

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY JUNE 28, 2021 6:00 PM

6:00 PM - The Lincoln City Council meeting for June 28, 2021 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 summarized and entered into the record.

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

Citizens requesting to give public comment via Zoom must email publiccomment@lincolncity.org no later than 12 pm 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 be placed in a Zoom waiting room upon entering the meeting until the public comment portion of the meeting at which time they will be admitted into the meeting through Zoom.

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 "Agenda, Packets & Video". 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 – June 14, 2021 6:00 PM
2. Initiation of Amendments to Adopted City Comprehensive Plan Map regarding the UGB
3. Initiation of Amendments to restore Administrative Adjustment to Title 17.

E. COUNCIL DELIBERATIONS

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

G. PRESENTATIONS

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Public Hearing: Zoning Ordinance Amendment (ZOA 2021-01) Ordinance 2021-09 Time Extension Due to Covid 19
2. Public Hearing: Alternative Contracting method - ESTER LEE PUMP STATION IMPROVEMENT PROJECT
3. Public Comment: Resolution 2021-29 Setting Water/Sewer Rates
4. Public Hearing: Resolution 2021-30 Supplemental Budget FY2020-2021
5. Public Hearing: Zoning Ordinance Amendment (ZOA 2021-02) Ordinance 2021-10 Chapter 15.16 Variance and Appeal Amendments

J. ORDINANCES

6. ORDINANCE NO. 2021-09 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), ADDING A NEW SECTION LCMC 17.76.155, (COVID TIMETABLE EXTENSION) TO CREATE A PROCESS TO GRANT ALL ELIGIBLE APPROVALS AN 18 MONTH TIMETABLE EXTENSION DUE TO THE ECONOMIC IMPACT OF COVID 19
7. ORDINANCE NO. 2021-10 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, CHAPTER 15.16 (FLOOD DAMAGE PREVENTION); SECTION 15.16.450 TO SPECIFY APPLICABLE PROCEDURES FOR APPEALS AND VARIANCES
8. ORDINANCE 2021-11 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING ORDINANCE 2019-42, CONCERNING THE VACATION OF A PORTION OF NW 44th PLACE, TO CORRECT AN ERROR IN EXHIBIT A

K. RESOLUTIONS

9. RESOLUTION NO. 2021-22 A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING FINDINGS FOR A PUBLIC CONTRACT EXEMPTION AND AUTHORIZING AN ALTERNATIVE CONTRACTING METHOD FOR THE ESTER LEE PUMP STATION IMPROVEMENT PROJECT.
10. RESOLUTION NO. 2021-29 A RESOLUTION SETTING FORTH WATER/SEWER RATES

11. RESOLUTION 2021-30 A RESOLUTION ADOPTING THE SUPPLEMENTAL BUDGET OF THE CITY OF LINCOLN CITY, OREGON, FOR THE FISCAL YEAR 2020-2021, AS APPROVED BY THE CITY COUNCIL, AND MAKING APPROPRIATIONS
12. RESOLUTION NO. 2021-32 A RESOLUTION OF THE CITY OF LINCOLN CITY ESTABLISHING PARKING AND TRAFFIC CONTROL MEASURES FOR A PORTION OF SW BEACH AVENUE
13. RESOLUTION 2021-33 A RESOLUTION OF THE CITY OF LINCOLN CITY AUTHORIZING STAFF TO APPLY FOR A HB 2003 PLANNING ASSISTANCE GRANT FROM THE OREGON STATE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT TO PRODUCE THE LINCOLN CITY HOUSING PRODUCTION STRATEGY.

L. SPECIAL ORDER OF BUSINESS

14. Reestablishing Late Fees and Water Shutoffs
15. Re-appointment to Sustainability Committee - Applicant Victoria McOmie

M. CITY MANAGER/CITY ATTORNEY REPORTS

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

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

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Q. ADJOURNMENT

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

June 14, 2021, 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

Council President Casper called the meeting to order. Council President Casper 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
Judy Casper	Councilor Ward 3	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM
Anne Marie Skinner	Councilor Ward 2	Present	6:00 PM
Vacant	Councilor Ward 1		

Staff Present: Richard Appicello, City Attorney; Chief Palmer, Lincoln City Police Department; Abigail Edwards, Human Resources Director; Alison Robertson, Economic Development and Urban Renewal Director; Ed Dreistadt, ELC Director; Jeanne Sprague, Parks and Recreation Director; Stephanie Reid, City Engineer; Sungman "Simon" Kim, Planning and Community Development Director; Kirsten Brodbeck-Kenney, Library Director; Debbie Bridges, Finance Director; David Twigg, I.T. Support Specialist; Jamie Young, City Recorder.

C. PLEDGE OF ALLEGIANCE

Skipped due to the meeting being held remotely.

D. CONSENT AGENDA

Councilor Casper changed agenda items K6 Resolution 2021-24 and L10 Oath of Office to be after the Consent Agenda.

Mr. Appicello suggested item D2 be pulled from the Consent Agenda and a motion be made to continue consideration of the McKay's lease until the August 23rd meeting and authorize the Council President to sign an extension from June 16th to Aug 23rd under the same terms and conditions.

MOTION:	Consent Agenda
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Rick Mark, Councilor Ward 3
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed

1. Regular Meeting – Minutes of Regular Meeting – May 24, 2021, 6:00 PM
2. Motion to Continue Consideration to Aug 23rd of the McKay's lease and Authorize the Council President to Sign an Extension of the Existing Lease to August 23rd Under the Same Terms and Conditions to Facilitate Negotiations.
3. Motion to Approve Resolution 2021-24 Canvass of Votes
4. Oath of Office

Mayor Wahlke was sworn into office by the City Recorder and gave a speech.

E. COUNCIL DELIBERATIONS

Ward 1 -Council Vacancy Discussion / Direction

MOTION:	Motion to Declare a Vacancy in the City Council Position of Councilor Ward 1 and Announcing the Vacated Position That Will be Filled by Appointment as Provided in Lincoln City Charter Chapter VIII, Section 8.2, Following a Process of Solicitation of Interested Parties
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Riley Hoagland, Councilor Ward 2
AYES:	Casper, Hoagland
NAYS:	Wahlke, Mark, Parsons, Skinner
RESULT:	Failed by Roll Call Vote

MOTION: Motion to Direct Staff to Prepare a Resolution for a Future Meeting to Declare a Vacancy in the City Council Position Ward 1 and Call for a Special Election in November 2021 to Fill the Position of Councilor Ward 1 for the Remainder of the Vacated Term

MOVER: Mitch Parsons, Councilor Ward 1

SECONDER: Anne Marie Skinner, Councilor Ward 2

AYES: Mark, Parsons, Skinner

NAYS: Wahlke, Casper, Hoagland

RESULT: Failed by Roll Call Vote

MOTION: Motion to Direct Staff to Prepare a Resolution for a Future Meeting to Declare a Vacancy in the City Council Position Ward 1 and Call for a Special Election in September 2021 to Fill the Position of Councilor Ward 1 for the Remainder of the Vacated Term

MOVER: Judy Casper, Councilor Ward 3

SECONDER: Anne Marie Skinner, Councilor Ward 2

AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner

RESULT: Passed by Roll Call Vote

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

Miles Schlesinger gave public comment regarding the vacancy in Ward 1.

Chief Palmer summarized two comments from Fran Lonnon regarding Oregon House Bill 3115 and Capital Gains Taxes.

The City Recorder summarized a comment from Laura Butler regarding the Lincoln City Chamber and the City looking at biases before engaging in a further relationship with them.

G. PRESENTATIONS

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Public Hearing: Resolution 2021-26 Adopt FY2021-22 Budget

No Citizens present or by Zoom for comment.

Ms. Bridges said the Budget Committee did approve the budget; there was one change with the ELC (Explore Lincoln City) for the fireworks. Ms. Bridges also stated there were two recommendations to the City Council. She said there was a motion to recommend the City Council have a workshop to address the VRD (vacation rental dwelling) compliance issues and funding the enforcement and recommends a full analysis on the cost of tourism on City infrastructure. She said the second recommendation passed by the Budget Committee was to ask City Council to not transfer the \$500,000 from the General Fund to the Parks fund.

Councilor Mark asked about the hours of personnel. Ms. Bridges said that because there is no additional cost to the City, it would not appear in the budget. Ms. Bridges will have the Court Clerk give .25 hours to the City Attorney.

Mayor Wahlke asked about fireworks money. Ms. Bridges said there was a \$10,000 initial payment out of the current budget, the ELC will have sufficient savings to cover that. Mayor Wahlke then asked if there was \$24,000 in the proposed budget, Ms. Bridges confirmed. Mayor Wahlke asked if there is any money budgeted for the 2022 fireworks, Ms. Bridges said there is not. Mr. Dreistadt explained up until Covid, nobody had ever canceled their firework, so no deposit was required. Mr. Dreistadt said the fireworks company is now requiring half upfront and that is why it is a little bit different than it used to be.

MOTION:	Motion to Close Public Hearing: Resolution 2021-26 Adopt Budget
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed via Voice Vote

2. Public Hearing: Resolution 2021-25 State Shared Revenues

No Citizens present or by Zoom for comment.

MOTION:	Motion to Close Public Hearing: Resolution 2021-25 State Shared Revenues
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed via Voice Vote

J. ORDINANCES

3. ORDINANCE NO. 2021-08 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 15 (BUILDINGS AND CONSTRUCTION), CHAPTER 15.04 (ADOPTION AND ENFORCEMENT OF CONSTRUCTION AND CONSTRUCTION-RELATED CODES) ADDING ADMINISTRATIVE PROVISIONS TO ADDRESS OREGON BUILDING CODE DIVISION RULE CHANGES AND DELETIONS

MOTION:	Motion to Approve First Reading of Ordinance 2021-08 Amending Title 15, Chapter 15.04
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed by Roll Call Vote

MOTION:	Motion to Approve Second Reading of Ordinance 2021-08 Amending Title 15, Chapter 15.04 Second Reading
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed by Roll Call Vote

5. ORDINANCE NO. 2021-07 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS), CHAPTER 5.16 (SPECIAL EVENTS), AMENDING SECTION 5.16.030 (PERMIT APPLICATIONS); ADDING AN OPTIONAL PRE-APPLICATION PROCESS AND FEES

No public comment was received.

Councilor Skinner suggested the change of pre-application conference to pre-permitting conference to not confuse with a Planning pre-application conference. Mr. Appicello said that was discussed and since it was buried in the special event ordinance that people would understand it's not a Planning application.

MOTION: Motion to Approve First Reading Ordinance 2021-07 Amends LCMC Chapters 5.16 First Reading
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Anne Marie Skinner, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

MOTION: Motion to Approve Second Reading and Adopt Ordinance 2021-07 Amends LCMC Chapters 5.16
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Anne Marie Skinner, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

K. RESOLUTIONS

7. RESOLUTION NO. 2021-23 A RESOLUTION OF THE CITY OF LINCOLN CITY ADOPTING REVISIONS TO PARKS AND RECREATION FEE SCHEDULE

No public comment was received.

Councilor Mark asked if there was any feedback or a reaction from the parents regarding the increase. Ms. Sprague said they did not reach out to the parents but they have heard about the low cost of the program. Ms. Sprague said that right now they are at about \$2.80 per contact hour and it will move to about \$3.00 per hour. Ms. Sprague said that we are still below the rate of Newport, which is \$3.86 per hour.

MOTION: Motion to Approve Resolution 2021-23 Revisions to City & Parks Fee Schedule
MOVER: Anne Marie Skinner, Councilor Ward 2
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

8. RESOLUTION NO. 2021-25 A RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES

MOTION: Motion to Approve Resolution 2021-25 State Shared Revenues
MOVER: Anne Marie Skinner, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

9. RESOLUTION NO. 2021-26 ADOPTING THE BUDGET

MOTION: Motion to Approve Resolution 2021-26 Adopt FY2021-22 Budget as Proposed
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Anne Marie Skinner, Councilor Ward 2
AYES: Casper, Hoagland, Mark, Parsons, Skinner
NAYS: Wahlke
RESULT: Passed by Roll Call Vote

10. RESOLUTION 2021-27 A RESOLUTION AUTHORIZING AN INCREASE IN THE CITY'S CAPITALIZATION POLICY FOR FIXED ASSETS IN THE CITY OF LINCOLN CITY, OREGON'S ACCOUNTING RECORDS

MOTION: Motion to Approve Resolution 2021-27: Increase Fixed Asset Capitalization Policy
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Judy Casper, Councilor Ward 3
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

L. SPECIAL ORDER OF BUSINESS

11. Request for Re-Appointment to Driftwood Public Library Board - Susan Zappa

Councilor Casper said that she and Councilor Mark interviewed Ms. Zappa for reappointment and recommend reappointment until June 30, 2025.

MOTION: Motion to Re-Appointment to Library Board - Susan Zappa
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Rick Mark, Councilor Ward 3
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

M. CITY MANAGER/CITY ATTORNEY REPORTS

Mr. Appicello suggested an Executive Session on June 24th, 4:30 PM-5 PM. Hoagland objected. Skinner suggested June 23rd, 4:30-5.

Chief Palmer spoke about the fireworks and the coverage for Roads End.

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

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

No citizens present for comment.

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Parsons thanked Councilor Casper for being President and running the meetings. Councilor Parsons also said that on the 4th of July there will not be much beach as high tide is between 9 PM and 10 PM, which will push people up into the neighborhoods. Councilor Parsons also said for the 3rd of July fireworks, we have a road closed (NE 14th Street) and may want to look at some traffic control.

Councilor Parson said that on NE Port Lane, there is a roundabout that used to have art on it and it came off and he is asking again to have it reinstalled. Councilor Parsons is also getting a lot of requests for the electronic speed signs to be moved more often and to have a process for them to be put in their neighborhoods. Councilor Parsons also mentioned that some of the businesses across from D' River where the two hotels are housing fire survivors and homeless have reported people being dropped off after being released from jail, hoping to get that looked into.

Councilor Casper said that people have asked what is being done to communicate with the public about the fireworks. Councilor Casper said Mr. Dreistadt mentioned press releases are going out, ELC has done social media posts, PSAs, and flyers are going into all the hotels and VRDs, welcome packets have been put together. The new City website is also being used to communicate messages about fireworks as well. Councilor Casper also talked about SB864 that went before the Senate; the bill is to increase the marijuana tax money from 3% to 10% if passed by voter approval. Councilor Casper said that if it passes the Senate it would go to the house.

Councilor the Hoagland thanked Councilor Casper for her time. Councilor Hoagland said there is an electric charger that has a single charger by Ace Hardware South that has not worked in over a year. In addition, there are three chargers and only two painted parking spaces. Mayor Wahlke said she would be interested in an update as well.

Mayor Wahlke thanked Councilor Casper for stepping in and mentioned that she cannot wait for the in-person meetings.

12.

MOTION:	Motion to Transfer \$500,000 Unappropriated to the General Fund
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Anne Marie Skinner, Councilor Ward 2
AYES:	Wahlke, Casper, Mark, Skinner
NAYS:	Hoagland, Parsons
RESULT:	Passed by Roll Call Vote

Councilor Mark said that his concern is that the Council voted to move the money and the Budget Committee recommends moving it back. Councilor Mark asked about the General Fund and if that is where the money came from. Ms. Bridges said the money came from the General Fund reserves. Councilor Casper asked about the location of the \$500,000. Ms. Bridges said it is in an unappropriated fund, which means it was not budgeted to be spent. Councilor Casper clarified that the money cannot be spent; Ms. Bridges said that a foundation could be established because that is not an expense, it is more like an investment, but it cannot be spent on operating expenses. Councilor Skinner said that it was her recollection the whole reasoning behind the recommendation was the money could not be spent. Councilor Skinner said the money was transferred with the specific purpose of setting up a foundation. Councilor Skinner said the recommendation was to undo that so the money could be spent. Councilor Mark said that he is all in favor of giving the Parks Department money it needs for projects but he does not feel like it is the job of the Council to draw money out of the budget without a staff recommendation. Councilor Mark said his concern is that he has yet to hear from staff what project they

would like to have funded. Councilor Hoagland reminded Councilor Mark about the \$750,000 Helping Hands that was brought up by the Council that was not a staff recommendation nor was it a staff recommendation to add another amount of money to repair the building. Councilor Hoagland said this was not just a way to give the Parks and Recreation department a bunch of free money. Councilor Hoagland said this is a way to help generate revenue. Councilor Parsons said originally he said to set up a foundation or whatever means to stabilize funding, it was never strictly a foundation. Mr. Appicello said the suggestion was to have a work session to talk about funding so we will need to schedule that.

The meeting recessed at 7:34 PM and Resumed at 8:13 PM.

Q. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 8:26 PM.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

Initiation of Amendments to Adopted Comp Plan Map

Meeting Date: June 28, 2021 Primary Staff Contact: Alison Robertson
 Department: Economic Development E-Mail: alisonr@lincolncity.org
 Secondary Dept: Planning Department Secondary Contacts: Sungman Kim, Richard Appicello
 Approval: Lila Bradley Estimated Time: 5 minutes

Question:

Should the City Council initiate an amendment to the City's adopted Comprehensive Plan Map to adopt the County's DLCD-accepted urban growth boundary with the City?

Staff Recommendation:

Staff recommends Council initiate the requested amendment to the City's adopted Comprehensive Plan Map (i.e. to co-adopt the County's UGB)

Authority:

LCMC 17.76.060 Type IV (Legislative).

LCMC 17.76.080 Initiation of an Application. (Type IV applications may be initiated by the City).

