800-00 [CPA 2022-01/ ZC 2022-01]

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

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The City Council finds:

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- A. This privately-initiated amendment to the Lincoln City Comprehensive Plan is in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
 - B. This amendment is in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
 - C. The City of Lincoln City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed comprehensive plan and zoning map amendments; Notice was mailed to owners of all properties within 250 feet of the site on February 8, 2022. The News Guard published notice of hearing on February 15, 2022, and February 22, 2022; and
 - D. The Planning Commission, on March 1, 2022 conducted a public hearing and considered the amendments contained within this ordinance. On March 15, 2022 the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and
 - E. The City Council conducted a public hearing on March 28, 2022, closed the hearing, closed the record and deliberated on the proposed amendments; Council directed that an ordinance be brought back for required readings and adoption.

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THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

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SECTION 1. Comprehensive Plan Map Amendment. The City Council hereby amends the Lincoln City Comprehensive Plan Map, Ordinance 84-01, for Lincoln County

1 Assessor’s Map Tax Lot 07-11-02-AC-00800-00 to change the current High Density
2 Residential designation to medium density residential.

3 **SECTION 2. Zoning District Map Amendment.** The City Council hereby amends the
4 Lincoln City Zoning District Map, Ordinance 84-02, for Lincoln County Assessor’s Map
5 Tax Lot 07-11-02-AC-00800-00 to change the current R-M (Multiple unit Residential) to R-
6 1-7.5 (Single Family Residential District).

7
8 **SECTION 3. Findings adopted.** Findings contained in the Whereas Clauses of this
9 ordinance, together with the Findings set forth in Exhibit A, as well as the competent
10 substantial evidence in the whole record of this legislative proceeding are incorporated
11 into this section by reference as if fully set forth herein, and are adopted in support of
12 this legislative action.

13
14 **SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this
15 ordinance are severable. The invalidity of one section, subsection, paragraph, or clause
16 shall not affect the validity of the remaining sections, subsections, paragraphs and
17 clauses.

18
19 **SECTION 5. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this
20 ordinance takes effect 30 days after the date of its adoption.

21
22 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,
23 Section 9.2 of the City of Lincoln City Charter on the 11th day of April, 2022 (First
24 Reading) and on the 11th day of April, 2022 (Second Reading).

25
26 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 11th day of
27 April, 2022.

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30 _____
31 SUSAN WAHLKE, MAYOR

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33 ATTEST:

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35 _____
36 JAMIE YOUNG, CITY RECORDER

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39 APPROVED AS TO FORM:
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1 _____
2 RICHARD APPICELLO, CITY ATTORNEY

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-16

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. Notice to DLCD was made on January 27, 2022. Notice was published in the local newspaper on February 15, 2022, and February 22, 2022. Notice was mailed to property owners within 250 feet of the site on February 8, 2022.

Ordinance 2022-16 amends the comprehensive plan map designation of the site from High-Density Residential District (R-M) and changes the zone from Multiple-Unit Residential (R-M) Zone to Medium-Density Residential District (R-7.5) and Single-Family Residential (R-1-7.5) Zone, respectively.

The public presented support of the proposal with comments in favor received from Christine and Harold Washington, Norman and Barbara LaFaunce, and Alexa LaFaunce. These comments were in addition to the support expressed by the property owners of the site, who are John K. Broomall, Trustee; Karla J. Broomall, Trustee, and Gary H. Purvine.

- 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.”

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City’s website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City’s website in advance of the meeting. The request 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 adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings 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 revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

The proposed rezoning is integrated and consistent with the planning process and policy framework; specifically, the request furthers compliance with existing policies to stabilize and protect the existing (almost completely detached single-family dwellings) residential neighborhood from incompatible uses. Findings concerning the Planning goal for the Lincoln City Comprehensive Plan are incorporated herein by this reference. The request is consistent with Goal 2.

- (3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, 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 rezoning is within the City's Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain 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 area affected by the proposed rezoning does not include any areas zoned Open Space or Park. The site does not contain any structures, nor is the site listed on the National Register of Historic Places. The findings concerning the Lincoln City Comprehensive Plan's Overall Environmental goal, as well as the Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal, are incorporated herein by this reference. The proposal 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."

Current building and public works standards for new development require protection of these resources. Accordingly, when a building permit application is submitted for new construction on the site, the plans will be reviewed for compliance with requirements for maintaining the quality of the air, water, and land resources of the state. City standards for discharges regulate solid waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom. The findings concerning the Lincoln City Comprehensive Plan's overall Environmental goal are incorporated herein by this reference. The proposed request is consistent with Goal 6.

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

"To protect people and property from natural hazards."

City maps show no identified hazards on the site. The findings concerning the Lincoln City Comprehensive Plan Natural Hazard goal are incorporated herein by this reference. The proposal 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 map amendment and zone change do not relate to recreation as that term is used in this goal and do not adversely affect the provision of or ability to site recreational areas in the city. The area affected by the proposal does not contain any open space or park areas, nor does it contain any areas designated for open space or parks in the city's master plans. Goal 8 is met.

(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 area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently zoned and developed for housing development. The affected area does not contain any economic development lands. The proposed rezoning is consistent with Goal 9.

(10) Goal 10: Housing

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

The map amendment and zone change will not remove any land from the needed supply of residential land. The property will continue to be available for housing and will increase the range of housing choices. The request would convert the 11,131-square-foot platted lot from one residential zone (Multiple-Unit Residential R-M) to another residential zone (Single-Family Residential R-1-7.5). In both zones, housing is an outright permitted use. The housing options are different in the two zones with the R-1-7.5 zone allowing single-family dwellings, attached single-family dwellings, duplex dwellings, cottage housing developments, manufactured homes, residential homes, four-flat dwellings, and accessory dwelling units. The R-M zone allows attached single-family dwellings, cottage housing developments, duplex dwellings, multi-unit dwellings, residential homes, and tiny house developments. Both zones, then, provide for the housing needs of the citizens of Lincoln City, just with different options.

Based on the requirements of the R-1-7.5 zone, the property could support one single-family detached dwelling, an accessory dwelling unit accompanying the single-family detached dwelling, a duplex dwelling, a cottage housing development, a manufactured home, a residential home, or a four-flat dwelling. Based on the requirements of the R-M zone, the property could support two attached dwellings, one duplex dwelling, a cottage housing development, a residential home, a tiny house development consisting of nine tiny houses, a manufactured home, or a four-unit apartment building. Accessory dwelling units are not allowed in the R-M zone because detached single-family dwellings are not allowed, and accessory dwelling units are only permitted as accessory to detached single-family dwellings. Both zones allow a four-unit dwelling, but the R-M zone doesn’t allow a detached single-family dwelling and the R-1-7.5 zone doesn’t allow a tiny house development. Essentially, then, both zones provide for the housing needs of the citizens of Lincoln City with the same number of unit options excepting the inability of constructing a detached single-family dwelling in the R-1-7.5 zone or a tiny house development in the R-M zone. The findings that address the City’s Housing goal are incorporated herein by this reference. Staff considers the proposal consistent with Goal 10. The proposed map amendment and zone change are 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.”

Utilities and services are available at the site. The findings concerning the city’s public services and utilities goal are incorporated herein by this reference. The request is consistent with Goal 11.

(12) Goal 12: Transportation

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

The site is accessed by NE 40th Ct, which is a local public street. NE Johns Ave is to the east of the site, and is also a local public street. Both are improved. NE Johns Ave accesses from NE Neotsu Dr, a paved public street, that directly connects with Hwy 101, which is a principal arterial. The findings concerning the City's Transportation goal are incorporated herein by this reference. The request is consistent with Goal 12.

(13) Goal 13: Energy Conservation

"To conserve energy."

Any construction on the site must meet the current building and energy codes. The proposed rezoning will not impact the requirements to meet current building and energy codes. The findings concerning the City's Energy goal are incorporated herein by this reference. The request is consistent with Goal 13.

(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 area affected by the proposed rezoning is within the City's Urban Growth Boundary and currently zoned for urban housing development. The proposal does not the City's Urban Growth Boundary, nor does it change that the site will be zoned for urban housing development. The findings concerning the City's Land Use goal, Housing goal, and Urbanization goal are incorporated herein by this reference. The proposed amendment and zone change are consistent with Goal 14.

(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 site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, 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 map amendment and zone change on their own do 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. Goal 16 is either met or not applicable.

(17) Goal 17: Coastal Shorelands

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

effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The city's coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the city's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

(18) Goal 18: Beaches and Dunes

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

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

(19) Goal 19: Ocean Resources

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

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the city's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.

B. Comprehensive Plan Goals

(1) Land Use 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 established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City's Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

"Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development."

The proposed map amendment and zone change would convert the platted 11,131-square-foot lot from the Multiple-Unit Residential zone to the Single-Family Residential zone. The proposed map amendment and zone change does not introduce a new zone to the area, as the areas to the south and

east of the site are all in Lincoln County's single-family residential zone. Both zones allow housing. Staff finds the proposal is consistent with Goal 1.

(2) Citizen Involvement Goal

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

The Comprehensive Plan's Citizen Involvement Program goal is to "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 through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City's Citizen Involvement Program goal is one that states: "Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings." The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City's website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City's website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

(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."

Public services and utilities are already in place in the area of the proposed map amendment and zone change.

Available public services and utilities are as follows:

- a. Pacific Power provides electric power;
- b. The City of Lincoln City provides water service;
- c. The City of Lincoln City provides sanitary sewer service;
- d. Various providers provide land line and cellular telephone service;
- e. Access is from NE 40th Ct, which is an improved public street.

Existing services and utilities generally satisfy Goal 3.

(4) Urbanization Goal

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

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

(5) Natural Hazard Goal

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

The amendment and zone change on their own do not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The city's maps show no identified natural hazards on the site. This goal is met or not applicable.