LCMC 17.77.130 Text Amendment.

- A. Purpose. The text amendment process shall be used for legislative amendments to this title, Title 16, or the comprehensive plan. Such amendments are necessary to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in state law.*
- B. Procedure. Text amendments are subject to the Type IV procedure, as described in LCMC 17.76.060. However, the director is authorized to make typographical, grammatical and cross-referencing corrections as needed without initiating the text amendment process.*
- C. Submittal Requirements. Type IV application submittal requirements are set forth in LCMC 17.76.060.*
- D. Approval Criteria. In order to approve a text amendment, the review authority shall make findings of fact, based on evidence provided, that the following criteria are satisfied:*

1. *The text amendment is consistent with relevant goals and policies of the comprehensive plan and any applicable adopted master plans; and*
 2. *The text amendment is consistent with relevant provisions of the Statewide Planning Goals, the Oregon Administrative Rules, and State statutes.*
- E. Appeal of a Decision. Refer to LCMC 17.76.180.*
- F. Expiration of a Decision. Text amendments are not subject to expiration.*
- G. Extension of a Decision. Text amendments are not subject to extension.*

Background:

This communication presents a request the Council initiate amendment to the City's adopted Comprehensive Plan Map by adopting the County's Urban Growth Boundary (UGB) lines in their adopted Planning and Zoning Map.

The County adopted their DLCD-approved map in 1982. In order to reconcile mapping discrepancies in the City, as a housekeeping practice, the City can amend its map by adopting the County's map (thereby having a co-adoption of the same map). This will provide added clarity and correct mapping errors by housekeeping prior to future City and County shared long-range planning objectives.

Attached please find the Lincoln County Comprehensive Plan and Zoning for Lincoln City map (with signature block and file date) and the associated County Ordinance #183 (September 22, 1982).

Council Options:

The City Council may:

1. Initiate proposed amendment to Lincoln City Comprehensive Plan Map to co-adopt Lincoln County Urban Growth Boundary in the County Comprehensive Planning and Zoning Map;
2. Do not initiate the proposed amendment.

Potential Motion:

Council:

1. Motion to initiate proposed amendment to Lincoln City Comprehensive Plan Map to co-adopt the Lincoln County Planning and Zoning Map to resolve Urban Growth Boundary discrepancy.

Attachments:

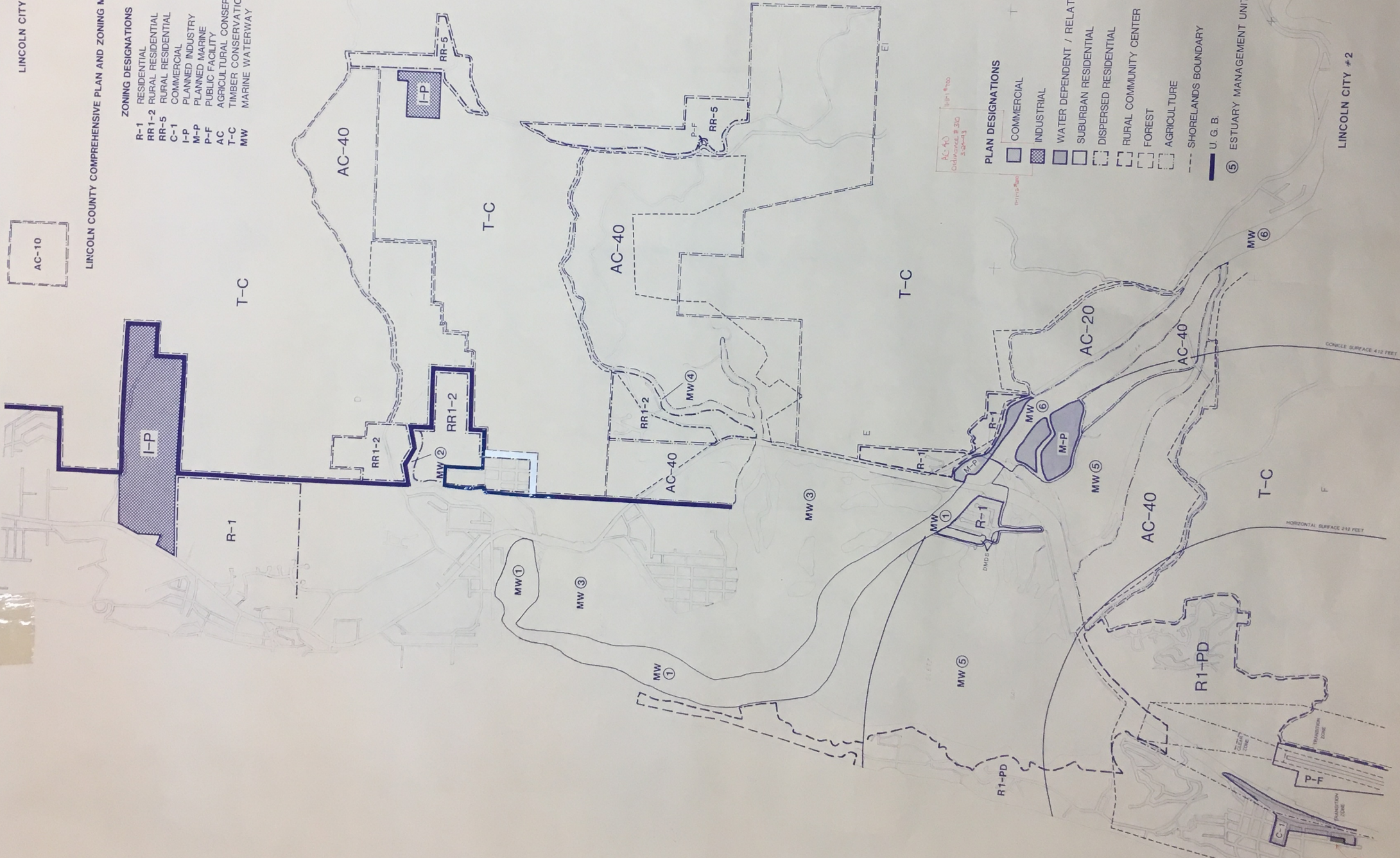
Lincoln County Official Comprehensive Plan and Zoning for Lincoln City Map 2 (JPG)
#183 (PDF)

LINCOLN CITY #2

LINCOLN COUNTY COMPREHENSIVE PLAN AND ZONING MAP

ZONING DESIGNATIONS

- R-1 RESIDENTIAL
- RR1-2 RURAL RESIDENTIAL
- RR-5 RURAL RESIDENTIAL
- C-1 COMMERCIAL
- I-P PLANNED INDUSTRY
- M-P PLANNED MARINE
- P-F PUBLIC FACILITY
- AC AGRICULTURAL CONSERVATION
- T-C TIMBER CONSERVATION
- MW MARINE WATERWAY



FILED
 SEP 22 1982
 ALBERTA M. BRYANT CLERK
 COUNTY CLERK

MAP "D"
 LINCOLN COUNTY ORDINANCE # 183
 ADOPTED THIS 22 DAY September, 1982
 BOARD OF COUNTY COMMISSIONERS
Albert R. St. Louis
 COMMISSIONER
 COMMISSIONER

PLAN DESIGNATIONS

- COMMERCIAL
- INDUSTRIAL
- WATER DEPENDENT / RELATED
- SUBURBAN RESIDENTIAL
- DISPERSED RESIDENTIAL
- RURAL COMMUNITY CENTER
- FOREST
- AGRICULTURE
- SHORELANDS BOUNDARY
- U. G. B.
- ESTUARY MANAGEMENT UNIT

LINCOLN CITY #2

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR THE COUNTY OF LINCOLN

ORDINANCE # 183

AN ORDINANCE AMENDING LINCOLN COUNTY ORDINANCE #175, MAKING MINOR AMENDMENTS TO THE COMPREHENSIVE PLAN, REPEALING CERTAIN EXHIBITS OF ORDINANCE #175, ADOPTING THE EXCEPTIONS PAPER, AND THE PLAN AND ZONING MAPS, AND DECLARING AN EMERGENCY

WHEREAS, the Lincoln County Planning Commission at public hearings discussed plan and zoning amendments to existing Comprehensive Plan and Zoning Ordinance and maps, and

WHEREAS at these hearings, citizen advisory committees were given the opportunity to submit committee reports, containing findings, recommendations, possible alternatives, and

WHEREAS amendments to the comprehensive plan are needed to comply with the statewide land use goals, and

WHEREAS the Lincoln County Planning Commission and the Lincoln County Board of Commissioners established in a legislative manner that documentation for the original plan designations for several areas was adopted in error, and

WHEREAS the Lincoln County Board of Commissioners has found that these amendments are in accordance with the land use plan for the area, and

WHEREAS public need justifies changes in the zoning maps and land use plan and the public need is best met by these changes, and

WHEREAS funds were not made available to Lincoln County from the Department of Land Conservation and Development as provided in ORS 215.508 for individual property-owner notices,

NOW, THEREFORE, the Lincoln County Board of Commissioners ORDAINS as follows:

SECTION I: Land Use Plan: The Lincoln County Land Use Plan adopted as exhibit "AA" as a part of Ordinance #175 is hereby amended as follows:

1. An introduction to the Lincoln County Comprehensive Plan consisting of 16 pages numbered 1 through 16 is hereby adopted and added to exhibit "AA" as the first 16 pages of the Lincoln County Comprehensive Plan, as set forth in exhibit "AA".

2. The urbanization policies of the Lincoln County Comprehensive Plan, pages 6 and 7 of exhibit "AA" of Ordinance #175 are hereby amended in full as set forth as pages 6 and 7 in exhibit "AA".

3. Public Facility Policies, page 53 of exhibit "AA" of Ordinance #175, are hereby amended as set forth on page 53 of the Lincoln County Comprehensive Plan, exhibit "AA".

4. The Plan Designation Section, page 55, #4 -- Rural Community Centers, is hereby amended and said section as set forth in exhibit "AA" is hereby amended to reflect the change.

These plan text amendments as set forth in ## 1 - 4 above are to be added to exhibit "AA" as adopted in ordinance #175, and the planning department is hereby directed to note on the amended pages the ordinance number of these amendments to reflect the amended language.

5. The Lincoln County Comprehensive Plan, as amended, is hereby adopted as set forth in exhibit "AA".

SECTION II: Maps: The maps titled Lincoln County Comprehensive Plan and Zoning Maps filed February 22, 1982 with the Lincoln County Clerk, labelled exhibits "A" through "Z", and as amended as set out on exhibits "M" and "T" of ordinance #175 are hereby repealed. The maps titled Lincoln County Comprehensive Plan and Zoning Maps labelled exhibits A through Z, dated September 22, 1982, are hereby adopted and shall be filed with the Lincoln County Clerk. The ordinance #183 adopting these exhibits is to be numbered on maps by the Lincoln County Planning Department.

SECTION III: Exceptions: The Lincoln County Exception Paper adopted as exhibit "DD" of ordinance #175 is hereby repealed. The Lincoln County Exception Paper labelled exhibit DD as set forth is hereby adopted.

SECTION IV: ALPRS: The Agricultural Lands Priority Rating System (ALPRS) as adopted as exhibit "CC" of Lincoln County Ordinance #175 is hereby adopted.

SECTION V: Findings: The findings of fact as shown by the record of the planning commission and this Board are hereby adopted.

SECTION VI: Rights and Liabilities: Any use of land established as provided by law of the state of Oregon prior to adoption of this ordinance may continue subject to the restrictions of the Lincoln County Zoning Ordinance.

SECTION VII: Severability Clause: If any portion of the Land Use Plan text, maps, or zoning text ordinance is declared invalid or void, all other portions of the text amendments shall remain in effect.

SECTION VIII: Emergency Clause: This ordinance being necessary for the immediate preservation of public peace, health, and safety, an emergency is declared to exist and this ordinance takes effect on its adoption.

DATED this 22nd day of September, 1982.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Albert R. Strand
Albert R. Strand, Chairman

Jean Bradshaw
Jean Bradshaw, Secretary

(Excused)
G. E. Stuart, Commissioner
W.S. Ouderkirk, Commissioner

Council Communication

Initiation of Amendments to restore Administrative Adjustment

Meeting Date: June 28, 2021	Primary Staff Contact: Richard Appicello
Department: City Attorney	E-Mail: RAppicello@lincolncity.org
Secondary Dept: Administration	Secondary Contacts:
Approval: Lila Bradley	Estimated Time: 5 minutes

Question:

Should the City Council initiate the attached amendment to LCMC Title 17, to restore administrative adjustment (*or some version of adjustment other than site design review adjustment*) removed in Ordinance 2020-15?

Staff Recommendation:

Staff recommends Council initiate the requested amendment to LCMC Title 17.

Authority:

LCMC 17.76.060 Type IV (Legislative).

LCMC 17.76.080 Initiation of an Application. (Type IV applications may be initiated by the City).

LCMC 17.77.130 Text Amendment.

- A. Purpose. The text amendment process shall be used for legislative amendments to this title, Title 16, or the comprehensive plan. Such amendments are necessary to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in state law.*
- B. Procedure. Text amendments are subject to the Type IV procedure, as described in LCMC 17.76.060. However, the director is authorized to make typographical, grammatical and cross-referencing corrections as needed without initiating the text amendment process.*
- C. Submittal Requirements. Type IV application submittal requirements are set forth in LCMC 17.76.060.*
- D. Approval Criteria. In order to approve a text amendment, the review authority shall make findings of fact, based on evidence provided, that the following criteria are satisfied:

 - 1. The text amendment is consistent with relevant goals and policies of the comprehensive plan and any applicable adopted master plans; and*
 - 2. The text amendment is consistent with relevant provisions of the Statewide Planning Goals, the Oregon Administrative Rules, and State statutes.**
- E. Appeal of a Decision. Refer to LCMC 17.76.180.*

- F. *Expiration of a Decision. Text amendments are not subject to expiration.*
- G. *Extension of a Decision. Text amendments are not subject to extension.*

Background:

Page 64-65 of Ordinance 2020-15 included the following:

~~H. Administrative Adjustment.~~

- ~~1. The planning and community development director is authorized to make a minor adjustment to the dimensional standards of the required yard for any zone, including the dimensional standards of this section, and including any county zoning standards applied in the city.~~
- ~~2. An administrative adjustment permits a minor encroachment into a required yard, not to exceed six inches or seven and one-half percent of the requirement, whichever is less, in addition to any other relief granted by the applicable code.~~
- ~~3. A property owner may not initiate a request for an administrative adjustment, and the planning and community development director may not grant an administrative adjustment, in advance of the initiation of construction of the building for which it is sought; instead, an administrative adjustment may be sought or approved only after the discovery of an unintentional situation such as a surveyor's error after the start of construction.~~
- ~~4. An administrative adjustment is a discretionary decision that the planning and community development director may make as a director's decision, subject to appeal under LCMC 17.76.040(A). The director shall not grant such relief unless the applicant demonstrates that: (a) the relief is minor in nature; (b) the relief will correct or avoid a noncompliance; (c) all reasonable efforts to rectify the situation have been exhausted and (d) the relief will not be materially detrimental to the purposes of the zone.~~
- ~~5. A property owner may initiate a request for an adjustment by filing an application with the planning department with the required application fee.~~
- ~~6. Denial of an administrative adjustment does not preclude an application for a variance under Chapter 17.68 LCMC.~~
- ~~7. The director may elect to refer a request for an adjustment to the planning commission for a public hearing.~~

The above Administrative Adjustment provisions were added to the Code with Ordinance 2016-08 after an incident where an apartment under construction was mistakenly built 5 inches into the setback. The Planning Director and Manager at the time did not have legal authority to grant relief from the setback. The Council considered a 12 inch adjustment proposal; ultimately Council granted the Planning director authority to adjust the setback by only six inches.

Your current Planning staff believes this provision should be restored in some form. While the current code, "Land Use Applications and Procedures Types" Table 17.76.020-1 lists "Adjustment" as a type of application, the only adjustment in the code is in relation to design standards in LCMC 17.74. That provision reads (emphasis added):

17.77.010 Adjustment.

A. Procedure.

1. Requests for adjustments are only applicable to adjustments from the standards of Chapter 17.74 LCMC and must be concurrent with the development review application submittal. Adjustments may not be requested for any other portion of the code other than the items noted in Chapter 17.74 LCMC as being eligible for adjustment.
2. Adjustment requests are processed concurrently with the development review application using the same procedure type as the development review application.

B. Submittal Requirements. In addition to the submittal requirements of the primary application, requests for adjustments shall include a narrative clearly identifying each applicable standard from which an adjustment is requested, citing the reasons for the request, and addressing compliance with the approval criteria in subsection C below.

C. Approval Criteria. To approve an adjustment, the review authority shall make additional findings of fact, based on evidence provided by the applicant, that all of the following criteria are satisfied:

1. The character types and guiding principles, as contained in Section 17.74.005, and the intent statement(s) under the standard to be adjusted can be better met through the proposed alternative design solution; or
2. Necessary characteristics of the allowed use present practical difficulties in meeting a standard. In such cases, the design must provide alternative features to meet the intent of the standard, along with an explanation of how the alternative features meet the intent of the standard being adjusted.

D. Conditions of Approval. Pursuant to LCMC 17.76.120, the review authority may impose conditions on the approval of the primary application to ensure compliance with the adjustment approval criteria.

E. Appeal of a Decision. Refer to LCMC 17.76.180 for the primary application.

F. Expiration of a Decision. Refer to LCMC 17.76.140 for the primary application.

G. Extension of a Decision. Refer to LCMC 17.76.150 for the primary application.

The Design Standards in Chapter 17.74 do not address a simple setback error such as was the basis for Ordinance 2016-08. Design standards also do not apply to most residential zones.

The new Planning Director would like some version of this tool restored to the Code. Legal and Planning staff propose the following:

- Change the name of 17.77.010 Adjustment” to 17.77.010 Adjustment - Design Standard.
- Adjust Table of applications to show two types of adjustments.
- Add a new 17.77.005 to the Code as follows:

17.77.005 Administrative Adjustment.

- A. Scope and authority. Requests for Administrative Adjustments are applicable only to required yards (setbacks) and building height in all zoning districts. An administrative adjustment permits a minor encroachment into a required yard, not to exceed six inches, in addition to any other relief granted by the applicable code. Adjustments may not be requested for any other portion of the code other than the items noted above as being eligible for adjustment.**
- B. Procedure. An Administrative Adjustment is a Type 2 Decision of the Director. The Director may elect to refer a request for an adjustment to the Planning Commission for a public hearing.**
- C. Submittal Requirements. A property owner may initiate a request for an adjustment by filing an application with the planning department with the required application fee. Requests for administrative adjustments shall include a narrative clearly identifying each applicable standard from which an adjustment is requested, citing the reasons for the request, and addressing compliance with the approval criteria in subsection D below.**
- D. Approval Criteria. To approve an administrative adjustment, the review authority shall make findings of fact, based on evidence provided by the applicant, that all of the following criteria are satisfied:**
- (1) the adjustment is minor in nature, not to exceed six inches;**
 - (2) the adjustment will correct or avoid a noncompliance;**
 - (3) all reasonable efforts to rectify the noncompliance have been exhausted; and**
 - (4) the adjustment will not be materially detrimental to the purposes of the zone.**
- E. Conditions of Approval. Pursuant to LCMC 17.76.120, the review authority may impose conditions on the approval of the primary application to ensure compliance with the adjustment approval criteria.**

F. Appeal of a Decision. Refer to LCMC 17.76.180.

G. Expiration of a Decision. Refer to LCMC 17.76.140.

H. Extension of a Decision. Refer to LCMC 17.76.150.

Council Options:

The City Council may:

1. Initiate proposed amendments;
2. Do not initiate the proposed amendments
3. Continue discussion on the proposed amendments to July 12, 2021.

Potential Motions:

Council:

1. Motion to initiate amendments to Title 17, to restore some form of administrative adjustment to Title 17, outside the context of design review.
2. Motion to continue consideration of the proposed amendments to a date certain _____ [e.g. July 12, 2021]

Public Hearing - Ordinance 2021-09 COVID Time Extension

Meeting Date: June 28, 2021
 Department: City Attorney

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

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2021-01 (Ordinance 2021-09 - Covid Time Extension)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to "legislative" matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
 1. Application forms. Legislative applications must be made on forms provided by the department.
 2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and

- c. The required fee as adopted by City Council resolution, except when the City initiates request.
- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
 1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
 2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 3. For each mailing of notice, the department shall prepare an affidavit of mailing.
- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.
- G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection 17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.
- H. Recommendation Authority.
 1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes. The Planning Commission's recommendation shall be issued as a Final Recommendation, and shall include

findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

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

I. Notice of Decision.

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

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

Background:

This amendment to the zoning code was initiated by the Lincoln City City Council in February 2021. The rationale is that the COVID pandemic has stalled development (especially lending) and an extension process is warranted for those with valid approvals. An 18 month extension is proposed as a ministerial act; it is not an opportunity to revisit the prior approval.

The Ordinance and supporting findings can be found under "Ordinances" on this Agenda.

The Planning Commission reviewed the matter on June 15, 2021 and recommended approval with a change to the fee from \$250. to \$50. Staff concurred with this change.

The draft ordinance provides:

SECTION 1. Chapter 17.76 (*Administrative Provisions*) is hereby amended to add a new Section 17.76.155 (COVID Timetable Extension), as follows:

SECTION 17.76.155 COVID Timetable Extension

Notwithstanding any other provision of this Title, upon application and payment of the \$50.00 application fee, the Director shall grant an eighteen (18) month timetable extension for any eligible existing land use permit or planning action as defined below. To meet the eligibility requirement for an extension, the following must be demonstrated:

- 1. The permit or planning action must have been finally approved by a City decision-maker prior to April 1, 2020; and**
- 2. The permit or planning action must have been current and unexpired as of June 28, 2021; and**
- 3. The permit or planning action must be the type of approval, (Type II or Type III) that is eligible for a timetable extension under Title 17; and**

This extension is a ministerial decision and is in addition to any other time extension previously granted or that may be granted under LCMC 17.76.150 or other applicable provision of the municipal code. The Director is authorized to make the timetable adjustment regardless of the original approval authority.

In short, the ordinance allows for a ministerial process to grant an 18 month one-time extension to address delays caused by the pandemic. The ordinance does not change timetables, it only creates a process to do so. Application is required.

Council Options

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed amendment. [Action is taken under "Ordinances" later on the Agenda].
- Continue the public hearing until the July 12th City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on July 12th.

Council Communication

Public Hearing - Ester Lee Pump Station Project

Meeting Date: June 28, 2021
 Department: Public Works
 Secondary Dept:
 Approval: Lila Bradley

Primary Staff Contact: Stephanie Reid
 E-Mail: SReid@lincolncity.org
 Secondary Contacts: Lila Bradley
 Estimated Time: 10 min

Question:

Following the required public hearing, should the City Council approve Resolution 2021-22 [later on this agenda] authorizing an exemption from the competitive bidding process for the Ester Lee Pump Station Improvement Project?

Staff Recommendation:

Staff recommends the Council conduct the public hearing, and approve the Resolution later on this Agenda.

Authority:

Exemptions are allowed under ORS 279C.335 (2) (highlighted below) providing the agency seeking an exemption follow the required procedures including preparing findings for the exemption.

279C.335 Competitive bidding; exceptions; exemptions. (1) All public improvement contracts shall be based upon competitive bids except:

- (a) A public improvement contract with a qualified nonprofit agency that provides employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.
- (b) A public improvement contract that is exempt under subsection (2) of this section.
- (c) A public improvement contract with a value of less than \$5,000.
- (d) A public improvement contract with a contract price that does not exceed \$100,000 made under procedures for competitive quotes in ORS 279C.412 and 279C.414.
- (e) A contract to repair, maintain, improve or protect property the Department of Veterans' Affairs obtains under ORS 407.135 and 407.145 (1).
- (f) An energy savings performance contract that a contracting agency enters into in accordance with rules of procedure adopted under ORS 279A.065.

(2) Subject to subsection (4)(b) and (c) of this section, the Director of the Oregon Department of Administrative Services, a local contract review board or, for contracts described in ORS 279A.050 (3)(b), the Director of Transportation may exempt a public improvement

contract or a class of public improvement contracts from the competitive bidding requirement of subsection (1) of this section after the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board approves the following findings that the contracting agency submits or, if a state agency is not the contracting agency, that the state agency that is seeking the exemption submits:

(a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.

(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. In approving a finding under this paragraph, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

(A) How many persons are available to bid;

(B) The construction budget and the projected operating costs for the completed public improvement;

(C) Public benefits that may result from granting the exemption;

(D) Whether value engineering techniques may decrease the cost of the public improvement;

(E) The cost and availability of specialized expertise that is necessary for the public improvement;

(F) Any likely increases in public safety;

(G) Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;

(H) Whether granting the exemption will affect the sources of funding for the public improvement;

(I) Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;

(J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;

(K) Whether the public improvement involves new construction or renovates or remodels an existing structure;

(L) Whether the public improvement will be occupied or unoccupied during construction;

(M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and

(N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

(c) As an alternative to the finding described in paragraph (b) of this subsection, if a contracting agency or state agency seeks an exemption that would allow the contracting agency or state agency to use an alternative contracting method that the contracting agency or state agency has not previously used, the contracting agency or state agency may make a finding that identifies the project as a pilot project for which the contracting agency or state agency intends to determine whether using the alternative contracting method actually results in substantial cost savings to the contracting agency, to the state agency or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. The contracting agency or state agency shall include an analysis and conclusion regarding actual cost savings, if any, in the evaluation required under ORS 279C.355.

(3) In making findings to support an exemption for a class of public improvement contracts, the contracting agency or state agency shall clearly identify the class using the class's defining characteristics. The characteristics must include a combination of project descriptions or locations, time periods, contract values, methods of procurement or other factors that distinguish the limited and related class of public improvement contracts from the agency's overall construction program. The agency may not identify a class solely by funding source, such as a particular bond fund, or by the method of procurement, but shall identify the class using characteristics that reasonably relate to the exemption criteria set forth in subsection (2) of this section.

(4) In granting exemptions under subsection (2) of this section, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall:

(a) If appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition.

(b) Require and approve or disapprove written findings by the contracting agency or state agency that support awarding a particular public improvement contract or a class of public improvement contracts, without the competitive bidding requirement of subsection (1) of this section. The findings must show that the exemption of a contract or class of contracts complies with the requirements of subsection (2) of this section.

(c) Require a contracting agency or state agency that procures construction manager/general contractor services to conduct the procurement in accordance with model rules the Attorney General adopts under ORS 279A.065 (3).

(5)(a) A contracting agency or state agency shall hold a public hearing before approving the findings required by subsection (2) of this section and before the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board grants an exemption from the competitive bidding requirement for a public improvement contract or a class of public improvement contracts.

(b) Notification of the public hearing must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the hearing.

(c) The notice must state that the public hearing is for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement. At the time of the notice, copies of the draft findings must be made available to the public. At the option of

the contracting agency or state agency, the notice may describe the process by which the findings are finally adopted and may indicate the opportunity for further public comment.

(d) At the public hearing, the contracting agency or state agency shall offer an opportunity for any interested party to appear and comment.

(e) If a contracting agency or state agency must act promptly because of circumstances beyond the agency's control that do not constitute an emergency, notification of the public hearing may be published simultaneously with the agency's solicitation of contractors for the alternative public contracting method, as long as responses to the solicitation are due at least five days after the hearing and approval of the findings.

(6) The purpose of an exemption is to exempt one or more public improvement contracts from competitive bidding requirements. The representations in and the accuracy of the findings, including any general description of the resulting public improvement contract, are the bases for approving the findings and granting the exemption. The findings may describe anticipated features of the resulting public improvement contract, but the final parameters of the contract are those characteristics or specifics announced in the solicitation document.

(7) A public improvement contract awarded under the competitive bidding requirement of subsection (1) of this section may be amended only in accordance with rules adopted under ORS 279A.065.

(8) A public improvement contract that is excepted from the competitive bidding requirement under subsection (1)(a), (c), (d), (e) or (f) of this section is not subject to the exemption requirements of subsection (2) of this section.

Background:

Project: This project will replace two sanitary sewer pump stations (Ester Lee North Pump Station and Ester Lee South Pump Station) with one new pump station located at the Ester Lee North Pump Station Site, construct 400 feet of sanitary sewer and 400 to 1,200 feet of force main. The pump station will include a building that will house the controls and a standby generator. The pump station site is located within an existing right-of-way but is within the FEMA flood zone. The top of the wet well along with the proposed building is required to be 2 feet above the FEMA flood zone. This means that the structures will have to be approximately 2 to 3 feet above the existing ground.

See Resolution 2021-22 and supporting findings later on this agenda.

Council Options:

After the June 28, 2021 public hearing take action on Resolution later on this Agenda:

- Council may approve Resolution 2021-22 and authorize an exemption to the competitive bidding process for the Ester Lee Pump Station Replacement Project based on the draft findings.

- Council may approve Resolution 2021-22 and authorize an exemption to the competitive bidding process for the Ester Lee Pump Station Replacement Project and modify the draft findings.
- Council may disagree with the findings and direct staff to procure the contract under the competitive bidding process.

Financial Impact

The budget for this project will be in the Fiscal Year 21/22 and Fiscal Year 22/23 totaling \$1.3 million.

Potential Motions:

See Resolution 2021-22.

Attachments:

Exemption Public Notice (PDF)

**NOTICE OF PUBLIC HEARING
CITY OF LINCOLN CITY BEST VALUE CONTRACTING
COMPETITIVE BIDDING EXEMPTION**

Notice is hereby given that the City Council of Lincoln City will hold a public hearing to take oral and written comments on the City's draft findings in support of an exemption from competitive bidding under ORS 279C.335 for the design and construction of the Ester Lee Pump Station Replacement Project.

The City is requesting the exemption from competitive bidding to allow the use of a procurement method that presents an alternative to the traditional low-bid method of contracting. The method known as Best Value or Source Selection awards projects to the contractor offering the best combination of price, technical qualifications, technical approach. The City's evaluation and scoring of competing contractor's technical qualifications and technical approach components, combined with comparison of the contractor's price component will be the basis of award.

The project is located on SW Anchor Ct at the west end of the street. The project will construct a sanitary sewer pump station, 400 linear foot 8-inch sewer and 400 to 1,200 feet of force main.

The draft findings may also be viewed on Lincoln City's website at www.lincolncity.org. Copies of draft findings may be obtained at a cost of 30 cents per page.

Public Hearing Information

Date: June 28, 2021

Time: City Council Meeting, 6:00 PM*

Place: City Council Chambers, 801 SW Highway 101, 3rd Floor
Lincoln City, Oregon

**(This is a regularly scheduled City Council meeting, and the public hearing will not be the first item on the agenda.)* Comments must be submitted in writing by noon on June 23, 2021 to be included in the City Council packet. Written comments received after noon June 23, 2021 will be provided to City Council at the hearing. Any person may provide oral or written comments to the City Council at the June 28, 2021 hearing. Written comments should be addressed to:

Comments on the Draft Findings should be addressed to:

Stephanie Reid, City Engineer
Public Works Department
P.O. Box 50
Lincoln City OR, 97367

Date of Publication:	June 14, 2021	Daily Journal of Commerce
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Council Communication

Public Comment: Resolution 2021-29 Setting Water /Sewer Rates

Meeting Date: June 28, 2021

Department: Finance

Secondary Dept:

Approval: Lila Bradley

Primary Staff Contact: Debbie Bridges

E-Mail: dbridges@lincolncity.org

Secondary Contacts:

Estimated Time: 10 Minutes

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.

For further information, see staff memo under Resolution 2021-29.

Council Communication

Public Hearing: Resolution 2021-30 Supplemental Budget FY2020-2021

Meeting Date: June 28, 2021

Department: Finance

Secondary Dept:

Approval: Lila Bradley

Primary Staff Contact: Debbie Bridges

E-Mail: dbridges@lincolncity.org

Secondary Contacts:

Estimated Time:

ORS 294.471 provides that the governing body of any municipal corporation may make a supplemental budget where an occurrence or condition which had not been anticipated at the time of the preparation of the budget for the current year requires a change in financial planning.

For further information see staff memo under Resolution 2021-30.

Public Hearing - Ordinance 2021-10 Chapter 15.16 Variance and Appeal

Meeting Date: June 28, 2021
Department: City Attorney

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

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2021-02 (Ordinance 2021-10 - Chapter 15.16 Variance and Appeal amendments)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to "legislative" matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
 1. Application forms. Legislative applications must be made on forms provided by the department.
 2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in

- sufficient detail for review and decision (as applicable); and
- c. The required fee as adopted by City Council resolution, except when the City initiates request.
- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
 2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 3. For each mailing of notice, the department shall prepare an affidavit of mailing.
- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.
- G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection 17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.
- H. Recommendation Authority.
1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes. The Planning Commission's

recommendation shall be issued as a Final Recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.
 - I. Notice of Decision.
 1. Not more than seven days after the date the City Council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the Planning Commission or the City Council.
 2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
 3. The City Council's decision is final for purposes of appeal on the date the notice is mailed.
 - J. Appeal. The final decision of the City Council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

Background:

The Ordinance and supporting findings can be found under "Ordinances" on this Agenda.

This amendment was initiated by the Planning Director. Back in 2020, a Flood Plain appeal was contemplated and an unrelated court case revealed some confusion in Chapter 15.16 procedures. Finally, newly adopted Ordinance 2020-15 was not adequately cross-referenced as regards applicable procedures.

The proposed amendment clarifies that an appeal and variance in the Flood plain context are very different matters. An appeal of a determination of the Flood Plain Administrator needs to address how the Administrator erred with reference to the applicable law and the evidence in the record. A variance is a different matter - with the existing code spelling out considerations for granting a variance. [Staff has not changed the variance "criterion" as this amendment concerns only procedures.]

The Planning Commission review the proposed ordinance at a noticed public hearing on June 15, 2021. The Planning Commission recommended approval (with one dissent-

based on technical qualifications needed to review variances)

The Ordinance and supporting findings can be found under "Ordinances" on this Agenda.

The substance of the proposed ordinance is as follows:

SECTION 1. Lincoln City Municipal Code Title 15 (*Buildings and Construction*), Chapter 15.16 (*Flood Damage Prevention*), Section 15.16.450 (*Appeal Board*) is amended to read as follows:

15.16.450 Appeal board.

- A. The city planning commission, as established by the city, shall hear and decide appeals and requests for variances from the requirements of this chapter. **An appeal of a decision by the local floodplain administrator shall be processed as provided in paragraph B below. An application for a variance shall be processed to the Planning Commission consistent with paragraphs D, E and G below and Type III procedures set forth in LCMC 17.76.050.**
- B. The city planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local floodplain administrator in the enforcement or administration of this chapter. **After consideration of the assignments of error, the city planning commission may approve or deny the appeal, and if approved, the Commission may attach such conditions as it deems necessary to further the purposes of this chapter. Notwithstanding any other provision of this Code, an appeal under this section shall be a review "on the record" (i.e. not *de novo*) and shall be processed in strict conformance with the jurisdictional appeal requirements of LCMC 17.76.180.**
- C. Those aggrieved by the decision of the city planning commission, or any taxpayer, may appeal such decision as provided by law.