(6) Housing Goal

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

The request would convert the 11,131-square-foot platted lot from one residential zone (Multiple-Unit Residential R-M) to another residential zone (Single-Family Residential R-1-7.5). In both zones, housing is an outright permitted use. The housing options are different in the two zones with the R-1-7.5 zone allowing single-family dwellings, attached single-family dwellings, duplex dwellings, cottage housing developments, manufactured homes, residential homes, four-flat dwellings, and accessory dwelling units. The R-M zone allows attached single-family dwellings, cottage housing developments, duplex dwellings, multi-unit dwellings, residential homes, and tiny house developments. Both zones, then, provide for the housing needs of the citizens of Lincoln City, just with different options.

Based on the requirements of the R-1-7.5 zone, the property could support one single-family detached dwelling, an accessory dwelling unit accompanying the single-family detached dwelling, a duplex dwelling, a cottage housing development, a manufactured home, a residential home, or a four-flat dwelling. Based on the requirements of the R-M zone, the property could support two attached dwellings, one duplex dwelling, a cottage housing development, a residential home, a tiny house development consisting of nine tiny houses, a manufactured home, or a four-unit apartment building. Accessory dwelling units are not allowed in the R-M zone because detached single-family dwellings are not allowed, and accessory dwelling units are only permitted as accessory to detached single-family dwellings. Both zones allow a four-unit dwelling, but the R-M zone doesn't allow a detached single-family dwelling and the R-1-7.5 zone doesn't allow a tiny house development. Essentially, then, both zones provide for the housing needs of the citizens of Lincoln City with the same number of unit options excepting the inability of constructing a detached single-family dwelling in the R-1-7.5 zone or a tiny house development in the R-M zone. Goal 6 is met.

(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 comprehensive plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. The request to change from one residential zone to another residential zone has no bearing on the tourist industry. Goal 7 is not applicable.

(8) Aesthetic Goal

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

Landscaping standards and design standards apply to both the R-M zone and the R-1 zone. The fulfillment of the landscaping and design standards, when the site is developed, will satisfy LCMC Title 17, which also satisfies this goal. The request is consistent with the Aesthetic Goal.

(9) Transportation Goal

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

The site is accessed by NE 40th Ct, which is a local public street. NE Johns Ave is to the east of the site, and is also a local public street. Both are improved. NE Johns Ave accesses from NE Neotsu Dr, a paved public street, that directly connects with Hwy 101, which is a principal arterial. This goal is satisfied.

(10) Energy Goal

“To conserve energy.”

The site is close to other destinations and services. New construction must meet all energy and building codes. The goal, therefore, is satisfied.

(11) Overall Environmental Goal

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

By itself, the amendment does not allow development in sensitive natural resource areas. The existing ordinances and plan requirements relating to protection the natural environment will continue to apply to all properties with natural resource areas. The city’s inventory of natural resources, which are wetlands, riparian areas, fish and wildlife habitat, and aesthetic and scenic areas show none are on this site. New construction on the site will not impact the natural environment of the city. This goal is satisfied.

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

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

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than two miles from the Pacific Ocean. Rezoning of the site will not have any impact on the city’s coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

Single-Family Residential (R-1-7.5) zone criteria

Lincoln City Municipal Code (LCMC) Section 17.16.020 lists the type of uses permitted within the zone, including:

- Single-family dwellings
- Attached single-family dwelling, if attached to no more than one other single-family dwelling
- Two-family and duplex dwellings
- Cottage housing developments
- Manufactured homes
- Residential homes
- Four-flat dwellings

LCMC 17.16.030 provides accessory uses of guest houses, home occupations, and accessory dwelling units.

Any new development or construction must meet the requirements of the R-1 zone and other regulations referenced by the zone, including among others, those pertaining to landscaping and off-street parking.

The R-1-7.5 zone has a minimum lot size requirement of 7,500 square feet. The site contains 11,131 square feet. The R-1-7.5 zone has a minimum lot width requirement of 70 feet and a minimum lot depth requirement of 80 feet. The site is 127 feet wide and 101 feet deep. The R-1-7.5 zone has a minimum front, side, street side, and rear setback requirement of 5 feet for single-story structures and 7.5 feet for multi-story structures. Building height may be up to 35 feet. Maximum building coverage is 35% of the site. The site meets the lot size and dimension requirements.

Compliance with setback, height, and building coverage requirements is reviewed during the building permitting process.

Council Communication

Ordinance 2021-17 Amend Chapter 12 to conform to Chapter 15

Meeting Date:	April 11, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 mins.

Question: Should the City Council conduct and approve First Reading and Second Reading of Ordinance 2022-17 amending Chapter 12 to conform with Chapter 15?

ORDINANCE NO. 2022-17

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.08 (GRADING AND EROSION CONTROL) TO CONFORM THE CHAPTER 12 REQUIREMENTS TO THE REQUIREMENTS OF CHAPTER 15 (BUILDINGS AND CONSTRUCTION)

Staff Recommendation:

Staff recommends Council conduct and approve First Reading of Ordinance 2022-17 and, *if unanimous*, Conduct and approve Second Reading and adopt Ordinance 2022-17.

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:

Both Lincoln City Municipal Code Chapter 12 and Chapter 15 address grading and erosion control and the requirements of Chapter 12 are being amended to be consistent with Chapter 15.

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. Continue Second Reading to April 25, 2022.
3. Continue First Reading to April 25, 2022.
4. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2022-17

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.08 (GRADING AND EROSION CONTROL) TO CONFORM THE CHAPTER 12 REQUIREMENTS TO THE REQUIREMENTS OF CHAPTER 15 (BUILDINGS AND CONSTRUCTION)

Council:

1. Motion to approve First Reading of Ordinance 2022-17.

If unanimous: Conduct Second Reading

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

ORDINANCE NO. 2022-17

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.08 (GRADING AND EROSION CONTROL) TO CONFORM THE CHAPTER 12 REQUIREMENTS TO THE REQUIREMENTS OF CHAPTER 15 (BUILDINGS AND CONSTRUCTION)

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-17.

Attachments:

FINAL 2022-17 Chapter 12ra (DOCX)

1 Chapter 12.08

2 GRADING AND EROSION CONTROL

3 ~~12.08.010 — Adoption of Appendix Chapter 33, Uniform Building Code.~~

4 ~~Appendix Chapter 33 of the Uniform Building Code, 1997 Edition, a copy of which~~
 5 ~~is on file and available for reference at the department of public works, is adopted~~
 6 ~~by this reference, subject to the revisions set out in LCMC 12.08.020.~~

7
 8 ~~12.08.020 — Revisions to Uniform Building Code.~~

9 ~~Revisions to Appendix Chapter 33 of the Uniform Building Code, 1997 Edition, shall~~
 10 ~~be as follows:~~

11
 12 ~~A. All references to the “building official” shall be to the city engineer. The “city~~
 13 ~~engineer” means the city engineer or the city engineer’s designated representative.~~

14
 15 ~~B. The list of exemptions from the grading permit requirement, set out in Section~~
 16 ~~3306.2 (Exempted Work), shall be expanded by adding:~~

17 ~~10. Emergency measures taken to clear roadways or to save~~
 18 ~~endangered property; and~~

19 ~~11. Grading on single-family residential lots when all of the~~
 20 ~~following conditions are met:~~

21 ~~a. There is no interference, encroachment, or alteration to any~~
 22 ~~natural drainage course to any public drainage improvement,~~

23 ~~b. There is no apparent danger to any property, and~~

24 ~~c. The area does not lie within a landslide area as defined on the~~
 25 ~~Environmental Quality Overlay Zone Natural Hazards of Lincoln~~
 26 ~~City Map, or 500-year flood boundary, as defined on the Federal~~
 27 ~~Emergency Management Administration Flood Insurance Rate~~
 28 ~~Map. The Department of Public Works shall maintain a copy of~~
 29 ~~each map on file and available for reference at the Department.~~

30
 31 ~~C. Section 3309.2 (Application) is amended by adding the following requirements:~~

32 ~~1. Applications shall be submitted to the Department of Public~~
 33 ~~Works.~~

34 ~~2. Before a permit application is accepted as complete by the~~
 35 ~~Department of Public Works, the city engineer shall visit the~~
 36 ~~proposed project site with the applicant or the applicant’s~~
 37 ~~representative, to aid the applicant in submitting an acceptable~~
 38 ~~grading plan and in noting any special conditions.~~

39
 40 ~~D. The criterion in Section 3309.3 (Grading Designation) identifying grading that~~
 41 ~~must be “engineered grading,” as distinguished from grading that may be “regular~~
 42 ~~grading,” shall be grading involving 2,000 or more cubic yards rather than grading~~
 43 ~~involving in excess of 5,000 cubic yards.~~

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E. Section 3309.9 (Issuance) is amended by adding the following requirement:

~~After receipt of a completed application for a grading permit, the city engineer shall review the grading plan submitted with the application to determine whether the grading plan conforms to the provisions of this chapter and shall, in writing:~~

- ~~1. Approve the application, if the grading plan as submitted conforms to the provisions of this chapter;~~
- ~~2. Approve the application, subject to such reasonable conditions as may be necessary for the grading plan to conform to the provisions of this chapter; or~~
- ~~3. Disapprove the application, if the grading plan, either as submitted or with conditions, does not conform to the provisions of this chapter. A disapproval shall indicate the appeal procedure provided for in this chapter and the procedure for submitting a revised grading plan.~~

~~Any approval by the city engineer shall be subject to the condition that, prior to the implementation of the grading plan, a tree removal permit first must be obtained, as required by LCMC 17.52.220, if the grading plan will involve the removal of trees other than those exempt under LCMC 17.52.220(C).~~

F. Section 3311 (Bonds) is amended to read:

~~For any grading for which a permit is required, if the grading involves grading, paving, drainage, and erosion control measures, or any of them, with a total cost in excess of \$100,000, the city engineer shall require a bond in such form and amount as the city engineer deems necessary to assure that the work, if not completed in accord with the approved plans and specifications, will be corrected to eliminate hazardous conditions.~~

~~In lieu of a surety bond, the applicant may file a cash bond or instrument of credit, in a form approved by the city engineer, in an amount equal to that which would be required in the surety bond.~~