D. In passing upon such **variance** applications, the city planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

- E. Upon consideration of the factors of subsection (D) of this section and the purposes of this chapter, the city planning commission may deny or approve ~~applications for appeals or grant~~ variances, attaching such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. In addition to conditions attached to approval of a specific application, conditions in LCMC 15.16.455 apply.
- F. The local floodplain administrator shall maintain the records of all appeal actions. ~~and report any variances to the Federal Insurance Administration upon request.~~

G. The local floodplain administrator shall maintain the records of all variance applications and report any variances approved by the Commission to the Federal Insurance Administration.

Council Options

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed amendment. [Action is taken under "Ordinances" later on the Agenda].
- Continue the public hearing until the July 12th City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on July 12th.

Council Communication

Ordinance 2021-09 COVID Time Extension

Meeting Date:	June 28, 2021	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	Sungman Kim
Approval:	Lila Bradley	Estimated Time:	10 mins.

Question: Following the public hearing, should the City Council conduct and approve First Reading and Second Reading of Ordinance 2021-09 amending Chapter 17.76 (Administrative Provisions) by adding a new section 17.76.155 (Covid Timetable Extension) to grant all eligible approvals an 18 month timetable extension?

ORDINANCE NO. 2021-09

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), ADDING A NEW SECTION LCMC 17.76.155, (COVID TIMETABLE EXTENSION) TO CREATE A PROCESS TO GRANT ALL ELIGIBLE APPROVALS AN 18 MONTH TIMETABLE EXTENSION DUE TO THE ECONOMIC IMPACT OF COVID 19.

Staff Recommendation:

Staff recommends Council conduct and approve First Reading of Ordinance 2021-09 and, *if unanimous*, Conduct and approve Second Reading and adopt Ordinance 2021-09.

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:

Chapter 17.76 (Administration Provisions) will be amended by adding a new section 17.76.155 to create a process to grant all eligible approvals an 18 month time extension due to the economic

impact of Covid 19. The ordinance creates a ministerial process only. For a time extension, application is required.

Following the public hearing on June 15, 2021 the Planning Commission recommended approval of the subject ordinance with the caveat that the application fee for the COVID extension be reduced to \$50.00 instead of the \$250.00 fee proposed by staff.

After review, staff concurs with the Planning Commission. The Ordinance in the packet has been revised to reflect the reduction to \$50.00.

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 July 12, 2021.
3. Continue First Reading to July 12, 2021.
4. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2021-09

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), ADDING A NEW SECTION LCMC 17.76.155, (COVID TIMETABLE EXTENSION) TO CREATE A PROCESS TO GRANT ALL ELIGIBLE APPROVALS AN 18 MONTH TIMETABLE EXTENSION DUE TO THE ECONOMIC IMPACT OF COVID 19.

Council:

1. Motion to approve First Reading of Ordinance 2021-09

If unanimous: conduct Second Reading

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

Council:

1. Motion to approve Second Reading and adopt Ordinance 2021-09.

Attachments:

Ordinance 2021-09 6-21-21 (DOCX)

JUne 15 Ordinance 2021-09 COVID Findings ra (DOCX)

ORDINANCE NO. 2021-09

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), ADDING A NEW SECTION LCMC 17.76.155, (COVID TIMETABLE EXTENSION) TO CREATE A PROCESS TO GRANT ALL ELIGIBLE APPROVALS AN 18 MONTH TIMETABLE EXTENSION DUE TO THE ECONOMIC IMPACT OF COVID 19.

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

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

2.1 Powers of the City

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

2.2 Construction of Charter

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

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

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

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

WHEREAS, on April 30, 2021, the City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s)

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

5 **WHEREAS**, the Planning Commission, on June 15, 2021, held a public hearing and considered
6 the amendments contained within this ordinance. On June 15, 2021, the Planning Commission
7 voted to transmit the amendments to the City Council with a recommendation that the
8 ordinance be adopted; and
9

10 **WHEREAS**, the City Council held a public hearing on June 28, 2021. On June 28, 2021 Council
11 closed the record and deliberated on the proposed amendments. All persons were given an
12 opportunity to provide written and/or oral testimony on the proposed ordinance. After
13 deliberation, Council provided direction that an ordinance be returned for required readings.
14

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

16
17 **SECTION 1.** Chapter 17.76 (*Administrative Provisions*) is hereby amended to add a new Section
18 17.76.155 (COVID Timetable Extension), as follows:

19 **SECTION 17.76.155 COVID Timetable Extension**

20
21 **Notwithstanding any other provision of this Title, upon application and payment**
22 **of the \$50.00 application fee, the Director shall grant an eighteen (18) month**
23 **timetable extension for any eligible existing land use permit or planning action as**
24 **defined below. To meet the eligibility requirement for an extension, the following**
25 **must be demonstrated:**

- 26
- 27 1. **The permit or planning action must have been finally approved by a City**
- 28 **decision-maker prior to April 1, 2020; and**
- 29 2. **The permit or planning action must have been current and unexpired as**
- 30 **of June 28, 2021; and**
- 31 3. **The permit or planning action must be the type of approval, (Type II or**
- 32 **Type III) that is eligible for a timetable extension under Title 17; and**
- 33

34 **This extension is a ministerial decision and is in addition to any other time**
35 **extension previously granted or that may be granted under LCMC 17.76.150 or**
36 **other applicable provision of the municipal code. The Director is authorized to**
37 **make the timetable adjustment regardless of the original approval authority.**
38

1 **SECTION 2. Findings Adopted.**

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

7
8 **SECTION 3. Severability.**

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

13
14 **SECTION 4. Ordinance Effective Date.**

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

18
19 **SECTION 5. Codification.**

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

29
30 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
31 9.2 of the City of Lincoln City Charter on the 28th day of June 2021 (First Reading) and on the
32 28th day of June, 2021 (Second Reading).

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PASSED AND ADOPTED by the City Council of the City of Lincoln City this 28th day of June, 2021.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

**EXHIBIT A - FINDINGS
ORDINANCE NO. 2021-09**

The Title of Proposed Ordinance 2021-09 (ZOA-2021-01) is as follows:

ORDINANCE NO. 2021-09

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), ADDING A NEW SECTION LCMC 17.76.155, (COVID TIMETABLE EXTENSION) TO GRANT ALL ELIGIBLE APPROVALS AN 18 MONTH TIMETABLE EXTENSION DUE TO THE ECONOMIC IMPACT OF COVID 19.

The substance of the proposed amendment is as follows:

SECTION 1. Chapter 17.76 (*Administrative Provisions*) is hereby amended to add a new Section 17.76.155 (COVID Timetable Extension), as follows:

SECTION 17.76.155 COVID Timetable Extension

Notwithstanding any other provision of this Title, upon application and payment of the \$250.00 application fee, the Director shall grant an eighteen (18) month timetable extension for any eligible existing land use permit or planning action as defined below. To meet the eligibility requirement for an extension, the following must be demonstrated:

1. **The permit or planning action must have been finally approved by a City decision-maker prior to April 1, 2020; and**
2. **The permit or planning action must have been current and unexpired as of June 28, 2021; and**
3. **The permit or planning action must be the type of approval, (Type II or Type III) that is eligible for a timetable extension under Title 17; and**

This extension is a ministerial decision and is in addition to any other time extension previously granted or that may be granted under LCMC 17.76.150 or other applicable provision of the municipal code. The Director is authorized to make the timetable adjustment regardless of the original approval authority.

The Staff Reports for the June 15, 2021 Planning Commission meeting and the June 28, 2021 City Council meeting are specifically incorporated herein as findings in support of the proposed amendments.

The proposed amendment concerns only the creation of a ministerial process to allow for a one-time 18 month time extension for existing valid development approvals. The extension is deemed necessary due to the COVID 19 pandemic. While such an extension is likely possible without compliance with land use process (using the City's emergency operations authority in Chapter 2.72 of the Municipal Code), the City is processing this amendment in accordance with established Oregon land use law and processes.

In general, the Oregon state-wide planning goals and City comprehensive plan policies are not applicable to, or are not adversely impacted by a process to approve an 18 month timetable extension of existing valid development approvals.

Analysis of Goals:

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

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

All documents relating to this proposal were made available for public review and purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The city advertised public hearings on the proposed zoning ordinance amendments in the local newspaper in accordance with notice requirements. Property owners with existing valid projects were notified of the proposed amendment under city code. The planning commission and the city council each held or will hold a public hearing at which citizens were invited to participate. Therefore, the amendments are 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 fact that the COVID 19 pandemic has caused an economic slow down from which the State of Oregon is now recovering is well established. While not fully recovered at present, the anticipated shut-down to full re-opening time period is about 18 months.

The Council is interested in “tolling” the timetables of development approvals through the establishment of the extension process set forth in the amendment.

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

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

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

(4) Goal 4: Forest Lands

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

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

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

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

The amendment affects only areas already committed to urban development, and further only to existing valid development approvals which have been reviewed against applicable protective regulations. The amendment does not by itself authorize development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendment is consistent with Goal 5.

Goal 6: Air, Water and Land Resources Quality

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

The amendment will not adversely affect the quality of the air or water. It does not by itself permit development that might affect water or air quality. The existing ordinance and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. The proposed amendment does not alter protections afforded resource and open space lands. Therefore, the amendment is consistent with Goal 6.

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

"To protect people and property from natural hazards."

The amendment does not change any substantive standards regarding development within any natural hazard area. The existing ordinance and plan requirement relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. The proposed amendment permits a one-time 18 month timetable extension for existing development. Therefore, the amendment is consistent with Goal 7.

(8) Goal 8: Recreational Needs

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

The proposed ordinance amendment does not adversely affect the provision of or ability to site recreational areas in the City. The amendment is consistent with Goal 8, or Goal 8 does not apply.

Goal 9: Economic Development

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

The amendment creates a process for an 18 month time extension to address the reduction in activity during the COVID 19 pandemic. It is intended to facilitate economic development, as the existing investment in the valid development order should not be wasted by circumstances beyond the control of the applicant. The proposed amendment is consistent with Goal 9.

(10) Goal 10: Housing

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

The amendment will facilitate the continued validity of existing development orders. While it does not relate directly to the housing needs of the people of Lincoln City, it will facilitate keeping existing approvals valid. The amendment will not adversely impact the City's ability to provide needed housing to its citizens. The City's most recent Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary. Goal 10 therefore, is satisfied.

(11) Goal 11: Public Facilities and Services

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

The amendment does not relate directly to public facilities and services. To the extent the amendment may result in the extension of existing development orders, there would be essentially no impact on the provision of services, except for the tolling effected by the delay in the use of public services and facilities. Goal 11 is satisfied or not applicable.

(12) Goal 12: Transportation

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

The amendment does not relate directly to transportation. To the extent the amendment may result in a time extension for existing development approvals that require public services and facilities, the amendment does not change the conditions and requirements of the development approvals that approved the uses. Goal 12 is satisfied or not applicable.

(13) Goal 13: Energy Conservation

"To conserve energy."

The amendment does not relate directly to energy conservation. It is energy efficient to permit the extension of existing development approvals. Goal 13 is satisfied or not applicable.

(14) Goal 14: Urbanization

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

The amendment does not relate directly to urbanization. Allowing for an 18 month time extension for existing development approvals is consistent with the efficient use of land. Goal 14 is satisfied or not applicable.

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

The amendment does not by itself allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). To the extent the amendment may result in extending the timetable of a development approval located in areas adjacent to the bay, these areas are already processed / reviewed and protective measures imposed. The amendments, therefore, are consistent with Goal 16 or Goal 16 is 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 high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The amendment only concerns creating a process to extend existing valid timetables of development by 18 months. No additional lands over what has been previously reviewed and approved will be impacted. The amendments, therefore, are consistent with Goal 17, or Goal 17 does not apply.

(18) Goal 18: Beaches & Dunes

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

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The amendment does not authorize any development in or near beach and dune areas. The amendment concerns only time extensions to existing development. The amendments are consistent with Goal 18, or Goal 18 does not apply.

(19) Goal 19: Ocean Resources

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

The amendment does not affect any ocean resources and, therefore, are consistent with Goal 19 or Goal 19 is not applicable.

B. Comprehensive Plan Goals

(1) Planning Goal

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

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

proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions and, therefore, in conformance with this goal.

(2) Citizen Involvement Goal

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

The City has developed a citizen involvement program. In addition, the public hearing process, with notice and review of the amendments by the Planning Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establishes conformance with this goal.

(3) Public Services and Utilities Goal

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

The amendment does not relate directly to public facilities and services, except that the timing of all development needs to be tied to the timing of existing public facilities and services. Delay in the impact of development generally does not adversely impact public facilities (unless there is excessive overbuilding of infrastructure for development that has not come to fruition). To the extent the amendment may result in impacts that require public services and facilities, these uses have already been taken into account. This goal is satisfied.

(4) Urbanization Goal

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

The amendments do not relate directly to urbanization. This goal is not applicable.

(5) Natural Hazard Goal

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

The amendment does not authorize development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. No substantive development order conditions are being modified by the allowance for a time extension. The amendment is consistent with this goal.

(6) Housing Goal

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

The amendment might facilitate additional housing in the city of Lincoln City by keeping existing development approvals valid for an additional 18 months. The City's Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary. This goal, therefore, is satisfied.

(7) Economy Goal

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

The amendment allows for time extensions of 18 months; valid development orders facilitate construction. The proposed amendment is consistent with this goal.

(8) Aesthetic Goal

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

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

(9) Transportation Goal

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

The amendment does not relate directly to transportation; existing development approval conditions remain unchanged. This goal is satisfied or not applicable.

(10) Energy Goal

"To conserve energy."

The amendment does not relate directly to energy conservation. This goal is not applicable or is met through the efficient utilization of existing resources.

(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."

The amendment does not authorize development in sensitive natural resource areas. Existing development approvals would have been reviewed against the City's existing protective regulations and carry conditions implementing protections. A time extension will not alter such conditions. This amendment is consistent with this goal, or the goal is inapplicable.

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

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

The amendment does by itself not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay), in the city's coastal shorelands, beach and dune areas, or in ocean resource areas. Existing development approvals would have been reviewed against the City's existing protective regulations and carry conditions implementing protections. A time extension will not alter such conditions. This amendment is consistent with this goal or the goal is inapplicable.

Council Communication

Ordinance 2021-10 Amends Chapter 15.16

Meeting Date:	June 28, 2021	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: Following the public hearing, should the City Council conduct and approve First Reading and Second Reading of Ordinance 2021-10 amending the Flood Damage Prevention Ordinance to specify appeal and variance procedures?

ORDINANCE NO. 2021-10

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, CHAPTER 15.16 (FLOOD DAMAGE PREVENTION), SECTION 15.16.450 TO SPECIFY APPLICABLE PROCEDURES FOR APPEALS AND VARIANCES

Staff Recommendation:

Staff recommends Council conduct and approve First Reading of Ordinance 2021-10 and, *if unanimous*, Conduct and approve Second Reading and adopt Ordinance 2021-10.

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:

Adoption of the Procedures Ordinance 2020-15 necessitates adding appropriate cross references to other Chapters within Title 17 as well as Chapters outside the Title. Chapter 15.16 requires clarification as to procedures for appeals and variances.

See also related item: Resolution 2021-08 establishing fees for Flood Plain Administrator Appeals and Flood Plan Variances.

Following the public hearing on June 15, 2021, the Planning Commission recommended approval of the proposed ordinance.

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 July 12, 2021.
3. Continue First Reading to July 12, 2021.
4. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2021-10

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, CHAPTER 15.16 (FLOOD DAMAGE PREVENTION); SECTION 15.16.450 TO SPECIFY APPLICABLE PROCEDURES FOR APPEALS AND VARIANCES

Council:

1. Motion to approve First Reading of Ordinance 2021-10

If unanimous: conduct Second Reading

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

Council:

1. Motion to approve Second Reading and adopt Ordinance 2021-10.

Attachments:

Ordinance 2021-10 6-21-21 (DOCX)

June 15 Ordinance 2021-10 VARIANCE 15.16 Findings ra (DOCX)

ORDINANCE NO. 2021-10

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, CHAPTER 15.16 (FLOOD DAMAGE PREVENTION), SECTION 15.16.450 TO SPECIFY APPLICABLE PROCEDURES FOR APPEALS AND VARIANCES

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

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

2.1 Powers of the City

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

2.2 Construction of Charter

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

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

WHEREAS, flood prevention regulations in Chapter 15.16, provide for both appeals and variances without adequate cross references to applicable appeal procedures; the amendments in this ordinance are intended to clarify applicable procedures and criteria for appeals and variances under Chapter 15.16;

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

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

1 **WHEREAS**, on April 30, 2021, the City duly notified the Oregon Department of Land
2 Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed
3 amendment(s)

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

8
9 **WHEREAS**, the Planning Commission, on June 15, 2021, held a public hearing and considered
10 the amendments contained within this ordinance. On June 15, 2021, the Planning Commission
11 voted to transmit the amendments to the City Council with a recommendation that the
12 ordinance be adopted; and

13
14 **WHEREAS**, the City Council held a public hearing on June 28, 2021. On June 28, 2021 Council
15 closed the record and deliberated on the proposed amendments. All persons were given an
16 opportunity to provide written and/or oral testimony on the proposed ordinance. After
17 deliberation, Council provided direction that an ordinance be returned for required readings.