SECTION 2. Title 12 (*Streets, Sidewalks and Public Places*), Chapter 12.08 (*Grading and Erosion Control*), Section 12.08.070 (*Submission of erosion control plan*) is hereby amended as follows:

12.08.070 Submission of erosion control plan.

In the event an erosion control plan is required by LCMC 12.08.060, the owner of the land or the owner’s agent shall submit an erosion control plan to the department of public works on a site plan at a scale sufficient to indicate the nature and extent of the work. The plan shall be prepared in accord with LCMC 12.08.030 through 12.08.100 using

1 methods and standards shown in the Erosion Prevention and Control Manual.~~If an~~
2 ~~engineered grading plan is required for the project under LCMC 12.08.010 and~~
3 ~~12.08.020, then the erosion control plan shall be prepared by the same person who~~
4 ~~prepared the engineered grading plan.~~ Each erosion control plan shall include a
5 certification that any land disturbing activity will be in accord with the submitted and
6 approved erosion control plan. The erosion control plan shall contain the following
7 information:

- 8 A. The location of the development site showing adjacent roads and streets and the
- 9 development site boundaries.
- 10 B. Indication of north direction.
- 11 C. Any lakes, bays, rivers, streams, wetlands, channels, ditches, or other watercourses on
- 12 and immediately adjacent to the development site.
- 13 D. Areas where existing vegetative cover will be retained and measures to protect
- 14 vegetation from damage.
- 15 E. Accurate location, size, and shape of proposed and existing structures.
- 16 F. Direction of surface water flows.
- 17 G. Indication of slope steepness or existing and proposed contours at intervals of two
- 18 feet or as approved by the city engineer.
- 19 H. Location of construction access driveway(s) and designated vehicle parking area(s).
- 20 I. Location of soil stockpiles.
- 21 J. Type and location of temporary and permanent erosion and sediment control
- 22 measures, such as, but not limited to, silt fencing, matting, straw bales, mulching,
- 23 seeding, and sodding.
- 24 K. A schedule of construction operations and phasing.
- 25 L. The name(s), address(es), and telephone number(s) of the owner of the land, the
- 26 developer of the site, and the person responsible for placement and maintenance of
- 27 temporary and permanent erosion control measures.
- 28 M. The general slope characteristics of adjacent property

29 **SECTION 3.** Title 12 (*Streets, Sidewalks and Public Places*), Chapter 12.08 (*Grading and Erosion*
30 *Control*), Section 12.08.140 (*Education*) is hereby amended as follows:

31
32 ~~12.08.140~~ **Education.**

33
34 ~~A. The city shall declare each September to be Erosion Prevention Awareness~~
35 ~~Month and during September shall conduct events to promote a greater awareness~~
36 ~~of the problems with erosion and the solutions to prevent it.~~

37
38 ~~B. The city, in cooperation with the Devils Lake Water Improvement District, shall~~
39 ~~sponsor an annual workshop on erosion prevention and sediment control.~~

1
2 **SECTION 4.** Title 12 (*Streets, Sidewalks and Public Places*), Chapter 12.08 (*Grading and Erosion*
3 *Control*), Section 12.08.150 (*Erosion prevention and sediment control within urban growth*
4 *boundary*) is hereby amended as follows:

5
6 ~~**12.08.150 — Erosion prevention and sediment control within urban growth**~~
7 ~~**boundary.**~~

8
9 ~~**A. To maximize the likelihood that appropriate erosion prevention and sediment**~~
10 ~~**control requirements will be followed within the Lincoln City urban growth**~~
11 ~~**boundary, the city shall not provide a new water service to any property, outside**~~
12 ~~**the city but inside the urban growth boundary, unless the property owner first**~~
13 ~~**enters into a written agreement, approved by the city engineer, that before,**~~
14 ~~**during, and following any land disturbing activity on the property, the owner will**~~
15 ~~**fully comply with all requirements, procedural and substantive, of this chapter, as**~~
16 ~~**though the property were within the city.**~~

17
18 ~~**B. In the event land disturbing activity occurs in violation of an agreement entered**~~
19 ~~**into under subsection (A) of this section, the city engineer, as a remedy in addition**~~
20 ~~**to any other available remedy, may cause a termination of water service to the**~~
21 ~~**property.**~~

22
23 **SECTION 5.** Title 12 (*Streets, Sidewalks and Public Places*) Chapter 12.28 (*Vehicular Access and*
24 *Circulation*), Section 12.28.200 (*Vehicular Access and Circulation*), Paragraph B (*Applicability*), is
25 hereby amended as follows:

26
27 B. Applicability. The standards of this section apply to lots adjacent to Highway 101
28 created, consolidated, or modified through a land division, partition, **property lot** line
29 adjustment, lot consolidation, or street vacation, and to properties subject to land use
30 approval or **development site plan** review.

31
32 **SECTION 6. Findings adopted.** Findings contained in the Whereas Clauses of this
33 ordinance, as well as the competent substantial evidence in the whole record of this
34 legislative proceeding are incorporated into this section by reference as if fully set forth
35 herein, and are adopted in support of this legislative action.

36
37 **SECTION 7. Severability.** The sections, subsections, paragraphs and clauses of this
38 ordinance are severable. The invalidity of one section, subsection, paragraph, or clause
39 shall not affect the validity of the remaining sections, subsections, paragraphs and
40 clauses.

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

7
8 **SECTION 9. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this
9 ordinance takes effect 30 days after the date of its adoption.

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

17
18 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,
19 Section 9.2 of the City of Lincoln City Charter on the 11th day of April, 2022 (First
20 Reading) and on the 11th day of April, 2022 (Second Reading).

21
22 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 11th day of
23 April, 2022.

24
25
26 _____
SUSAN WAHLKE, MAYOR

27
28 ATTEST:

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30 _____
31 JAMIE YOUNG, CITY RECORDER

32
33
34 APPROVED AS TO FORM:

35
36 _____
37 RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Ordinance 2021-18 Amend Chapter 5.14 to remove reference to Lodging House

Meeting Date:	April 11, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 mins.

Question: Should the City Council conduct and approve First Reading and Second Reading of Ordinance 2022-18?

ORDINANCE 2022-18

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5 (BUSINESS LICENSES TAXES AND REGULATIONS), CHAPTER 5.14 (VACATION RENTAL DWELLING LICENSE), AMENDING SECTIONS 5.14.060 (CRITERIA FOR APPROVAL OF A LICENSE AND LICENSE RENEWAL), PARAGRAPH B.4. (HEALTH AND SAFETY STANDARDS) TO REMOVE REFERENCE TO THE BUILDING CODE DEFINITION OF LODGING HOUSE.

Staff Recommendation:

Staff recommends Council conduct and approve First Reading of Ordinance 2022-18 and, *if unanimous*, Conduct and approve Second Reading and adopt Ordinance 2022-18.

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 Building Official noticed that the state definition of Lodging House has been amended, since the city adopted the occupancy standard. As the new definition requires a permanent

occupant, (more like a bed and breakfast) the reference is no longer appropriate. Staff agreed the reference should be removed.

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. Continue Second Reading to April 25, 2022.
3. Continue First Reading to April 25, 2022.
4. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE 2022-18

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5 (BUSINESS LICENSES TAXES AND REGULATIONS), CHAPTER 5.14 (VACATION RENTAL DWELLING LICENSE), AMENDING SECTIONS 5.14.060 (CRITERIA FOR APPROVAL OF A LICENSE AND LICENSE RENEWAL), PARAGRAPH B.4. (HEALTH AND SAFETY STANDARDS) TO REMOVE REFERENCE TO THE BUILDING CODE DEFINITION OF LODGING HOUSE.

Council:

1. Motion to approve First Reading of Ordinance 2022-18.

If unanimous: Conduct Second Reading

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

ORDINANCE 2022-18

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5 (BUSINESS LICENSES TAXES AND REGULATIONS), CHAPTER 5.14 (VACATION RENTAL DWELLING LICENSE), AMENDING SECTIONS 5.14.060 (CRITERIA FOR APPROVAL OF A LICENSE AND LICENSE RENEWAL), PARAGRAPH B.4. (HEALTH AND

**SAFETY STANDARDS) TO REMOVE REFERENCE TO THE BUILDING CODE DEFINITION OF
LODGING HOUSE.**

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-18.

Attachments:

Ordinance 2022-18 ra (DOC)

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ORDINANCE 2022-18

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5 (BUSINESS LICENSES TAXES AND REGULATIONS), CHAPTER 5.14 (VACATION RENTAL DWELLING LICENSE), AMENDING SECTIONS 5.14.060 (CRITERIA FOR APPROVAL OF A LICENSE AND LICENSE RENEWAL), PARAGRAPH B.4. (HEALTH AND SAFETY STANDARDS) TO REMOVE REFERENCE TO THE BUILDING CODE DEFINITION OF LODGING HOUSE.

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

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.

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

WHEREAS, The City of Lincoln City desires to remove the Code reference to the Building Code Division's definition of lodging house which has been changed and is no longer applicable; and

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

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SECTION 1. Lincoln City Municipal Code, Title 5 (Business License, Taxes and Regulations), Chapter 5.14 (*Vacation Rental Dwelling License*), Section 5.14.060 (*Criteria for approval of a license and license renewal*), Paragraph B., numbered paragraph 4 (*Health and Safety*), is hereby amended to read as follows:

4. Health and Safety.

a. Maximum Overnight Occupancy. The maximum overnight occupancy of a vacation rental dwelling shall be as follows:

i. In no event shall the occupancy of a vacation rental dwelling (VRD) exceed the limits of the 1997 Uniform Housing Code; and

ii. In no event shall a VRD exceed the following ~~“lodging house” limitations of the Oregon Residential Specialty Code. These~~ limitations **include**:

(A) In no event shall use and occupancy of more than five guest rooms be permitted in a VRD. For purposes of this code, a guest room is a bedroom or any other space within the dwelling designed and intended to be used for sleeping; and

(B) In no event shall overnight occupancy of a VRD structure exceed 16 persons; and

iii. Occupancy shall not exceed the limitations identified herein except in a vacation rental dwelling constructed pursuant to (or retrofitted for compliance with) the current Oregon Structural Specialty Code and only in commercial zoning districts or such other districts as council may authorize by ordinance. For the purposes of this provision, commercial zoning districts are the general commercial (GC) zone, the recreation commercial (RC) zone, the Taft Village Core (TVC) zone, the Nelscott Business District (NBD) zone, the Nelscott Beachside Mixed Use (NBMU) zone, the Oceanlake Plan District (OPD) zone, and the Vacation Rental (VR) zone; and

1 iv. In no event shall the occupancy exceed three times the number
2 of bedrooms in the VRD, plus one additional occupant, not to
3 exceed a total of 16 occupants, except as allowed in subsection
4 (B)(4)(a)(iii) of this section; and

5 v. The license shall state clearly the numeric occupancy limit for the
6 dwelling, including specifically the number of bedrooms.