18
19 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

20
21
22 **SECTION 1.** Lincoln City Municipal Code Title 15 (*Buildings and Construction*), Chapter 15.16
23 (*Flood Damage Prevention*), Section 15.16.450 (*Appeal Board*) is amended to read as follows:

24
25 **15.16.450 Appeal board.**

26 A. The city planning commission, as established by the city, shall hear and decide appeals
27 and requests for variances from the requirements of this chapter. **An appeal of a**
28 **decision by the local floodplain administrator shall be processed as provided in**
29 **paragraph B below. An application for a variance shall be processed to the**
30 **Planning Commission consistent with paragraphs D, E and G below and Type III**
31 **procedures set forth in LCMC 17.76.050.**

32
33 B. The city planning commission shall hear and decide appeals when it is alleged there is
34 an error in any requirement, decision or determination made by the local floodplain
35 administrator in the enforcement or administration of this chapter. **After consideration**
36 **of the assignments of error, the city planning commission may approve or deny the**
37 **appeal, and if approved, the Commission may attach such conditions as it deems**
38 **necessary to further the purposes of this chapter. Notwithstanding any other**
39 **provision of this Code, an appeal under this section shall be a review “on the**
40 **record” (i.e. not de novo) and shall be processed in strict conformance with the**
41 **jurisdictional appeal requirements of LCMC 17.76.180.**
42

1 C. Those aggrieved by the decision of the city planning commission, or any taxpayer,
2 may appeal such decision as provided by law.
3

4 D. In passing upon such **variance** applications, the city planning commission shall
5 consider all technical evaluations, all relevant factors, standards specified in other
6 sections of this chapter, and:
7

- 8 1. The danger that materials may be swept onto other lands to the injury of others;
- 9 2. The danger to life and property due to flooding or erosion damage;
- 10 3. The susceptibility of the proposed facility and its contents to flood damage and
- 11 the effect of such damage on the individual owner;
- 12 4. The importance of the services provided by the proposed facility to the
- 13 community;
- 14 5. The necessity to the facility of a waterfront location, where applicable;
- 15 6. The availability of alternative locations for the proposed use which are not
- 16 subject to flooding or erosion damage;
- 17 7. The compatibility of the proposed use with existing and anticipated
- 18 development;
- 19 8. The relationship of the proposed use to the comprehensive plan and floodplain
- 20 management program for that area;
- 21 9. The safety of access to the property in times of flood for ordinary and
- 22 emergency vehicles;
- 23 10. The expected heights, velocity, duration, rate of rise and sediment transport of
- 24 the floodwaters and the effects of wave action, if applicable, expected at the site;
- 25 and
- 26 11. The costs of providing governmental services during and after flood conditions,
- 27 including maintenance and repair of public utilities and facilities such as sewer, gas,
- 28 electrical and water systems and streets and bridges.

29
30 E. Upon consideration of the factors of subsection (D) of this section and the purposes of
31 this chapter, the city planning commission may deny or approve ~~applications for~~
32 ~~appeals or grant~~ variances, attaching such conditions to the granting of variances as it
33 deems necessary to further the purposes of this chapter. In addition to conditions
34 attached to approval of a specific application, conditions in LCMC 15.16.455 apply.
35

36 F. The local floodplain administrator shall maintain the records of all appeal actions. ~~and~~
37 ~~report any variances to the Federal Insurance Administration upon request.~~
38

39 **G. The local floodplain administrator shall maintain the records of all variance**
40 **applications and report any variances approved by the Commission to the Federal**
41 **Insurance Administration.**
42

43 **SECTION 2. Findings Adopted.**

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

6
7 **SECTION 3. Severability.**

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

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

13
14 Pursuant to Chapter IX, Section 9.3, this ordinance takes on the thirtieth (30th) day after its
15 adoption

16
17 **SECTION 5. Codification.**

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

24
25 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
26 9.2 of the City of Lincoln City Charter on the 28th day of June, 2021 (First Reading). The
27 Ordinance was again read by title only and on the 28th day of June, 2021, Council approved
28 Second Reading and the adoption of the Ordinance.

29
30 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 28th day of June, 2021.

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40

SUSAN WAHLKE, MAYOR

ATTEST:

APPROVED AS TO FORM:

JAMIE YOUNG, CITY RECORDER

RICHARD APPICELLO, CITY ATTORNEY

**EXHIBIT A - FINDINGS
ORDINANCE NO. 2021-10**

The Title of Proposed Ordinance 2021-10 (ZOA-2021-02) is as follows:

ORDINANCE NO. 2021-10

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, CHAPTER 15.16 (FLOOD DAMAGE PREVENTION), SECTION 15.16.450 TO SPECIFY APPLICABLE PROCEDURES FOR APPEALS AND VARIANCES

The substance of the proposed amendment is as follows:

SECTION 1. Lincoln City Municipal Code Title 15 (*Buildings and Construction*), Chapter 15.16 (*Flood Damage Prevention*), Section 15.16.450 (*Appeal Board*) is amended to read as follows:

SECTION 1. Lincoln City Municipal Code Title 15 (*Buildings and Construction*), Chapter 15.16 (*Flood Damage Prevention*), Section 15.16.450 (*Appeal Board*) is amended to read as follows:

15.16.450 Appeal board.

A. The city planning commission, as established by the city, shall hear and decide appeals and requests for variances from the requirements of this chapter. **An appeal of a decision by the local floodplain administrator shall be processed as provided in paragraph B below. An application for a variance shall be processed to the Planning Commission consistent with paragraphs D, E and G below and Type III procedures set forth in LCMC 17.76.050.**

B. The city planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local floodplain administrator in the enforcement or administration of this chapter. **After consideration of the assignments of error, the city planning commission may approve or deny the appeal, and if approved, the Commission may attach such conditions as it deems necessary to further the purposes of this chapter. Notwithstanding any other provision of this Code, an appeal under this section shall be a review "on the record" (i.e. not *de novo*) and shall be processed in strict conformance with the jurisdictional appeal requirements of LCMC 17.76.180.**

C. Those aggrieved by the decision of the city planning commission, or any taxpayer, may appeal such decision as provided by law.

D. In passing upon such **variance** applications, the city planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

E. Upon consideration of the factors of subsection (D) of this section and the purposes of this chapter, the city planning commission may deny or approve ~~applications for appeals or grant~~ variances, attaching such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. In addition to conditions attached to approval of a specific application, conditions in LCMC 15.16.455 apply.

F. The local floodplain administrator shall maintain the records of all appeal actions. ~~and report any variances to the Federal Insurance Administration upon request.~~

G. The local floodplain administrator shall maintain the records of all variance applications and report any variances approved by the Commission to the Federal Insurance Administration.

The Staff Reports for the June 15, 2021 Planning Commission meeting and the June 28, 2021 City Council meeting are specifically incorporated herein as findings in support of the proposed amendments.

The proposed amendment concerns only the separation of "appeal" and "variance" processes and standards identified in the Flood Damage Prevention Chapter of the Municipal Code. A recent contemplated appeal pointed out the lack of clarity in the Chapter and lack of consistency with Title 17 procedures recently updated in Ordinance 2020-15. Both appeals and variances are now distinct, and reference appropriate sections for procedures in Title 17. Appeal is proposed to be limited to be an on the record review of the Flood Plain Administrator's decision. A variance is identified as the appropriate application to seek relief from standards, as opposed to appeal.

In general, the Oregon state-wide planning goals and City comprehensive plan policies are not applicable to, or are not adversely impacted by the procedural and substantive clarifications addressed in this ordinance.

Analysis of Goals:

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

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

All documents relating to this proposal were made available for public review and purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The city advertised public hearings on the proposed zoning ordinance amendments in the local newspaper in accordance with notice requirements. The planning commission and the city council each held or will hold a public hearing at which citizens were invited to participate. Therefore, the amendments are 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 fact that the appeal and variance processes are combined in one section of the Code is well established. An appeal asserts the law was not correctly applied to facts in the record, while a variance seeks relief based upon other considerations, not necessarily limited to the strict application of the facts to the law. The Council is interested in

separating the processing and cross referencing appropriate procedures and time frames in Title 17.

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

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

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

(4) Goal 4: Forest Lands

"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."

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

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

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

The amendment affects only areas already committed to urban development, and further to those within the flood plain designations. The criteria for variances are not lessened or changed by this amendment. The criteria for appeal are narrowed. This amendment does not by itself authorize development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendment is consistent with Goal 5.

Goal 6: Air, Water and Land Resources Quality

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

The amendment will not adversely affect the quality of the air or water. It does not by itself permit development that might affect water or air quality. The existing ordinance and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. The proposed amendment does not alter protections afforded resource and open space lands. Therefore, the amendment is consistent with Goal 6.

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

"To protect people and property from natural hazards."

The amendment does not change any substantive standards regarding development within any natural hazard area. The existing ordinance and plan requirement relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. The proposed amendment clarifies procedural and substantive criteria. Therefore, the amendment is consistent with Goal 7.

(8) Goal 8: Recreational Needs

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

The proposed ordinance amendment does not adversely affect the provision of or ability to site recreational areas in the City. The amendment is consistent with Goal 8, or Goal 8 does not apply.

Goal 9: Economic Development

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

The amendment only clarifies existing processes in the Flood Damage Prevention ordinance. The amendment ties the processes to procedures in Title 17, and adds clarification. It is not intended to promote economic development, except in the sense that having clear standards and processes will cut down on the red tape, wasted time, and effort processing matters. The proposed amendment is consistent with Goal 9, or Goal 9 does not apply.

(10) Goal 10: Housing

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

The amendment does not relate directly to the housing needs of the people of Lincoln City, except that it creates clarity in Chapter 15.16 which, at times applies to housing. The amendment will not adversely impact the City's ability to provide needed housing to its citizens. The City's most recent Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary. Goal 10 therefore, is satisfied or is not applicable.

(11) Goal 11: Public Facilities and Services

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

The amendment does not relate directly to public facilities and services. The amendment will create no greater or additional impact on the provision of public services and facilities. Goal 11 is satisfied or not applicable.

(12) Goal 12: Transportation

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

The amendment does not relate directly to transportation. Goal 12 is satisfied or not applicable.

(13) Goal 13: Energy Conservation

"To conserve energy."

The amendment does not relate directly to energy conservation. The amendment does not change any criteria concerning the approval of variances. Goal 13 is satisfied or not applicable.

(14) Goal 14: Urbanization

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

The amendment does not relate directly to urbanization. Changes to procedural requirements for appeals and variances do not adversely impact policies on the efficient use of land. Goal 14 is satisfied or not applicable.

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

The amendment does not change the variance criteria for flood plain development variances. The amendment only narrows appeal criteria and clarifies the applicability of variance criteria and procedures. Title 17 procedures are referenced. The amendments, therefore, are consistent with Goal 16 or Goal 16 is 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 high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The amendment will not change the criteria for allowing uses near coastal shorelands; the amendments, therefore, are consistent with Goal 17, or Goal 17 does not apply.

(18) Goal 18: Beaches & Dunes

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

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The amendment does not authorize any development in or near beach and dune areas. The amendment is housekeeping or procedural in nature. The amendments are consistent with Goal 18, or Goal 18 does not apply.

(19) Goal 19: Ocean Resources

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

The amendment does not affect any ocean resources and, therefore, are consistent with Goal 19 or Goal 19 is not applicable.

B. Comprehensive Plan Goals

(1) Planning Goal

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

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

(2) Citizen Involvement Goal

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

The City has developed a citizen involvement program. In addition, the public hearing process, with notice and review of the amendments by the Planning Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establishes conformance with this goal.

(3) Public Services and Utilities Goal

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

The amendment does not relate directly to public facilities and services. This goal is satisfied or not applicable.

(4) Urbanization Goal

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

The amendments do not relate directly to urbanization. This goal is not applicable.

(5) Natural Hazard Goal

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

The amendment does not authorize development in hazardous areas by itself. Clarification of the process for variances may lead to additional variance requests in the flood plain. Development in such areas is already controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendment is consistent with this goal.

(6) Housing Goal

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

The amendment does not relate directly to the housing needs of the people of Lincoln City. It does provide clarity which may remove some of the red tape and confusion associated with Flood Plain variance applications. The City's Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary. This goal, therefore, is satisfied.

(7) Economy Goal

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

The amendment does not substantively change flood plain processes but does add clarity. This clarity may facilitate economic development. The proposed amendment is consistent with this goal.

(8) Aesthetic Goal

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

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

(9) Transportation Goal

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

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

(10) Energy Goal

"To conserve energy."

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

(11) Overall Environmental Goal

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

The amendment does not authorize development in sensitive natural resource areas. Flood Plain applications for variance and appeals are clarified, but the substantive criterion remain unchanged. This amendment is consistent with this goal, or the goal is inapplicable.

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

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

The amendment does by itself not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay), in the city's coastal shorelands, beach and dune areas, or in ocean resource areas. Flood Plain applications for variance and appeals

are clarified, but the substantive criterion remain unchanged. This amendment is consistent with this goal or the goal is inapplicable.

Council Communication

Ordinance 2021-11 Amending Ordinance 2019-42 to correct an error n Exhibit A

Meeting Date:	June 28, 2021	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	Lila Bradley
Approval:	Lila Bradley	Estimated Time:	15 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2021-11 entitled:

ORDINANCE 2021-11

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING ORDINANCE 2019-42, CONCERNING THE VACATION OF A PORTION OF NW 44th PLACE, TO CORRECT AN ERROR IN EXHIBIT A

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2021-11 and, *if unanimous*, Conduct and approve Second Reading and adopt the Ordinance. Any changes must be read.

Authority:

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

Background:

The County Surveyor has requested the City re-record Ordinance 2019-42 after correcting Exhibit A to include the required legal description. The original exhibit contained a surveyor's drawing and not the description. The attached ordinance amends ordinance 2019-42 to add the required description and instructs the City recorder to re-record the ordinance with the substitutes corrected exhibit.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance. [Recommended]
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to July 12, 2021 [Not recommended] [or]
3. Continue First Reading to July 12, 2021. [Not recommended]
4. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE 2021-11

**AN ORDINANCE OF THE CITY OF LINCOLN CITY
AMENDING ORDINANCE 2019-42, CONCERNING THE VACATION OF A PORTION
OF NW 44th PLACE, TO CORRECT AN ERROR IN EXHIBIT A**

1. Motion to approve First Reading of Ordinance 2021-11.

If unanimous: conduct Second Reading

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

Council:

1. Motion to approve Second Reading and adopt Ordinance 2021-11.

[or]

2. Motion to set Second Reading for July 12, 2021.

Attachments:

Ordinance 2021-11 6-21-12 339pm (DOC)
corrected Exhibit A Ordin 2019-42 first page (DOC)

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ORDINANCE 2021-11

**AN ORDINANCE OF THE CITY OF LINCOLN CITY
AMENDING ORDINANCE 2019-42, CONCERNING THE VACATION OF A PORTION
OF NW 44th PLACE, TO CORRECT AN ERROR IN EXHIBIT A**

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, following the required advertised public hearings, Ordinance 2019-42 approved the vacation of a portion of NW 44th Place and

WHEREAS, Exhibit A to Ordinance 2019-42 contains a surveyor's drawing of the impacted area of the right-of-way, but omits the referenced legal description; and

WHEREAS, the County Surveyor has requested the Ordinance be re-recorded with the necessary legal description of the vacated area included in Exhibit A;

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. Amendment. Ordinance 2019-42 is hereby amended to correct the first page of Exhibit A to that Ordinance to include the following bold underline legal description text:

1 A portion of NW 44th Place proposed to be vacated, and with said real property
2 described and shown as follows:

3
4 **A portion of the Right of Way in the NE ¼ of the NE ¼ of Section 3,**
5 **Township 7, Range 11, at the SE corner of Lot 57, Lincoln Shore Star Resort.**
6 **Beginning at the intersection of the SE corner of Lot 57 on the westerly**
7 **boundary of a 50 degree radius curve of SW 44th PI, thence heading south**
8 **and east along said 50 degree radius curve for a distance of 59.17 feet to a**
9 **point of tangency of a 20 degree radius curve to the right. Thence along**
10 **said 20 degree radius curve to the east and south for a distance of 12.09**
11 **feet. Thence continuing along the westerly boundary of NW 44th PI, SE a**
12 **distance of 22 feet, more or less to the true point of beginning of the area**
13 **to be vacated. Thence continuing SE along the southwest boundary of NW**
14 **44th PI a distance of 33.6 feet. Thence on a 90 degree right angle to the NE**
15 **for a distance of 1.8 feet. Thence on a right angle to the NW for a distance**
16 **of 33.6 feet, thence on a 90 degree right angle to the SW for a distance of**
17 **1.9 feet to the true point of beginning.**
18 **Area being approximately 60.48 sq. feet.**

19
20 The corrected Exhibit A first page, with a footer indicating it has been corrected, is set
21 forth in Exhibit A to this ordinance and is incorporated herein by this reference.

22 **Section 2. Substitution and Re-recording.** The City Recorder is hereby
23 directed to cause the corrected/amended Ordinance 2019-42, to be recorded with
24 Lincoln County as requested by the county surveyor.

25
26 **Section 3.** No other amendment to Ordinance 2019-42 is authorized. The
27 vacation of a portion of NW 44th Place, in accord with ORS 271.080 and 271.130, remains
28 in full force and effect.

29 **Section 4. Severability.** The sections, subsections, paragraphs and clauses of
30 this ordinance are severable. The invalidity of one section, subsection, paragraph, or
31 clause shall not affect the validity of the remaining sections, subsections, paragraphs and
32 clauses.

33
34 **Section 5. Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance
35 takes effect 30 days after the date of its adoption.

36
37 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,
38 Section 9.2 of the City of Lincoln City Charter on the 28th day of June, 2021 (First
39 Reading) and on the 28th day of June, 2021 (Second Reading).

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PASSED AND ADOPTED by the City Council of the City of Lincoln City this 28th day of June, 2021.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

EXHIBIT A

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See attached page to be substituted in Exhibit A to Ordinance 2019-42 for re-recording

1 **Exhibit A**
2 **Ordinance 2019-42**
3 **A PORTION OF NW 44th PLACE LINCOLN CITY OREGON**
4
5

6 A portion of NW 44th Place proposed to be vacated, and with said real property
7 described and shown as follows:
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10 A portion of the Right of Way in the NE ¼ of the NE ¼ of Section 3, Township 7, Range
11 11, at the SE corner of Lot 57, Lincoln Shore Star Resort. Beginning at the intersection of
12 the SE corner of Lot 57 on the westerly boundary of a 50 degree radius curve of SW 44th
13 Pl, thence heading south and east along said 50 degree radius curve for a distance of
14 59.17 feet to a point of tangency of a 20 degree radius curve to the right. Thence along
15 said 20 degree radius curve to the east and south for a distance of 12.09 feet. Thence
16 continuing along the westerly boundary of NW 44th Pl, SE a distance of 22 feet, more or
17 less to the true point of beginning of the area to be vacated. Thence continuing SE along
18 the southwest boundary of NW 44th Pl a distance of 33.6 feet. Thence on a 90 degree
19 right angle to the NE for a distance of 1.8 feet. Thence on a right angle to the NW for a
20 distance of 33.6 feet, thence on a 90 degree right angle to the SW for a distance of 1.9
21 feet to the true point of beginning.

22
23 Area being approximately 60.48 sq. feet.

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26 [See attached map]
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Council Communication

Resolution 2021-22 Alternative Contracting Method Ester Lee Pump Station Project

Meeting Date: June 28, 2021
 Department: City Attorney
 Secondary Dept: Public Works
 Approval: Lila Bradley

Primary Staff Contact: Richard Appicello
 E-Mail: RAppicello@lincolncity.org
 Secondary Contacts: Lila Bradley
 Estimated Time: 5 Minutes

Question:

After the required public hearing, should the City Council approve Resolution 2021-22 approving the required Public Contract Code Findings for an exemption and authorizing an Alternative Contracting Method for the Ester Lee Pump Station Improvement project?

Staff Recommendation:

Staff recommends the Council approve Resolution 2021-22.

Authority:

LCMC Chapter 2.05(Public Contracting) See also Public Hearing item for statutory and rule authority

Background:

See public hearing agenda item.

Council Options:

The City Council may:

Approve attached Resolution 2021-22

Do not approve the attached Resolution.

Potential Motions:

I move to approve Resolution 2021-22.

Attachments:

Resolution 2021-22 Wahlke signature (DOC)

Ester Lee Findings (PDF)

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RESOLUTION NO. 2021-22

A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING FINDINGS FOR A PUBLIC CONTRACT EXEMPTION AND AUTHORIZING AN ALTERNATIVE CONTRACTING METHOD FOR THE ESTER LEE PUMP STATION IMPROVEMENT PROJECT

RECITALS

WHEREAS, ORS 279C.335(2) permits the City Council, acting as the Local Contract Review Board, to exempt a public improvement contract or class of contracts from the competitive bidding requirements of the Lincoln City Public Contracting Code and use an alternative contracting method, subject to making required findings; and

WHEREAS, on June 28, 2021, the City Council conducted an advertised public hearing on the proposed findings to exempt the Ester Lee Pump Station Project from competitive bidding and authorize an alternative public contracting method; and

WHEREAS, on June 28, 2021, after due consideration of public comment and the proposed findings in the record, the City Council, acting as the Local Contract Review Board, deliberated and decided to approve the exemption and authorize the alternative contracting method; and

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. APPROVAL. The City Council, acting as the Local Contract Review Board, hereby approves the required Findings to support the exemption from competitive bidding and the use of an alternative contracting method for the Ester Lee Pump Station Project, said findings being attached to this Resolution and incorporated herein by this reference; and

SECTION 3. EFFECTIVE DATE. This resolution is effective as of the date of its adoption and signature by the Mayor or Council President.

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 28th day of June, 2021.

SUSAN WAHLKE, MAYOR

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ATTEST:

JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

Findings in Support of Alternative Contracting Method

FOR THE DESIGN AND CONSTRUCTION OF ESTER LEE PUMP STATION REPLACEMENT PROJECT

Introduction

Use of Alternative Contracting methods, such as Design-Build is made possible under ORS Chapter 279C, which permits certain contracts or classes of contracts to be exempt from competitive public bidding under strict procedural safeguards. Like other alternative contracting methods, Design-Build has significantly different legal requirements than a typical design-bid-build project delivery method.

Pursuant to ORS 279C.335, a local contract review board may exempt specific contracts from traditional, competitive bidding by showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in cost savings to the public agency. The Oregon Attorney General's Model Public Contract Rules provide for public notice and opportunity for the public to comment on draft findings in favor of an exemption before their final adoption.

ORS 279C.330 provides that: "findings" means the justification for a contradicting agency conclusion that includes, but is not limited to, information regarding:

- Operational, budget and financial data;
- Public benefits;
- Value engineering;
- Specialized expertise required;
- Public safety;
- Market conditions;
- Technical complexity
- Funding sources
- Findings

Background

This project will replace two sanitary sewer pump stations (Ester Lee North Pump Station and Ester Lee South Pump Station) with one new pump station located at the Ester Lee North Pump Station Site, construct 400 feet of sanitary sewer and

400 to 1,200 feet of force main. The pump station will include a building that will house the controls and a standby generator. The pump station site is located within an existing right-of-way but is within the FEMA flood zone. The top of the wet well along with the proposed building is required to be 2 feet above the FEMA flood zone. This means that the structures will have to be approximately 2 to 3 feet above the existing ground.

Operational, Budget, and Financial Data

The project cost estimate was developed at the concept phase. City has estimated the project budget at \$1,300,000 over two years.

Public Benefit

Design-Build provides opportunities for cost savings through the flexibility and openness of the process, allowing the City to more easily make appropriate changes as necessary to meet the project budget.

The selected engineer and contractor team develop construction plans together, using their collective knowledge and experience, and remain a team through construction. This approach also allows the City, the Tribe and ODOT to see the design and costs associated early in the process to make changes to meet the project budget.

Value Engineering

The Design-Build process essentially is value engineering. Design options and real-time cost estimates provided by the team throughout the constructability reviews allow cost saving design changes or substitutes to be identified throughout the design and up to the build phase.

These beneficial actions by the team will improve design, expedite construction and eliminate the potential for costly change orders.

Specialized Expertise Required

Understanding the requirements for permitting, the impacts of the permitting requirements on the project and cost is one area of expertise required for this project.

Market Conditions

The Design-Build contracting process is a modern construction delivery method used by both public and private organizations. The team is tasked with knowing the latest construction techniques and products. The team will inform the City of current market conditions, labor and materials availability, and construction methodologies that can reduce design and construction time and costs. The process also allows the construction timing and sequence to be considered.

Technical Complexity

The Project has significant technical complexities which will be best addressed by a full team approach, with the team working with the City to solve specific challenges identified during the pre-construction phase.

Competition and Cost Savings

The Design-Build method of contracting provides the greatest cost controls for limited budgets and therefore benefits the City. The team approach, the schedule, the value analysis, and constructability reviews provides the ultimate in effective cost analysis. It is critical, and also consistent with the spirit of collaboration encouraged throughout the process that everyone on the Project Team works towards a budget of which they can take ownership.

Unlikely to Encourage Favoritism or Diminish Competition

It is unlikely that the process of selecting a Design-Build firm will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract. Competition will not diminish because the Design-Build contract will be awarded based on a competitive process.

Cost Savings

The low-bid process offers a level of certainty to the owner that the initial bid price of the project is the lowest cost; however, if changed conditions are encountered during construction, resulting change orders can have significant cost impacts.

With the Design-Build method, the contractor is required to submit their mark-up percent. The percent mark-up includes the contractor's profit. This allows the contractor a level of certainty and eliminates the motivation for finding ways to increase his profit during construction.

During the early design phase, the Design-Build team will provide value engineering and update cost estimate information. This will allow the City to also make changes early, assuring that the costs are going to radically change in final design or receive bids that are substantially higher than the engineer's estimate.

Additionally, the use of value engineering through cooperation among the engineer, contractor and City is essential to the Project delivery on time and within budget. Design-Build value engineering will eliminate change orders and progress delays to help meet the tight time schedule for the Project. These savings are not realized under a low bid process.

Summary

Substantial cost savings are anticipated from the Design-Build team approach because decision-making is based on cost effective and informed solutions.

Council Communication

Resolution 2021-29 Setting Water/Sewer Rates

Meeting Date:	June 28, 2021	Primary Staff Contact:	Debbie Bridges
Department:	Finance	E-Mail:	dbridges@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 Minutes

Question:

Should Council adopt a 4.0% water rate increase and 4.0% sewer rate increase, for an average utility rate increase of 4.0%?

Authority:

Lincoln City Municipal Code 13.12.060(A) and 13.12.080(A) provides that the City shall set the water/sewer rates and revise those rates as necessary by resolution of the City Council.

Background:

The adopted FY2021-22 budget anticipates a 4.0% increase in utility rates. Rate increases are necessary to keep the water and sewer funds operating effectively, and to cover operational and capital costs. For many years the City has implemented an annual rate increase in both water and sewer, effective with the first billing in August.

Council Options:

1. Motion to approve Resolution 2021-29.
2. Modify the percent of rate increase for water and/or sewer or do not increase rates.

Attachments:

Resolution 2021-29 - Setting Forth Water -Sewer Rates (DOCX)

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RESOLUTION NO. 2021-29

A RESOLUTION SETTING FORTH WATER/SEWER RATES

WHEREAS, the City Charter and the Oregon Revised Statutes authorizes the City to own, operate and maintain a sewage disposal system, and a city water system; and

WHEREAS, THE City of Lincoln City does in fact own, operate and maintain a sewage disposal system, and a city water system; and

WHEREAS, Ordinance No. 78-37 provides that the City shall set the water/sewer rates and revise those rates as necessary by resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lincoln City does hereby set the water/sewer charges which are attached hereto, marked as Exhibit "A", and incorporated by this reference herein, as the water/sewer rates for the City of Lincoln City, effective with the August 15, 2021 billing.

BE IT FURTHER RESOLVED that the former water/sewer rates established by Resolution No. 2020-13 is hereby repealed as of the effective date of the rates established by this resolution.

PASSED AND APPROVED BY THE City Council of the City of Lincoln City this 28th day of June 2021.

SUSAN WAHLKE, Mayor

ATTEST:

JAMIE YOUNG, City Recorder

EXHIBIT "A"

WATER AND SEWER RATES EFFECTIVE AUGUST 15TH 2021 BILLING
MONTHLY BASE CHARGE

METER SIZE	IN CITY WATER	IN CITY SEWER	OUTSIDE CITY WATER	OUTSIDE CITY SEWER
5/8" Single Family	\$ 24.84	\$ 34.41	\$ 52.66	\$ 72.95
5/8" Other	\$ 23.75	\$ 34.41	\$ 50.35	\$ 72.95
1"	\$ 43.84	\$ 55.43	\$ 92.94	\$117.51
1.5"	\$ 84.00	\$ 97.61	\$178.08	\$206.93
2"	\$144.21	\$160.75	\$305.73	\$340.79
3"	\$284.72	\$308.20	N/A	N/A
4"	\$505.56	\$539.97	N/A	N/A
6"	\$1,007.59	\$1,066.56	N/A	N/A
8"	\$1,672.47	N/A	N/A	N/A

USAGE CHARGE PER 100 CUBIC FEET (748 gallons)

TYPE	IN CITY WATER	IN CITY SEWER	OUTSIDE CITY WATER	OUTSIDE CITY SEWER
Residential non- peak months*	\$3.72	\$5.71	\$7.89	\$12.11
Residential - peak months**	\$4.14	\$5.71	\$8.78	\$12.11
Commercial non-peak months	\$3.72	\$5.71	\$7.89	\$12.11
Commercial peak months**	\$4.10	\$5.71	\$8.69	\$12.11

Fire Standby charge: 10% of Base Charge based on standby meter size

Schooner Creek Surcharge \$24.56

* Residential minimum allowed consumption per each dwelling unit designed for occupancy by one family shall be allowed 400 cubic feet of consumption per month to be included within the base charge before the consumption rate per 100 cubic feet is charged, if the individual dwelling unit is connected to a water meter serving only that unit.

** Peak months are the months where the majority of the consumption occurs during the months of July, August and September.

DISCOUNT FOR DIGITAL BILLING AND PAYMENT

A discount of \$0.50 per month per account shall be given to any customer who elects to receive a paperless (digital) statement and who pays the monthly bill using the City's online service.

Council Communication

Resolution 2021-30 Supplemental Budget FY2020-21

Meeting Date:	June 28, 2021	Primary Staff Contact:	Debbie Bridges
Department:	Finance	E-Mail:	dbridges@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	

Authority:

ORS 294.471 provides that the governing body of any municipal corporation may make a supplemental budget where an occurrence or condition which had not been anticipated at the time of the preparation of the budget for the current year requires a change in financial planning.

Background:

Following are the items for which Finance is requesting appropriation changes in the FY2020-21 budget. This supplemental budget request requires a public hearing; notice has been published in the News Guard.

General Fund:

There are several requests for the General fund.

- (1) Increase building permit/inspection revenues and expenditures by \$50,000.
Building permit revenue is higher than budgeted; therefore, contracted services for Building Inspection is higher than budgeted.
- (2) Increase appropriation for unemployment reimbursement by \$45,000 (funded by contingency)
- (3) Add \$100,000 grant revenue and expenditure appropriation for wildfire expenditures from fall of 2020.
- (4) Transfer \$800,000 to fund parking lot at new PD building (in FY2021-22 budget)

(5) There are two structural changes made in the FY2021-22 budget; finance is asking to make same structural changes in the FY2020-21 budget, to provide better comparison information during the FY2022-23 budget process.

- a. Move Emergency Services personnel and operational expenses from Police department to City Hall Operations department (\$150,076). This request would also increase personnel services for emergency services by \$18,000 (funded by contingency), due to the increased workload from the COVID pandemic.
- b. Move Recreation Department revenues (TRT, Grants, Charges for services \$816,006) and marijuana revenue (180,933) and Recreation Department expenditures (\$1,554,783) from the General Fund to the Parks and Recreation fund. Transfers out to Parks and Recreation fund would increase by \$57,844 (in addition to the \$500,000 from prior resolution) to keep budgeted ending fund balances the same. No change in appropriation amount is requested.

Parks and Recreation fund:

This adds the Recreation Center to the Parks and Recreation fund.

Recreation Center	\$1,554,783
Contingency	-\$ 500,000

Police Building Bond 2018 fun:

This funds parking lot at new PD building

Capital Outlay	\$800,000
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Council Options:

- 1. Motion to approve Resolution 2021-30 adopting the supplemental budget for FY2020-21.
- 2. Motion to approve Resolution 2021-30 adopting the supplemental budget for FY2020-21 as amended.
- 3. Do not approve Resolution 2021-30.

Attachments:

Resolution 2021-30 - Supplemental Budget FY2020-21 (DOC)

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RESOLUTION 2021-30

A RESOLUTION ADOPTING THE SUPPLEMENTAL BUDGET OF THE CITY OF LINCOLN CITY, OREGON, FOR THE FISCAL YEAR 2020-2021, AS APPROVED BY THE CITY COUNCIL, AND MAKING APPROPRIATIONS

WHEREAS, ORS 294.471 provides that the governing body of any municipal corporation may make a supplemental budget where an occurrence or condition which had not been anticipated at the time of the preparation of the budget for the current year requires a change in financial planning; and

WHEREAS, the publication of the supplemental budget was given in the manner provided in ORS 294.311;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Lincoln City as follows:

Section 1. That it hereby adopts the supplemental budget for 2020-2021, and is now on file in the office of the Finance Director.

Section 2. BE IT FURTHER RESOLVED that the additional amounts for the fiscal year ending June 30, 2021, for the purposes shown below are hereby appropriated as follows:

SEE EXHIBIT "A"

This resolution shall be effective upon passage.

PASSED AND APPROVED by the City Council of The City of Lincoln City this 28th day of June 2021.

SUSAN WAHLKE, Mayor

ATTEST:

JAMIE YOUNG, City Recorder

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**EXHIBIT A
SUMMARY OF SUPPLEMENTAL BUDGET**

FUND: GENERAL FUND

Resource	Amount	Requirement	Amount
1 Transient Room Taxes	-195,800	1 Building Inspection	50,000
2 Fees, Licenses, Permits	50,000	2 Police	-150,076
3 Grant Revenue	90,000	3 Recreation Department	-1,554,783
4 Intergovernmental	-180,933	4 City Hall Operations	313,076
5 Charges for Services	-610,206	5 Transfers Out	857,844
6		6 Contingencies	-363,000
Revised Total Resources	15,008,358	Revised Total Requirements	15,008,358

Comments:

To increase Building Inspection appropriation by \$50,000, to appropriate \$100,000 for wildfire grant and expenditures, to move Emergency services from Police to City Hall Operations \$150,076, to increase appropriation for Emergency Services \$18,000, to move the Recreation Department budget to the Parks and Recreation fund \$1,554,783, to fund parking lot at new PD building \$800,000, and to increase appropriation for unemployment \$45,000.