7 **SECTION 2. Findings Adopted.** The findings in support of the proposed
8 vacation are hereby adopted by the City Council as set forth in the public hearing
9 staff report in the record of this proceeding.

10
11 **SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of
12 this ordinance are severable. The invalidity of one section, subsection, paragraph,
13 or clause shall not affect the validity of the remaining sections, subsections,
14 paragraphs and clauses.

15
16 **SECTION 4. Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance
17 takes effect 30 days after the date of its adoption.

18
19 The foregoing ordinance was distinctly read by title only in accordance with
20 Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 11th day of April,
21 2022 (First Reading) and on the 11th day of April, 2022 (Second Reading).

22
23 PASSED AND ADOPTED by the City Council of the City of Lincoln City this
24 11th day of April, 2022.

25
26 _____
27 SUSAN WAHLKE, MAYOR

28 ATTEST:

29
30 _____
31 JAMIE YOUNG, CITY RECORDER

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33
34 APPROVED AS TO FORM:

35
36 _____
37 RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Resolution 2022-13 Vehicles for Hire License and Application fees

Meeting Date:	April 11, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question:

Following the opportunity for public comment: Should the City Council adopt Resolution 2022-13 entitled:

RESOLUTION NO. 2022-13

A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING CITY ADMINISTRATION LICENSE AND APPLICATION FEES AND CHARGES FOR VEHICLES FOR HIRE AND APPROVAL OF STANDARD FORMS

Staff Recommendation:

Staff recommends Council take public comment pursuant to ORS 294.160 and approve Resolution 2022-13.

Authority:

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

Background:

Ordinance 2022-09 amended LCMC Chapter 10.20 (*Taxicabs*) to address regulation of other vehicles for hire, like Transportation Network Companies. This fee Resolution updates and establishes license and application fees for all Vehicles for Hire. An opportunity for public comment is provided earlier on this Agenda. These fees and charges will be incorporated into the omnibus fee resolution to be adopted later this year.

Council Options:

1. Approve Resolution 2022-13

2. Approve Resolution 2022-13 with modifications; [or]
3. Postpone Resolution to April 25, 2022.

Potential Motions:

Council:

1. Motion to approve Resolution 2022-13.

Attachments:

Resolution 2022-13 Vehicle for Hire fees and forms ra (DOCX)

VFHOL Application - Taxi - FINAL (PDF)

VFHOL Application - TNC - FINAL (PDF)

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RESOLUTION NO. 2022-13

**A RESOLUTION OF THE CITY OF LINCOLN CITY,
ADOPTING CITY ADMINISTRATION LICENSE AND APPLICATION FEES AND
CHARGES FOR VEHICLES FOR HIRE AND APPROVAL OF STANDARD FORMS**

WHEREAS, the City of Lincoln City has established fees and charges for Vehicles for Hire licenses and applications and;

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

WHEREAS, on April 11, 2022, the City Council provided an opportunity for public comment on the proposed new fees and charges proposed by Resolution; and

WHEREAS, Council desires to establish new fees and charges and/or increase fees and charges as set forth herein; and

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

Section 1. The recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. The Application Fee for all Vehicles for Hire is set at \$150.00 for the initial application and \$100.00 for renewal.

Section 3. The Annual License Fee for all Vehicles for Hire is set at \$100.00 for the initial license and \$100.00 for license renewal.

Section 4. The attached Exhibit A and B standard form Taxicab application and TNC application are hereby adopted as the current approved application forms, said forms being incorporated herein by this reference.

Section 5. The above referenced fees and charges shall be incorporated into the omnibus fee resolution to be adopted later this year.

Section 6. This Resolution is effective as of the date of its adoption.

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PASSED AND APPROVED by the City Council of the City of Lincoln City,
Oregon, this 11th day of April, 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 10.20 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 10.20:

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 \$150
 - 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 Finance_AR@lincolncity.org and make payment over the phone by calling the Finance Department at 541-996-1211.

APPLICANT/LOCAL AGENT INFORMATION

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

BUSINESS INFORMATION

Business Name	
Owner(s)	
Location Address	
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 the Lincoln City Finance Department to apply.

OTP Number	
------------	--

SECRETARY OF STATE REGISTRATION

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

TERM & EFFECTIVE DATE

- ❑ Licenses are valid for one-year calendar year, commencing upon issuance and continuing for one year from the assigned renewal date. 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 10.20 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 10.20, 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 AND APPLICATION FEES

- ❑ Upon submission of the original application, the applicant shall submit a non-refundable application fee of \$150 based on the cost of administering the program and the annual license fee of \$100, as set by City Council resolution.

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 10.20 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 10.20 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 10.20.
- 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 10.20. 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.

REVOCAION, 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 10.20. 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 10.20 is a Class A civil infraction.
- The City has the administrative authority to implement and enforce Lincoln City Code Chapter 10.20, 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 <https://www.codepublishing.com/OR/LincolnCity/#!/html/LincolnCity10/LincolnCity1020.html>.

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 10.20.

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 10.20. 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

DRAFT

ADDITIONAL OWNER INFORMATION & IDENTIFICATION

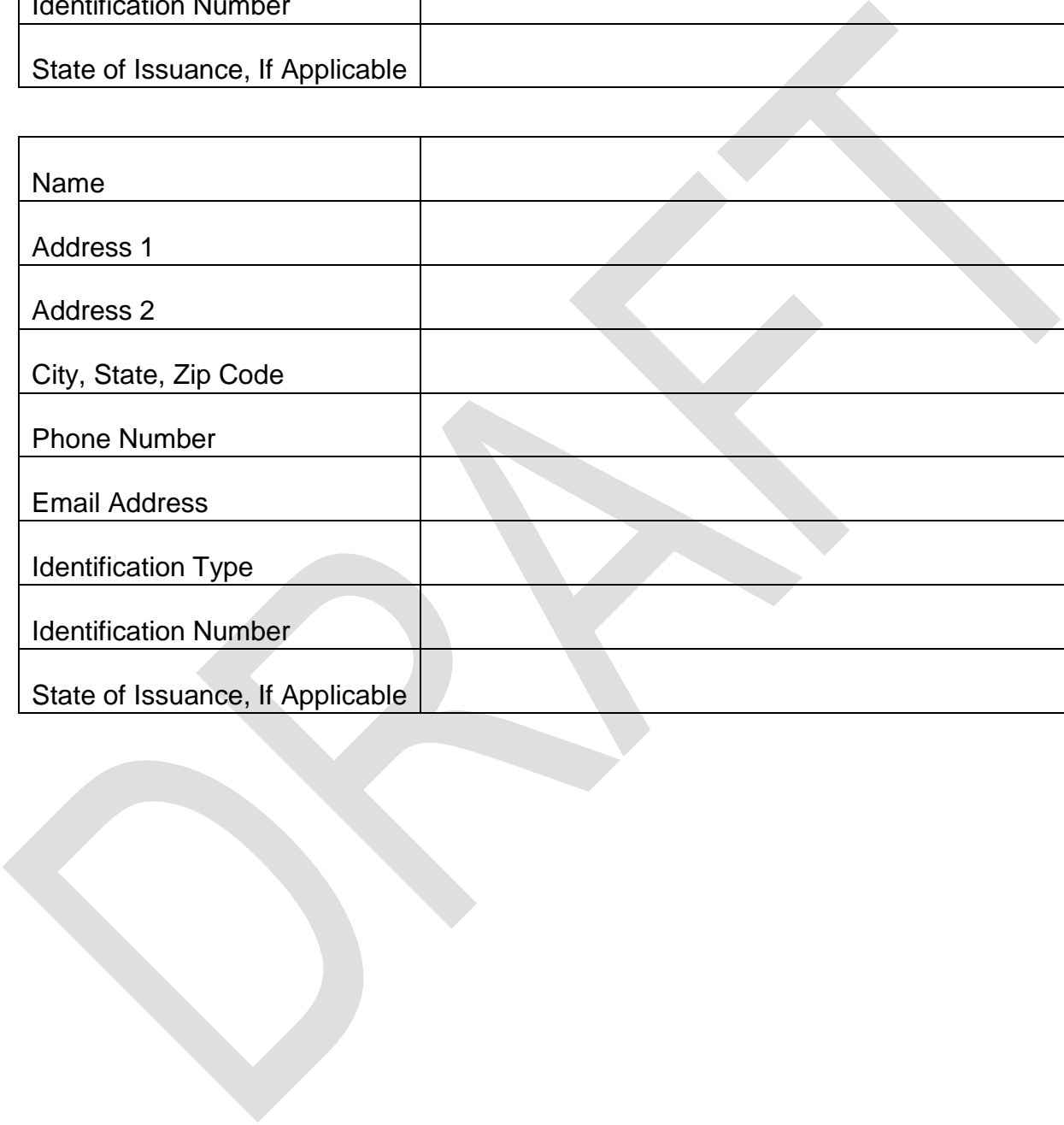
Name	
Address 1	
Address 2	
City, State, Zip Code	
Phone Number	
Email Address	
Identification Type	
Identification Number	
State of Issuance, If Applicable	

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 10.20 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 \$150
 - 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 Finance_AR@lincolncity.org and make payment over the phone by calling the Finance Department at 541-996-1211.

APPLICANT/LOCAL AGENT INFORMATION

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

TRANSPORTATION NETWORK COMPANY INFORMATION

Business Name	
Owner(s)	
Location Address	
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 the Lincoln City Finance Department to apply.

OTP Number	
------------	--

SECRETARY OF STATE REGISTRATION

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

TERM & EFFECTIVE DATE

- ❑ Licenses are valid for one-year calendar year, commencing upon issuance and continuing for one year from the assigned renewal date. 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 AND APPLICATION FEES

- ❑ Upon submission of the original application, the applicant shall submit a non-refundable application fee of \$150 based on the cost of administering the program, and the annual license fee of \$100, as set by City Council resolution.

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 10.20 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 10.20 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 10.20.
- 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 10.20. 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 10.20. 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 10.20 is a Class A civil infraction.
- ❑ The City has the administrative authority to implement and enforce Lincoln City Code Chapter 10.20, 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 <https://www.codepublishing.com/OR/LincolnCity/#!/html/LincolnCity10/LincolnCity1020.html>.
- ❑ 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 10.20.

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 10.20. 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	

DRAFT

Council Communication

Resolution 2022-14 - 34th Court

Meeting Date:	April 11, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Police	Secondary Contacts:	Lila Bradley
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question:

Should the City Council approve Resolution 2022-14 entitled:

RESOLUTION NO. 2022-14

A RESOLUTION OF THE CITY OF LINCOLN CITY AMENDING RESOLUTION 2021-45 PROVIDING FOR EXTENSION OF THE STREET CLOSURE OF A PORTION OF NW 34TH COURT

Staff Recommendation:

Staff recommends approval of Resolution 2022-14.

Authority:

10.08.010 Powers of the city council.

A. Subject to state laws, the city council shall exercise all municipal traffic authority for the city except those powers specifically and expressly delegated by this title or another ordinance.

B. The powers of the council, which may be exercised by resolution, include, but are not limited to:

1. Designation of through streets;
2. Designation of one-way streets;
3. Designation of truck routes;
4. Designation of parking meter zones;
5. Designation of certain streets as bridle paths and prohibition of horses and animals on other streets, parks or property;
6. Authorization of greater maximum weights or lengths for vehicles using city streets than specified by state law;
7. Initiation of proceedings to change speed zones;
8. Establishment and revision of speed limits and traffic regulations in parks;

9. Temporary blocking or closing of streets;

10. Establishment of bicycle lanes and paths and traffic controls for such facilities;
 11. Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage;

12. Authorization of issuance of oversize or overweight vehicle permits;

13. Establishment, maintenance, removal or alteration of the following classes of traffic controls:

- a. Crosswalks, safety zones and traffic lanes,
- b. Intersection channelization and areas where drivers of vehicles shall not make right, left or U-turns, and the time when such prohibitions apply,
- c. Parking, including but not limited to truck parking areas, parking for disabled persons, parking areas and time limitations, including the form of permissible parking (e.g., parallel or diagonal), prohibited parking areas (one or both sides of the street), parking permits and metered parking,
- d. Loading zones and stops for vehicles,
- e. Traffic-control signals.

Background

Several Resolutions have imposed temporary closures of NW 34th and NW 15th Street – to address dangers presented by uncontrolled beach access. Resolution 2021-45 is proposed to be amended by Resolution 2022-14 to extend the closure of NW 34th Court to December 31, 2022.

Council Options:

Approve the Resolution.

Do Not approve the Resolution.

Approve the Resolution (with amendments).

Financial Impact

No financial impact except materials and crew time.

Potential Motions:

Move to approve Resolution 2022-14.

Move to approve Resolution 2022-14, with the following amendments.

Move to reject the proposed Resolution.

Attachments:

Resolution 2022-14 Beach Access 34th Ct. Closure Extension ra (DOC)

RESOLUTION NO. 2022-14

**A RESOLUTION OF THE CITY OF LINCOLN CITY AMENDING RESOLUTION
2021-45 PROVIDING FOR EXTENSION OF THE STREET CLOSURE OF A PORTION OF NW
34TH COURT**

RECITALS

Pursuant to LCMC 10.08.010, the City Council passed Resolution 2021-31, Resolution 2021-34, 2021-37, 2021-38 and 2021-45 which concern the exercise of Traffic and Parking Control authority in temporarily closing portions of NW 15th Street and/or NW 34th Court; and

The closures effectively eliminated vehicular access to the beach from the referenced streets, excepting provisions made for ADA access and emergency vehicles; and

The 15th Street closure has already lapsed; the 34th Court closure will lapse on April 30, 2022; and

Council requested a review of the closures prior to the end of April 2022 to determine if extensions are warranted; and

The Council desires to amend Resolution 2021-45 to extend the duration of the closure of NW 34th Court to December 31, 2022.

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

SECTION 1. RECITALS.

The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. EXTENSION OF CLOSURE OF NW 34th COURT.

The temporary closure of NW 34th Court as directed in Resolution 2021-45, and previous Resolutions, is hereby extended to December 31, 2022.

SECTION 3. REVIEW OF NW 15th STREET.

The City Manager is directed to track complaints regarding beach access via NW 15th Street and report to Council in June 2022. The issue of any further closure of NW 15th will be addressed at that time.

1 **SECTION 4. ALL OTHER PROVISIONS REMAIN IN FULL FORCE AND EFFECT.**

2
3 Other provisions of prior Orders (such as City Manager authority to order the closure of NW
4 15th and NW 34th Court, or any other city street or city beach access during dangerous beach
5 conditions) remain in full force and effect.
6

7 **SECTION 5. PENALTY.** Failure to observe the closure of NW 34th Court or any other
8 closure under this or prior Council Traffic Control Resolutions is a Class B violation and may
9 be cited under Lincoln City Municipal Code Chapter 1.16.

10
11 **SECTION 6. EFFECTIVE DATE.** This Resolution is effective as of the date of its adoption.

12
13 **PASSED AND APPROVED** by the City Council of the City of Lincoln City, Oregon, this 11th
14 day of April, 2022.

15
16
17 _____
18 SUSAN WAHLKE, MAYOR

19 ATTEST:

20
21
22
23 _____
24 JAMIE YOUNG, CITY RECORDER

25 APPROVED AS TO FORM:

26
27
28
29 _____
30 RICHARD APPICELLO, CITY ATTORNEY
31

Council Communication

Planning Commission Interview-Kroen

Meeting Date:	April 11, 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

Patti Kroen has applied for an appointment for the City Resident position. This position is a 4-year term; The City Resident position is a partial term and a new term beginning immediately and expiring 12/31/26, that will be left vacant by the passing of Ms. Nelson.

Ms. Kroen's application is attached. Also attached, please find the questions that have been used in past Planning Commission interviews with the City Council. A copy of these questions has been sent to the candidate.

There are two other applicants for the Planning Commission, one has been interviewed and the other is awaiting background and references.

Attachments:

Kroen Patti-Planning Commission applicant_Redacted.pdf (PDF)
 Committee applicant-Patti Kroen ref2 032322Completed.pdf (PDF)
 MEMORANDUM TO CC--APPOINTED BODIES BG CHECK PASS_FAIL DETERMINATION-Patti Kroen1.pdf (PDF)
 QUESTIONS FOR PLANNING COMMISSION APPLICANTS.pdf (PDF)



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

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

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

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

NAME:	Patti Kroen	DATE:	18 March 2022
HOME ADDRESS:	[REDACTED]		
MAILING ADDRESS:	Post Office Box 360		
CITY, STATE, ZIP:	Lincoln City, OR 97367		
E-MAIL ADDRESS:	[REDACTED]		
HOME PHONE:	[REDACTED]	CELL PHONE:	[REDACTED]

RESIDENCY AND SPECIFIC ELIGIBILITY CRITERIA

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

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

Do you reside within the Lincoln County School District North: Yes No

Are you a registered voter in Lincoln County? Yes No

Are you a Lincoln City business owner or Manager? Yes No

If yes, please indicate which business you own/manage? _____



QUALIFICATIONS/EXPERIENCE (Additional space is provided on back)

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

I am a retired geologist, past environmental studies group manager and co-founder of a community mediation service.

List names of volunteer/work supervisors:

Cindy Thompson - REIA
Richard Townsend + Anne Marie Skinner (Planning Commission)

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

Lincoln City Planning Commission (commissioner, vice-chair, chair)
REIA - treasurer
President - Northwest Hydroelectric Association

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

none

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

I would like to participate and give back to the community. I have experience updating comp plans and would like to assist in this process. I am interested in fulfilling the term vacated by the loss of Lenny Nelson.

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

Name: Anne Marie Skinner Phone: [Redacted]
Name: Diana Hinton Phone: [Redacted]

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.

[Redacted Signature] 18 March 2022
SIGNATURE DATE



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

COMMITTEE VOLUNTEER EMERGENCY CONTACT INFORMATION FORM

FULL NAME:	Patti Kroen
START DATE:	
NAME OF COMMITTEE, BOARD, OR COMMISSION:	Planning Commission
CITY STAFF REPRESENTATIVE:	
HOME ADDRESS:	[REDACTED]
	Lincoln City, OR
MAILING ADDRESS:	[REDACTED]
	Lincoln City, OR 97367
HOME PHONE:	[REDACTED]
CELL PHONE:	[REDACTED]
PERSONAL E-MAIL ADDRESS:	[REDACTED]

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

DATE:	18 March 2022
VOLUNTEER SIGNATURE:	[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** 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

18 March 2022
DATE



Human Resources

REFERENCE CHECK- COMMITTEES

Reference regarding: Patti Kroen (**Planning Commission**)

Reference: Diane Diana Hinton

Reference taken by; date / time: March 23, 2022

- What is your professional relationship with the applicant?
My professional/volunteer relationship with Patti Kroen is through our joint leadership roles in the neighborhood association we both served as officers. She was also the treasurer for my candidacy campaign for City Council, reporting donations and expense to the State.
- How long have you known him/her?
I have had the pleasure of knowing Patti for seven years.
- How long have you worked / served with him/her?
I believe we served on the neighborhood association together for about one year. Patti also previously served on the Lincoln City Planning Commission for five years.
- Did you hire or select him/her? If not, would you hire/select him/her given the opportunity to do so?
I didn't hire her as these were volunteer positions but did recruit her. I would definitely hire her if given the opportunity to do so. She does research, is a broad and careful detailed thinker, works hard, is always on time, and has all the professional leadership skills for any position.
- Do you have personal knowledge of the applicant serving on any boards? If so, please describe. If not, would serving on our Planning Commission be a good match based on your knowledge of the applicant? Would you recommend him/her for the Planning Commission?
I highly recommend her to a position on the Planning Commission. She has served on this Commission before and has served as its vice chair and as its chair. There would be no learning curve if she is appointed, she would hit the round running.
- Does the applicant possess good decision making / reasoning skills?