FUND: PARKS AND RECREATION FUND

Resource	Amount	Requirement	Amount
1 Transient Room Taxes	195,800	1 Recreation Center	1,554,783
2 Grant Revenue	10,000	2 Contingency	-500,000
3 Intergovernmental	180,933		
4 Charges for Services	610,206		
5 Transfers In	57,844		
Revised Total Resources	4,135,982	Revised Total Requirements	4,135,982

Comments:

To move Recreation Center to the Parks and Recreation fund.

FUND: POLICE BUILDING BOND 2018

Resource	Amount	Requirement	Amount
1 Transfers In	800,000	1 Capital Outlay	800,000
Revised Total Resources	2,094,530	Revised Total Requirements	2,094,530

Comments:

To fund parking lot at new PD building.

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Council Communication

Resolution 2021-32- Parking and Traffic Control SW Beach

Meeting Date:	June 28, 2021	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	Lila Bradley
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question:

Should the City Council approve Resolution 2021-32 concerning the exercise of parking and traffic control authority (prohibited parking) on a portion of SW Beach Avenue?

Staff Recommendation:

Staff recommends approval of Resolution 2021-32.

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

Pursuant to LCMC 10.08.010, the City Council may exercise Traffic and Parking Control authority by Resolution of the Council. The establishment of parking controls, including but not limited to parking areas and time limitations, prohibited parking, parking permits and metered parking is expressly listed as within the authority of the City Council. The City Council has mandated in the Code that the exercise of municipal traffic control and parking authority be based upon engineering considerations, and not on any other basis:

C. Engineering Basis for Decisions. In exercising its municipal traffic authority pursuant to this chapter, the city council or its designee shall be guided by adopted street design and constructions standards, including but not limited to the 2015 Lincoln City Transportation Plan. Where appropriate, variations or alternatives to standard design and constructions standards may be approved in the discretion of the city engineer. Traffic control and parking measures are imposed based on the engineering considerations and public safety such as the adequacy of the right-of-way width and suitable shoulder base, and not on any other basis. (Ord. 2021-04 §§ 1, 2; Ord. 88-8 § 4.01)

The City Engineer has reviewed the on-street parking on SW Beach Avenue between SW 26th Lane and SW 28th Street (approximately 500 feet). The review found that the width of the right-of-way is 40 feet. The street is paved with sidewalks on the west side and 150 feet of sidewalk on the east side. The width of the asphalt, curb line to curb line is 24 feet. The City standards per LCMC 16.12.030 require a minimum twenty (20) foot travel lane. Accordingly, the City Engineer has determined that there is inadequate street width to permit on-street parking in the above location.

The City Engineer recommends an exercise in Parking and Traffic Control authority by the Council to prohibit on-street parking on both sides of the street for the above street segment.

Recommendation

Staff recommends approval of Resolution 2021-32.

Council Options:

Approve the Resolution.

Do Not approve the Resolution.

Approve the Resolution (with amendments).

Financial Impact

No financial impacts to City.

Potential Motions:

Move to approve Resolution 2021-32.

Move to approve Resolution 2021-32, with the following amendments.

Move to reject the proposed Resolution.

Attachments:

Resolution 2021-32 (Parking and Traffic Control - portion of Beach Avenue) (DOC)

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RESOLUTION NO. 2021-32

A RESOLUTION OF THE CITY OF LINCOLN CITY ESTABLISHING PARKING AND TRAFFIC CONTROL MEASURES FOR A PORTION OF SW BEACH AVENUE

RECITALS

Pursuant to LCMC 10.08.010, the City Council may exercise Traffic and Parking Control authority by Resolution of the Council; and

The establishment of parking controls, including but not limited to parking areas and time limitations, prohibited parking, parking permits and metered parking is expressly listed as within the authority of the City Council; and

The City Council has mandated in the code that the exercise of municipal traffic control and parking authority be based upon engineering considerations, and not on any other basis; and

The City Engineer has reviewed the on-street parking on SW Beach Avenue between SW 26th Lane and SW 28th Street (approximately 500 feet). The review found that the width of the right-of-way is 40 feet. The street is paved with sidewalks on the west side and 150 feet of sidewalk on the east side. The width of the asphalt, curb line to curb line is 24 feet. The City standards per LCMC 16.12.030 require a minimum twenty (20) foot travel lane. Accordingly, the City Engineer has determined that there is inadequate street width to permit on-street parking in the above location. The City Engineer recommends an exercise in Parking and Traffic Control authority by the Council to prohibit on-street parking on both sides of the street for the above street segment.

Based on the engineering review, the City Council finds and determines that there exists an engineering basis for an exercise of municipal parking and traffic control authority, specifically to prohibit on-street parking on both sides of the street SW Beach Avenue between SW 26th Lane and SW 28th Street.

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. IMPOSING TRAFFIC CONTROL.

Effective upon posting of no parking signage by the City Public Works Department, the requested exercise of parking and traffic control authority is hereby approved, specifically

1 on-street parking is prohibited on both sides of the street SW Beach Avenue, between SW
2 26th Lane and SW 28th Street.

3 **SECTION 3. POSTING OF SIGNAGE & NOTICE TO ENFORCEMENT OFFICERS.**

4
5 The Public Works Department is directed to erect no parking signs in the appropriate
6 locations and City police and code enforcement officers are to be advised of the new parking
7 restrictions by City Administration.

8 **SECTION 4. EFFECTIVE DATE.** This Resolution is effective as of the date of its adoption.

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10 **PASSED AND APPROVED** by the City Council of the City of Lincoln City, Oregon, this 28th
11 day of June, 2021.

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SUSAN WAHLKE, MAYOR

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17 ATTEST:

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JAMIE YOUNG, CITY RECORDER

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23 APPROVED AS TO FORM:

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RICHARD APPICELLO, CITY ATTORNEY

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Council Communication

Resolution 2021-33 Authorizing Staff to Apply for a HB 2003 Planning Assistance Grant

Meeting Date:	June 28, 2021	Primary Staff Contact:	Sungman Kim
Department:	City Council	E-Mail:	SKim@lincolncity.org
Secondary Dept:	Administration	Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question:

Should the City Council approve Resolution 2021-33 authorizing staff to apply for a HB 2003 Planning Assistance Grant from the DLCD to produce the Lincoln City Housing Production Strategy?

Staff Recommendation:

Staff recommends the Council approve the Resolution.

Background:

The DLCD anticipates the Legislature to appropriate funds to DLCD by the end of the 2021 legislative session for the purpose of providing planning assistance to local governments to implement the provisions specified in HB 2003, including housing production strategies.

Subsequent to the Lincoln City Economic Opportunities Analysis and Housing Needs Analysis (EOA-HNA), adopted in April 2017, it is the staff's opinion that a research on housing production strategies is necessary.

The grant program does not require a local match, but staff may provide in-kind services, which make the City better qualify for the grant.

Please see the attached Resolution.

Council Options:

Approve the Resolution; [or]
Do Not approve the Resolution.

Financial Impact

The spending would be reimbursed.

Potential Motions:

Motion to approve Resolution 2021-33 and direct staff to apply for a HB 2003 Planning Assistance Grant from the DLCD to produce the Lincoln City Housing Production Strategy

Attachments:

Lincoln City - 2021-23_PA_Direct_Grant_App_Form (DOCX)
2021-33 (DOCX)



Department of Land Conservation and Development

2021-23 PLANNING ASSISTANCE DIRECT GRANT APPLICATION

Please complete each section in the form below. Type or write requested information in the spaces provided. **Submit completed applications by June 30, 2021.**

Date of Application: June 30, 2021

Applicant: The City of Lincoln City

(If council of governments, please also include the recipient jurisdiction name if applicable)

Street Address: 801 SW Hwy 101, P.O. Box 50

City: Lincoln City, Oregon

Zip: 97367

Contact name and title: Simon Kim, Planning & Community Development Director

Contact e-mail address: skim@lincolncity.org

Contact phone number: 662-722-0139

Requested Service:

		Grant request amount (in whole dollars):
HB 2001 Code Assistance	<input type="checkbox"/>	\$
Housing Needs Analysis (HNA)	<input type="checkbox"/>	\$
Housing Production Strategy (HPS)	<input checked="" type="checkbox"/>	\$45,000
Housing Implementation Plan (Note: not an HNA or HPS)	<input type="checkbox"/>	\$

Total grant request amount (in whole dollars): \$45,000

Local Contribution (recommended but not required): \$5,000

Project Title:

The Lincoln City Housing Production Strategy

Project summary: (Summarize the project and products in 50 words or fewer)

Through this grant opportunity, Lincoln City is intent to identify a set of housing production strategies that will outline the tools, actions, or policies a city plans to implement to encourage the production of needed housing recognized in the adopted EOA-HNA (Economic Opportunities Analysis and Housing Needs Analysis, April 2017).

Project Description & Work Program

(Please describe the proposed project, addressing each of the following in an attachment.)

A. Goals and Objectives.

As a subsequent project to the adopted EOA-HNA, the Lincoln City Housing Production Strategy aims to achieve the following goals and objectives:

Goal: To setup strategies outlining the City's plan to promote the actual production of needed housing identified in the adopted EOA-HNA.

Objective 1: Contextualized housing needs shall be discussed on the basis of the information in the adopted EOA-HNA to address potential growth scenarios with strategies.

Objective 2: Consolidated plans for the communities and public engagement process for severely rent burdened households shall be prepared.

Objective 3: Strategies to meet future housing needs shall be developed.

Objective 4: Strategies shall include ways to achieve fair and equitable housing outcomes.

Objective 5: Strategies must include a SWOT analysis, implementation actions, progress measures, past practices and improved actions, and the current rent-burdened household information (ORS 456.586).

Future work will include a Housing Implementation Plan, which will encompass any housing-related issue that is neither a housing need analysis nor housing production strategy. It will be prepared by the City staff if external funding is not available.

B. Products and Outcomes.

In April 2017, Lincoln City adopted Economic Opportunities Analysis and Housing Needs Analysis (EOA-HNA), addressing the requirements of Goal 9 (Economic Development, OAR 660-009) and Goal 10 (Housing). After thorough analysis on needs projection addressing housing types and price levels, residential land needs analysis, buildable lands inventory, and identification of measures for accommodating needed housing as described in OAR chapter 660, divisions 7 and 8, the EOA-HNA encouraged the development of affordable and workforce housing by:

- Investigating ways to reduce fees on new construction of affordable and workforce housing, while ensuring new infrastructure is not underfunded.
- Facilitating development of affordable housing on city-owned properties.

- Periodically reviewing the development code’s regulations and zoning map to ensure they encourage a variety of housing types, such as accessory dwelling units, tiny houses, big houses and senior housing.
- Involving employers in efforts to provide and support workforce housing.
- Enacting strategies to ensure that sufficient appropriately zoned land is available within the city and outside the tsunami inundation zone, such as increasing densities and annexing new lands.
- Designing attractive neighborhoods that offer housing within walking distance to schools, jobs, shopping, and services.
- Streamlining the permitting process for affordable and workforce housing.

While such encouragements/recommendations have been provided, there has been lack of practical knowledge on housing production strategies.

Therefore, the proposed project, “the Lincoln City Housing Production Strategy”, will come up with strategies that will provide practical guidelines by (1) defining the potential locations of compact, mixed-use neighborhoods that meet statewide greenhouse gas emission reduction goals and available to people part of state and federal protected classes; (2) increasing fair housing opportunities that address disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, and disparities in access to housing opportunity; (3) widening housing choices with high-quality community amenities, schooling, employment and business opportunities, and a healthy and safe environment; (4) advocating for and enabling the provision of housing option for residents experiencing homelessness, and partnering with other organizations to promote services; (5) supporting and creating opportunities to encourage the production of affordable rental housing and the opportunity for wealth creation via homeownership; and (6) increasing housing stability for residents and mitigating the impacts of gentrification, as well as the economic and physical displacement of existing residents resulting from investment or redevelopment.

The outcome will significantly effect on: (1) local development by providing affordable housing options to low income workers; (2) livability by providing high-quality amenities, education, jobs, and businesses; (3) regulatory streamlining by combining existing and future tools identified by the project; (4) compliance with federal requirements by accommodating federal standards into the strategies; (5) socioeconomic gains by setting up life qualities that will correspond with quality jobs, and (6) other factors that will enhance quality environments.

C. Work Program, Timeline & Payment.

Depending the level of funding available, the City will determine if private consultant(s) or in-house staff would be utilized. Therefore, the meaning of the term “Consultant” in this document includes both private consultant and in-house staff.

Task 1: Project Kick-Off

Timeline: 09/01/2021 – 11/30/2021 (90 days)

Consultant shall hold a meeting with interest parties at the City to kick off the project. Consultant will contact interest parties via conference call, online video meeting or in person to inquire about establishing project expectations and familiarize themselves with city-specific concerns. At the project kick off, Consultant will obtain necessary information and background from interest parties to familiarize Consultant with local conditions and with City’s planning documents adopted in the past. Consultant, if private, will also use the kick off to confirm the objectives of the project laid out in this Contract with the City, refine the project schedule established in this Contract with City (meaning add more detail as necessary to the established schedule), and provide necessary information to City to allow City to prepare for the Project. If in-house staff will be utilized, solid planning and scheduling shall be established through this task.

Task 1 Consultant Deliverables:

- Define housing issues, specific to the City of Lincoln City
- Summary of major tasks and action items for the Project
- Proposed Project schedule

Task 1 City Deliverables:

- Copy of relevant comprehensive plan and code sections
- A list of measures already adopted by the City that promote the development of needed housing, including the Lincoln City Economic Opportunities Analysis and Housing Needs Analysis (EOA-HNA), adopted in April 2017
- Building permit and housing data to support the Project

Scheduled Payment: \$6,279.07 (\$2,093.02 monthly)

Task 2: Contextualized Housing Need

Timeline: 12/01/2021 – 05/31/2022 (181 days)

Data Collection and Analysis

Consultant will gather relevant data from the City as needed for the HPS to describe current and future housing needs in the context of population and market trends. The City will provide Consultant access to all relevant available local data. The analysis of contextualized housing needs will include:

- Socio-economic and demographic trends of a jurisdiction’s population, disaggregated by race to the extent possible with available data;
- Market conditions affecting the provision of needed housing;
- Existing and expected barriers to the development of needed housing;
- Housing need for those experiencing homelessness, using the best available data;
- Percentage of Rent Burdened Households;
- Housing by Tenure (owner vs renter);
- Percentage of housing stock that is market rate vs. subsidized; and

- Units that are in the development pipeline by housing type;

The analysis of contextualized housing needs will also draw on information gathered through engagement with housing consumers, including underrepresented communities.

Outreach and Engagement

Consultant will help plan engagement with housing consumers, including direct outreach to individuals through interviews, focus groups, or other means; contacting community-based organizations and service providers to connect with those they serve; and/or hosting events (virtual or in-person). This engagement will prioritize underrepresented communities within the City, including renters, low-income households, Hispanic/Latin residents, other racial and ethnic minorities and immigrant or refugee communities, veterans, people with disabilities, seniors, agricultural workers, and formerly and currently homeless people. The engagement efforts will build from past engagement with the public through the City's Citizen Involvement Program and be coordinated with the event(s) required under HB4006 for severely rent burdened communities.

Due to the COVID-19 pandemic, engagement will seek to prioritize outreach to underrepresented groups to the extent reasonably and safely possible at this time within the limited engagement timeframe and resources of this project, and will emphasize outreach through agencies or non-profit groups that represent or work with under-represented communities. While there will be a good faith effort around outreach generally, and particularly to under-served communities, it is understood that the current situation (with the COVID-19 pandemic) presents unique barriers to engagement. In addition, outreach and engagement discussions are likely to occur via videoconference, teleconference, or telephone calls, rather than in-person.

Consultant will help plan for the engagement, including helping to define the questions and topics for the outreach and methods to solicit input. City staff will connect Consultant with existing networks for engagement and facilitate discussion and engagement.

Summary Document

Following data analysis and synthesis of outreach, Consultant will produce a summary of contextualized housing needs. While this will initially be produced as a stand-alone memorandum, it will later become a section of the HPS. Consultant will present the draft to a future City's Advisory Committee meeting and make it available for public comment. This task will begin immediately following the kick-off and continue through the process of evaluating strategies.

Task 2 Consultant Deliverables:

- Identify the issues
- Outline of suggested questions and topics for outreach meeting with staff to plan for engagement with housing consumers and producers; and
- Contextualized Housing Needs memorandum.

Task 2 City Deliverables:

- List of existing groups and organizations for engagement.

- Meeting notices and agendas

Scheduled Payment: \$12,558.14 (\$2,093.02 monthly)

Task 3: Strategies to Accommodate Future Housing Need

Timeline: 06/01/2022 – 11/30/2022 (182 days)

Consultant will review and provide input to the City on a City-provided summary of measures already adopted by the City that promote the development of needed housing, and existing practices that affirmatively further fair housing, link housing to transportation, provide access in Opportunity Areas, address equitable distribution of services, and create opportunities for rental housing and homeownership as those terms and requirements are defined in the final rules and state guidance for the HPS. The City will identify and provide all available information about existing relevant measures.