Human Resources

Patti has very excellent decision making and reasoning skills. She provided much guidance to the Planning Commission and worked closely with the Planning Director and Senior Planner at the time of her service.

- Does the applicant have good communication / interpersonal skills?
Patti has excellent communication and interpersonal skills. She, along with staff, lead the public involvement/engagement process for the city's visioning sessions which were held in many venues. She was adaptable and creative in how she drew people into discussion and skilled at understanding the points they wanted to make and being able to interpret that for the documentation. That is just one example of her abilities to respectfully engage, inform, and educate.
- Is he/she responsible and reliable?
She is very responsible and reliable. She is always prepared, always reads the packets, makes lists of questions, and is at all meetings on time.
- What are his/her strongest skills? On time, thinks clearly and very organized. Does he/she possess any special skills?
Patti is an excellent communicator and leader at a professional level.
- If applicable, what was his/her reason for leaving the position he/she held when you worked / volunteered together?
Professional reasons which I agree with (lack of confidence in the staff at that time).
- 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?
Patti is a well-developed communicator and understands land use. I cannot think of one thing where she needs any assistance to do this job well.
- Do you have any other feedback you could provide that would help us make a decision?

Patti Kroen is a very strong candidate for serving on the Planning Commission, and was an outstanding chair of that body in the past. She understands zoning as well as the limits of the Planning Commission. She works well with staff and fellow commissioners. Patti is one of the best communicators I have met as she helps people understand the issues and potential solutions. Lincoln City would be greatly served by re-appointing Patti Kroen to the Planning Commission.



MEMORANDUM

To: City of Lincoln City Mayor and Council
From: Abigail Edwards, Human Resources Director
Date: March 28, 2022
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: Patti Kroen
Position Applied For: Planning Commission

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

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

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

Respectfully,

Abigail Edwards
HR Director

QUESTIONS FOR PLANNING COMMISSION APPLICANTS

1. Why do you want to serve on the Planning Commission?
2. What are the top 3 planning issues facing Lincoln City?
3. What should the role of the public be in planning decisions?
4. How should the planning commission balance individual owners' interests with community interests?
5. What should be the role of the planning commission in creating a look or image for the city?
6. How should the city balance housing affordability with regulations?
7. What is the role of the planning commission when a person has a really good idea, but the city's regulations prohibit it? Or, a really bad idea and the regulations allow it?

Council Communication

Discussion Ban on Sale and Use of Fireworks

Meeting Date:	April 11, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	20 minutes

Question(s):

Should the City Council ban the sale and use of Fireworks in the City?

Staff recommends Council not pursue an immediate general ban on the sale or use of legal fireworks in the City; staff, recommends that any ban on such sale and use have a delayed effective date such that the ban will go into effect for next year. Council could also refer the issue to the voters.

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:

Draft fireworks and outside display ordinances attached for discussion. (See also earlier email communication on this issue)

At the Council meeting of March 14, 2022 City Council Rick Mark proposed a ban on all retail sales of fireworks in the City. Mr. Mark indicated that other coastal cities have enacted similar bans [e.g Depoe Bay, Waldport, and Portland]. The motion passed 5-1, Councilor Hoagland was absent.

State law already prohibits fireworks, with some exceptions:

480.120 Sale, possession and use of fireworks prohibited; exceptions;

enforcement. (1) No person shall sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks within Oregon, except as follows:

(a) Sales by manufacturers and wholesalers to customers residing outside this state in accordance with ORS 480.156;

(b) Sales to persons or organizations having obtained a permit from the State Fire Marshal for supervised public display;

(c) Sales to railroads, boats, motor vehicle or other transportation agencies, to be used for signal, warning or illumination purposes in connection with such business;

(d) Sale or use of blank cartridges for licensed shows or theaters or for signal or ceremonial purposes in athletics or sports;

(e) Experimental purposes by a manufacturer of explosives at such places where such experiments are normally conducted;

(f) Sale of blank cartridges for use by the militia or any organization of war veterans or other organization authorized by law to parade in public a color guard armed with firearms;

(g) Sale of shells, cartridges, gunpowder or explosives for use in legally permitted firearms;

(h) Sales of items described in ORS 480.127 to persons who possess the retail sales permit required by ORS 480.127 by a person who holds a manufacturer or wholesaler license issued pursuant to ORS 480.111 to 480.165; or

(i) Sales of items described in ORS 480.127 to individual members of the general public for personal use by taking direct delivery of those items at the time of sale from the holder of a retail sale permit issued pursuant to ORS 480.127.

(2) Law enforcement officers of the state, county or municipality shall enforce the provisions of ORS 480.111 to 480.165.

Paragraph 1(h) and (i) above concern State Fire Marshal permitted sales June 23 thru July 6 (see below emphasis added):

480.127 Permit for retail sale of consumer fireworks; fee; rules. (1) Any person who desires to sell consumer fireworks at retail to individual members of the general public for personal use shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale. The State Fire Marshal shall issue the permit only if the State Fire Marshal finds that the applicant is qualified to conduct the proposed sale and that the proposed sale will conform to the provisions of ORS 480.111 to 480.165 and any rules adopted under ORS 480.111 to 480.165. A fee may be charged for the permit. Subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, the amount of the fee shall be set by rule and shall be adjusted subsequently by the State Fire Marshal to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(2) A retail sales permit issued under this section authorizes the sale of consumer fireworks only in the year for which the permit is issued during the period that begins on June 23 and ends on July 6 of the year for which the permit is issued.

(3) A retail sales permit holder shall store consumer fireworks in accordance with any fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those fireworks. The matters that the State Fire Marshal considers when adopting storage rules for fireworks may include, but are not limited to, any United States Department of Transportation requirements relating to hazardous materials storage. [1983 c.788 §3; 1991 c.703 §14; 2013 c.24 §3]

480.111 Definitions for ORS 480.111 to 480.165. As used in ORS 480.111 to 480.165:

(1) "Cone fountain" means a cardboard or heavy paper cone that:

(a) Contains 50 grams or less of pyrotechnic composition;

(b) If mounted on a common base with other cones having less than one-half inch of separation, results, when measured in combination with all other cones on the base, in a total pyrotechnic composition of not more than 200 grams;

(c) If mounted on a common base with other cones having at least one-half inch of separation, results, when measured in combination with all other cones on the base, in a total pyrotechnic composition of not more than 500 grams; and

(d) Upon ignition has the same effect as a cylindrical fountain.

(2) "Consumer fireworks" means:

(a) A cone fountain, a cylindrical fountain, a flitter sparkler, a ground spinner, an illuminating torch or a wheel, or a combination of two or more of those items; and

(b) Any other items, other than exempt fireworks, containing 500 grams or less of pyrotechnic composition that the State Fire Marshal recognizes by rule to be suitable for retail sale to members of the general public for individual use.

(3) "Cylindrical fountain" means a cylindrical tube that:

(a) Contains 75 grams or less of pyrotechnic composition;

(b) If mounted on a common base with other tubes having less than one-half inch of separation, results, when measured in combination with all other tubes on the base, in a total pyrotechnic composition of not more than 200 grams;

(c) If mounted on a common base with other tubes having at least one-half inch of separation, results, when measured in combination with all other tubes on the base, in a total pyrotechnic composition of not more than 500 grams;

(d) Upon ignition produces a shower of colored sparks and may produce a whistling effect; and

(e) Is provided with a means for restraining the behavior of the item, such as a spike for insertion into the ground, a wood or plastic base for placing on the ground or, if designed to be handheld, a wood or cardboard handle.

(4) "Display fireworks" means pyrotechnic devices that:

(a) Are designed for travel into the air or to project effects from a fixed position; and

(b)(A) Are classified by the United States Department of Transportation as Division 1.3 compatibility group G explosives or Division 1.4 compatibility group G explosives; or

(B) Contain more than 500 grams of pyrotechnic composition and are classified by the United States Department of Transportation as Division 1.4 compatibility group E or S explosives.

(5) "Exempt fireworks" means the following:

(a) Paper caps containing 0.25 grains or less of explosive mixture and toy guns, canes or other devices designed for firing those caps.

(b) Snakes or similar smoke-producing items containing 100 grains or less of combustible substances.

(c) Model rockets and model rocket motors that are used to propel recoverable models of rocket.

(d) Novelties and trick noisemakers.

(e) Emergency signaling devices, if used in railroad, boat, motor vehicle or other means of transportation for warning or illumination purposes.

(f) Blank cartridges of a type used:

(A) For theater or other shows;

(B) For signaling or ceremonial purposes in athletics or sports; or

(C) By the militia, an organization of war veterans or other organizations, if parading an armed color guard.

(g) Cartridges, shells or gunpowder for use in legally permitted types of firearms.

(h) Military pyrotechnic and signaling devices classified by the United States Department of Transportation as Division 1.4 compatibility group S explosives that are assigned to and in the possession of the Armed Forces of the United States, or an authorized agent of the armed forces, as inventory for use by the armed forces or agent in training active members of the armed forces in their duties.

(i) Other items that in the judgment of the State Fire Marshal do not require regulation or restrictions on sale.

(6) "Explosive mixture" means a substance arranged in a manner to allow burning in less than one second.

(7)(a) "Fireworks" means:

(A) Consumer fireworks;

(B) Display fireworks;

(C) Exempt fireworks;

(D) Pyrotechnic articles;

(E) Special effects; and

(F) Other pyrotechnic devices that:

(i) Are capable of producing audible, visual, mechanical or thermal effects through combustion, deflagration or detonation; and

(ii) Contain chemical elements and compounds that are capable of burning independently of atmospheric oxygen or contain flammable liquid mixtures or flammable gas mixtures.

(b) "Fireworks" does not mean a candle, flaming club, flaming baton or other device that is designed to keep the flame and thermal radiation in close proximity to the device.

(8) "Fireworks display" means an entertainment feature at which the public or a private group is allowed to view a display or discharge that uses or explodes display fireworks or pyrotechnic articles.

(9) "Flitter sparkler" means a narrow paper tube that:

- (a) Contains five grams or less of pyrotechnic composition;
- (b) Produces colored sparks upon ignition; and
- (c) Is activated by igniting paper located at one end of the tube.

(10) "Ground spinner" means a small device similar to a wheel in design and effect that:

- (a) Contains 20 grams or less of pyrotechnic composition;
- (b) Vents from an orifice located on the side of the tube or elsewhere on the device; and
- (c) When placed on the ground and ignited, spins rapidly and produces a shower of colored sparks.

(11) "Illuminating torch" means a cylindrical tube that:

- (a) Contains 100 grams or less of pyrotechnic composition; and
- (b) Is provided with a means for restraining the behavior of the item, such as a spike for insertion into the ground, a wood or plastic base for placing on the ground or, if designed to be handheld, a wood or cardboard handle.

(12) "Local government" has the meaning given that term in ORS 174.116.

(13)(a) "Manufacture" means to make, construct, fabricate or produce fireworks.

(b) "Manufacture" does not mean:

- (A) The assembly or fabrication of sets or mechanical pieces for fireworks displays; or
- (B) Actions taken within the scope of a certification for conducting fireworks displays or for a pyrotechnics operator.

(14) "Pyrotechnic articles" means devices that:

- (a) Are designed for professional use;
- (b) Are similar to consumer fireworks in chemical composition and construction;
- (c) Contain 500 grams or less of pyrotechnic composition;
- (d) Are not labeled as consumer fireworks; and
- (e) Have identification numbers UN0431 or UN0432 in the United States Department of Transportation Hazardous Materials Table set forth in 49 C.F.R. 172.101 or an amendment or replacement of that identification standard recognized by the State Fire Marshal.

(15) "Pyrotechnic composition" means a mixture that is:

- (a) Composed of a metal powder having a high combustion temperature and an oxidant; and
- (b) Capable of an exothermic reaction that produces light, heat, smoke, sound or gas.

(16) "Pyrotechnic device" means consumer fireworks, display fireworks, pyrotechnic articles, special effects and bird and animal control devices, and other combinations or compositions of materials, that produce audible, visual, mechanical or thermal effects.

(17) "Special effects" means articles containing pyrotechnic composition that, subject to authorization from the appropriate jurisdiction, are:

- (a) Manufactured, assembled, designed or discharged in connection with television, theater or motion picture productions, concerts or conference centers; or
- (b) Used for commercial, industrial, educational, recreational or entertainment purposes.

(18) "Wheel" means a pyrotechnic device that:

- (a) Is designed to be attached to a post or tree by means of a nail or string;
- (b) Has one or more driver units or tubes, each containing not more than 60 grams of pyrotechnic composition;

- (c) Contains a total of not more than 200 grams of pyrotechnic composition; and
- (d) Upon ignition revolves and produces a shower of colored sparks and may produce a whistling effect. [2013 c.24 §2]

Violation of the State of Oregon Fireworks prohibitions in ORS 480.120 is a Class B Misdemeanor.

480.990 Penalties. (1) Violation of any provision of ORS 480.010 to 480.040 is a Class B violation.

(2) Violation of any provision of ORS 480.050, 480.060 or 480.290 is a Class C misdemeanor.

(3) Violation of ORS 480.070 is a Class A misdemeanor.

(4) Violation of ORS 480.085 is a Class B violation.

(5) **Violation of any provision of ORS 480.111 to 480.165 is a Class B misdemeanor.**

Violations thereof may be prosecuted in state or municipal courts when violations occur within the municipality served thereby. Justice courts shall have concurrent jurisdiction with circuit courts in all proceedings arising within ORS 480.111 to 480.165.

(6) Subject to ORS 153.022, violation of any provision of ORS 480.210, 480.215, 480.235 and 480.265 or of any rule or regulation adopted under ORS 480.280 (1) is a Class B misdemeanor.

(7) Violation of any provision of ORS 480.420 to 480.460 is a Class B violation.

(8) Subject to ORS 153.022, violation of any provision of ORS 480.510 to 480.670, or any rule promulgated pursuant thereto, is a Class A misdemeanor. Whenever the Board of Boiler Rules has reason to believe that any person is liable to punishment under this subsection, it may certify the facts to the Attorney General, who may cause an appropriate proceeding to be brought.

Local regulation is recognized:

480.160. Local regulations and enforcement

(1) Nothing in ORS 480.111 to 480.165, nor in any permit issued thereunder, shall authorize the manufacture, sale, use or discharge of fireworks in **any city, county or fire protection district in which such manufacture, sale, use or discharge is otherwise prohibited by law or municipal ordinance**; nor shall any city, county or fire protection district authorize the sale or use of any fireworks prohibited by the provisions of ORS 480.111 to 480.165.

(2) For the purposes of enforcing ORS 480.111 to 480.165 in an area exempt under ORS 476.030

(3) within a rural fire protection district, the fire marshal, if there is one, or the fire chief of that rural fire protection district has the same enforcement authority as the State Fire Marshal.

(3) No person shall deliver or cause to be delivered into any county, municipality or rural fire protection district for the purpose of sale to individual members of the general public for personal use any consumer fireworks if the county, municipality or rural fire protection district by law or ordinance has declared that the sale or use of the consumer fireworks is prohibited.

(4) The manufacture, sale, use or discharge of fireworks may be regulated by the governing body of a rural fire protection district, subject to the following conditions:

(a) The regulation must be by ordinance adopted by the governing body of the district, after

public notice and hearing, not later than January 1 of any calendar year in which regulation is to be operative.

(b) The regulation shall not be operative within the boundaries of any city that regulates such matters by city ordinance.

(c) The regulation shall not prohibit the manufacture, sale, use or discharge of fireworks the manufacture, sale, use or discharge of which is authorized by ORS 480.111 to 480.165.

(d) The regulation may not limit sales to less than five days per calendar year, and must include the five consecutive day period beginning June 30.

2021 Portland amendment: Portland recognizes only exemptions 480.120(1)(a-g) and does not recognize (h) and (i) as exempt from their prohibition on sales and use.

Ordinance 190728 Amend Additional Requirements for Sale, Use and Possession of Fireworks and Pyrotechnics Code to clarify unlawful fireworks, aerial luminary devices, and pyrotechnics (amend Code Subsection 31.40.070 A.)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The State of Oregon is experiencing drought, extreme wildfire conditions, and recent record-high temperatures, creating an imminent risk of fires starting within the region and throughout the City.
2. On July 4, 2020: 18 of 36 fires in Portland were caused by fireworks.
3. From 2014 through 2019, there were 1,173 reported fireworks-related fires in Oregon, resulting in more than \$4.9 million in property loss and contents damage. During that same period, fires resulting from fireworks resulted one death and 37 injuries.
4. According to Multnomah County Animal Services, the 10-day period around July 4th experiences a 25% increase in dogs and cats entering the shelter when compared with a typical 10-day period in the summer.
5. During the 2020 fireworks season (June 23 through July 6) there were a total of 223 fires and 44 fires were caused by fireworks in the City of Portland.
6. The City of Portland banned the sale and use of fireworks from June 30th to July 14th, 2021.

NOW, THEREFORE, the Council directs:

1. Amend Portland City Code Subsection 31.40.070 A. as follows:

A. It is unlawful to sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks, aerial luminary devices or pyrotechnics within the City, except as specified by ORS 480.120(1)(a-g). For the purpose of this Chapter, the Fire Marshal of the City is recognized as an ex-officio Deputy State Fire Marshal as provided by State statute

This could be alternative ordinance language:

A. It is unlawful to sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks, aerial luminary devices or pyrotechnics within the City, except as specified by ORS 480.120(1)(a-g).

The City of Bend's code, amended in 2021, provides:

5.30.000 Fireworks.

- A. The sale, offer for sale, possession, and use of fireworks, other than exempt fireworks, is prohibited within the City of Bend.
- B. Fireworks displays that have been issued a State Fire Marshal general fireworks display permit are exempt from the prohibitions of this chapter.
- C. The City may confiscate, destroy, remove, or have removed at the owner's expense all fireworks in violation of this section, when necessary for the preservation of public safety.
- D. "Fireworks," "fireworks display," and "exempt fireworks" have the meanings defined in ORS 480.111.
- E. Violation of this section is a Class A civil infraction. [Ord. NS-2424, 2021; Ord. NS-2354, 2019; Ord. NS-2142, 2010]

Council Options:

1. Discuss and provide direction to staff.

Potential Motions:

None.

Attachments:

Ordinance 2022-## Fireworks ra (DOCX)

Ordinance 2022-## for outdoor sales display draft ra (DOCX)

ORDINANCE NO. 2022-##

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 8. (HEALTH AND SAFETY), ADDING A NEW CHAPTER CHAPTER 8.06 (FIREWORKS), TO PROHIBIT THE SALE AND USE OF FIREWORKS WITHIN THE CITY LIMITS OF THE CITY OF LINCOLN CITY.