For the strategies that are recommended for inclusion in the City's HPS, Consultant will produce the following for each strategy, based on Consultant's evaluation, input from staff, and feedback gathered through outreach and engagement:

- A description of the strategy;
- Identified Housing Need being fulfilled (tenure and income) and analysis of the income and demographic populations that will receive benefit and/or burden from the strategy, including low-income communities, communities of color, and other communities that have been discriminated against, according to fair housing laws;
- Approximate magnitude of impact, including (where possible/applicable) an estimate of the number of housing units that may be created, and the time frame over which the strategy is expected to impact needed housing;
- Timeline for adoption and implementation;
- Actions necessary for the local government and other stakeholders to take in order to implement the strategy; and
- Opportunities, constraints, or negative externalities associated with adoption of the strategy.

Task 3 Consultant Deliverables:

- Analyze and improve the issues
- Memorandum summarizing existing measures, previously identified strategies, and additional strategies for consideration to address contextualized housing needs;
- Memorandum providing additional evaluation and refinement of selected strategies;
- Memorandum summarizing the information required per the list above for each strategy;
- Up to eight documented discussions with housing producers and/or service providers to seek input on the potential housing strategies;
- Agendas and presentations/meeting materials for up to three meetings (likely by videoconference) with the Advisory Committee; and

Task 3 City Deliverable:

- Collaboration to achieve a better result

- Meeting notices and agendas

Scheduled Payment: \$12,558.14 (\$2,093.02 monthly)

Task 4: Draft and Final HPS Report

Timeline: 12/01/2022 – 04/30/2023 (150 days)

The draft HPS Report will include the following:

- Contextualized housing needs from Task 2;
- Summaries of existing measures and final proposed strategies from Task 3;
- How the City's existing measures and final proposed strategies help to achieve fair and equitable housing outcomes, affirmatively further fair housing, and overcome discriminatory housing practices and racial segregation; and
- A conclusion addressing the following:
 - A qualitative assessment of how the strategies collectively address the contextualized housing needs identified in the HPS;
 - Discussion of how the proposed actions, taken collectively, will increase housing options for population groups experiencing a current or projected disproportionate housing need;
 - How the City's existing measures and proposed strategies will affirmatively further fair housing, link housing to transportation, provide access to Opportunity, address needs for people facing homelessness and equitable distribution of services, create opportunities for rental housing and homeownership, and mitigate vulnerabilities to displacement and housing instability;
 - The rationale for any identified needs not being addressed; and
 - The City's plan for monitoring progress on the housing production strategies.

Following review by staff and revisions as needed, Consultant will produce a public review draft HPS for review and comment by the City's Advisory Committee, Planning Commission, City Council, and interested parties. Consultant will summarize Advisory Committee comments on the draft (if addressing comments would require major updates) or make minor updates to the draft following the Advisory Committee review. Following public review and comment, Consultant will produce a Final HPS document.

Task 4 Consultant Deliverables:

- Improve and control;
- Public Review Draft HPS;
- Agenda and presentation/meeting materials for one Advisory Committee meeting;
- Presentation to Planning Commission;
- Presentation to City Council; and
- Final Housing Production Strategy.

Task 4 City Deliverable:

- Review and input for further improvements
- Meeting notices and agendas

Scheduled Payment: \$10,465.12 (\$2,093.02 monthly)

Task 5: Adoption (if applicable)

Timeline: 05/01/2023 – 06/12/2023 (42 days)

The City of Lincoln City will schedule and provide notice and an agenda for hearings to adopt the Housing Production Strategy. Consultant will coordinate with the City on hearing arrangements and present updates to the hearings body or bodies.

Task 5 Consultant Deliverable:

- Presentation materials to explain final draft updates to the hearings body or bodies

Task 5 Local Government Deliverables:

- Hearings notices, agendas, and minutes

Scheduled Payment: \$3,139.53 (\$2,093.02 monthly)

D. Evaluation Criteria.

The Lincoln City EOA-HNA, adopted in April 2017, includes Housing Capacity Analysis. On the other hand, Lincoln City is not required to complete an HPS on any particular schedule and this would be a voluntary item for the City (OAR 660-008-0045). If funded, this work to produce the Lincoln City Housing Production strategy will be completed by mid-June, 2023.

While meeting the project deadline, this work aims and prioritizes to setup strategies outlining the City's plan to promote the actual production of needed housing identified in the adopted EOA-HNA.

The evaluation criteria will include, but not limited to, the followings:

- If contextualized housing needs have been discussed on the basis of the information in the adopted EOA-HNA to address potential growth scenarios with strategies.
- If consolidated plans for the communities and public engagement process for severely rent burdened households have been prepared.
- If strategies to meet future housing needs have been developed.
- If strategies include ways to achieve fair and equitable housing outcomes.
- If strategies include a SWOT analysis, implementation actions, progress measures, past

practices and improved actions, and the current rent-burdened household information (ORS 456.586).

- If strategies utilize all available tools by:
 - Proactively encouraging needed housing production through zoning and code modifications.
 - Addressing regulatory impediments to provide needed housing. These include, but are not limited to, process, permitting, and infrastructure impediments.
 - Offering financial incentives to developers to encourage them to produce needed housing.
 - Providing a list of resources or programs for housing projects.
 - Encouraging developers to produce housing with a list of tax exemption and abatement programs.
 - Securing land for needed housing, unlock the value of land for housing, and/or create partnerships that will catalyze housing developments.
 - Offering any other housing production strategies identified by this work.

E. Project Partners.

The following entities, at a minimum, will review, advice, and provide information:

- Bay Area Merchant Association
- Conf. Tribes of Siletz Indians
- Economic Development Alliance of Lincoln County
- Housing Authority of Lincoln City
- Lincoln City Chamber of Commerce
- Samaritan Health Services

F. Advisory Committees.

Per Lincoln City Municipal Code (LCMC) 2.08.015, the Planning Commission acts as the Committee for Citizen Involvement, and the Commission acts in accordance with the adopted Citizen Involvement Program.

Per ORS 227.090 and LCMC 2.08.080, the Planning Commission recommends and makes suggestions to the City Council and to other public authorities concerning, especially in this case, betterment of housing conditions and future growth.

The City Council will provide advices and eventually determine the final products.

G. Cost-Sharing and Local Contribution.

Planning staff members will provide in-kind services up to the value of \$5,000.

Will a consultant be retained to assist in completing grant products? Yes No Not Determined

Will you be utilizing this funding to dedicate your own staff resources in completing grant products? Yes No Not Determined

Local Official Support

The application **must include a resolution or letter from the governing body** of the city or county demonstrating support for the project. If the applicant is a council of governments on behalf of a city, a letter or resolution from the city council supporting the application must be included. *The application will not be complete if it does not include this item.* The letter of support may be received by DLCD after the application submittal deadline, but it must be received before a grant is awarded.

Product Request Summary

Product	Grant Request	Local Contribution	Total Budget
1 (Task 1)	\$ <u>6,279.07</u>	\$ <u>150</u>	\$ <u>6,429.07</u>
2 (Task 2)	\$ <u>12,558.14</u>	\$ <u>500</u>	\$ <u>13,058.14</u>
3 (Task 3)	\$ <u>12,558.14</u>	\$ <u>2,220.18</u>	\$ <u>14,778.32</u>
4 (Task 4)	\$ <u>10,465.12</u>	\$ <u>1,829.82</u>	\$ <u>12,294.94</u>
5 (Task 5)	\$ <u>3,139.53</u>	\$ <u>300</u>	\$ <u>3,439.53</u>
6	\$ _____	\$ _____	\$ _____
7	\$ _____	\$ _____	\$ _____
8	\$ _____	\$ _____	\$ _____
TOTAL	\$ <u>45,000</u>	\$ <u>5,000</u>	\$ <u>50,000</u>

Submit your application with all supplemental information to:

Gordon Howard, Community Services Division Manager

E-mail: DLCD.GFGrant@state.or.us

Please note that due to public health concerns, we will not be accepting applications by mail. If your jurisdiction requires special accommodations, please reach out to a Grant Program Contact as soon as possible to make arrangements.

If you have questions about the Housing Planning program or projects funded by this round of planning assistance, please contact:

Sean Edging, Housing Policy Analyst
sean.edging@state.or.us or (971) 375-5362

If you have questions about the Grant Program or application process, please contact:

Angela Williamson, Grants and Periodic Review Administrative Specialist
angela.williamson@state.or.us or (971) 345-1987

APPLICATION DEADLINE: June 30, 2021

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RESOLUTION NO. 2021-33

A RESOLUTION OF THE CITY OF LINCOLN CITY SUPPORTING AND AUTHORIZING STAFF TO APPLY FOR A HOUSE BILL 2003 PLANNING ASSISTANCE GRANT FROM THE OREGON STATE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT (DLCD)

WHEREAS, the DLCD provides resources to help Oregon communities prepare and update local land use plans and implementing ordinances to respond to growth management and resource protection issues and changes in state agency programs and requirements; and,

WHEREAS, the DLCD anticipates the Legislature to appropriate funds to DLCD by the end of the 2021 legislative session for the purpose of providing planning assistance to local governments to implement the provisions specified in HB 2003, including housing production strategies; and,

WHEREAS, a research on housing production strategies is needed, subsequent to the Lincoln City Economic Opportunities Analysis and Housing Needs Analysis (EOA-HNA), adopted in April 2017; and,

WHEREAS, the City of Lincoln City desires to participate in this grant program, which will provide a set of housing production strategies that will outline the tools, actions, or policies the City may then implement to encourage the production of needed housing identified in the adopted EOA-HNA;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF COUNCIL OF THE CITY OF LINCOLN CITY, as follows:

- 1. City Planning staff is hereby authorized to make application for a Housing Bill 2003 Planning Assistance Grant from the DLCD for the development of the Lincoln City Housing Production Strategies.
- 2. This resolution takes effect the date of its adoption.

DATED this 28th day of June, 2021.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

Staff Report: Late Fees and Water Shutoffs

Meeting Date:	June 28, 2021	Primary Staff Contact:	Debbie Bridges
Department:	Finance	E-Mail:	dbridges@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	30 Minutes

Question:

Should the City Council lift the moratorium on penalty and delinquency actions on past due water/sewer accounts and reinstate delinquent penalties and disconnections per LCMC 13.12.100?

Staff Recommendation:

Finance recommends Council lift the moratorium. Finance also recommends resuming penalty billing for past due Occupational Tax Permits.

Authority:

LCMC 13.12.100 specifies penalties and delinquency procedures for nonpayment of utility bill.

Background:

Following Council's direction, Finance stopped applying late fees and stopped delinquency actions such as shutting off water services with the April 15th, 2020 billing due to the COVID-19 pandemic. Since that time, the delinquency amounts have been steadily increasing. The current delinquent receivables are \$98,428. As a comparison, the same period in 2019 showed delinquent receivables of \$20,215. Of the current delinquent amounts, about 40% is attributable to 15 people/organizations.

Both the occupant and the property owner are notified of past due amounts on a monthly basis.

Due to the easing of the pandemic and to the various sources of assistance that is available to help people with utility bills, Finance recommends that we begin applying

late fees and taking delinquency actions again as outlined in LCMC 13.12.100. We propose the following timeline:

- July 1: For delinquent accounts, Finance will send a past due water/sewer notice to respective occupants and landlords. The notice will include information that the City will begin applying late fees and will resume following delinquency procedures starting August 1st. The notice will also list resources available for assistance with utility bills and will encourage people to contact Finance to set up payment plans.
- July 16: Billing will include past due amounts but will not include penalties.
- August 1: Finance will send out standard past due notices.
- August 10: Finance will proceed with door hangers, notifying occupant of impending water shut off.
- August 16: Regular billing with penalty charges.
- August 23: Finance will proceed with turn off/service disconnections on eligible delinquent accounts per LMC13.12.100

Council Options:

Direct staff to proceed with proposed plan.

Direct staff to proceed with modified plan.

Direct staff to not proceed with lifting moratorium on penalties and delinquent actions.

Council Communication

Appointment to Sustainability Committee - Applicant Victoria McOmie

Meeting Date:	June 28, 2021	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question:

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

Staff Recommendation:

Ms. McOmie would serve on the Sustainability Committee. Her term would expire on October 7, 2023. Councilor Casper and Hoagland interviewed Ms. McOmie via Zoom on June 21, 2021. Both Councilors asked to move Ms. McOmie's application forward for consideration of a position on the Sustainability Committee. Ms. McOmie qualifies for a "City Resident" position.

Background:

The Sustainability Committee currently has one (1) vacant position- the position left vacant by Ms. Villaescusa's resignation.

Council Options:

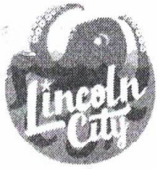
Review and discuss the recommendation for appointment of Victoria McOmie to the "City Resident" position on the Sustainability Committee for a term expiring October 7, 2023.

Potential Motions:

- 1. I move to appoint Victoria McOmie to the Sustainability Committee for a "City Resident" position with a three-year term. The term expires 10/07/2023.**

Attachments:

McOmie Application_Redacted.pdf (PDF)



CITY OF LINCOLN CITY Committee / Board / Commission Application



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

- | | |
|--|---|
| <input type="checkbox"/> Arts Committee | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> *Budget Committee | <input type="checkbox"/> Parks and Recreation Board |
| <input type="checkbox"/> Building Board of Appeals | <input type="checkbox"/> Planning Commission |
| <input checked="" type="checkbox"/> Community Sustainability Committee | <input type="checkbox"/> Transient Room Tax Committee |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> Explore Lincoln City Committee |

** If applying for the Budget Committee or Planning Commission, 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:	Victoria McOmie	DATE:	June 7, 2021
HOME ADDRESS:	[REDACTED]		
MAILING ADDRESS:	same as above		
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 5 years

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:

Oregon Shores Conservation Coalition, Mile 244 (one mile south of Roads End State Park) observer, 2018-

COASST beached bird volunteer 2020- , Jackson County covid-19 volunteer, 2021-, SEE ATTACHMENT

List names of volunteer/work supervisors:

Steve Griffiths, Audubon Society of Lincoln City

Sally Edwards, Lincoln County Volunteer Coordinator

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

Member. Conservation Action Committee, Audubon Society of Lincoln City, 2019-2021

President, Jackson County Cultural Coalition of the Oregon Cultural Trust, 2001-2005 (founding president)

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

Partner of Robert Crouch, Lincoln City Parks Board Member

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

SEE ATTACHMENT

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

Name: David Jamieson, [REDACTED] Phone: [REDACTED]

Name: Steve Griffiths, [REDACTED] 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] e
SIGNATURE

June 7, 2021
DATE

Victoria McOmie

Sustainability committee application continued

Describe relevant qualifications (i.e. work or volunteer experiences) to include any applicable education and/or training:

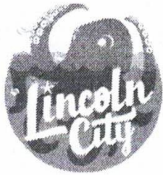
I have a B.S. degree from Lewis and Clark College, Portland, Oregon, 1981, majoring in English. I have used my writing skills to advance numerous projects in my personal and professional life.

I am a donor to numerous conservation groups and have been for over 30 years. Being a committed donor involves reading and reviewing the annual reports of organizations to evaluate how effective they are at achieving goals within their budget plus adhering to the mission statement of the organization. This experience gives me practical knowledge of looking at proposals and evaluating effectiveness.

Being a member of the Conservation Action Committee of the Audubon Society of Lincoln City involved reviewing dozens of proposals from a wide array of organizations that addressed issues ranging from climate change to protecting our state animal, the beaver. In order to issue my endorsement of the issue at hand, I quickly became educated on the topic. I am willing to do the necessary research on a topic I am not familiar with to make a good decision.

As an active citizen science volunteer of the Oregon Shores Conservation Coalition as a Coast Watch Mile 244 reporter, I am a keen witness to the changes that occur on our local beach. My reports help scientists do their jobs. I enjoy doing this work because it can make a difference to the lives of people and wildlife.

The most significant board accomplishment I have done was being the founding President of the Jackson County Cultural Coalition of the Oregon Cultural Trust a number of years ago. I am proud to say this organization is still in existence. This was a valuable experience of starting up a non-profit with multiple government, university and non-profit agencies. I helped establish



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

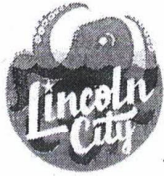
COMMITTEE VOLUNTEER EMERGENCY CONTACT INFORMATION FORM

FULL NAME:	Victoria E McOmie
START DATE:	
NAME OF COMMITTEE, BOARD, OR COMMISSION:	Community Sustainability Committee
CITY STAFF REPRESENTATIVE:	
HOME ADDRESS:	[REDACTED]
MAILING ADDRESS:	same as above
HOME PHONE:	[REDACTED]
CELL PHONE:	same as above
PERSONAL E-MAIL ADDRESS:	[REDACTED]

EMERGENCY CONTACT NAME/RELATIONSHIP:	Robert Crouch partner
HOME PHONE:	[REDACTED]
CELL PHONE:	same as above

DATE:	June 7, 2021
VOLUNTEER SIGNATURE:	[REDACTED]

ALL PERSONAL INFORMATION WILL BE KEPT STRICTLY CONFIDENTIAL



RE: Community Sustainability
Committee Application

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

PLEASE READ CAREFULLY BEFORE SIGNING!


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

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


SIGNATURE

6/7/2021
DATE


DATE OF BIRTH


SOCIAL SECURITY NUMBER