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

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

2.1 Powers of the City

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

2.2 Construction of Charter

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

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

WHEREAS, for many years, community members in Lincoln City have expressed concern over the use of both legal and illegal fireworks within the city. Other community members have valued the ability to use fireworks, especially around the Fourth of July holiday. The City continues to receive public input on the issue; and

WHEREAS, in Oregon, cities may have their own rules or ordinances regarding the manufacture, sale, use, and discharge of fireworks. Those rules or ordinances may be more restrictive than state law; and

WHEREAS, in 2021, the City of Portland amended its fireworks ordinance to strengthen the fireworks ban by not exempting ORS 480.120(1)(h)&(i) sales (which includes retail licensed sales under ORS 480.127); and

1 **WHEREAS**, in 2021 the City of Bend amended its fireworks ordinance to narrow its ordinance
2 banning use and sale of fireworks to exempt only "exempt fireworks"; and

3
4 **WHEREAS**, the City of Sisters is one example of a city that has taken a more restrictive
5 approach. Since 1947, Sisters has prohibited the retail sale and use of fireworks that are
6 otherwise legal under state law; and

7
8 **WHEREAS**, community members have become increasingly concerned about the use of
9 fireworks, particularly as it relates to fire risk, personal safety, impacts on veterans, and impacts
10 on pets and other animals; and

11
12 **WHEREAS**, the City has acknowledged the impact of climate change on Lincoln City and the
13 surrounding area. It is anticipated that Oregon will experience hotter and drier summer seasons,
14 which have the potential to increase the risk of drought and wildfire conditions; and

15
16 **WHEREAS**, according to the National Fire Protection Association, (2021) fireworks cause over
17 19,000 fires and require emergency room treatment for over 9,000 people in the United States
18 each year; and

19
20 **WHEREAS**, annual reports published by the Oregon State Fire Marshal indicate fireworks as a
21 cause of fire in Oregon; and

22
23 **WHEREAS**, consumer fireworks pose an increased risk of fire; and

24
25 **WHEREAS**, considering all of the above, the Lincoln City City Council finds that the prohibiting
26 the use and sale of fireworks has benefits to the community, including through less risk of fire in
27 an increasingly dry environment, and less disruption to humans and animals. The Council also
28 finds that allowing for permitted public displays can serve to recognize and continue the
29 traditions associated with fireworks, especially around holidays such as the Fourth of July. The
30 Council finds that, on balance, this approach is the best way to reconcile both the current
31 concerns and the historical traditions around fireworks.

32
33 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

34
35 **SECTION 1.** Lincoln City Municipal Code Title 8 (*Health and Safety*), is amended to add a new
36 Chapter 8.06 (*Fireworks*) to read as follows:

37
38 **8.06.040 Fireworks.**

39
40 **A. The sale, offer for sale, possession, and use of fireworks, other than exempt**
41 **fireworks, is prohibited within the City of Lincoln City.**

42

1 **B. Fireworks displays that have been issued a State Fire Marshal General Fireworks**
2 **Display Permit are exempt from the prohibitions of this chapter.**

3
4 **C. The City may confiscate, destroy, remove, or have removed at the owner’s**
5 **expense all fireworks in violation of this section, when necessary for the**
6 **preservation of public safety.**

7
8 **D. “Fireworks,” “fireworks display,” and “exempt fireworks” have the meanings**
9 **defined in ORS 480.111. The current definition of exempt fireworks in ORS**
10 **480.111 is as follows:**

- 11 (5) **“Exempt fireworks” means the following:**
- 12 **_____ (a) Paper caps containing 0.25 grains or less of explosive mixture and**
- 13 **toy guns, canes or other devices designed for firing those caps.**
- 14 **_____ (b) Snakes or similar smoke-producing items containing 100 grains or**
- 15 **less of combustible substances.**
- 16 **_____ (c) Model rockets and model rocket motors that are used to propel**
- 17 **recoverable models of rocket.**
- 18 **_____ (d) Novelties and trick noisemakers.**
- 19 **_____ (e) Emergency signaling devices, if used in railroad, boat, motor vehicle**
- 20 **or other means of transportation for warning or illumination purposes.**
- 21 **_____ (f) Blank cartridges of a type used:**
- 22 **_____ (A) For theater or other shows;**
- 23 **_____ (B) For signaling or ceremonial purposes in athletics or sports; or**
- 24 **_____ (C) By the militia, an organization of war veterans or other**
- 25 **organizations, if parading an armed color guard.**
- 26 **_____ (g) Cartridges, shells or gunpowder for use in legally permitted types of**
- 27 **firearms.**
- 28 **_____ (h) Military pyrotechnic and signaling devices classified by the United**
- 29 **States Department of Transportation as Division 1.4 compatibility group S**
- 30 **explosives that are assigned to and in the possession of the Armed Forces of**
- 31 **the United States, or an authorized agent of the armed forces, as inventory**
- 32 **for use by the armed forces or agent in training active members of the**
- 33 **armed forces in their duties.**
- 34 **_____ (i) Other items that in the judgment of the State Fire Marshal do not**
- 35 **require regulation or restrictions on sale.**

36
37
38 **E. Violation of this section is a Class B violation and is punishable by citation as**
39 **provided in Chapter 1.16.**

40
41 **SECTION 2. Findings Adopted.**

42

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

5
6 **SECTION 3. Severability.**

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

10
11 **SECTION 4. Ordinance Effective Date.**

12
13 Notwithstanding Chapter IX, Section 9.3, this ordinance takes effect on January 1, 2023.

14
15 **SECTION 5. Codification.**

16
17 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and
18 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
19 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any
20 Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City
21 Recorder is authorized to correct any cross-references and any typographical errors.

22
23 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
24 9.2 of the City of Lincoln City Charter on the ____ day of _____, 2022 (First Reading). The
25 Ordinance was again read by title only on the ____ day of _____ 2022 (Second Reading)
26 and Council approved Second Reading and adoption of the Ordinance.

27
28 PASSED AND ADOPTED by the City Council of the City of Lincoln City this ____ day of
29 _____, 2022.

30
31 _____
32 SUSAN WAHLKE,
33 MAYOR

34 ATTEST:

35
36 _____
37 JAMIE YOUNG, CITY RECORDER

38
39 APPROVED AS TO FORM:

40
41 _____
42 RICHARD APPICELLO, CITY ATTORNEY

ORDINANCE NO. 2022-##

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5. (BUSINESS TAXES, LICENSES, AND REGULATIONS), CHAPTER 5.04 (OCCUPATION TAXES), SECTION 5.04.150 (PERMIT FOR TEMPORARY DISPLAY OF MERCHANDISE OUTSIDE), PARAGRAPH B. (SEASONAL PERMITS), TO DISCONTINUE THE ISSUANCE OF SUMMER SEASONAL PERMITS.

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, the City's Municipal Code requires that business be conducted within a building, there are some exceptions, including allowances for seasonal permits; and

WHEREAS, Council desires to reduce the allowance for outside sales by eliminating the summer season (14 days before July 5 each year); and

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code Title 5 (*Business Taxes, Licenses, and Regulations*), Chapter 5.04 (*Occupation Taxes*), Section 5.04.150 (*Permit for Temporary Display of Merchandise Outside*), Paragraph B, (*Seasonal Permits*) is amended to read as follows:

1 B. Seasonal Permits.

2
3 1. A permit may be issued to a business entity or tax-exempt organization for the
4 temporary display and sale of merchandise outside to allow the limited display of
5 merchandise which is seasonal in nature and does not conflict with the zoning
6 district regulations where such activity is located.

7
8 2. Seasonal permits shall clearly set forth the conditions under which the letter of
9 permit is granted and shall clearly indicate the time period for which the permit is
10 issued. Such permits can be issued during only the winter season. ~~two seasonal~~
11 ~~periods of the year. A summer seasonal permit can be issued for a period of~~
12 ~~time not to exceed 14 days prior to July 5th of each year. If the summer~~
13 ~~seasonal permit is requested in order to sell fireworks, the applicant shall~~
14 ~~provide proof to the city that they have received a permit from the State Fire~~
15 ~~Marshal for sale of fireworks prior to issuance of a summer seasonal permit by~~
16 ~~the city. If the applicant fails to meet the conditions of the permit issued by the~~
17 ~~State Fire Marshal, the seasonal permit issued by the city will be summarily~~
18 ~~revoked.~~ A winter seasonal permit may be issued for a period of time not to exceed
19 six weeks prior to December 26th of any year. Such seasonal permit is not
20 transferable to any other business entity or tax-exempt organization.

21
22 3. The application fee for such a seasonal permit shall be \$25.00. Tax-exempt
23 organizations shall be exempt from payment of this fee.

24
25 **SECTION 2. Findings Adopted.**

26
27 The findings contained in the Whereas Clauses of this Ordinance, as well as the competent
28 substantial evidence in the whole record of this legislative proceeding are incorporated into this
29 section by reference as if fully set forth herein, and are adopted in support of this legislative
30 action.

31
32 **SECTION 3. Severability.**

33 The sections, subsections, paragraphs and clauses of this Ordinance are severable. The invalidity
34 of one section, subsection, paragraph, or clause shall not affect the validity of the remaining
35 sections, subsections, paragraphs and clauses.

36
37 **SECTION 4. Ordinance Effective Date.**

38
39 Notwithstanding Chapter IX, Section 9.3, this ordinance takes effect on January 1, 2023.
40
41
42
43

1 **SECTION 5. Codification.**

2
3 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and
4 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
5 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any
6 Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City
7 Recorder is authorized to correct any cross-references and any typographical errors.

8
9 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
10 9.2 of the City of Lincoln City Charter on the ___ day of _____ 2022 (First Reading). The
11 Ordinance was again read by title only on the ___ day of _____, 2022 (Second Reading)
12 and Council approved Second Reading and adoption of the Ordinance.

13
14 PASSED AND ADOPTED by the City Council of the City of Lincoln City this ____ day of
15 _____, 2022.

16
17
18 _____
19 SUSAN WAHLKE,
20 MAYOR

21
22
23 ATTEST:

24
25 _____
26 JAMIE YOUNG, CITY RECORDER

27
28
29 APPROVED AS TO FORM:

30
31 _____
32 RICHARD APPICELLO, CITY ATTORNEY
33